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An Unhealthy Relationship

How and Why the World Health Organization is used to Undermine Israel's Sovereign Equality

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Picture on cover page: Source: World Health Organization

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Glossary of Acronyms and Terms:

Arab League – League of Arab States

CIL –Customary International Law

ECOSOC – Economic and Social Council

FLN – Front de Libération Nationale

HRC – Human Rights Council

ICJ – International Court of Justice

NAM – Non-Aligned Movement

OIC – Organisation of Islamic Co-operation

PLO – Palestinian Liberation Organization

UAR – United Arab Republic

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNESCO – United Nations Educational, Scientific and Cultural Organization

UNGA –United Nations General Assembly

UNHCR – United Nations High Commission for Refugees

UNRWA – United Nations Relief and Works Agency

UNSC – United Nations Security Council

USA – United States of America

USSR – Soviet Union

WHA – World Health Assembly

WHO – World Health Organization

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"This organization is fortunate in dealing with a sphere of human activity which is free from political and racial considerations"

-Rajkumari Amrit Kaur
Chief Delegate for India to the WHA
WHA 1, 1948¹

Introduction

The WHO and Israel officially formed thirty-seven days apart in 1948. Both the WHO's Constitution and the Declaration of the State of Israel refer to the UN Charter. The Constitution of the WHO reads that:

"THE STATES Parties to this Constitution declare, in conformity with the Charter of the UN, that the following principles are basic to the happiness, harmonious relations and security of all peoples"

while in the Israeli Declaration of Independence it was announced that Israel 'will be faithful to the principles of the Charter of the UN'.²

The Charter is the UN's guiding document and has been referred to as a constitution for the international community.³ At its heart is the sovereign equality of nations.⁴ The UN's mission is primarily to maintain international peace and security through maintaining the international order.⁵ This paper seeks to understand the meaning of sovereign equality through the UN Charter, and the case study of Israel and the WHO – a purportedly non-political organisation tasked with setting global public health priorities. It will do this to answer the question 'is Israel's sovereign equality

¹ World Health Assembly 1, *First World Health Assembly, Geneva 24 June To 24 July 1948: Plenary Meetings: Verbatim Records: Main Committees: Summary Of Resolutions And Decisions* (Geneva, 1948) <http://apps.who.int/iris/bitstream/10665/85592/1/Official_record13_eng.pdf>. p.32

²United Nations, *Charter of the United Nations* (San Francisco, 1945) <<https://treaties.un.org/doc/publication/ctc/uncharter.pdf>>. Preamble; David Ben Gurion, *The Declaration of the Establishment of the State of Israel* (Tel Aviv, 1948) <[http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration of establishment of state of israel.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration%20of%20establishment%20of%20state%20of%20israel.aspx)>.

³ Kenneth J Vandevelde, 'Investment Liberalization and Economic Development: The Role of Bilateral Investment Treaties', *Columbia Journal of Transnational Law*, 36.3 (1998), 501–28.

⁴ *Charter of the United Nations*

⁵ *ibid*

undermined at the World Health Organization and, if so, how and why? To answer this, the paper must first grapple with the question of what sovereign equality means.

The WHO is one of the UN's specialised agencies – designed to be non-political and focused solely on the improvement of global health: 'the fight against disease should outweigh political considerations'.⁶ The WHO is a subsidiary body of ECOSOC, one of the Principal Organs of the UN.⁷ Each ECOSOC body has a specific remit, and UNGA Resolution 61/16 reiterated and strengthened the importance of ECOSOC and its subsidiaries. By stating that 'Resolutions and decisions of the [...] Council should be implemented and followed up fully by all relevant parts of the UN system', it ensures resolutions which originate from ECOSOC have the same weight as those from other organs.⁸

The WHO has been chosen for the case study because, as a medical body made up of doctors, its resolutions can be seen to carry greater objective weight than those passed by overtly political bodies, such as the UNGA. Furthermore, the WHO is highly representative of the international community; encompassing all UN Member States, bar Liechtenstein. Moreover, there has been no academic research specifically into sovereign equality and the WHO, with the vast majority of texts viewing it in the context of medical history or epidemiological breakthroughs. The term 'international community' throughout this paper describes all Member and Observer States of the UN. This is on the basis of Cicero's notion of *ubi societas, ibi ius*; where there is a society, there is law.⁹ Using this logic, those who agree to be bound to the Charter of the UN can be seen to be a part of this international community.¹⁰

⁶ International Health Conference, *Summary Report on Proceedings, Minutes and Final Acts of the International Health Conference Held in New York from 19 June to 22 July 1946* (New York; Geneva, 1946) <http://apps.who.int/iris/bitstream/10665/85573/1/Official_record2_eng.pdf>.

⁷ The other Principal Organs are: the General Assembly, Security Council, Trusteeship Council, International Court of Justice and Secretariat. Found in *Charter of the United Nations*; United Nations, 'The United Nations System', 2015 <http://www.un.org/en/aboutun/structure/pdfs/UN_System_Chart_30June2015.pdf>.

⁸ United Nations General Assembly, *Review of the Implementation of General Assembly Resolution 61/16 on the Strengthening of the Economic and Social Council (A/RES/68/1)* (New York, 2013) <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/1>.

⁹ Andreas Paulus, 'International Community', *Max Planck Encyclopedia of Public International Law [MPEPIL]*, 2013 <<http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1422?rskey=atpOLm&result=1&prd=EPIL>>.

¹⁰ *ibid*

Israel has been selected as the subject of this study as it is the UN Member with the most resolutions focused upon it and its actions.¹¹ The focus on Israel is ongoing; in the five-year UNGA period immediately preceding the writing of this paper (2012-2016), 103 out of a total 127 critical resolutions were adopted by the UNGA against Israel. In 2017, both the USA and Israel announced that they would be withdrawing from UNESCO due to ‘anti-Israel bias’.¹² It has been argued this bias exists in a number of UN bodies, and this study will analyse whether it exists at the WHO and if so what this means for Israel’s sovereign equality.¹³

This paper is divided into three chapters. Each chapter will have a dedicated historiography, clarifying the existing research in the area of study and the gaps that remain unfilled. The first is a study into the meaning of sovereign equality. Without understanding this, it is impossible to research how or why it is undermined. The second chapter is an evaluation of primary evidence exploring how the international community has used the WHO to undermine Israel’s sovereign equality. The final chapter answers the question as to why it is Israel that has its sovereign equality undermined, as opposed to any other State, and why the WHO is selected as a forum in which to do so.

Historiography

Much has been written about sovereignty, equality, the UN and its relationship with Israel, since its inception. Some of those texts are legal, some historical and some personal. Research regarding the UN and its Charter has been undertaken since the UN’s creation. Despite the preamble of the Charter being only 228 words, Hans Kelsen constructed a 26-page critique of the language, *The Preamble of the Charter – A Critical Analysis* which, published in 1946, remains one of the most important pieces of analysis regarding the meaning of the Charter. It is an important foundation for the first chapter as Kelsen includes a critique of what he views the various meanings of equality in the Charter to be.¹⁴ This article also provides a useful and thorough contextualisation of the formation of the Charter – including notes from various meetings before and during the 1945 San Francisco conference that approved it.¹⁵

¹¹ United Nations Watch, ‘The UN and Israel: Key Statistics from UN Watch’, 2016 <<https://www.unwatch.org/un-israel-key-statistics/>> [accessed 2 December 2017].

¹² United States Department of State, ‘The United States Withdraws From UNESCO’, *United States Department of State*, 2017 <<https://www.state.gov/r/pa/prs/ps/2017/10/274748.htm>> [accessed 22 November 2017].

¹³ United Nations Watch.

United Kingdom, ‘Committee B, Second Meeting’, *World Health Assembly 70*, 2017. 2hr, 28min.

<<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en>> [accessed 22 November 2017].

¹⁴ Hans Kelsen, ‘The Preamble of the Charter--A Critical Analysis’, *The Journal of Politics*, 8.2 (1946), 134–59 <<http://dx.doi.org/10.2307/2125893>>.

¹⁵ ibid

Histories of the Charter, such as *A History of the UN Charter: The Role of the United States 1940-1945* (1958) explore the underlying principles of the Charter and in so doing, apply a definition for various questions regarding the Charter and the future of the UN.¹⁶ Yehuda Blum's 1993 book *Eroding the UN Charter* seeks not only to understand the Charter but also investigate how the Charter has been ignored.¹⁷ Its introduction which showcases a resolution against Israel.¹⁸ *The Changing Constitution of the UN* (1999) studies how the Charter's interpretations have changed over time, and how procedural resolutions across UN bodies have been implemented to change the direction of the UN, without having to amend the Charter itself.¹⁹ Inis Claude wrote many texts regarding international cooperation and the UN - his book *Swords into Plowshares* (1956), provides a thorough study of many aspects of the UN, understanding that 'the UN is an agency subject to utilization by states as they may jointly decide to pursue or competitively succeed in imposing upon it'.²⁰ This paper shares Claude's view of the UN, and it is the best way to explain how the UN and its agencies, are used to create sovereign inequality amongst specific members.

The multivolume *A History of the UN* (1982) by Evan Luard, covers 1945-1955 in Volume 1 and 1955-1965 in Volume 2.²¹ These books provide insight into the changing nature of the UN over its first two decades, as the institution transitioned from *The Years of Western Domination*, to *The Age of Decolonization*. Luard's attempts at being concise mean that he has made a conscious decision not to discuss specialised agencies and has focused instead on peace and security. The first volume shows a UN that is dominated by Western powers, whereby the USA sought to transition power from the UNSC – where the USSR had a veto – to the UNGA, a majority coalition of Western States; ultimately it was a UN dominated by the East-West Cold War divide.²² The second volume focuses on the transition in the power dynamic at the UN during 1955-1965 as former colonies, fiercely protective of their sovereignty and opposed to all forms of what they viewed as imperialism and colonialism,

¹⁶ Ruth B. Russell, *A History of the United Nations Charter: The Role of the United States 1940-1945* (New York: Brookings Institution, 1958).

¹⁷ Yehuda Blum, *Eroding the United Nations Charter* (Dordrecht: Springer Netherlands, 1993).

¹⁸ Blum.

¹⁹ Georges Abi-Saab, *The Changing Constitution of the United Nations* (London: British Institute of international and comparative law, 1997).

²⁰ Inis L Claude, *Swords into Plowshares: The Problems and Progress of International Organization* (New York: Random House, 1971). p.7

²¹ Evan Luard, *A History of the United Nations: Volume 1: The Years of Western Domination, 1945-1955* (London: MacMillan, 1984); Evan Luard, *A History of the United Nations: Volume 2: The Age of Decolonization, 1955-1965* (London: MacMillan, 1989).

²² Luard, E. *A History of the United Nations. Volume 1*

became the majority.²³ In short, it was a transition from an East-West, to a North-South divide. Luard notes that while Western states 'became increasingly irritated by the strident diatribes against them' during this period, the USSR saw that they were often 'on the side of the majority'.²⁴ This is a fundamental point of transition at the UN, and one that will be of importance throughout this study, as it allowed for a coalition of criticism to be created against Israel that will be discussed further in Chapters 2 and 3.

Mark Mazower's *No Enchanted Palace* (2010) provides an insightful view of the UN as being created by contrasting ideas of liberalism and Victorian notions of 'white leadership of the world'.²⁵ Mazower goes on to discuss the UN's evolution into what he called a 'Global' UN, and its foibles, ultimately praising its flexibility while discussing its pitfalls.²⁶ Though *No Enchanted Palace* is a useful comprehensive text, it does not discuss some important documents and meetings in great detail, such as the *Atlantic Charter* (1941) which was in many ways the basis of the UN, and the Yalta Conference (1945). These areas are discussed more thoroughly by Dan Plesch in *America, Hitler, and the UN* (2011).²⁷ Mazower emphasises the UN's intent to preserve great power interests – seeing it as a continuation of the League of Nations – only to be waylaid by Jawaharlal Nehru.²⁸ Meanwhile, Plesch construes the UN as being designed to end empire.²⁹ These two modern histories of the UN highlight the different approaches that its various architects took to creating the organisation, and reinforce the conflict between two of the fundamental principles of the Charter: sovereign equality and human rights.

Some authors have attempted to explain the UN and its politics through personal works such as memoirs. Both Robert Serry's *The Endless Quest for Israeli-Palestinian Peace: A Reflection from No Man's Land* (2017) and Pedro Sanjuan's *The UN Gang* (2005) give personal accounts and insights into the UN, both with much focus on the Israeli-Arab conflict.³⁰ Though both books discuss, from

²³ Luard, E. *A History of the United Nations. Volume 2*

²⁴ ibid, p.6

²⁵ Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton: Princeton University Press, 2009).

²⁶ Mazower, M. *No Enchanted Palace*. p.149

²⁷ Daniel Plesch, *America, Hitler and the UN: How the Allies Won World War II and a Forged Peace* (London: I. B. Tauris & Company, 2011).

²⁸ Mazower. *No Enchanted Palace*. p.18

²⁹ Plesch, *America, Hitler and the UN*. p.91

³⁰ Robert Serry, *The Endless Quest for Israeli-Palestinian Peace: A Reflection from No Man's Land* (Wassenaar: Palgrave Macmillan, 2017) <<http://dx.doi.org/10.1007/978-3-319-44579-3>>; Pedro A. Sanjuan, *The UN Gang: A Memoir of Incompetence, Corruption, Espionage, Anti-Semitism and Islamic Extremism at the UN Secretariat* (New York: Doubleday, 2005).

differing perspectives, notions of anti-Israel bias at the UN, both focus primarily on the Secretariat, UNGA and UNSC, with references to the Human Rights bodies, but with no discussion of the WHO.

Methodology

The WHO's governing body is the WHA.³¹ Seventy years' of agendas and transcripts and fifty years' of resolutions from the annual meeting of the WHA, which have hitherto been unexplored, form the backbone for this study and offers unambiguous evidence of the attempts to undermine Israel's sovereign equality at the WHO.³² The majority of this primary evidence has been drawn from the WHO's library, which holds a near comprehensive catalogue of all documents used at the WHA from its inception.

To provide a framework, both contextual and theoretical, the paper will deploy neo-liberal theories of international relations, as formulated by Joseph Nye and Robert Keohane. Neo-liberal theory views States as the primary actors in global affairs, but also understands that they depend on one another in a system of 'complex interdependence'.³³ Understanding the UN not as an institution but as a collection of States which form global policy to further their interests is best explained through this theoretical framework. Further, the neo-liberal understanding of 'soft power' developed by Nye explains that co-option can be as important as coercion in assisting a State in achieving its goals. It therefore becomes apparent that countries that fail to attain their outcomes successfully through military means, might resort to diplomatic and co-optive means to achieve, or at least make progress towards, their desired goals.³⁴

Game theory also plays a role in the neo-liberal understanding of states and their actions. It explains states as being rational and seeking to achieve absolute gains through different means, such as cooperation in international bodies, at the expense of adversaries.³⁵ Game theorist Thomas Schelling's *The Strategy of Conflict* is an essential work in understanding reasons for bias via his focal point argument, which shows that states – like people – will congregate to a specific point (or in this case, country).³⁶ One reason given for a 'focal point', is 'some kind of uniqueness'.³⁷

³¹ *Constitution of the World Health Organization*, 45th edn (Geneva: World Health Organization, 1946) <http://www.who.int/governance/eb/who_constitution_en.pdf>.

