

Forum: Security Council**Student Officer(s): Hyungmin Nelson****TOPIC (3): The issue of the relationship of Israel and Palestine**

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I. Introduction to the Topic

On the 28th of September, 2018, the State of Palestine filed proceedings against the United States of America before the International Court of Justice (ICJ) regarding the United States of America's decision to move its embassy in Israel to Jerusalem from Tel Aviv. The State of Palestine objected to this on the grounds of an alleged violation of the Vienna Convention of Diplomatic Relations of 18 April 1961 ("[The State of Palestine institutes](#)").

The Vienna Convention was established in 1961 to outline a consulate's roles within a country. Palestine cites the Vienna Convention stating that a consulate must be established on the territory of the receiving state ("[consular relations](#)"), therefore contending that Jerusalem is part of the State of Palestine and not the State of Israel, contrary to the President of the United States' recognition of Jerusalem as the capital of Israel on 6 December 2017 ("[A Timeline](#)"). This initiative was driven by the President at the time, Donald Trump, who broke with years of U.S. foreign policy by recognizing Jerusalem as the capital of the State of Israel ([Farrell](#)). This move caused protests throughout the State of Palestine and created tension throughout the Arab world, with King Salman of Saudi Arabia even saying that moving the American embassy to Jerusalem would be a "flagrant provocation" to Muslims. At the same time, Palestinian President Mahmoud Abbas called it a 'slap in the face.' ([Farrell](#)).

This move created widespread implications, with the Republic of Guatemala's President Jimmy Morales announcing that their embassy in the State of Israel would also be moved to Jerusalem two days after the US decision, which has caused further unrest in the region. In addition to Guatemala's move Benjamin Netanyahu, the prime minister of Israel, has said that at least half a dozen countries are seriously considering moving their consulates to Jerusalem. These considerations are in spite of the United Nations General Assembly's vote on a non-binding resolution that called for the United States to drop its recognition of Jerusalem as the capital of the State of Israel, with 128 voting for, nine against, and 35 abstaining ("[A Timeline](#)").

Throughout history Jerusalem has always been fought over by countless nations, states, and empires due to its significance to the Abrahamic religions. In addition to this in modern times there are further political complications that stem from these reasons which lead to Jerusalem being a highly contentious topic internationally, especially in the region. In modern times after the Second World War in 1947, the United Nations General Assembly decided that the then British-controlled Palestinian territory should become partitioned into an Arab state and a Jewish state. However, Jordanian forces captured both the Old City and Arab-controlled East Jerusalem leading to the idealisation of a Jerusalem split into two states never materialising. Israel then annexed East Jerusalem in the Middle East War of 1967. Despite Israel recognizing Jerusalem as its capital city in 1980, the

United Nations has never recognized this by sticking to its categorization of *corpus separatum*. The only situation in which this could be resolved were to be if the States of Israel and Palestine were to enter negotiations and reach a mutually acceptable agreement regarding the city's status ([Duncan](#)).

Until 2017 U.S. foreign policy had aligned with the UN's stance, with any recognition of Jerusalem as the capital of Israel certain to create tensions in the region due to the Arab states in the region which honour the Quran's recognition of a Palestinian state and its opposition to the 'children of Israel.' However, with the US' increasing relationship with the State of Israel, many consider Israel to be the US closest ally in the region, with the U.S. having cumulatively provided around \$150 billion of bilateral aid (non-inflation-adjusted) ([Congressional Research Service](#)). Additionally, the U.S. and Israel are strong allies politically, with the U.S. having utilised its veto power in the United Nations 42 times against resolutions condemning Israel, more than half of the total number of vetoes invoked by the U.S. (83). In recent years the trend of U.S. political support for the State of Israel has only increased with this veto power having been used 15 times solely to protect Israel out of the 24 vetoes invoked by the U.S. from 1991 to 2011 ([Okhovat](#)). This has culminated in the U.S. breaking years of its previous foreign policy by moving its Israeli Embassy to Jerusalem ([Farrell](#)). This move has had widespread geopolitical implications in the region; despite the Arab states initially disputing this move, they have begun to normalise relations with the State of Israel due to their dependence on the United States. These strengthening political ties between Arabian states and the State of Israel are in spite of the Arabian public's relationship with Palestine as with many Arab states becoming more and more autocratic, the impact of public support for the State of Palestine has become less and less impactful in the light of geopolitical interests in the region for Arab states that push them towards aligning their foreign policies with the United States and therefore Israel ([Harb](#)).

