

Contextualizing Resolution 242

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Discussion of Resolution 242 has been distorted by propaganda claims.

It is impossible to discuss UN Resolution 242 in a vacuum: it must be contextualized from at least two major perspectives in order for its long-term significance to be understood. Firstly, any discussion of Resolution 242 must be based on its true content and intentions, rather than the perception of these following their distortion by propaganda claims. Resolution 242 called for negotiations to find solutions. These negotiations are only hindered by the distortion of the resolution by those who seek to destroy the peace process. The second perspective from which it is necessary to analyze the resolution is that of the agreements, or disagreements, signed surrounding it. These various documents or expressions of intent clearly form an integral part of any discussion on the subject, since they demonstrate the continued presence and influence of the resolution on the international stage, as well as its development and evolution. The following aims to expose the original intentions of the resolution and some of the agreements made surrounding it. This analysis should be a first step in exposing and turning the tables on those who seek to distort Resolution 242.

1. Back to the Beginning: The True Intentions and Content of Resolution 242

Unfortunately, if a claim is made often enough, even if it is a lie, it becomes an accepted “truth.” This is especially true of today’s perception of Resolution 242. Many world leaders are unwilling to accept the current terms of the Israeli-Palestinian negotiations. Rather, they wish to work according to their distorted guidelines of Resolution 242: Israel’s total withdrawal from what is known as “the occupied territories.” This is an Arab success — the Arabs have managed to convince the world that Resolution 242 requires a complete withdrawal to the borders of June 4, 1967. However, by reading the text of the resolution, it is not difficult to establish the actual facts, and this has been done by the author of the resolution, Lord Caradon, and world-known experts such as Eugene Rostow, Julius Stone, and Ruth Lapidoth. The resolution does not require unilateral Israeli withdrawal, but offers flexibility on borders. It refers specifically to “secure and recognized boundaries” — terms which could in no way be applied to the pre-1967 borders. These borders were neither secure nor recognized. In the debates in the Security Council in May 1967, the Ambassadors of Egypt, Jordan and Syria emphasized the fact that these “were no borders” and these were only “armistice lines.” There is an extremely large number of articles written by former American diplomats, among them Justice Arthur Goldberg who was the U.S. Ambassador to the UN, and by Professor Prosper Weil from the Sorbonne, that emphasized the fact that Resolution 242 constitutes a “framework” that does not establish borders.



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Before Resolution 242 was adopted, there was a Soviet attempt to include language referring to “withdrawal to the 4 of June lines.” It was never adopted.

Moreover, although Arab propaganda has succeeded in convincing public opinion and diplomats alike that Resolution 242 is self-enforcing, this is certainly not the case. UN law provides for different kinds of Security Council resolutions, including recommendations for settling conflicts (under Chapter VI) and resolutions, which are binding and may be enforced by sanctions (under Chapter VII). There is no doubt that Resolution 242 was adopted under the former, Chapter VI, and thus it is a recommendation, rather than a self-enforcing or binding order. The fact of the matter is that this resolution was a basis for negotiations, which would in turn establish secure and recognized borders. There is no mention in the resolution of a Palestinian state, or a requirement to create one, although this of course does not negate the Oslo Agreements or any others which Israel has signed and implemented. It should be emphasized that the resolution refers exclusively to states and not to other entities.

Amongst other claims currently made by Arab propaganda are those that there was no justification for the establishment of a Jewish state and that the Temple never stood in Jerusalem. Yet such claims find no endorsement in Resolution 242. Indeed, the resolution makes no reference either to Jerusalem or to Palestinians. The attempt of the Arab states to incorporate a reference to “Arab” refugees in the resolution was rejected. There is, however, a reference in Resolution 242 to “refugees” in general. As Arthur Goldberg, former U.S. Ambassador to the UN, explained in a letter to the *New York Times*, at the time of its composition there were not only Arab refugees but also Jewish refugees — about eight hundred thousand Jews were expelled from Arab countries, forced to leave behind belongings, bank accounts, and properties.