³² While all of these were studied, only a selection have been referenced and discussed in the text. The full repository can be found at <<http://apps.who.int/iris/>>.

³³ Robert O Keohane and Joseph S Nye, *Power and Interdependence*, 4th edn (Boston: Longman, 2012).

³⁴ ibid, pp.289-300

³⁵ Thomas C Schelling, *The Strategy of Conflict* (Harvard: Harvard University Press, 1981).

³⁶ ibid

Israel's uniqueness can be seen in its existence as the world's only Jewish state and the only Free country in its region, as defined by Freedom House³⁸.

Think tank Freedom House's definitions of the terms "Free", "Not Free" and "Partly Free" will be used to describe countries throughout this study. These classifications are taken from their annual *Freedom in the World Index* whereby countries are rated against a set of 15 Political and Civil Liberties on a scale from 1-7.³⁹ These scores are then averaged, with Free countries scoring between 1.0 and 2.5, Partly Free between 3.0 and 5.0 and Not Free being any score above 5.0. When referring to these classifications, the full title will be capitalised. Therefore, when countries are stated as being Not Free, it is their classification being referred to. Where countries are described as "not Free", both Partly Free and Not Free countries are included.⁴⁰

The UN has been viewed by some, primarily functionalist scholars and UN historians, as having its own important political character. While all institutions do possess some character in their own right, this paper will focus on the primacy of Member States in dictating the UN's character. This is because the Secretariat, the organ referred to when people discuss the UN as an institution, is only one of the six UN Principal Organs. Further, it is bound by decisions made by the democratic bodies and therefore is far less able to dictate UN policy than the other Organs.⁴¹ One example of the UN Secretariat being undermined by important political bodies, can be seen at UNESCO. In 2016, a decision made by the UNESCO General Conference, to refer to the Al-Haram Al Sharif/Temple Mount by any name but its Arabic one, was condemned by the UNESCO Director-General as undermining the 'integrity' of the site, but ultimately had no impact on the passage or implementation of the resolution, thus exposing the impotence of the Secretariat in affecting decision making.⁴² Functionalist historians, such as Alanna O'Malley, who view problems from a 'UN perspective' deem this perspective as being that of the Secretariat.⁴³ To the contrary, this study's

³⁷ ibid

³⁸ Freedom House, 'Freedom in the World: Methodology', *Freedom in the World 2016*, 2016 <<https://freedomhouse.org/report/freedom-world-2016/methodology>> [accessed 22 November 2017].

³⁹ Freedom House. *Methodology*

⁴⁰ ibid

⁴¹ *Charter of the United Nations*. Chapter XV

⁴² UNESCO, *Occupied Palestine (200 EX/PX/DR.25.2 Rev)* (Paris, 2016)

<<http://unesdoc.unesco.org/images/0024/002462/246215e.pdf>>;

Irina Bokova, 'Statement by the Director-General of UNESCO on the Old City of Jerusalem and Its Walls, a UNESCO World Heritage Site', UNESCO <http://www.unesco.org/new/en/media-services/single-view/news/statement_by_the_director_general_of_unesco_on_the_old_city/> [accessed 22 November 2017].

⁴³ Alanna O'Malley, 'Special Relationship' (European University Institute, 2012). p.2

utilisation of neo-liberalism, understands that the UN is little more than the decisions and actions of its Member States.

This study, by using the UN Charter as its foundation, will be setting aside ethics. It will focus on the topic of equality, not from the notions of right and wrong but instead as a core purpose of the UN itself. Historical events will be used for context; they will not however be used to discuss the morality of treating some countries more unequally than others.

While there is a rich body of literature studying the UN; its relationship with Israel, its Charter, international organisation in broader terms, sovereignty and sovereign equality, there has been far less regarding the political implications of the WHO. There is a clear gap in research as to how its democratic governance structure can be used to undermine the sovereign equality of a country, and in which cases this may have occurred. This is of fundamental importance as through undermining the sovereign equality of a country, others can subvert a cornerstone of the UN and thus damage a key institution maintaining the current order of global organisation.

This study, through a clear definition of sovereign equality, and by presenting clear evidence through an analytical framework, will show how and why the WHO is being used to undermine Israel's sovereign equality by analysing primary sources and reinforcing that analysis with a theoretical framework and pre-existing research.

Chapter 1: What is Sovereign Equality and how can it be undermined?

"The Thirty-fourth World Health Assembly, [...] Condemns Israel for its refusal to implement World Health Assembly and other international organizations resolutions"

-World Health Assembly, 34
Resolution WHA34.19⁴⁴

Introduction

To understand the relationship between Israel and the WHO through the UN Charter's notion of sovereign equality of nations, one must first establish what is meant by sovereign equality. This Chapter seeks to define sovereign equality, especially in terms of the UN as a body that values this as a core principle.

Sovereign equality is a core aspect of the UN, echoed throughout the Charter. The notion of this equality is so key that it is noted in the Charter's preamble – thus making it a defining cornerstone of the UN. However, the meaning of sovereign equality was not immediately defined, allowing for diverging definitions over the UN's early history. This was remedied in 1964, when the UNGA created a Special Committee to define a number of key principles, including sovereign equality. This Committee took various definitions of sovereign equality, as submitted by states, and sought to create a consensus definition which the UN could use thereafter as their official definition. This official definition will be analysed in this chapter, to understand what sovereign equality is, and thus how it can be undermined.

This chapter will study the history of the notion of sovereign equality at the UN, looking also at wartime declarations that can be seen to have led to the formation of the UN, such as the 1943 Moscow Declaration. It will also study the changing nature of those bodies perceived to create international law, on the understanding that sovereign equality is inherently based upon the notion of juridical equality, and therefore which states can abuse organisational bodies to create inequalities. It will go on to establish what Customary International Law (CIL) is, and how these can be used to undermine sovereign equality. Finally, it will establish how sovereign equality was viewed in early sessions of the UNGA, to explore how sovereign equality has been used as a political tool by countries to achieve their goals.

⁴⁴ World Health Assembly 34, *Health Conditions of the Arab Population in the Occupied Arab Territories, Including Palestine (WHA34.19)* (Geneva, 1981)
<http://apps.who.int/iris/bitstream/10665/156591/1/WHA34_R19_eng.pdf>.

Historiography: A History of the Study of the UN and its Charter

There has been considerable research into the UN Charter, as well as the principles of sovereignty and sovereign equality. This began almost immediately, with Hans Kelsen's 1946 *The Preamble of the Charter – A Critical Analysis*.⁴⁵ It built upon Kelsen's earlier work regarding sovereign equality, such as *The Principle of Sovereign Equality of States as a Basis for International Organization*.⁴⁶ The definition of sovereign equality was primarily discussed by legal scholars such as Kelsen, and the *Max Planck Encyclopaedia of International Public Law* is a useful depository for legally minded definitions and histories of the UN Charter, sovereignty, and sovereign equality.⁴⁷ Further, definitions have been written over the years in journals including *The American Journal of International Law*— which has discussed questions of sovereignty since its first publication in 1907.⁴⁸ Sovereign equality has been constantly discussed through the lens of Westphalian sovereignty, by aforementioned legal scholars as well as International Relations theorists.⁴⁹ These discussions include the works of Western scholars such as Daniel Philpott's, *Revolutions in Sovereignty*, as well as Soviet and Russian theorists – as discussed in Oleg Tiunov's *The International Legal Personality of States*.⁵⁰

Sovereign equality is dealt with by a number of international relations scholars, and understanding this term is vital to grappling how states treat each other, and their exertion of soft and diplomatic power. Joseph Nye set this out in *Soft Power* (2004), and reiterated in Keohane & Nye's *Power and Independence* (2001)⁵¹. Mazower's *No Enchanted Palace* (2009) is a key source for understanding the intentions behind the UN Charter, and what sovereign equality meant to its various contributors. The varying definitions of Westphalian sovereignty discussed by the above scholars, has some fixed attributes – there is a consensus that Westphalian sovereignty is defined by a respect for the personality of states, territorial integrity and the authority of the body politic. However, while the UNGA approved an official definition of sovereign equality in 1970, there have yet to be studies which incorporate this into their understanding of the term. This definition will be analysed in order to provide the framework for the rest of this study.

⁴⁵ Kelsen, 'The Preamble of the Charter--A Critical Analysis'. *Preamble*

⁴⁶ Hans Kelsen, 'The Principle of Sovereign Equality of States as a Basis for International Organization', *The Yale Law Journal*, 53.2 (1944), 207–20.

⁴⁷ Misc., 'Max Planck Encyclopedia of Public International Law', *Oxford Public International Law* <<http://opil.ouplaw.com/home/epil>> [accessed 22 November 2017].

⁴⁸ Robert Lansing, 'Notes on Sovereignty in a State', *The American Journal of International Law*, 1.1 (1907), 105–28 <<http://dx.doi.org/10.2307/2186286>>.

⁴⁹ John Westlake, *International Law*, 2nd edn (London: Cambridge University Press, 1910).

⁵⁰ Oleg I Tiunov, 'The International Legal Personality of States: Problems and Solutions Essay', *Saint Louis University Law Journal*, 323–36.

⁵¹ Joseph S Nye, *Soft Power: The Means To Success In World Politics* (Harvard: PublicAffairs, 2004); Keohane and Nye.

The Origins of Sovereign Equality at the UN

Sovereign equality was viewed by the four main powers allied against the Axis nations, as being necessary for the creation and maintenance of global peace and security.⁵² This can be seen in the Moscow Declaration of 1943, whereby the intention to create a ‘general international organization, based on the principle of the sovereign equality of all peace-loving states’ was announced.⁵³ This was the first time the intention of creating a new global organisation was publicly announced.⁵⁴ The Declaration was made by the same four powers which had created the Atlantic Charter (1941) and the Declaration by United Nations (1942).⁵⁵ Together, these three documents were pivotal in the creation of the UN, with the Moscow Declaration as the first that noted the intention to create a new body, and the first that sought to answer the question of how the signatories would create a new world order after the war had ended.

The pre-eminence of sovereignty and sovereign equality in the UN’s Charter clearly sets it apart from the League of Nations, whose Covenant made only one passing reference to sovereignty.⁵⁶ While Mazower presents the League of Nations as existing as a body with the primary directive of maintaining the status-quo of empires, he believes that the UN Charter’s references to sovereign equality were merely ‘utopian rhetoric’.⁵⁷ He claimed that the UNGA’s relative lack of power to the League’s Assembly was a retreat from the egalitarianism of the League.⁵⁸ Mazower’s view that the

⁵² China, the United Kingdom, the United States of America and the USSR.;

‘The Moscow Conference; October 1943 Joint Four-Nation Declaration’, *The Avalon Project*, 1943
<http://avalon.law.yale.edu/wwii/moscow.asp> [accessed 22 November 2017].

⁵³ ‘The Moscow Conference; October 1943 Joint Four-Nation Declaration’.

⁵⁴ ‘The Moscow Conference; October 1943 Joint Four-Nation Declaration’; ‘Atlantic Charter; August 14, 1941’, *The Avalon Project*, 1941 <http://avalon.law.yale.edu/wwii/atlantic.asp> [accessed 22 November 2017]; ‘Declaration by the United Nations, January 1, 1942’, *The Avalon Project*, 1942
http://avalon.law.yale.edu/20th_century/decade03.asp [accessed 22 November 2017].

⁵⁵ ibid

⁵⁶ The Covenant of the League of Nation’s only reference to sovereignty was that ‘those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant’.

The Covenant made no reference to sovereign equality.

Found in ‘The Covenant of the League of Nations’, *The Avalon Project*, 1917
http://avalon.law.yale.edu/20th_century/leagcov.asp [accessed 22 November 2017].

⁵⁷ Mazower.p.149

⁵⁸ ibid

eminence of sovereign equality at the UN was built on the basis of the comparative power of the UNSC over the UNGA, and unlike this study, fails to take juridical sovereignty into account.⁵⁹

Though there is a power imbalance created within the Charter by giving more power to the Permanent Members of the UNSC, each member had an equal obligation to respect and maintain international law. It is this juridical equality by which the principle of sovereign equality is most defined. The Moscow Declaration reiterates this, with the text focusing on the importance of equality of states ‘large and small’ within international law, in maintaining order and a world free from war. The focus on international law and its equal holding over all states is the core of what is being proposed by the Moscow Declaration, and can therefore be seen as the original meaning of sovereign equality behind the formation of the UN and its Charter.

Defining Sovereign Equality 1965-70

The UN defined a number of core principles from the Charter, in a Special Committee (1965) and confirmed by the UNGA (1970).⁶⁰ One of the seven principles defined by this committee was sovereign equality. The principle of sovereign equality also permeated across the definitions of others, thus in many ways setting it above other UN principles, such as the duty of states to co-operate with one another.⁶¹ Preceding the committee, four separate proposals for defining sovereign equality were submitted; from Czechoslovakia, Yugoslavia, the United Kingdom and lastly a joint proposal by Ghana, India, Mexico and Yugoslavia – which then withdrew their previous submission.⁶² At the committee meeting itself in 1965, the various terms introduced by each submission were discussed, with different countries variously agreeing to and dismissing notions such as Czechoslovakia’s proposal that each state has the ‘inalienable right [... to] dispose freely of its national wealth and natural resources’.⁶³ This didn’t reach consensus as it was argued that it could

⁵⁹ ibid

⁶⁰ This definition is: "1. All States enjoy sovereign equality. As subjects of international law they have equal rights and duties. 2. In particular, sovereign equality includes the following elements : (a) States are juridically equal. (b) Each State enjoys the rights inherent in full sovereignty. (c) Each State has the duty to respect the personality of other States. (d) The territorial integrity and political independence of the State are inviolable. (e) Each State has the right freely to choose and develop its political, social, economic and cultural systems. (f) Each State has the duty to comply fully and in good faith with its international obligations, and to live in peace with other States.

Found in ‘United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States’, *International Legal Materials*, 4.1 (1965), 28–50 <<http://www.jstor.org/stable/20689860>>.

⁶¹ United Nations General Assembly, *Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the UN*, 24 October 1970 (A/RES/25/2625) (New York, 1970) <<http://www.un-documents.net/a25r2625.htm>>.

⁶² ‘United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States’.

⁶³ ibid

undermine international organisations and multinational agreements, and would need rewording in order to be suitable to be a defining part of a core UN principle.⁶⁴

The final definition was adopted by consensus, which strengthens its standing as the appropriate and correct definition of sovereign equality in international law. However, it must be noted that this definition is also a product of its time. The notion that ‘each State has the right freely to choose and develop its political, social, economic and cultural systems’ for instance, is unlikely to be one intended by those who drafted the UN Charter.⁶⁵ This is because, at the same time, that the Moscow Declaration stated that an organisation based on sovereign equality should be formed, they also declared that ‘Fascism and all its evil influence and configuration shall be completely destroyed’. This shows that they did not believe that fascism was a political system that could be allowed to be freely embraced.⁶⁶

Five years after this approval by committee, it was approved by the UNGA – which indicates that the definition was broad enough to withstand five years without the need for modification, despite changes in global circumstances. Since the 1970 passage, there has been no amendment to this official definition of the principle of sovereign equality, which contains a six-part breakdown of the elements making up this principle.⁶⁷

Understanding how a country can have its sovereign equality undermined can be achieved by assessing the six points of definition included in this resolution, though these each have overlapping qualities to them.