This move has been followed by further tensions between Palestine and Israel, with the immediate aftermath of this move leading to Palestinian border protests that have led to the death of 40 Palestinians, culminating on May 15, the day after the U.S. Embassy's move. Additionally, the U.S. under President Trump has pushed for further recognition of Palestinian territory as that of Israel, with the Trump Administration ordering that all products made in Area C of the West Bank, which makes up around 60% of the West Bank to be marked as 'Made in Israel' or 'Product of Israel' further solidifying their relationship with Israel and worsening their relationship with Palestine. However, after the election of President Biden, the Biden administration has moved to resume bilateral assistance of Palestine ("[A Timeline](#)").

Overall, the U.S. Embassy's move to Jerusalem has created tensions in the region that stand as a symbol of the Israeli-Palestinian conflict that has been contested due to religious, political, and historical reasons. This conflict is only set to continue, and reaching a decision in the ICJ that can satisfy all parties legally would be a significant step toward resolving a complex and multi-faceted issue.

II. Definition of Key Terms & Concepts

Disputed Territory

A disputed territory refers to a city or region with disputed sovereignty between two or more states. Under the Vienna Conventions on Consular Relations, a consulate must exist on the territory of the receiving state. A territorial dispute may include situations where a whole state is affected by the dispute, thereby threatening a state's sovereignty. Another possibility is that only a portion of a state's territory is disputed, such as the example of Jerusalem which is disputed between the State of Israel and the State of Palestine. Therefore the conflicted nature of a disputed territory would complicate the existence of consulates in disputed territories such as Jerusalem ("[Territorial Disputes](#)").

Corpus Separatum

Corpus Separatum is a Latin term that means 'separated body.' The United Nations has used it to designate Jerusalem as a territory with a special legal and political status that separates it from its surrounding environment but does not qualify it as a sovereign state or a city-state regarding a region or city. *Corpus Separatum* for Jerusalem was adopted by the United Nations General Assembly in 1947 with a 2/3 majority. Such designation was specifically given to Jerusalem due to the historical, religious, and political significance that Jerusalem has due to its shared importance for the Abrahamic religions ("[The State of Palestine institutes](#)").

Consulate Relations

Consulate relations refer to the diplomatic relations between countries through their respective consuls. Traditionally, consuls have acted as either embassies or consulates with an embassy generally referring to the main office of a foreign country, typically present in the capital of a foreign country. Meanwhile, a consulate generally refers to a smaller diplomatic mission. Both have the same function of, "*inter alia*, in representing the sending State in the receiving State; protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law; negotiating with the Government of the receiving State; ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State; promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations," according to the Vienna Conventions on Consular Relations. Established in 1963, it defines such consuls' roles and powers, acting as international law regarding Consulate Relations ("[consular relations](#)").

Non-Member Observer States

Non-Member Observer States serve as observing members of the United Nations, recognized as sovereign states and free to petition to join the UN. The two examples of such states are the State of Palestine and the Holy See ("[About](#)").

Cultural Claims to Territory

The basis of a territorial claim is based on the sense of a group of people belonging together, which not only includes nationalisms but also factors such as ethnicity, religion, and other cultural characteristics that may bind people together. In the context of the Israeli-Palestinian conflict, much of the territorial claims for Jerusalem have

been centred around the religious claims these states have on Jerusalem based on the religious demographic and culture within their respective states ([Burghardt](#)).