2. The Continued Presence of Resolution 242 in International Agreements

Traditionally, in lengthy negotiations with the U.S., Israel has signed Memoranda of Understanding (MOUs). Although Israel at times favored the use of the term “agreement,” U.S. officials claimed that using this term would imply ratification by the Senate. Hence, the term MOA (Memorandum of Agreement) was found to be preferable. An MOU was signed between Israel and the U.S. shortly after the Yom Kippur War, on the day before the Geneva Conference convened (December 1, 1973). Therein is a clause stating that “the U.S. will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Peace Conference or to change Resolutions 242 and 338 in ways which are incompatible with their original purposes.” This



In 1973 the U.S. pledged to oppose changing Resolution 242 in ways incompatible with its original purpose.

commitment of the U.S. is also included in the Memorandum of Agreement of September 1, 1975.

At the time, the MOU was confidential, but eventually it was presented to the leadership of the Congress. In the *Congressional Record* there is a question presented to the legal adviser of the Senate concerning this MOU: “Can the U.S. make a commitment to a foreign sovereign to vote against any initiative that would change a resolution in a manner seemingly adverse to the intent of the authors?” The legal adviser’s response was that this is indeed enforceable. In other words, from the standpoint of international responsibility, the U.S. committed itself to this clause, unless Israel releases it from the obligation.

Of course, the issue is not always what is written in a legal text, but the extent to which a country is ready to use its legal ammunition to defend its rights. If Israel, at a certain time and on the basis of a legitimate decision of a legally elected Israeli government, were to decide to give up part of its “ammunition,” it is absolutely free to do so. If Israel does not want to hold the U.S. to its commitments on Resolution 242, it does not have to do so. Yet why Israel would take such a step is unclear.

A further example may be found in the implications of a commitment made by the U.S. president to Israel on the issue of the Golan Heights. In 1975 Israel was negotiating a partial withdrawal from the Sinai with the Americans, in the framework of a cease-fire agreement with Egypt. Prime Minister Yitzhak Rabin asked the U.S. to commit itself to the acceptance of Israel’s presence in the Golan and to pledge its support of Israel’s position in any future negotiations with the Syrians. President Gerald Ford, in a letter dated September 1, 1975, to Prime Minister Rabin, did not commit the U.S. categorically to supporting Israel’s position. However, he did state that when negotiations on the Golan would take place, the U.S. would take into consideration the strategic importance of this area for Israel. The language is similar to that of President Bush’s letter of April 2004, in which there is reference, on the one hand, to the Jewish presence in civilian settlements in Judea and Samaria and, on the other, to the need for all parties to accept the conditions of any agreement.

No less significant than the involvement of the U.S., although almost directly opposed to it, is the role of the EU in peace negotiations and the implementation of Resolution 242. Specifically, the EU’s reaction when Israel signed a peace treaty with Egypt in 1979, withdrawing from Sinai and returning to the international border, is of great significance. On June 13, 1980, the EU adopted the Venice Declaration, which implicitly rejected the Israeli-Egyptian peace treaty.

At the time, the author of this article was Ambassador to France. He visited the French foreign minister, asking how, fifty years later, a French teacher



would be able to explain to his pupils how France, a democratic state, opposed a peace treaty between two belligerents; how Europe had the legal or moral right to decide that Israel and Egypt have not seen enough death and destruction, that they should go on fighting. He responded by making two claims. Firstly, he stated that the European reaction is unimportant to Israel in any case. Secondly, this rejection pleased France's "Arab friends" (such as the Libyans, Syrians, and all those who opposed the peace process). It should be noted that the Europeans' basis for condemnation was that Israel had not solved the Palestinian problem, despite the fact that at Camp David Egypt became the first Arab country to achieve the acceptance by Israel of a regime of autonomy for the Palestinians.

European opposition to the peace treaty between Egypt and Israel was perhaps the greatest misfortune possible since, after all, Resolution 242 called for negotiated solutions to conflict. When European countries voiced their opposition to this treaty, it reduced even further the chances of other Arab countries negotiating peace with Israel. The European negative attitude to the Treaty of Peace discouraged all Arab states to enter into peace negotiations with Israel. Likewise, the distortions of Resolution 242, which are accepted by diplomats and the world at large, only push the solutions called for therein further away. The steps which Israel must take in order to advance towards negotiations and solutions are a return to the original intent of the resolution together with awareness of positive commitments from other countries. Resolution 242 is still the only legal basis for the peace process with the Arab states, and it does not call for total withdrawal from the territories.