First, ‘States are judicially equal’.⁶⁸ Juridical equality is defined as equality under and before the law.⁶⁹ In terms of the international community, this means that international law must be equally applied to all states. The UN Charter, often seen as the cornerstone of modern international law, is therefore equally applicable to all of its members. This type of equality is fundamentally different to the notion of power equality. In both the Moscow Declaration and the Charter, it is stated that sovereign equality is an equal right to ‘nations large and small’, and juridical equality ensures the

⁶⁴ ibid

⁶⁵ ibid

⁶⁶ ‘The Moscow Conference; October 1943 Joint Four-Nation Declaration’.

⁶⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL7/002/12/pdf/NL700212.pdf?OpenElement> p.69

⁶⁸ This type of equality is synonymous with juridical equality; pertaining to the administration of justice; United Nations General Assembly, *Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the UN*, 24 October 1970 (A/RES/25/2625).

⁶⁹ Juliane Kokott, ‘States, Sovereign Equality’, *Max Planck Encyclopedia of Public International Law [MPEPIL]*, 2011 <<http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1113?rskey=l4Oxfq&result=1&prd=EPIL>>.

protection of small states to the whims of those which are large.⁷⁰ For juridical equality to be undermined, a country must therefore be treated as an exception to the same international laws under which other countries are protected. Further, where international law is created that explicitly singles out one country, juridical equality is undermined because that law does not hold all countries equally bound to the duties of international law.

Second, ‘Each State enjoys the rights inherent in full sovereignty’.⁷¹ Full sovereignty is a term for which the UN does not have an official definition, and the meaning behind the term in contemporary society has been keenly debated.⁷² The term full sovereignty is taken to mean sovereignty as defined along Westphalian principles: holding territorial integrity and the right to non-interference in domestic issues from external actors being the sovereign rights of a nation.⁷³ At the Committee, one representative stated that a State’s sovereignty consists of ‘its absolute right to complete internal autonomy and complete external independence’, which in turn can only be achieved through juridical equality.⁷⁴ Thus, states have the right to use their sovereignty as they wish, including joining multilateral and intergovernmental organisations. The rights inherent in full sovereignty are therefore intended to mean that countries cannot have their territory or legitimacy questioned, and can deal with domestic issues as they wish. Full sovereignty can therefore be undermined by questioning the territorial integrity or legitimacy of a state, as well as by directing it to change its domestic policies.

Third, ‘Each State has the duty to respect the personality of other States’.⁷⁵ The personality of states refers to a state as being deemed one individual, with rights and obligations under international law, just as a person does in national law.⁷⁶ The personality of states is acknowledged at the UN in a number of ways, including that a state cannot be seen as having more than one legitimate government by the international community. At the International Court of Justice, only states are

⁷⁰ United Nations, *Charter of the United Nations*. Preamble

⁷¹ United Nations General Assembly, *Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the UN*, 24 October 1970 (A/RES/25/2625).]

⁷² Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001).

⁷³ Ibid

⁷⁴ United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States’. p.33

⁷⁵ Ibid

⁷⁶ The notion of a state having personality can be seen to originate from Hobbes’ definition of the body politic as ‘a multitude of men, united as one person by a common power’.

Found in: Thomas Hobbes, *Leviathan*, ed. by John C A Gaskin (Oxford Univ. Press, 1998); Hans Aufrecht, ‘Personality in International Law’, *The American Political Science Review*, 37.2 (1943), 217–43
<<https://www.jstor.org/stable/pdf/1949384.pdf>>.

party to membership and judgement.⁷⁷ Individuals, including those in governmental positions, are not imbued with the international legal personality to be held responsible or be judged on the intergovernmental level.⁷⁸ Not acknowledging a state, and its legally recognised government, would undermine this duty, as it would show disrespect for the personality of other states.

Fourth, ‘The territorial integrity and political independence of the State are inviolable’.⁷⁹ This returns to the question of full sovereignty, reinforcing that a state is sovereign within its territory. Further, two members cannot be acknowledged as representing the same territory – this led to the transition of the personality of the Republic of China to the People’s Republic of China in 1971, as dual recognition would undermine the right to territorial integrity. Political independence can be seen as the sovereign right to non-interference, succinctly defined by the USSR in the third session of the UNGA as ‘the right of a State to act according to its own will, never serving as a tool of the policy of another State’.⁸⁰ Thus, actions which impair a country’s ability to act according to its own will, or questioning its territorial integrity, undermine a state’s sovereign equality.

Fifth, ‘Each state has the right freely to choose and develop its political, social, economic and cultural systems’.⁸¹ This element exists to ensure that countries cannot be claimed to be less equal for supporting a particular political or economic system. This element can therefore be undermined by setting rules, or launching war on the basis of the internal politics of a country, to specifically target that country’s chosen method of organisation as illegal.

Finally, ‘Each State has the duty to comply fully and in good faith with its international obligations, and to live in peace with other States’.⁸² This point clarifies the importance of fully complying with international obligations, as this should be a measure which ensures juridical equality. Further, by complying with these norms, it is assumed that countries will not seek to dominate one another. Therefore, creating ‘international obligations’ which a country cannot comply with in good faith would undermine its sovereign equality.

⁷⁷ *Statute of the International Court of Justice* (San Francisco, 1945) <<http://www.icj-cij.org/en/statute>>.

⁷⁸ ibid

⁷⁹ ‘United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States’.

⁸⁰ *Continuation of the Discussion on the Draft Universal Declaration of Human Rights : Report of the Third Committee (A/777)* (New York) <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/PV.183>. p.922

⁸¹ ‘United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States’.

⁸² ibid

It was noted at the Committee that 'any discrimination aimed at impairing the sovereign rights of States amounted to a violation of the principle of sovereign equality'.⁸³ This underscores that the view of the international community was that any attempts to undermine a country's territorial integrity, ability to choose their internal arrangements, or make a country unequal under international law violated that country's sovereign equality.

Equality and Legislation at the UNGA

The UNGA acts on the notion that every member has one vote and each vote is of equal weight. No constraints bind the Assembly and no Organs can limit resolutions they might seek to have voted on. While UNGA Resolutions are not recognised as general international law; they do create norms, which in turn become CIL that can be used to undermine the sovereignty of a state.⁸⁴ States have viewed resolutions adopted by the UNGA, its subsidiaries and specialised agencies as undermining their sovereignty. Perhaps the resolution which most empowers the UNGA is the Uniting for Peace resolution (A/RES/377 A), which most importantly states that 'if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace' the UNGA will have the authority to 'consider the matter immediately' and recommend what action should be taken, including the use of armed force.⁸⁵

This resolution's allowance for the UNGA to overrule the UNSC, giving it powers that the Charter did not originally envisage, increases the power of this deliberative democratic body. In creating flexibility through the Charter, and using the Charter as the basis for doing so, as is done in A/377, the UN can be seen to have opened a 'Pandora's Box' whereby the Charter can be redefined through resolutions.⁸⁶ Indeed, the UNGA's power as an alternative international legislature can be seen through its capacity to create CIL.⁸⁷ This type of law comes into being through 'general practice', and so if the UNGA reiterates resolutions on a singular topic, and if the Member States practice a resolution then it can be seen to be international law through custom.⁸⁸ This resolution redefined the power structures of the UN and altered what is meant by sovereign equality in this context. By giving the UNGA authority to approve war, the power inequality created in the Charter for the UNSC was

⁸³ ibid. p.34

⁸⁴ Rüdiger Wolfrum, 'International Law', *Max Planck Encyclopedia of Public International Law [MPEPIL]*, 2006 <<http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1424?rskey=75XQBI&result=1&prd=EPIL>> [accessed 22 November 2017].

⁸⁵ *Resolutions Adopted on Reports of the First Committee: Uniting for Peace, 3 November 1950 (GA/RES/377/A)*, 1950 <[http://www.un.org/en/sc/repertoire/otherdocs/GAres377A\(v\).pdf](http://www.un.org/en/sc/repertoire/otherdocs/GAres377A(v).pdf)>.

⁸⁶ ibid

⁸⁷ *Statute of the International Court of Justice*.

⁸⁸ Tullio Treves, 'Customary International Law', 2006 <<http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1393?prd=EPIL>> [accessed 22 November 2017].

altered, improving the ease by which the undermining of the sovereignty of Member States who are allied to a Permanent Member of the UNSC could be achieved.

Over half of the UN's Member States belong to the NAM, a group of countries which during the Cold War were not officially aligned with either power bloc. The NAM is opposed to imperialism, and alleges to support 'the national independence, sovereignty, territorial integrity and security of non-aligned countries'.⁸⁹ As the NAM believes in the importance of sovereignty and territorial integrity, one might expect it to champion sovereign equality for all UN Member States. However, one of the members of the NAM is not a full member of the UN – Palestine.⁹⁰ By supporting Palestinian 'territorial integrity', the NAM can be seen to have historically undermined that of a UN member – Israel.⁹¹ This point is particularly salient when understanding that until 1991 the NAM's definition of the territory of Palestine included Israel.⁹² The NAM's automatic majority within the UNGA can, therefore, be used to undermine the sovereignty, and thus sovereign equality of Israel through the creation of resolutions, subsidiary bodies and permanent items. This power to push through resolutions is countered by the UNGA rule that all 'important' resolutions must be approved by a two-thirds qualified majority, meaning that the NAM must then create further alliances in the UNGA to pass resolutions that could undermine Israel's sovereign equality. This two-thirds majority is not required for any resolutions at the WHA, meaning that the NAM's automatic majority gives them the ability to pass any resolution that as a movement they support. The NAM, therefore, has an ability to undermine the equality of states by rigorously and continuously sponsoring resolutions against them.

The UNGA has, since its inception, created resolutions which can be seen to undermine the Charter's requirement of sovereign equality. The first instance of this was in the very first session of the UNGA (1946), where there was a resolution that resolved to improve the treatment of Indians in South

⁸⁹ *6th Summit Conference of Heads of State or Government of the Non-Aligned Movement* (Havana, 1979) <http://cns.miis.edu/nam/documents/Official_Document/6th_Summit_FD_Havana_Declaration_1979_Whole.pdf>.

⁹⁰ '16th Summit If the Non-Aligned Movement: Lasting Peace through Global Governance', *Non-Aligned Movement*, 2012 <<https://web.archive.org/web/20140208210716/http://nam.gov.ir/Portal/Home/Default.aspx?CategoryID=27f3fb6-8a39-444e-b557-6c74aae7f75f>> [accessed 22 November 2017].

⁹¹ *6th Summit Conference of Heads of State or Government of the Non-Aligned Movement*.

⁹² *Ibid*;

Yasser Arafat, 'Israel-PLO Recognition: Exchange of Letters between PM Rabin and Chairman Arafat', *United Nations Information System on the Question of Palestine*, 1993 <<https://unispal.un.org/DPA/DPR/unispal.nsf/0/36917473237100E285257028006C0BC5>> [accessed 22 November 2017].

Africa.⁹³ This resolution was put forward on the basis that South Africa was not fulfilling its Charter obligations of equal rights to all people by discriminating against its Indian population, thus creating the basis for this resolution.⁹⁴ The resolution was justified not only on the basis that South Africa was breaking its Charter obligations but more specifically that in doing so, it was causing 'discrimination against the nationals of another State [India]'.⁹⁵ Some countries argued that this did not undermine South Africa's sovereignty but was instead a public discussion of the relations between two states. Nevertheless, Argentina's representative to the meeting stated that their country would not be supporting the resolution as doing so could 'contribute to the adoption of a bad precedent', and instead supported the resolution proposed by South Africa to move the issue to the International Court where a legal judgement could be reached that would settle this inter-state matter.⁹⁶

Rights, Race and Sovereign Equality: A Difficult Balancing Act

This same issue was repeated in the UNGA's third session but expanded to include not only Indians but all non-whites.⁹⁷ Here it was argued by South Africa that expanding this to a racial issue undermined South Africa's sovereign equality, 'the cornerstone of the UN'.⁹⁸

From these exchanges, it can be seen that the UNGA passing judgement on another country was deemed to create a 'bad precedent' which could damage the sovereign equality of Member States.⁹⁹ The third session of the UNGA also contained the debate and approval of the UDHR. During this debate, the dialectic between fundamental rights and sovereignty were discussed (these were reiterated in the South Africa/India debate later in the session), and the Soviet representative claimed that the acceptance of the Declaration would undermine the importance of sovereignty, which could, in turn, undermine sovereign equality of states.¹⁰⁰

⁹³ United Nations General Assembly, *Resolutions Adopted on Reports of the Report of the Joining First and Sixth Committee: Treatment of Indians in the Union of South Africa, 8 December 1946, (A/RES/44 (I))* (New York, 1946) <[http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/44\(I\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/44(I))>.

⁹⁴ India was the complainant, making this an inter-state issue. Found in *ibid*

⁹⁵ *ibid*

⁹⁶ *ibid*

⁹⁷ It was accepted that Indians were an exception as their citizens in a country was an inter-state question. Found in: United Nations General Assembly, *Treatment of Indians in the Union of South Africa: Report of the First Committee (A/863.)* (New York, 1949) <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL4/911/83/pdf/NL491183.pdf?OpenElement%3E>>.

⁹⁸ Full quote: "the cornerstone of the UN. It was the safeguard of the principle of national sovereignty, and that principle was further strengthened by the provision that the UN should not intervene in the domestic affairs of any State" Found at *ibid*

⁹⁹ United Nations General Assembly, *Resolutions Adopted on Reports of the Report of the Joining First and Sixth Committee: Treatment of Indians in the Union of South Africa, 8 December 1946, (A/RES/44 (I))*.

¹⁰⁰ *Continuation of the Discussion on the Draft Universal Declaration of Human Rights : Report of the Third Committee (A/777)*.

Sovereign equality was keenly discussed at early General Assemblies, with all resolutions that impacted states and governing being referred back to their contradiction with sovereignty. The undermining of sovereignty at the UN coincides directly with the potential to weaken sovereign equality. This is because where countries lose sovereignty to other notions, such as rights, they become less sovereign and therefore more able to be coerced or maligned by further resolutions. Indeed, as the *United for Peace* resolution further empowered the UNGA, it created an environment whereby it, its subsidiaries and other UN bodies, such as the WHO, could undermine sovereign equality through the enhancement in the power of CIL. The President of the UNGA in 1950 commented that it was ‘the most important decision adopted [...] during any session of the UNGA’.¹⁰¹

This resolution can be deemed ‘more important’ than the UDHR because it not only played different Charter obligations off against each other, but ultimately altered the nature of the UN to one whereby a majority of nations could create international law, not just the UNSC. This would impact other UN democratic bodies, empowering them to create CILs also, which could lead to a further undermining of sovereignty and sovereign equality .