III. Timeline of Key Events

29 November 1946 - The United Nations specifies that the City of Jerusalem “established as a *corpus separatum* under a special international regime”

Following the end of World War II, the State of Palestine was British-ruled; however, Britain was looking to give up this territory. To facilitate this, the United Nations General Assembly reached a decision to partition the State of Palestine into independent states, an Arab and a Jewish State. However, due to the special significance that the City of Jerusalem held within the Abrahamic Religions, it was decided that the city should be internationally ruled, and therefore given the status of *corpus separatum*. However, this would never come to fruition, as a power struggle for the region ensued after the end of British rule. This would eventually lead to Jordan capturing the city. Later in the Middle East War of 1967, Israeli forces captured the Arab East Jerusalem from Jordanian forces. Although Israel would later recognize Jerusalem to be united under Israel and the capital of Israel, this would contradict the stance of the United Nations, which maintained that the city was disputed territory between Israel and Palestine ([Farrell](#)).

8 August 1985 - The U.S. Congress prohibits negotiations with the PLO

In 1985 the United States Congress codified the prohibition of all negotiations with the Palestine Liberation Organization (PLO) unless it were to be either emergency or humanitarian situations. This prohibited any employee, officer, agent, or representative of the United States from negotiating with the PLO or any representative of the PLO. This would be implemented under the condition that this policy would be lifted if the PLO, “recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism ([United States, Congress, House](#))”.

United Nations Security Council resolution 242 was signed in 1967 and focused on the situation that was arising in the Middle East. To find a solution to this, the resolution called for the termination of all claims of hostility and conflict in the region while urging for the acknowledgment of the territorial sovereignty of states in the region ([Resolution 242 \(1967\)](#)). Resolution 338 was signed in 1973 and called for the implementation of Resolution 242. It also called for a total cease-fire in the region and for peace negotiations to start following the cease-fire ([Resolution 338 \(1973\)](#)).

8 November 1995 - The Jerusalem Embassy Act calls for the U.S. Embassy in Israel to be moved from Tel Aviv to Jerusalem by 1999.

The Jerusalem Embassy Act of 1995 first acknowledged Israel's rule over Jerusalem and its status as the capital of Israel. Secondly, it considered Jerusalem as united under Israel, which contradicts the United Nations decision. By recognizing Israel's capital as Jerusalem, it also recognized that the United States' Embassies were typically in the capital of the receiving country, with the only exception being Israel at the time while also stating that the State of Israel was a "democratic friend and strategic ally". After these assertions, the document set a timeline for the U.S. Embassy in Israel to be moved to Jerusalem, which was to be no later than the 31st of May, 1999 ([Jerusalem Embassy Act of 1995](#)).

1997 - The U.S. State Department labels certain Palestinian groups as terrorists

The U.S. The Bureau of Counterterrorism designated multiple Palestinian groups as terrorist organisations on the 8th of October 1997. These were HAMAS, the Palestine Liberation Front (PLF), the Palestine Islamic Jihad (PIJ), Popular Front for the Liberation of Palestine – General Command (PFLP-General Command), and the Democratic Front for the Liberation of Palestine -Hawatmeh Faction ("[Foreign Terrorist Organizations](#)"). This designation followed several terrorist attacks, such as suicide bombings by groups such as HAMAS. HAMAS is notably one of the two major political parties of Palestine, the other being the PLO ([Laub and Kali](#)).

21 December 2006 - U.S. assistance to Palestinian unity government with Hamas or any Hamas-controlled institutions is prohibited by the Palestinian Anti-Terrorism

Following the elections for seats in the Palestinian Parliament seats the radical Islamic party HAMAS won the majority of the seats in the Parliament (76 of 132). This marked a departure from the previous elections where the Fatah party had won the majority of the seats in parliament with Fatah only winning 43 of 132 seats. This would complicate foreign relations for the State of Palestine as HAMAS was and currently is labelled as a terrorist organisation by many countries and was at war with the State of Israel ([Wilson](#)).