Therefore, sovereign equality can be defined as all countries' equal right to non-interference, as well as equal rights to create rules and before the law. Non-interference from the UN could be defined as ‘the right of a State to act according to its own will, never serving as a tool of the policy of another State’, as described by the Soviet delegation to the third session of the UNGA, a definition which reinforces the notions of Westphalian sovereignty discussed earlier in this chapter.¹⁰²

Conclusion

Most research on the question of what sovereign equality at the UN means has focused on either studying the history of sovereignty, or looking at the perceived inequality created in the Charter through the existence of the UNSC. This Chapter has explored beyond these, showing how time and resolutions have altered the understanding of sovereign equality. The definition of sovereign equality that will be applied throughout this study is that of the 1970 UNGA. Further, it has explored how sovereign equality can be undermined at the UN, through abuse of democratic functions – a notion which has not been specifically explored in other research. While there have been no prior studies

¹⁰¹ United Nations General Assembly, *United Action for Peace: Reports of the First Committee (A/1456) and the Fifth Committee (A/1463) (Concluded), Request for the Deletion of Item 66 of the Agenda 347 and Statement by the Secretary-General of the League of Arab States* (New York, 1950) <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL5/012/73/pdf/NL501273.pdf?OpenElement>>.

¹⁰² *Continuation of the Discussion on the Draft Universal Declaration of Human Rights : Report of the Third Committee (A/777)*.

regarding the Special Committee's definition of sovereign equality, this paper uses this definition as the basis for what sovereign equality means at the UN.

When discussing sovereign equality, the Charter is effectively discussing independence and equality before the law, and in the creation of the rules. As the UNGA became further empowered, it created an alternate source of law-making which could be applied by other democratic bodies of the UN, such as the WHO. This is because the creation of CILs became more significant against a backdrop of a weakened UNSC, and CILs could be created by manufacturing a norm. Thus, sovereign equality, a cornerstone of the UN Charter, has a history of having been undermined. This has allowed for bodies of the UN to be used to treat different member's sovereignty unequal with greater ease.

Chapter 2: The World Health Organization and Israel, a Case Study in Undermining Sovereign Equality

"Conflict, the absence of peace, politics itself, these all affect the health and wellbeing of millions, indeed billions of people, often tragically so. But we do not have decisions in the WHO relating to every conflict or civil war or political stalemate around the world. This is the only one".

- Delegate for the United Kingdom to the WHA
Explanation for voting against the WHA resolution targeting Israel
WHA 70, 2017¹⁰³

Introduction

As established in the previous chapter, democratic organisations are able to undermine sovereign equality by creating customs that can permeate so thoroughly that they effectively become law. Where the formulation and passage of these resolutions occur frequently, it can be viewed as having severely undermined that state's sovereign equality. This chapter is asking the question 'is the WHO being used to undermine Israel's sovereign equality and, if so, how? It will answer this question by looking at the relationship between the WHO and Israel throughout their history, in order to provide a full overview of this relationship, allowing for a more holistic analysis as to whether this relationship equates to an undermining of Israel's sovereign equality.

This chapter will show how CIL's can be created by the WHO, and then study three interconnected but separate means employed at the WHO to undermine Israel's sovereign equality: the ways in which geographic groupings have been exploited, the singling out of Israel regarding the issue of refugees and by creating precedent for ongoing criticism.

Finally, this chapter will prove that countries are using the WHO to try to undermine Israel's sovereign equality and are succeeding in so doing.

Historiography: A history of being studied as a non-political body

Compared to the academic literature regarding the UNGA, UNSC and even other specialised agencies including UNESCO, the research focused on the WHO, as a political entity, is thin. Most texts about

¹⁰³ United Kingdom. Committee B. 2hr, 28min.

the WHO focus on its epidemiological, medical and public health-related work. However, in 1995, Javed Siddiqi wrote *World Health and World Politics: The World Health Organization and the UN System*, which is presently the most in-depth analysis of politics at the WHO.¹⁰⁴ Although mostly focused on the WHO's relationship with America and how bloc-based political disputes disrupt effectiveness, the book does discuss the Israeli-Arab conflict.¹⁰⁵ Though it has a chapter titled *The Arab-Israeli Conflict*, this chapter focuses solely on the Eastern Mediterranean Regional Committee, which is referred to as 'the most persistent political quarrel' in this conflict at the WHO.¹⁰⁶ Siddiqi merely uses this 'quarrel' as an example of a conflict undermining the WHO's effectiveness in fulfilling its mission. Although this 'quarrel' is a notable one, this study will argue that it should be viewed as one symptom of the conflict, and not as its most important aspect – a point absent from Siddiqi's work. The quarrel surrounding Israel within its regional committee is one strand of concerted aggression which will be elaborated upon in this chapter. Siddiqi does not question why this conflict exists at the WHO, simply stating that 'Challenges to Israeli legitimacy in the WHO and in other specialized agencies have stimulated many contemporary charges of politicization'.¹⁰⁷ Siddiqi is correct in noting this, but in his chapter simply uses the Israeli-Arab conflict as an example of politicisation without seeking to discuss why, or indeed how multi-faceted the politicisation against Israel is.

Legislation through Resolution

Further to the UNGA's ability to create CILs, the WHO is also considered able to create this type of international legislation, in the shape of international health laws.¹⁰⁸ Through the legitimacy given to the organisation, its resolutions, particularly when restated often, would become CIL – as it would be recognised as an international norm. Moreover, members of the WHO view acknowledge these resolutions as laws in themselves.¹⁰⁹ When discussing the resolution targeted against Israel at the 1985 WHA, Jordan remarked that 'non-recognition by Israel of this resolution does not deny its

¹⁰⁴ Javed Siddiqi, *World Health and World Politics: The World Health Organization and the UN System* (Columbia: University of South Carolina Press, 1995).

¹⁰⁵ ibid

¹⁰⁶ The WHO is split into Regional Committees: Africa, the Americas, South-East Asia, Eastern Mediterranean, Europe and Western Pacific. Found in± World Health Organization, 'Annual Meetings of WHO Regional Committees, 2017', *World Health Organization*, 2017

<<http://www.who.int/mediacentre/events/2017/regional/en/>> [accessed 22 November 2017]; Siddiqi, p.87

¹⁰⁷ ibid

¹⁰⁸ Lawrence O Gostin, 'PART III: International Law and Global Health; Introduction', in *Global Health Law*, ed. by Lawrence O Gostin (Harvard: Harvard University Press, 2014), pp. 175–76
<<http://www.jstor.org/stable/j.ctt6wpnjc.12>>.

¹⁰⁹ World Health Assembly 38, *Thirty-Eighth World Health Assembly, Geneva, 6-20 May 1985: Verbatim Records of Plenary Meetings, Reports of Committees* (Geneva, 1985)
<http://apps.who.int/iris/bitstream/10665/161292/1/WHA38_1985-REC-2_eng.pdf>. pp.245-246

international legal character that was confirmed by this vote'.¹¹⁰ This demonstrates that Jordan views WHA resolutions as containing legal character, which is to say that it is, in itself, an item of international legislation. Perhaps equally importantly, no country, including Israel, contradicts Jordan on this point. As CIL is built upon consensus, this implicit agreement with Jordan creates a custom that thereby gives these resolutions this character. Israel merely states that it does not condone the resolution, agreeing that it contains a legal character by implication.¹¹¹ Here Jordan is attempting to build legal precedent, with which to show that Israel has a history of belligerence to international law.

In acknowledging the legal character of resolutions, Israel allows itself to be deemed to be breaking international law. Israel further acknowledged WHA resolutions are laws when, in the 1953 Assembly, it referred to a resolution that would give its geographic group the ability to exclude it as creating a 'legal precedent'.¹¹² By noting and acknowledging without dissent that there was a legal aspect to WHO resolutions, these resolutions should be viewed as CILs.¹¹³

Through having the ability to pass resolutions, perceived by the international community as CILs, which single out Israel, the WHO can undermine Israel's sovereign equality as set out in the Charter of the UN.

Geographical Groupings at the WHO

Upon joining the WHO in 1949, Israel joined the Eastern Mediterranean group.¹¹⁴ Although Israel noted upon its appointment to the group that 'we shall do our best to co-operate fully and loyally with the other Member States, especially those in the Eastern Mediterranean Area', by 1985 it had requested to move from that group to that of Europe.¹¹⁵ Israel made this request because it had

¹¹⁰ ibid

¹¹¹ World Health Assembly 6, *Sixth World Health Assembly, Geneva, 5 to 22 May 1953: Resolutions and Decisions: Plenary Meetings: Verbatim Records: Committees: Minutes and Reports: International Sanitary Regulations: Reservations: Overseas and Outlying Territories: Annexes* (Geneva, 1953) <http://apps.who.int/iris/bitstream/10665/85647/1/Official_record48_eng.pdf>. p. 321.

¹¹² World Health Assembly 6.

¹¹³ Curtis A Bradley, 'Introduction: Custom's Future', in *Custom's Future: International Law in a Changing World*, ed. by Curtis A Bradley (Cambridge: Cambridge University Press, 2016), pp. 1–10

¹¹⁴ In 1948, this group's membership was made up of: Egypt, Saudi Arabia, Iraq, Syria, Lebanon, Palestine, Transjordan, Yemen, Iran, Turkey, Pakistan, Greece, Ethiopia, Eritrea, Tripolitania, Dodecanese Islands, British Somaliland, French Somaliland, Aden and Cyprus.

As found in World Health Assembly 1.

¹¹⁵ World Health Assembly 2, *Second World Health Assembly, Rome, 13 June to 2 July 1949: Decisions and Resolutions: Plenary Meetings Verbatim Records: Committees Minutes and Reports: Annexes* (Geneva, 1949) <http://apps.who.int/iris/bitstream/10665/85600/1/Official_record21_eng.pdf>.

been prohibited from regional sub-committee meetings in the Eastern Mediterranean Region.¹¹⁶ This barring was contrary to resolution WHA7.33: ‘each of the Member States of the Region, in accordance with its declared wishes, shall be seated in one or other of the two sub-committees’.¹¹⁷ By rejecting Israel’s wish to attend the Eastern Mediterranean regional sub-committee, the group were violating Israel’s juridical equality. Dr Mahlerm, Director-General of the WHO, explained this action as a ‘political reality’ in his letter to Israel.¹¹⁸ In response to this letter, Israel’s representative stated that these political circumstances ‘cannot and should not hamper the principles of universality and equality which are the corner-stones of the WHO as well as the United Nations Organization itself’ and that Israel’s ‘basic right to take full part’ in the regional activities thus showing that Israel felt as though its sovereign equality had been undermined.¹¹⁹

When the resolution to transition groups was tabled, the USSR expressed their belief that Israel’s equality in the region had been undermined, but that ‘Israel itself is to blame for the emergence of the problem of the transfer of Israel to the European Region’.¹²⁰ There was no disagreement with Israel’s remark that their principle of sovereign equality had been undermined, and no other countries spoke to disagree with this point. While points of contention have usually been debated at the WHA, silence has tended to imply consensus – as is the case in their passing of resolutions.¹²¹ This is an example of Israel’s equality being undermined at the WHO, with an implicit agreement that this was occurring both from the Director-General at the time and by the international community.

Israel had, previously refused to change group, on the basis that forcing it to do so would undermine its sovereignty.¹²² By 1953 this crisis had elevated to the point whereby Lebanon proposed a resolution which would create a new geographic group that would include every current member of the Eastern Mediterranean Group besides Israel, who they refused to cooperate with, on the basis of non-recognition.¹²³ Non-recognition undermines sovereign equality by failing to respecting the

¹¹⁶ World Health Assembly 7, *Seventh World Health Assembly, Geneva, 4 to 21 May 1954: Resolutions and Decisions: Plenary Meetings: Verbatim Records: Committees: Minutes and Reports: Annexes* (Geneva, 1954) <http://apps.who.int/iris/bitstream/10665/85654/1/Official_record55_eng.pdf>.

¹¹⁷ ibid

¹¹⁸ World Health Assembly 38, *Assignment of Israel to the European Union* (Geneva, 1985) <http://apps.who.int/iris/bitstream/10665/161605/1/WHA38_R1_eng.pdf>.

¹¹⁹ ibid

¹²⁰ World Health Assembly 38, *Thirty-Eighth World Health Assembly, Geneva, 6-20 May 1985: Verbatim Records of Plenary Meetings, Reports of Committees*.

¹²¹ Wolfrum.

¹²² In 1951 Israel were asked to accept a transition from the Eastern Mediterranean group to the European group. Found in: World Health Assembly 4, *Fourth World Health Assembly, Geneva, 7 to 25 May 1951: Resolutions and Decisions: Plenary Meetings Verbatim Records: Committees Minutes and Reports: Annexes* (Geneva, 1951) <http://apps.who.int/iris/bitstream/10665/85614/1/Official_record35_eng.pdf>.

¹²³ World Health Assembly 6.

personality of a state, and interfering with its territorial integrity.¹²⁴ Israel stated a number of concerns with this proposal, primarily that allowing the group to do this would create a situation whereby geographic definition could be weakened, thus undermine the Constitution of the Organization, whenever the majority of the group did not accept one country – even if that was against the will of that country.¹²⁵ Israel stipulated that this would undermine the WHO Constitution and 'of all other international organizations'.¹²⁶ Further, it would allow a majority of states to undermine the fundamental notion that the WHO was 'an organization in which sovereign countries, great or small, met on an equal footing'.¹²⁷ Israel's arguments in this meeting present some of the many ways by which a coalition can undermine the fundamental notion of sovereign equality, by changing rules to discriminate against one country. Though the Assembly did not pass this resolution, it reveals an intention by members of the international community to use the specialised health body to undermine Israel's sovereignty and therefore its sovereign equality.

At the 1985 WHA, the USSR referred to a deliberate attempt to politicise the WHA, stating that 'the health of the Arab population could only be maintained if political measures were taken', going against the core tenet of non-politicisation at specialised agencies.¹²⁸ At the plenary meeting of the 1951 WHA, the Chairman reminded delegates that the WHA was not a forum for 'political arguments', while the US delegate at the 1985 Assembly reiterated that conversations of a political nature belong at the UNSC and UNGA.¹²⁹ At the same meeting, this was restated by a number of predominantly developed states, such as New Zealand who stated that they had voted against the resolution because they were 'concerned about the continued intrusion into the resolution of political elements which were outside the competence of WHO'.¹³⁰ The USSR's intervention in favour of a politicised approach within the WHA reveals the nature of these resolutions, to undermine Israel's sovereign equality. Discrediting Israel at the WHO would further reinforce the rationale for creating a greater number of anti-Israel resolutions at other bodies. Indeed, the USSR utilised the fact

¹²⁴ 'United Nations: Consensus on Principle of Sovereign Equality of States Reached by Special Committee on Principles of International Law Concerning Friendly Relations of States'.

¹²⁵ World Health Assembly 6.

¹²⁶ ibid

¹²⁷ ibid

¹²⁸ United Nations Department of Public Information, *Yearbook of the United Nations: 1946-47* (New York: United Nations, 1947) <<http://www.unmultimedia.org/searchers/yearbook/page.jsp?volume=1946-47&page=1>>. p.261

¹²⁹ World Health Assembly 4.

¹³⁰ World Health Assembly 38, *Committee B: Provisional Summary Record of the Fifth Meeting: Palais Des Nations, Geneva, Tuesday, 14 May 1985, at 9h00* (Geneva, 1985) <http://apps.who.int/iris/bitstream/10665/161565/1/WHA38_B-SR-5_eng.pdf>. p.7

that there had been a resolution aimed against Israel every year since 1968 to reinforce their argument that this – more aggressive – resolution was necessary.¹³¹

The Constitution of the WHO states that 'delegates should be chosen from among persons most qualified by their technical competence in the field of health', a testament of the WHO's intention to be a non-political and medical agency focused on matters of global health.¹³² Furthermore, the vast majority of WHA agendas also show that the clear focus of the organisation is health. The fundamental notion that the WHO should be non-political, was enshrined in a 1953 resolution, stating that the 'WHO should not be called upon to judge or to determine questions of a political character', meaning that resolutions which contained political aspects were violating previous resolutions.¹³³ The 1985 WHA resolution objected to by Israel, the US and other Western states for its politicisation, therefore breached WHO rules, both implied and made explicit in 1953.¹³⁴ The language of the resolution fundamentally challenges Israel's existence, as it had done implicitly since the 1978 WHA, whereby the resolution had its name changed to *Health Conditions of the Arab Population in the Occupied Arab Territories, including Palestine from Health assistance to refugees and displaced persons in the Middle East*.¹³⁵ The 1978 name signifies an implicit notion that Israel has no right to exist, by referring to 'Palestine' as occupied, as opposed to referring to Occupied Palestinian Territories.¹³⁶ References to the PLO within the resolution provide further evidence to the undermining of Israel's right to exist, as at this point the PLO was deemed a terrorist organization by Israel and the US, and its view was that all of the land 'with[in] the boundaries it had during the British Mandate, is an indivisible territorial unit' that belonged to Palestine and not to Israel, whose establishment was 'entirely illegal'.¹³⁷

This non-recognition of Israel, clearly not respecting the nation's personality, became more explicit as of the 1984 *Health Conditions* resolution, which claimed that the PLO was the 'sole legitimate representative' of Palestine, and encourages their 'struggle' against Israel, but also calls for the

¹³¹ ibid

¹³² United Nations, *Charter of the United Nations*.

¹³³ World Health Assembly 6.

¹³⁴ World Health Assembly 38, *Thirty-Eighth World Health Assembly, Geneva, 6-20 May 1985: Verbatim Records of Plenary Meetings, Reports of Committees*; World Health Assembly 6.

¹³⁵ World Health Assembly 31, *Health Conditions of the Arab Population in the Occupied Arab Territories, Including Palestine* (Geneva, 1978) <http://apps.who.int/iris/bitstream/10665/93436/1/WHA31.38_eng.pdf>; World Health Assembly 30, *Health and Medical Assistance to Lebanon (WHA30.27)* (Geneva, 1977) <http://apps.who.int/iris/bitstream/10665/93190/1/WHA30.27_eng.pdf>.

¹³⁶ World Health Assembly 31, *Health Conditions of the Arab Population in the Occupied Arab Territories, Including Palestine*.

¹³⁷ 'The Palestinian National Charter: Resolutions of the Palestine National Council July 1-17, 1968', *The Avalon Project*, 1968 <http://avalon.law.yale.edu/20th_century/plocov.asp> [accessed 22 November 2017].

'unconditional withdrawal of Israel from the occupied Arab territories including Palestine'.¹³⁸ This resolution was reaffirmed in 1985, where it was recognised as calling for the destruction of Israel by their delegate, who stated in the meeting that agreeing to the resolution would be tantamount to 'national suicide', and further stating that they would agree to, or facilitate, no resolution 'whose textual implementation means nothing but the elimination of its statehood'.¹³⁹ Only after the signing of the Oslo Accords, which saw the PLO recognising Israel, can resolutions which refer to Palestine be understood as referring to anything less than the territorial whole of Israel.¹⁴⁰ The formulation and passage of resolutions which not only condemn a country, but fundamentally disregard their right to exist undermines the sovereignty of that nation, and by considering these resolutions law, as has been discussed earlier in this chapter, massively diminishes Israel's equality with other members.

Israel is not the only country discussed at the WHA. Historical examples of countries that have been discussed are Cyprus, Lebanon and South Africa. At the 1977 WHA, there was an agenda item entitled *Health and Medical Assistance to Lebanon* for the first time, with a title reminiscent of 1969's *Health Assistance to Refugees and Displaced Persons in the Middle East*.¹⁴¹ Indeed, the resolution *Health Assistance to Refugees and Displaced Persons in the Middle East* was still an agenda item at the 1977 WHA, and yet Lebanon's refugees were not included in this item.¹⁴² When studying the construction of the resolutions, there is a significant difference in both tone and language used. The title is designed to be political, by defining all refugees and displaced persons in the Middle East as existing due to Israeli aggression. Yet, when looking at the text of the *Assistance to Lebanon* resolution, it thanks 'the UN High Commissioner for Refugees', heavily implying that this assistance is in part necessary to deal with a refugee problem.¹⁴³ Indeed, this is substantiated by the discussion in the meeting itself, whereby Lebanon thanks the High Commission for Refugees for its assistance.¹⁴⁴ Thus, it can be seen that the wording of the titles of these items and resolutions have been

¹³⁸ World Health Assembly 37, *Health Conditions of the Arab Population In the Occupied Arab Territories, Including Palestine* (Geneva, 1984)

<http://apps.who.int/iris/bitstream/10665/161012/1/WHA37_R26_eng.pdf>.

¹³⁹ World Health Assembly 38, *Thirty-Eighth World Health Assembly, Geneva, 6-20 May 1985: Verbatim Records of Plenary Meetings, Reports of Committees*.

¹⁴⁰ Arafat. *Recognition Letters*

¹⁴¹ World Health Assembly 30, *Provisional Agenda: Plenary Meetings* (Geneva, 1977)

<http://apps.who.int/iris/bitstream/10665/148979/1/WHA30_1_eng.pdf>; World Health Assembly 22, *Provisional Agenda* (Geneva, 1969) <http://apps.who.int/iris/bitstream/10665/143968/1/WHA22_1_eng.pdf>.

¹⁴² World Health Assembly 30, *Provisional Agenda: Plenary Meetings*.

¹⁴³ World Health Assembly 30, *Health and Medical Assistance to Lebanon* (WHA30.27).

¹⁴⁴ World Health Assembly 30, *Thirtieth World Health Assembly, Geneva, 2-19 May 1977: Part II: Verbatim*

Records of Plenary Meetings: Summary Records and Reports of Committees (Geneva, 1977)

<http://apps.who.int/iris/bitstream/10665/86037/1/Official_record241_eng.pdf>.

concocted in order to undermine Israel, and identify Israel as the sole perpetrator responsible for creating refugees in the Middle East.

Refugees and Contradictions

The disparity between Israel's treatment and that of the rest of the world can be seen, in part, through the lens of refugee crises. These resolutions aimed to undermine Israel's sovereign equality by subjecting them to resolutions that are country-specific, as opposed to creating general resolutions that could alleviate health concerns associated with refugee crises. Though the WHO passed refugee related resolutions targeting Israel for a decade, they made no mention of refugee crises in Nigeria or Uganda in this time.¹⁴⁵ The language employed in resolutions where refugees are a concern also target Israel for condemnation; thanking organisations for supporting crises without laying blame, such as in Lebanon and Cyprus. This sole targeting of Israel undermines Israel's juridical equality, as well as attempting to undermine their sovereignty with items directing Israel to alter its policies.

1967 held the signing of the *Protocol Relating to the Status of Refugees*, which expanded the definition of who is a refugee. While under the original UNHCR Convention, the definition of a refugee was limited to someone who had fled persecution in Europe before 1951, the new *Protocol* widened this definition to any person with 'a well-founded fear of being persecuted' for a variety of factors.¹⁴⁶ The UNHCR is responsible for overseeing all work regarding refugees, other than those who 'benefit from the protection or assistance' of another UN agency.¹⁴⁷ The only refugees not protected by the UNHCR are those who are given assistance by UNRWA as well as those who have

¹⁴⁵ World Health Assembly 21, *Provisional Agenda* (Geneva, 1968)

<http://apps.who.int/iris/bitstream/10665/138548/1/WHA21_1_eng.pdf>; World Health Assembly 22; World Health Assembly 23, *Provisional Agenda* (Geneva, 1970)

<http://apps.who.int/iris/bitstream/10665/144695/1/WHA23_1_eng.pdf>; World Health Assembly 24, *Provisional Agenda* (Geneva, 1971) <http://apps.who.int/iris/bitstream/10665/145038/1/WHA24_1_eng.pdf>; World Health Assembly 25, *Provisional Agenda* (Geneva, 1972)

<http://apps.who.int/iris/bitstream/10665/145451/1/WHA25_1_eng.pdf>; World Health Assembly 26, *Provisional Agenda* (Geneva, 1973) <http://apps.who.int/iris/bitstream/10665/146110/1/WHA26_1_eng.pdf>; World Health Assembly 27, *Provisional Agenda* (Geneva, 1974)

<http://apps.who.int/iris/bitstream/10665/146252/1/WHA27_1_eng.pdf>; World Health Assembly 28, *Provisional Agenda* (Geneva, 1975) <http://apps.who.int/iris/bitstream/10665/146438/1/WHA28_1_eng.pdf>; World Health Assembly 29, *Provisional Agenda: Plenary Meetings* (Geneva, 1976)

<http://apps.who.int/iris/bitstream/10665/148676/1/WHA29_1_eng.pdf>; World Health Assembly 30, *Provisional Agenda: Plenary Meetings*.

¹⁴⁶ UN High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (HCR/1P/4/ENG/REV. 3) (Geneva: UN High Commissioner for Refugees, 2011).

¹⁴⁷ ibid

become the equivalent of nationals in their country of asylum.¹⁴⁸ Therefore, only refugees not assisted by the UNHCR are Palestinian refugees, the definition of whom is defined by UNRWA.

It is thus unsurprising that the subsequent WHA passed a resolution entitled *Health Assistance to Refugees and Displaced Persons*.¹⁴⁹ Indeed, 1967 saw approximately 2.3 million people become displaced.¹⁵⁰ The two main events that caused this increase in 1967 were the Biafran crisis in Nigeria, and the war between Israel and its neighbours. The former displaced 2,000,000 people, while the latter displaced some 300,000.¹⁵¹

The transcript of the WHA meeting, however, shows no mention of those displaced in the Biafran crisis. Indeed, the word 'displaced' is not once stated, while 'refugee' appears within the transcript over 85 times, all but two references of which do not refer to the situation of Palestinian refugees.¹⁵² This is reflected in the resolution itself. Though entitled *Health Assistance to Refugees and Displaced Persons*, the resolution is solely focused on Palestinian refugees, with no reference to any other examples of refugees or displaced persons in the world. Furthermore, in this meeting when discussing the specific resolution, Nigeria was the Member that introduced the motion regarding refugees and displaced persons, stressing the importance of 'humanitarian principles' and because 'displaced persons should be helped'.¹⁵³

The resolution undermined Israel's sovereign equality in three distinct ways. Firstly, through recalling a UNSC resolution which instructs Israel to make specific changes to its domestic policy, in a violation of Westphalian sovereignty.¹⁵⁴ This violation is reinforced by the understanding that when passed, this resolution is not considered to be advisory, but instead possessing legal character.¹⁵⁵ Indeed, this

¹⁴⁸ ibid

¹⁴⁹ World Health Assembly 21, *Health Assistance to Refugees and Displaced Persons (WHA21.38)* (Geneva, 1968) <http://apps.who.int/iris/bitstream/10665/91187/1/WHA21.38_eng.pdf>.

¹⁵⁰ Lydia Depillis, Kulwant Saluja, and Denise Lu, '75 Years Of Major Refugee Crises Around The World', *The Washington Post* (Washington DC, December 2015) <<https://www.washingtonpost.com/graphics/world/historical-migrant-crisis/>> [accessed 22 November 2017].

¹⁵¹ ibid

¹⁵² World Health Assembly 21, *Twenty-First World Health Assembly, Geneva, 6-24 May 1968: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports* (Geneva, 1968) <http://apps.who.int/iris/bitstream/10665/85809/1/Official_record169_eng.pdf>.

¹⁵³ Full quote: "the Health Assembly was being called upon to adopt the resolution because of concern with the humanitarian principles it embodied. The important point was that displaced persons should be helped" Found in: World Health Assembly 21, *Twenty-First World Health Assembly, Geneva, 6-24 May 1968: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports*. p389

¹⁵⁴ "Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities" Found in: United Nations Security Council, *Resolution 237* (New York, 1967) <<https://unispal.un.org/DPA/DPR/unispal.nsf/0/E02B4F9D23B2EFF3852560C3005CB95A>>.

¹⁵⁵ World Health Assembly 21, *Health Assistance to Refugees and Displaced Persons (WHA21.38)*.

clause was debated at the session because there was a concern that this would be too 'political', and political items weren't appropriate to be discussed in the WHA.¹⁵⁶ Further, the raising of political points at the WHA is a tool utilised to purposely undermine sovereignty, by subverting the supposed non-political character of the body. It was noted in the meeting by its President, that the body would only truly be doing its work properly 'when we refuse to devote a single hour to the raising of political problems with which we are neither competent nor qualified to deal'.¹⁵⁷ Had it not been for the inclusion of the note regarding the UNSC Resolution in the 1968 WHA resolution, Israel would have supported the resolution and it would therefore not have represented an undermining of their sovereign equality.¹⁵⁸

Secondly, as Israel had opposed the resolution, the call contained within it, for 'Member States to do everything possible to facilitate the return of displaced persons', can be seen as a clear breach of Israel's sovereignty.¹⁵⁹ One interpretation of this statement could certainly be that states have a responsibility to impose their will on Israel, through war if necessary, therefore undermining its right as an independent state to deal with its internal affairs. Had Israel agreed to the resolution, as it claims that it would have done had it not been for the addition of the 'political' statement within the preamble, then this could be in no way deemed an undermining of Israel's sovereignty. Through attempting to undermine Israel's sovereign rights, this resolution is undermining Israel's sovereign equality.

Through acknowledging these attacks on Israel's sovereignty, and by focusing solely on Israel regarding the issue of refugees and displaced persons, there is evidence to show that this meeting of the WHA undertook to undermine Israel's sovereign equality. Over the 16 months preceding the 1968 WHA, six times more people were displaced by Nigeria than Israel. Notwithstanding this numerical disparity, the WHO's 1968 resolution entitled *Health Assistance to Refugees and Displaced Persons*, refers only to Israel, displaying the unequal fashion with which countries are dealt at the WHO.¹⁶⁰

From 1968 through to 1979 the resolution that was aimed against Israel had a title focused on refugees. While the lack of parity with the treatment of refugees can be seen in the 1968 resolution discussed above, it is important to establish a pattern to prove bias and manufacture of inequality

¹⁵⁶ World Health Assembly 21, *Twenty-First World Health Assembly, Geneva, 6-24 May 1968: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports*. p.390

¹⁵⁷ ibid. p.238

¹⁵⁸ ibid

¹⁵⁹ World Health Assembly 21, *Health Assistance to Refugees and Displaced Persons (WHA21.38)*.