Namely, this turn of events would complicate foreign relations with the United States who had labelled HAMAS as a terrorist organisation since 1997. Following the Palestinian elections the United States Senate passed the Palestinian Anti-Terrorism Act which asserted the U.S.' view of HAMAS being a terrorist organisation. Additionally, it would prohibit any form of assistance to the State of Palestine unless HAMAS were to not effectively control the State or if HAMAS were to satisfy a number of conditions. These conditions would be that HAMAS recognizes the State of Israel's right to exist, ensures democracy in Palestine, and dismantles its terrorism infrastructure while cutting ties with those who have ties to terrorism ([Palestinian AntiTerrorism Act of 2006](#)).

31 October 2011 - The UN Educational, Scientific and Cultural Organization (UNESCO) admits Palestine as a member state and the U.S. cuts funding to UNESCO due to its admission of Palestine as a member in accordance with the Foreign Relations Authorization Act

On the 31st of October 2011 the UN Educational, Scientific, and Cultural Organization (UNESCO) voted to add Palestine as a member state of the organisation. This was despite the fact that it was known that this would cause conflict between UNESCO and the United States, the largest contributor to UNESCO, who had opposed the HAMAS ruled State of Palestine (“[UNESCO votes](#)”). These fears would come to fruition as the Obama administration would cut off funding for UNESCO following the decision to admit Palestine. The State Department would cite an undermining of their goals to create long lasting peace in the region for their decision to cut off funding to Palestine. Although the U.S.’ membership to UNESCO remained if donations were to cease for a further two years it would lead to this membership being revoked. The funding which will be revoked is a significant amount (~\$80 million a year) and makes up 22% of the funding for UNESCO (“[U.S. cuts](#)”). It is significant to note that Palestine’s membership within UNESCO, a UN body, is what might allow for the Vienna Conventions to potentially apply to the State of Palestine and therefore allow for the State of Palestine to bring their case before the ICJ. The Vienna Convention states that “all States Members of the United Nations or of any of the specialised agencies” would thereby be invited to be party to the Vienna Convention. As UNESCO is one of the UN’s specialised agencies Palestine’s membership here would therefore be the state’s gateway to being able to bring proceedings against the United States and could allow for the ICJ to bypass recognizing the statehood of Palestine ([Vidmar](#)).

6 December 2017 - U.S. President, Donald J. Trump, recognizes Jerusalem as the capital of Israel while also announcing plans for the U.S. Embassy in Israel to be moved to Jerusalem from Tel Aviv

On the 6th of December 2017, President Donald J. Trump released a Presidential Proclamation that effectively recognized the capital of Israel as Jerusalem which he stated to be an acknowledgement of ‘plain facts’. The proclamation cites the Jerusalem Embassy Act of 1995 and recognizes the reaffirmation of the act by the U.S. Senate in 2017. Then further citing the Jerusalem Embassy Act of 1995 the proclamation also states that the U.S. Embassy in Israel will be moved to Jerusalem. The proclamation states that this move will not be a sign of the U.S. definitely drawing borders ([Executive Office](#)).

6 November 2023 - Escalated Israel-Palestine conflict causes concern about new economic corridor project

More specifically, The Israel Palestine conflict may pose a significant threat to the feasibility and sustainability of the India-Middle East-Europe Economic Corridor (IMEC) project if clashes extend to other regions, such as Syria, Iran, Lebanon, directly or indirectly.