¹⁶⁰ ibid

against Israel. The largest refugee and displaced persons crisis through the duration of the period 1968-79 was that caused by the Bangladeshi civil war. In this crisis, the UNHCR estimates that approximately 10 million Bangladeshis became refugees in India in 1971, whilst up to 30 million were internally displaced.¹⁶¹ However, in the 1972 WHA, the first to take place following the crisis, the only reference to Bangladesh on the agenda is item 1.12.3, the *Application for membership of Bangladesh*.¹⁶² Indeed, as with 1968, the only resolution that makes a note of refugees is solely focused on Israel. Despite condemnation of Pakistan by India for its treatment of Bangladeshis that led to the dire refugee situation in 1971, no condemnation or calls to give health assistance to Bangladeshi refugees were offered by any of the co-sponsors of the resolution *Health assistance to refugees and displaced persons in the Middle East*.¹⁶³ The fact that neither of the two largest refugee and displacement events which took place over the 1967-1979 period received much attention from speakers at the WHA, and resulted in zero resolutions, while twelve resolutions were raised and adopted against Israel, is strong evidence that the Assembly was being used to undermine Israel's sovereign equality within the WHO.¹⁶⁴

In August 1972 the Ugandan regime had expelled approximately 50,000 Asians from the country, claiming that they were 'sabotaging Uganda's economy' giving them three months to leave.¹⁶⁵ Again, at the subsequent WHA in 1973 there was no reference to this crisis from any delegation, and instead, Uganda became a co-sponsor of the resolution aimed against Israel.¹⁶⁶ Uganda had previously had positive relations with Israel but cut them in 1972 having been promised diplomatic, economic and military support by Libya, and bringing them into a coalition of criticism against Israel

¹⁶¹ Depillis, Saluja and Lu.

¹⁶² World Health Assembly 25, *Provisional Agenda*.

¹⁶³ World Health Assembly 25, *Twenty-Fifth World Health Assembly, Geneva, 9-26 May 1972: Part I: Resolutions and Decisions: Annexes* (Geneva, 1972).

¹⁶⁴ World Health Assembly 21, *Twenty-First World Health Assembly, Geneva, 6-24 May 1968: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports; World Health Assembly 22; World Health Assembly 23; World Health Assembly 24, Provisional Agenda; World Health Assembly 25, Provisional Agenda; World Health Assembly 26, Provisional Agenda; World Health Assembly 27; World Health Assembly 28, Provisional Agenda; World Health Assembly 29; World Health Assembly 30, Provisional Agenda: Plenary Meetings; World Health Assembly 31, Provisional Agenda: Plenary Meetings* (Geneva, 1978) <http://apps.who.int/iris/bitstream/10665/149759/1/WHA31_1_eng.pdf>; World Health Assembly 32, *Provisional Agenda: Plenary Meetings* (Geneva, 1979) <http://apps.who.int/iris/bitstream/10665/153123/1/WHA32_1_eng.pdf>.

¹⁶⁵ F J Ravenhill, 'Military Rule in Uganda: The Politics of Survival', *African Studies Review*, 17.1 (1974), 229–60 <<http://dx.doi.org/10.2307/523588>>. p.237

¹⁶⁶ World Health Assembly 26, *Twenty-Sixth World Health Assembly, Geneva, 7-23 May 1973: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees* (Geneva, 1973) <http://apps.who.int/iris/bitstream/10665/85863/1/Official_record210_eng.pdf>.

for an absolute gain.¹⁶⁷ This volte-face from Uganda provides evidence that developing countries were in effect bribed to join the movement to undermine Israel's sovereign equality by its enemies – along with other sub-Saharan countries including Mali, Niger, the Congo and Burundi – all of which had severed their diplomatic and economic ties with Israel by the end of 1973.¹⁶⁸

In turn, this shows how the WHA was politicised by the states that opposed Israel, in order to undermine Israel by all means available to them. Indeed, this was noted by the Israeli representative at the meeting, who claimed that it was a matter of common knowledge that it had been 'drafted and submitted under Arab inspiration' and was 'nothing more than a transparent effort to yoke the WHO to the chariot of Arab political warfare against Israel'.¹⁶⁹ This criticism by Israel is certainly reinforced by the lack of a resolution or speeches against Uganda. The irony of Uganda sponsoring a resolution criticising another country on the subject of refugees is evidence of the inequality which Israel has faced at the WHO.

Though there have been other country-specific resolutions regarding refugee crises, these focus on assistance and thanks – while condemnation is saved for resolutions targeting Israel. Following the Greek coup and Turkish invasion of Cyprus in 1974, a resolution appeared at the 1975 WHA. This resolution was entitled *Health assistance to refugees and displaced persons in Cyprus*, almost identically titled to *Health assistance to refugees and displaced persons in the Middle East*, and yet the wording within their respective resolutions vary greatly.¹⁷⁰ There is no notion of condemnation within the Cypriot resolution, merely an expression 'Considering that the continuing health problems of the refugees and displaced persons in Cyprus call for further assistance', whereas in contrast the item regarding Israel 'condemns' Israel and considers 'Israel's deliberate destruction' of property.¹⁷¹ Further, the resolution mandated the WHO to work with the PLO - an organisation

¹⁶⁷ In 1972, Idi Amin had requested £10 million from Israel. After Israel rejected this sum, Gadaffi's Libya accepted it – in turn Amin affirmed his 'support for the Arab people's rights and struggle against Zionism and Imperialism'. Found in: Susan Aurelia Gitelson, 'Major Shifts in Recent Ugandan Foreign Policy', *African Affairs*, 76.304 (1977), 359–80; Justin Dargin, *The Rise of the Global South: Philosophical, Geopolitical and Economic Trends of the 21st Century* (Singapore, 2013). p.133

¹⁶⁸ *ibid*

¹⁶⁹ World Health Assembly 26, *Twenty-Sixth World Health Assembly, Geneva, 7-23 May 1973: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees*.

¹⁷⁰ World Health Assembly 28, *Health Assistance to Refugees and Displaced Persons in the Middle East (WHA28.35)* (Geneva, 1975) <http://apps.who.int/iris/bitstream/10665/92839/1/WHA28.35_eng.pdf>; World Health Assembly 28, *Health Assistance to Refugees and Displaced Persons in Cyprus (WHA28.47)* (Geneva, 1975) <http://apps.who.int/iris/bitstream/10665/92984/1/WHA28.47_eng.pdf>.

¹⁷¹ World Health Assembly 28, *Health Assistance to Refugees and Displaced Persons in Cyprus (WHA28.47)*; World Health Assembly 28, *Twenty-Eighth World Health Assembly, Geneva, 13-30 May 1975: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees* (Geneva, 1975) <http://apps.who.int/iris/bitstream/10665/86023/1/Official_record227_eng.pdf>.

recognised as terrorist, and which called for Israel's destruction in its charter.¹⁷² The Turkish invasion is believed to have created up to 160,000 refugees, while around 7000 died over the month-long military incursion.¹⁷³ In his annual report meanwhile, the Director-General of the WHO stated that the health situation in both the West Bank and Gaza had continued to improve, leading the Egyptian delegate to cite a negative article in *Le Monde* as opposed to this report.¹⁷⁴ The language used in these similarly titled resolutions shows that the WHA was attempting to use politics to undermine Israel, by treating it unequally to other countries. While the 1975 WHA condemned Israel, it condemned neither Turkey nor Greece for their actions in Cyprus that led to thousands of deaths and hundreds of thousands of refugees. Again, this displays a clear double standard at the WHA that was employed to undermine Israel's sovereign equality when compared to other members of the international community. Perhaps this is put best by the Kuwaiti delegate of the 1975 WHA who stated that 'The Arabs, however, were not Zionists and were against Zionism', showing that their true aim at the WHA was not to help Palestinians but was instead to undermine Israel.¹⁷⁵

Creating Precedent and the Basis for Further Condemnation

Over the 49 years in which resolutions have targeted Israel, they have had many titles but have continued to remain essentially the same resolution. This has created a situation of precedent whereby Israel is continually in violation of resolutions through the practice of its domestic sovereignty and personality. Each resolution sets a precedent for its successor, even while the particular aspect of Israeli policy being criticised has changed. This continual narrative was remarked upon by WHO Director-General Chan, when she stated that 'the record showed that it [the resolution against Israel] has dated back to 1968'.¹⁷⁶ Chan's use of the singular 'it' shows that despite ever-changing situations, and the supposed changing nature of the resolutions, Israel has remained a continual target of politicised WHO resolutions. When they began in 1968 these resolutions were being directed at the issue of refugees, by 2017 these displaced persons were no longer a part of the resolution. Israel has remained a common denominator in condemnatory resolutions, whilst the aspect of Israeli policy or action condemned continually shifted. These resolutions became more condemnatory from 1977, which coincided with the UNGA Resolution 3379 - colloquially known as

¹⁷² ibid

¹⁷³ Andrew Borowiec, *Cyprus: A Troubled Island* (Westport: Greenwood Publishing, 2000).

¹⁷⁴ World Health Assembly 28, *Twenty-Eighth World Health Assembly, Geneva, 13-30 May 1975: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees*. p.599

¹⁷⁵ ibid. p.601

¹⁷⁶ Margaret Chan, 'Committee B, Second Meeting', *World Health Assembly 70*, 2017. 1hr 31min. <<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en/>> [accessed 22 November 2017].

‘Zionism is Racism’, passed at the end of 1975 and revoked in 1991.¹⁷⁷ This resolution created a legitimacy within the UN system to pursue resolutions which would further undermine Israel. It is no coincidence that the WHA’s resolutions increased in their politicisation with their insistence that Israel was not only committing crimes, but that its very existence was one, peaked at the same time as the UNGA resolved that the belief in the right of existence of Israel was racist and ‘a threat to world peace’.¹⁷⁸

The politicisation that grew at the WHA through the evolving resolution against Israel was criticised by Western states at the 2017 WHA, best summarised by the British delegation: ‘this is the WHO, not the UN General Assembly [...] If we politicise the WHO, we do so at our peril’.¹⁷⁹ The resolution, now entitled *Health conditions in the occupied Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan*, was more criticised than it has been in recent years.¹⁸⁰ These criticisms of the resolution reveal the attempts by the resolutions’ sponsors to treat Israel as unequal with other WHO members. Much of this criticism came in response to the references regarding the Occupied Syrian Golan, primarily because while hundreds of thousands of Syrians have been killed and displaced by the actions of the Syrian government since the beginning of the civil war in Syria since 2011, Syria continues to sponsor a resolution discussing the health conditions in the Golan Heights.¹⁸¹ Furthermore, it was stated that Israel had allowed a WHO team to enter the Golan for the first time and that the WHO report – which was positive – was pulled at the behest of the Syrian government.¹⁸² At the 2017 WHA, criticism of the resolution was stated not only by the Israeli delegate, but also that of Germany who was speaking on behalf of eleven countries.¹⁸³ This criticism was reiterated by other countries such as Slovenia who stated that ‘the report of that mission was

¹⁷⁷ United Nations General Assembly, *Elimination of All Forms of Racial Discrimination* (A/RES/3379) (New York) <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/000/92/IMG/NR000092.pdf?OpenElement>>.

¹⁷⁸ ibid

¹⁷⁹ Speaking after the 2017 vote for the WHA resolution targeting Israel. The delegation continued: ‘If we politicize the WHO, we do so at our peril. We do the course of our global health and the health of our citizens a grave disservice’. Found in: United Kingdom. *Committee B, Second Meeting*

¹⁸⁰ World Health Assembly 70, *Health Conditions in the Occupied Palestinian Territory, Including East Jerusalem, and in the Occupied Syrian Golan* (A70/B/CONF./1) (Geneva, 2017)

<http://apps.who.int/gb/ebwha/pdf_files/WHA70/A70_BCONF1-en.pdf>.

¹⁸¹ Misc, ‘Committee B, Second Meeting’, *World Health Assembly 70*, 2017

<<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en>> [accessed 22 November 2017].

¹⁸² Slovenia and Latvia, ‘Committee B, Second Meeting’, *World Health Assembly 70*, 2017. 2hr 31min

<<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en/>> [accessed 22 November 2017].

¹⁸³ The other ten countries were: Austria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Greece, Italy, Lithuania, Norway, Poland, Slovakia and The Netherlands. Found in: Germany, ‘Committee B, Second Meeting’, *World Health Assembly 70*, 2017. 2hr 25min.

<<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en/>> [accessed 22 November 2017].

not published due to the Syrian behaviour, which we condemn'.¹⁸⁴ Understanding that the resolution's sponsors were seeking to create sovereign inequality for Israel, the suppression of a document that is positive about Israel's actions, solely because it would undermine the political goal of other countries, is a clear example of the politicisation of the WHA with the aim of creating a bias against Israel.

Conclusion

Ultimately, this chapter has shown three of the ways in which the WHA and the WHO have been deliberately used by a number of states to undermine Israel's sovereign equality.

First, those countries proposing resolutions against Israel chose to use language that made it appear as though all of the issues in a region were due to Israel's actions, and its very existence. One example of this is by maintaining the resolution *Health Assistance for Refugees and Displaced Persons in the Middle East* as only pertaining to Palestinian refugees exposed for its bias by a separate resolution calling for assistance to refugees in Lebanon.

Second, the language used in resolutions regarding Israel was far more negative than that employed when dealing with other states. As can be seen from the resolutions regarding Cyprus which are non-condemnatory, while those referring to Israel make sure to 'condemn' it. This is despite these resolutions sharing near identical titles.

Third, by discussing issues and adopting resolutions, that are aimed solely at Israel when there are concurrent world issues of a similar nature that aren't discussed. This has been shown regarding the Biafra crisis in Nigeria, as well as in Idi Amin's Uganda – both of whom sponsored resolutions against Israel regarding refugees while creating vast numbers of refugees themselves.

By deliberately employing the above methods, countries which are opposed to Israel are creating what is acknowledged to be international law focused on that country. The aim of this is turning Israel into something of a criminal state, and one which should not even exist. This is evidenced by wordings in various resolutions that call upon the PLO as the sole representative of the Palestinian people in all the territories of Palestine – which before the Oslo Accords were recognised as meaning Israel. This can further be understood by looking at the changing nature of the titles of the resolutions, as well as the aggressive rhetoric of speeches given at the Assembly.

¹⁸⁴ Slovenia, 'Committee B, Second Meeting', *World Health Assembly 70*, 2017. 2hr 31min.
<<http://www.who.int/mediacentre/events/2017/wha70/webstreaming/en/>> [accessed 22 November 2017].

The politicisation of the WHO is a subject which has received very little academic scrutiny in the past, with the exception of Siddiqi's *World Health and World Politics*, which focused primarily on voting blocs at the organisation. While Siddiqi's analysis regarding the Israeli-Arab conflict discusses only the political aspect of the WHO's regional groupings, this study has shown that a political element targeted at Israel has been expressed not only through geography, but also through consistent resolutions against the State. Meanwhile, while Siddiqi claims that the regional group's politicisation was merely an example of global alliance politicisation, this chapter has given evidence that delegitimising Israel in its regional group was a tactic to undermine Israel's sovereign equality.

By undermining Israel's legal right to exist, and furthermore by claiming it to be in greater breach of international laws than other countries, the WHA has been used as a tool to politically undermine Israel's sovereign equality at the WHO.

Chapter 3: Understanding Why Countries seek to Undermine Israel's Sovereign Equality, and Why the World Health Organization is Selected as a Forum for Doing So

"What is essential is that we keep our ears constantly attuned only to the cry of misery and disease that reaches us from millions of men, women and children, to which we alone are capable of responding with expert skill that we have painfully acquired over the years. We must beware of the perils of playing too often at politics, for which we have neither the training, nor aptitude, nor experience"

-President of the 17th World Health Assembly
Dr Monwar Afridi¹⁸⁵

Introduction

The previous chapter has shown that the WHA has been used as a tool by a coalition of criticism, to undermine Israel's sovereign equality. They have done this by undermining Israel's legitimacy and subjecting it to patently different standards to those which others are treated. This chapter will show why this is happening, and why the WHO is the chosen forum. It will do this by looking at the history of the Israeli conflict at the UN, from its creation in Resolution 181, as well as by exploring the international relations theory of neo-liberalism, whilst utilising game theory to understand why states co-operate in the manner they do.

This chapter will show the ways in which a collection of countries have created a coalition in order to advance their own interests at Israel's expense. The neo-liberal understanding of states as competitive but willing to cooperate and use institutions to win absolute gains gives a framework that clarifies why states act the way that they do.¹⁸⁶, Game theory – often utilised by neo-liberal theorists – provides a method of 'proof' in the theory.¹⁸⁷ Game theorists posit international diplomacy as a zero-sum game in which states seek to advance their own interests to the detriment of others, creating absolute gains. The theory understands that where states share a common adversary in the international system, they are likely to co-operate on the basis of mutual strategic

¹⁸⁵ World Health Assembly 17, *Seventeenth World Health Assembly, Geneva, 3-20 March 1964: Part II: Plenary Meetings: Verbatim Records: Committees: Minutes and Reports* (Geneva, 1964)
<http://apps.who.int/iris/bitstream/10665/85770/1/Official_record136_eng.pdf>.

¹⁸⁶ Keohane and Nye. p.286

¹⁸⁷ Robert O Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984). Pp.87-110

interests.¹⁸⁸ The answer to why Israel has been selected as their target is, in essence, political. This chapter will explore the impact of the USSR and decolonisation on creating a WHA that has sought to treat Israel as though it is unequal to other Member States. The WHO is often researched for technical reasons, but its political output has received very little scrutiny. This has made it an ideal body to manipulate for political gain, and the extent to which it has been politicised shows the degree to which bias against Israel has become a reality at the UN.

The Arab states were historically opposed to the creation of Israel and had fought against its existence in every way possible: through warfare, proxy and diplomacy. The Arab States originally chose warfare as their primary means of destroying Israel. Unable to successfully eliminate Israel through warfare, these states turned to diplomacy and the utilisation of their soft power to further their own interests, whilst damaging Israel's.¹⁸⁹ This began after their loss to Israel in 1967, while the resolutions became further condemnatory following their further defeat in 1973.

By maintaining a focus on Israel at the WHA, and other UN bodies, states which are not Free can keep public attention away from themselves, by creating a paradox of plenty whereby the sheer volume of information leads to a scarcity in attention.¹⁹⁰ The importance of information in exerting power, and the ease of modern communications has created this 'paradox of plenty', allowing those in control of communications to filter through the messages that they wish for their citizens to receive. Further, respondents to this bias are unable to focus on one particular 'enemy', leading to a less focused, and therefore less effective, counter-offensive towards those continually condemning Israel. Indeed, if those defending Israel choose solely to defend Israel's record, the debate again remains on Israel as opposed to its political opponents at the UN and its subsidiaries. Indeed, while dictatorships can control the information domestically, democracies – even weak ones – are bound by the court of public opinion.¹⁹¹ Nye states that even 'when foreign leaders are friendly, their leeway must be limited if their publics and parliaments have a negative image of the United States and its policies'.¹⁹² This is as true for Israel as for the USA. By maintaining a focus on Israel, those seeking to undermine Israel's sovereign equality can do so by turning the public opinion of democracies against Israel through controlling the narrative. Indeed, of the Free countries polled by GlobeScan for its 2017 report only the American and Australian public believe that Israel has a

¹⁸⁸ Schelling.p.1

¹⁸⁹ These were the states formed under the banner of the Arab League: Egypt, Iraq, Jordan, Lebanon, Saudi Arabia and Syria, reinforced by Yemen, Pakistan and Sudan. Found in: M A Aziz, 'Origins of the Arab League', *Pakistan Horizon*, 8.4 (1955), 479–94.

¹⁹⁰ Nye. p.107

¹⁹¹ Weber, *Failing States*

¹⁹² Nye. p.105

positive influence on the world.¹⁹³ In India, public perception has changed from 18% negative in 2011 to 34% in 2014 and 40% in 2017.¹⁹⁴ While tracking causation can be difficult, it is certainly notable alongside Nye and Becker and others (hereinafter, Becker) findings and analysis. The more resolutions passed condemning Israel through the WHO, the easier it is for those who wish to undermine its sovereignty to do so, by undermining public support through a paradox of plenty.¹⁹⁵

This chapter will explain why Israel's sovereign equality was undermined at the WHO. It will begin by discussing the notion of a focal point, which is the primary theoretical explanation throughout this chapter. It will summarise why the WHO was chosen to be a tool for undermining Israel's sovereignty. The chapter will go on to explain why Israel's original adversaries: the Arab states and Iran, created a coalition of criticism against Israel. This coalition was enlarged as the USSR and NAM were encouraged to join through use of language, and the herd immunity that would protect them from criticism as a member of this coalition.

Historiography: Anti-Israel Bias at the UN

The relationship between Israel and the United Nations has been studied by many scholars since Israel's formation in 1948. Inis Claude (1966) notes that in joining the UN, Israel and its allies felt that it would have protection from its 'hostile neighbourhood'.¹⁹⁶ This relationship quickly soured according to *Israel and the United Nations* (1957), where it is argued that Israel's disillusionment with the UN began after they failed to refer to those taking part in the 1948 invasion by the Arab League as aggressors.¹⁹⁷ *Israel and the United Nations* then studies the continuing difficult relationship between Israel and the UN.¹⁹⁸ Most of the focus surrounding the Israel-UN relationship focuses on the UNGA, which has been the most prolific creator of resolutions targeting Israel. Essays such as *Israel, the United States and the United Nations* (1981) studies this relationship from a US perspective, analysing how both the creation of Israel and the UN have their roots in a response to

¹⁹³ GlobeScan, 'Country Rating Poll'.

¹⁹⁴ GlobeScan, 'Country Rating Poll', *BBC World Service*, 2014

<<https://downloads.bbc.co.uk/mediacentre/country-rating-poll.pdf>> [accessed 22 November 2017];
GlobeScan, 'Country Rating Poll', *BBC World Service*, 2012

<https://globescan.com/images/images/pressreleases/bbc2012_country_ratings/2012_bbc_country_rating_final_080512.pdf> [accessed 22 November 2017]; GlobeScan, 'Country Rating Poll'.

¹⁹⁵ Raphael N Becker and others, 'The Preoccupation of the United Nations with Israel: Evidence and Theory', *The Review of International Organizations*, 10.4 (2015), 413–37 <<http://dx.doi.org/10.1007/s11558-014-9207-3>>.

¹⁹⁶ Inis L Claude, 'Collective Legitimization as a Political Function of the United Nations', *International Organization*, 20.3 (1966), 367–79.

¹⁹⁷ Emile Marmorstein, 'Israel and the United Nations: Report of a Study Group Set up by the Hebrew University of Jerusalem', *International Affairs*, 33.2 (1957), 245–46.

¹⁹⁸ *ibid*

Nazism.¹⁹⁹ Becker (2015) analysed Israel's relationship with the UNGA through game theory in the years 1990-2013.²⁰⁰ They highlight decoy-voting against Israel but do not use this evidence to explain why Israel was targeted but instead explore the dangers to democracy in the UNGA that can arise from an 'accusing autocratic majority'.²⁰¹ While these texts variously study the cause and outcomes of the conflict over time, none have specifically looked at how sovereign equality is impacted by the conflict, nor have they studied the conflict at the WHO.

The Focal Point: Herd Immunity

In their study on anti-Israel bias at the UNGA, Becker utilises game theory to prove and discuss this prejudice.²⁰² In this study, Becker discusses the importance of the appearance of benevolence to dictators.²⁰³ Able to control their image at home through limitations on the freedom of the press, these autocrats and would-be dictators of weak democracies, strive to control their benevolent image by ensuring that they are not condemned at the UN. In order to maintain this image and avoid criticism of themselves, groups of autocratic rulers and governments attack the same country – a "focal point".²⁰⁴ Though this study focused on the UNGA, these conclusions can easily be applied to the WHA. Israel is an ideal focal point because it has a pre-existing group of countries which have set out to undermine and discriminate against it – the Arab League, and by extension the OIC. Indeed, the Khartoum Resolution of 1967 guaranteed hostility towards Israel, declaring 'no peace with Israel, no recognition of Israel, no negotiations with it'.²⁰⁵ By entering a coalition of criticism with the signatories of this resolution at the WHA, these dictatorships were able to make it less likely that they would be criticised for their violation of 'the right to health'.²⁰⁶

The UN democratic bodies are formed of various groups, some of which overlap and the largest of which are the NAM and the OIC. As noted in chapter One, over half of the UN's Members belong to the NAM.²⁰⁷ Two-thirds of NAM Members are countries that are not Free.²⁰⁸ 57 UN member states (29% of UN Members) make up the OIC, of which 52 are not deemed to be Free. Altogether, just over

¹⁹⁹ Joseph J Shattan, 'Israel, the United States, and the United Nations', *World Affairs*, 143.4 (1981), 335–45.

²⁰⁰ Becker and others.

²⁰¹ ibid

²⁰² ibid

²⁰³ ibid

²⁰⁴ ibid

²⁰⁵ League of Arab States.

²⁰⁶ World Health Assembly 69, *Health Conditions in the Occupied Palestinian Territory, Including East Jerusalem, and in the Occupied Syrian Golan (A69/INF./4)* (Geneva, 2016).

²⁰⁷ 'Member States'.

²⁰⁸ Freedom House, 'Freedom in the World 2017', *Freedom House*, 2017

<<https://freedomhouse.org/report/freedom-world/freedom-world-2017>> [accessed 22 November 2017].

45% of UN member states are considered Free. Only one of the Arab League's 21 Members is Free.²⁰⁹ These organisations, when acting collectively, have enough support to create and pass resolutions that can undermine sovereign equality, in order to achieve maximum gains on the diplomatic stage.

The automatic majority held by this coalition of not Free states has a further negative impact on Israel. While 'important' resolutions at the UNGA require a 2/3s qualified majority, resolutions only require 50% of the vote to succeed at the WHA. As well as being a focal point for countries that are not Free, the automatic majority wielded by the NAM can be seen to coerce Free countries into supporting resolutions against the focal point, for fear of repercussions. Becker notes that after Canada confirmed that it would not participate in 'decoy voting' against Israel, it was accused by autocracies of many human rights violations.²¹⁰

To use medical terms, the focal point creates a notion of Herd Immunity, whereby those who join in the concerted targeting of a country are protected from the dangers of criticism and the potential damage to their legitimacy emanating therefrom.

Purportedly Non-Political: Why the WHO?

While resolutions have been proposed and passed through various UN bodies, the WHO presents three specific advantages. First, The WHO's objective is 'the attainment by all peoples of the highest possible level of health', as stated in its constitution.²¹¹ The WHA is composed of experts in health and its intended focus is non-political. Having a technical body filled with medical professionals supporting resolutions that criticise a country on an annual basis can be perceived to give these resolutions an extra legitimacy that they would not get from an openly political body. This enhances the power of those Members wishing to undermine a country's sovereign equality - Israel being a case in point. This suggests that there is an attempt to incorporate biological sciences into a sphere of policy, trying to portray political adversary against Israel as objective fact of abuses.

Second, policy passed at the WHA has been considered to be international medical law, and where this is specifically targeted against a country that state can be deemed to be 'criminal'.²¹² Finally, the WHA's lack of a qualified majority made it easier to pass resolutions; the coalition needed only a simple majority to attack a country. Therefore, having the WHO criticise one country on an annual

²⁰⁹ All members of the Arab League are also members of the OIC. Found in: 'Member States', *League of Arab States*, 2017 <<http://www.lasportal.org/ar/aboutlas/Pages/CountryData.aspx>> [accessed 22 November 2017]; 'Member States', *Organization of Islamic Cooperation*, 2017 <<https://www.oic-oci.org/states/?lan=en>> [accessed 22 November 2017]; Freedom House, 'Freedom in the World 2017'.

²¹⁰ These abuses included: child sexual exploitation, racism and discrimination against indigenous peoples, and torture and other cruelty toward its citizens." Found in: Becker and others.

²¹¹ *Constitution of the World Health Organization*. Article 1.

²¹² Gostin.

basis is not only easier than at other UN bodies but also carries a legitimacy that may not be found in them.

Arab States and Anti-Semitism: The Creation of a Focal Point

The Arab League has historically opposed Israel. All Arab League states voted against Resolution 181 in the UNGA, while the League's earliest members have sponsored the WHA's resolution targeting Israel every year since 1968.²¹³ Each of these countries has declared war on Israel.²¹⁴ To them, Israel is not simply a way to distract attention from their misgivings, but something that must have its sovereign equality undermined because it should not exist in the first place.²¹⁵ Israel meanwhile, asserts that its legitimacy comes not just from the land's status as the ancestral homeland of the Jewish people, but through the Balfour Declaration, British Mandate and UNGA Resolution 181.²¹⁶

On a geopolitical level, Israel's existence prevents a Pan-Arab hegemon, which could have become the dominant regional power. Before the Ba'athist revolution in Syria, the country had joined a political union with Egypt, and the two became known as the UAR.²¹⁷ Though during this period of political union (1958-61) there were no military conflicts with Israel, it is notable that the UAR remained geographically disunited due to Israel's presence. Therefore, these countries had a specific geo-political reason for wanting to eliminate Israel by use of any and all means.

Anti-Semitism has long been a key aspect of Arabic anti-Zionism. Though it may be that this anti-Semitism itself arises from a fear that Jews would deprive Arabs of their land, its presence in the Israeli-Arab conflict has been notable for the duration of Israel's statehood. While the 1840 Damascus Blood Libel allegations saw a shift in Ottoman perception of Jews from *dhimmi* to potential danger, the most evident face of anti-Semitic anti-Zionism was Amin al-Husseini – Grand Mufti of Jerusalem from 1921-1937 – after the fall of the Ottomans. Al-Husseini's co-operation with Hitler, and support for the SS, exposes the success of Nazi propaganda in the Middle East.²¹⁸

²¹³ These earliest members are: Egypt, Iraq, Lebanon, Syria, Saudi Arabia, Jordan and Yemen.

Found in Philip Marshall Brown, 'The Recognition of Israel', *The American Journal of International Law*, 42.3 (1948), 620-27 <<http://dx.doi.org/10.2307/2193961>>.

²¹⁴ ibid

²¹⁵ League of Arab States.

²¹⁶ Douglas J Feith, 'A Mandate for Israel', *The National Interest*, 1993, 43–58.