IV. Key Stakeholders and Positions

State of Palestine

As the applicant party the State of Palestine argues that the United States of America has violated the Vienna Conventions of Diplomatic Relations of 18 April 1961. The Vienna Conventions of Diplomatic Relations outline conventions by which states will conduct relations, thereby including the scope which consulates may act in. The State of Palestine asserts that they are in jurisdiction of the ICJ and that therefore this case does hold merit under the ICJ. Additionally, the State of Palestine also asserts that by the United States of America moving their consulate to Jerusalem they are violating the Vienna Convention of Diplomatic Relations. This is due to the special status of the city which states that a consulate must be in the territory of the receiving state, in this case Israel. In addition to this the State of Palestine is requesting for the ICJ to declare that the relocation of the United States Embassy breaches the Vienna Conventions. Additionally, the State of Palestine is further requesting that the ICJ order the U.S. embassy to be withdrawn from Jerusalem, therefore conforming to the obligations of the Vienna Convention of Diplomatic Relations. Finally, the State of Palestine wishes for the court to ensure that no further violations will take place and to enforce this ("[The State of Palestine institutes](#)").

United States of America

As the respondent party the United States of America believes that they are not guilty of the charges brought against them by the State of Palestine. Additionally, the United States of America is in strong belief that the International Court of Justice does not have jurisdiction over this case for a number of reasons. The United States of America has already questioned the statehood of the State of Palestine with the National Security Adviser John Bolton of the Trump administration saying the case was a legal stunt by "the so-called state of Palestine" ("[The State of Palestine institutes'](#)"). Additionally, in a similar issue, where the International Criminal Court launched an investigation into war crimes committed in the Israeli-Palestinian conflict, Anthony Blinken, the secretary of state in the Biden administration, said in a press release that, "The Palestinians do not qualify as a sovereign state and therefore, are not qualified to obtain membership as a state in, participate as a state in, or delegate jurisdiction to the ICC". This shows along with other oppositions to Palestinian statehood by the United States that this is something that will be challenged by the United States which if proven would mean the court would not have jurisdiction over this case ("[Territorial Disputes](#)").

V. Possible Challenges and Solutions

The Israeli-Palestinian conflict, marked by decades of tension and violence, necessitates multifaceted solutions to address the complex historical, political, and cultural issues at play. Some foreign relations that should be taken into account in this report are: United Arab League, Bahrain, the UAE, Sudan, and Morocco, nations which signed agreements establishing diplomatic relations with four Arab League countries. Among the G20 states, 9 countries including Brazil, China, India, Indonesia, Russia, Saudi Arabia, South Africa, Turkey, and Argentina has

recognized Palestine as a state, while ten other countries, such as Australia, Canada, France, Japan, South Korea, ... are viewing Palestine as a dependent part of Israel. A viable pathway to peace lies in the pursuit of a Two-State Solution, wherein Israel and Palestine coexist as independent nations, acknowledging the national aspirations of both parties. This necessitates delicate negotiations to define borders, determine the status of Jerusalem, and find a just resolution for Palestinian refugees. Concurrently, a shared capital model for Jerusalem, with international oversight and guarantees, can serve as a compromise. Security cooperation, involving joint patrols or international peacekeeping forces, can build mutual trust and prevent conflicts. Economic development initiatives, supported by regional integration, have the potential to foster interdependence, reducing hostility and enhancing stability. Addressing educational biases and promoting cross-cultural understanding through revised curricula and people-to-people initiatives can challenge ingrained prejudices. Moreover, resolving the issue of Palestinian refugees through comprehensive resettlement and compensation plans is integral to easing historical grievances. International mediation, backed by incentives for both parties, is crucial for navigating the delicate negotiations. Ultimately, a comprehensive, inclusive approach that respects the rights and aspirations of Israelis and Palestinians, while engaging the international community in supporting the peace process, is indispensable for a sustainable resolution to the Israeli-Palestinian conflict and delegates should be encouraged to emulate this spirit while approaching solutions to the issue in conference.

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VII. Additional Resources

Map of Israel and Palestine Borders After 1982 Israel Egypt Peace Treaty:



Israel and South African in ICJ Genocide Hearing, 2024