²¹⁷ This remained Egypt's name until 1971

²¹⁸ Bernard Lewis writes that: 'After the promulgation of the Nuremberg Laws, Hitler received telegrams of congratulation from all over the Arab and Muslim world, especially from Morocco and Palestine, where the Nazi propaganda had been most active'. Found in: Bernard Lewis, *Semites and Anti-Semites: An Inquiry into Conflict and Prejudice* (New York: W. W. Norton & Company, 1999). p.148

Moreover, it is highly likely that the impact of this propaganda has remained a part of the mind-set of this region, when dealing with the Jewish State.²¹⁹ Across the Arab World, as well as in Iran, the notion Jews greatly exaggerated the Holocaust, has been supported by governments – as well as typical anti-Semitic tropes regarding blood libels.²²⁰ The virulently anti-Semitic *Protocols of the Elders of Zion* were endorsed by Nasser and Sadat of Egypt, as well as in Saudi Arabia, and Libya.²²¹

According to the widely adopted *Working Definition of Anti-Semitism*, one definition is 'Drawing comparisons of contemporary Israeli policy to that of the Nazis'.²²² The Arab States –joined by the USSR – have repeatedly compared Israel to Nazi Germany. At the 1978 WHA, Iraq referred to 'the uncaring fascist Zionists, who are imitating Hitler's style', while the PLO stated in the 1981 Assembly that Israeli policies were 'reminiscent of the darkest Nazi atrocities during the Second World War' and at the 1988 WHA Libya claimed that 'the Zionists have out- Hitlered [Hitler]'.²²³ These are just three of the frequent accusations of Nazism by Arab League members. These attacks, which equate Zionism with Nazism, seek not only to delegitimise Israel by likening it to the regime which caused such destruction, but reveal the role of the WHO as a tool to delegitimise Israel. Through creating this narrative, these states maximise gains to Israel's detriment; reinterpreting Nazism is an attempt to partially absolve the Arab leadership of their support for the Nazi regime.²²⁴

Thus, the Arab States have opposed Israel as 'illegal' before, and since its inception, and have utilised the United Nations to attack it. These attacks, which exist for a myriad of reasons, have taken to using anti-Semitic tropes such as Jewish control of the US, to demonise the West and appeal to the USSR and the developing world, with statements that Israel is an 'imperialist', 'colonialist' country.²²⁵

²¹⁹Ibid

²²⁰ Manfred Gerstenfeld, 'Anti-Israelism and Anti-Semitism: Common Characteristics and Motifs', *Jewish Political Studies Review*, 19.1/2 (2007), 83–108.

²²¹Lewis; Gerstenfeld.

²²²Adopted by the International Holocaust Remembrance Alliance of 31 countries (including the Netherlands, UK and US), as well as the European Parliament and other organisations. Found in: International Holocaust Remembrance Alliance, 'Working Definition of Anti-Semitism', [Https://european-forum-on-Antisemitism.org/definition-of-Antisemitism/english-English](https://european-forum-on-Antisemitism.org/definition-of-Antisemitism/english-English), 2016; Secretariat, 'EJC Applauds European Parliament Decision to Endorse IHRA Definition of Antisemitism', *European Parliament Working Group on Anti-Semitism*, 2017.

²²³ World Health Assembly 31, *Thirty-First World Health Assembly, Geneva, 8-24 May 1978: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees* (Geneva, 1978) <http://apps.who.int/iris/bitstream/10665/86044/1/Official_record248_eng.pdf>; World Health Assembly 34, *Thirty-Fourth World Health Assembly, Geneva, 4-22 May 1981: Verbatim Records of Plenary Meetings, Reports of Committees* (Geneva, 1981); World Health Assembly 41, *Forty-First World Health Assembly, Geneva, 2-13 May 1988: Verbatim Records of Plenary Meetings, Reports of Committees* (Geneva, 1988).

²²⁴ Jeffrey Herf, 'Convergence: The Classic Case Nazi Germany, Anti-Semitism and Anti-Zionism during World War II', *Journal of Israeli History*, 25.1 (2006), 63–83 <<http://dx.doi.org/10.1080/13531040500502700>>.

²²⁵ World Health Assembly 31, *Thirty-First World Health Assembly, Geneva, 8-24 May 1978: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees*.

Such language was used to persuade this cohort to join the coalition of criticism against Israel, thus making it easier for these states to undermine Israel's sovereign equality.

The USSR: Protection from Criticism and Support in the Cold War

During the first decade of Israel's existence, the USSR was broadly supportive. It became increasingly anti-Zionist during the 1960s and by the end of the 1967 Six Day War, the USSR had effectively made anti-Zionism Soviet policy.²²⁶ Concerned that Israel was becoming increasingly pro-American, it viewed it as an enemy near a potential sphere of influence.²²⁷ Further, the USSR felt that there was more benefit in courting the support of Arab states, many of which were adopting socialist policies during this period.²²⁸ Growth in the Pan-Arab movement brought with it an expansion in the ideals of Arab Socialism, extending the reach of the USSR's potential influence across the Middle East.²²⁹ The USSR exploited the notion of Israel as an international pariah, to the detriment of Israeli sovereign equality.

Joining the focal point against Israel generated absolute gains for both the USSR and Arab states. While the Arab states gained a Superpower ally that strengthened their hand in this regional conflict, the USSR gained the support of several countries, strengthening its position in the Cold War. The USSR wielded its and its satellites votes, providing at least five additional votes to the coalition of criticism.²³⁰ It was in the USSR's interest to oppose Israel; by doing so it was able to appeal to newly formed socialist states and their resource-wealthy allies and expand their sphere of influence. Israel's shift towards the West aided the USSR's decision to shun a US ally vilified by its neighbours and expand its own regional influence. Aligning with Arab states, the USSR could avoid criticism due to perpetuating the Israeli focal point. This worked; in the 1980 WHA, following the Soviet invasion of

²²⁶ Brown.

²²⁷ The USSR had initially supported Israel, hoping that it would become a socialist state and becoming the first country to give it *de jure* recognition. Early Soviet support of Israel included its support of UNSC Resolution 95 (1951). This was the only UNSC resolution critical of Arab states to be supported by the USSR. Other elements of Soviet support had included its satellite Czechoslovakia selling Israel arms, until 1955. Found in: Brown.

²²⁸ Gordon H Torrey and John F Devlin, 'Arab Socialism', *Journal of International Affairs*, 19.1 (1965), 47–62.

²²⁹ Nazih N M Ayubi, *Political Islam: Religion and Politics in the Arab World* (London: Routledge, 1991). pp.37-75

²³⁰ This membership changed over time as Soviet satellites joined and left. The German Democratic Republic in particular struggled to join the WHO, but was a loyal satellite thereafter. The list of satellites was primarily made up of: Czechoslovakia, Hungary, Mongolia, Poland and Romania. Found in: World Health Assembly 24, *Twenty-Fourth World Health Assembly, Geneva, 4-20 May 1971: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports* (Geneva, 1971)

<http://apps.who.int/iris/bitstream/10665/85835/1/Official_record194_eng.pdf>. World Health Assembly 21, *Twenty-First World Health Assembly, Geneva, 6-24 May 1968: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports*.

Afghanistan, the only remark regarding this was in the USSR's defence.²³¹ The word invasion was only used by an Arab state, in conjunction with Israel.²³² Despite the Soviet-Afghan War creating some 6.2 million refugees over a ten-year period – making it the second largest refugee event in history, and leading to the death of up to two million civilians, the WHA did not table even one agenda item regarding the event.²³³ Meanwhile, each of the nine WHA's covering this timeframe saw the USSR support a resolution criticising Israel.²³⁴ This eased the passage of resolutions advanced by the coalition of criticism at the WHA, while protecting the USSR from resolutions against it; bolstering both of these groups' soft power, and weakening that of their adversaries.

The use of this coalition of criticism which included a Superpower commanding more than one vote, ensured that Israel's sovereign equality could be undermined at the WHO.

Decolonisation and the Non-Aligned Movement: The Proliferation of un-Free States

While the majority of the 51 original members of the UN were free democracies, most Member States are now not Free. Africa has only nine Free states of 49, with 17 of 39 in the Asia-Pacific

²³¹ World Health Assembly 33, *Thirty-Third World Health Assembly, Geneva, 5-23 May 1980: Verbatim Records of Plenary Meetings, Reports of Committees* (Geneva, 1980) <http://apps.who.int/iris/bitstream/10665/154894/1/WHA33_1980-REC-2_eng.pdf>.

²³² Jordan stated that Israel was removing Palestinians and replacing them with Israeli 'forces of invasion and colonization'. Found in: World Health Assembly 33, *Thirty-Third World Health Assembly, Geneva, 5-23 May 1980: Verbatim Records of Plenary Meetings, Reports of Committees*.

²³³ The largest is the Syrian refugee crisis, ongoing at the time of this study. Found in: Depillis, Saluja, and Lu.; World Health Assembly 33, *Thirty-Third World Health Assembly, Geneva, 5-23 May 1980: Verbatim Records of Plenary Meetings, Reports of Committees*; World Health Assembly 34, *Thirty-Fourth World Health Assembly, Geneva, 4-22 May 1981: Verbatim Records of Plenary Meetings, Reports of Committees*; World Health Assembly 35, *Thirty-Fifth World Health Assembly, Geneva, 3-14 May 1982: Verbatim Records of Plenary Meetings, Reports of Committees* (Geneva, 1982)

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²³⁴ World Health Assembly 33, *Health Conditions of the Arab Population in the Occupied Arab Territories, Including Palestine* (Geneva, 1980)

<http://apps.who.int/iris/bitstream/10665/155543/1/WHA33_R18_eng.pdf>.

region.²³⁵ The majority of countries that gained their independence in the post-War period of decolonisation are either Not or Partly Free.²³⁶ Many of these countries are or have been socialist states, and every African country is a member of the NAM, there is far more criticism of the West in their speeches than of other NAM Members – thus concurring with the aforementioned focal point. The language used by the USSR and Arab States were echoed by some African and other former colonies, particularly those with socialist and communist governments. For instance, in the 1978 WHA, Mozambique (then a Communist country), referred to Israel as 'colonialist, imperialist and fascist'.²³⁷ In the same meeting, China stated that 'Third World countries had a common history and were facing a common task in opposing imperialism and colonialism', and this is language that was employed to attack Israel.²³⁸ Between 1970 and 1974, Israel was referred to as a 'colonialist' country nine times at the WHA, and this language is used to undermine Israel while creating absolute gains for NAM members.

The NAM's preoccupation with 'self-determination, national independence and the sovereignty and territorial integrity of States', and 'independence of non-aligned countries from great power or block influences' is likely to have a powerful impact on the voting rationale and psyche of Members when voting in the WHA.²³⁹ Nye and Keohane state in *Power and Independence* that 'even governments with superior capabilities - overall or within the issue area - will find it hard to work their will when it conflicts with established patterns of behaviour within existing networks and institutions'.²⁴⁰ As the NAM are the dominant voting force in the WHA, where hard power is of lesser importance than soft, Israel and its key allies (notably the USA and Australia) are likely to 'find it hard to work their will', and are not likely to win votes simply based on their hard power. Within the NAM itself, countries are likely to be able to gain influence - and therefore prestige and power - by proposing resolutions that will gain maximum support, while seemingly reducing the 'neo-colonial' power. The neo-liberal theory proposed by Nye & Keohane suggests that all countries seek to enhance their power and eminence on the world stage, and by leading resolutions that will gain maximum support, members of the NAM – particularly those which propose resolutions, can grow their soft power. The

²³⁵ Freedom House, 'Freedom in the World 2017'.

²³⁶ ibid

²³⁷ World Health Assembly 31, *Thirty-First World Health Assembly, Geneva, 8-24 May 1978: Part II: Verbatim Records of Plenary Meetings: Summary Records and Reports of Committees*.

²³⁸ ibid

²³⁹ Ministry of Foreign Affairs: Government of India, 'History and Evolution of Non-Aligned Movement', *Ministry of Foreign Affairs: Government of India*, 2012 <<http://mea.gov.in/in-focus-article.htm?20349/History+and+Evolution+of+NonAligned+Movement>> [accessed 22 November 2017].

²⁴⁰ Keohane and Nye.p.49

employment of terms such as colonial, neo-colonial and imperialist in both resolutions and simply in discussions of the resolutions, can be seen to be a tool to bolster support from the NAM.

Neo-liberalism posits that in today's world, even the most [hard] powerful countries cannot expect others simply to acquiesce to their perception of how the world should be, and the NAM are showing this to be true.²⁴¹ Due to their comparative lack of power, Israel's adversaries were forced to resort to using a mixture of soft and promise of hard power (such as Libya's military deals with Uganda mentioned in the previous chapter) to discredit Israel, and reduce its sovereign equality with other nations. NAM members were able to use the language of the decolonisation – such as 'solidarity and cooperation between developing countries' to gather the support of, for instance, the socialist countries in Latin America, in the knowledge that passing resolutions vocally opposed by the USA would further empower them and assist in their domestic prestige.²⁴² Meanwhile, opposing a state which was an ally of the US meant guaranteed support from the USSR during its existence.

There have been other historical examples of forces, having realised that they were unable to achieve their goals through military means alone, utilising the UN to achieve a diplomatic victory. In Matthew Connelly's *A Diplomatic Revolution: Algeria's Fight for Independence and the Origins of the Cold War Era*, it is shown that the FLN used similar tactics to win independence from France.²⁴³ Similar to the post-1968 actions of the Arab League and NAM towards Israel, the FLN used the Arab League and NAM to 'internationalize the Algerian question' against France.²⁴⁴ Though the WHA was not used as an arena, with resolutions primarily focused on the UNGA, the remainder of the diplomatic methods utilised by the FLN are akin to those employed by the Arab states in their attacks on Israel. Other uses of soft power, including broadcast media, were tools utilised by the FLN before being embraced regarding the Palestinian question. Further, Connelly notes that on separate occasions, France was influenced by a UN vote 'because they did not wish to appear influenced', thus showing that countries have altered policy on the basis of resolutions.²⁴⁵ As the Arab League, and upon its formation, the NAM, was heavily involved in 'the Algerian question' it is likely they learned that by utilising the UN, they could cause a member state to act in a particular fashion – not just on the international stage but regarding domestic policy. Influencing a country's policy, even in a roundabout fashion such as this, is a clear undermining of that country's sovereignty. Moreover, the Algerian example presented by Connelly shows that when forces become aware that they lack in

²⁴¹ ibid. p.300

²⁴² Ministry of Foreign Affairs: Government of India.

²⁴³ Matthew Connelly, *A Diplomatic Revolution: Algeria's Fight for Independence and the Origins of the Post-Cold War Era* (New York: Oxford Univ. Press, 2002).Connelly.

²⁴⁴ ibid. p.6

²⁴⁵ ibid. p.94

hard power to defeat an opponent militarily, they can turn to the UN to achieve their goals through other means, a method that was repeated by the Arab League and NAM in relation to their relationship with Israel.

Ultimately, Israel has been a convenient, ideologically driven target for countries seeking to delegitimise it. Through the broad support of various groups, anti-Israel resolutions were brought forward by cohorts wishing to enhance their prestige and power. The automatic majority of the NAM and other proponents of these resolutions can also act to dissuade other countries from speaking out. This was strengthened by the fact that most opponents of the resolution can be seen as having previously been 'imperialist', and almost solely members of the developed world. France, for instance, did not want to be reminded of its colonial past by former colonies on a global platform.²⁴⁶ All the above established the ideal conditions for creating a critical mass of resolutions which would delegitimise Israel, and create international law that would undermine Israel's sovereign equality by making it a criminal state.

Conclusion

This chapter has claimed that the reasons Israel's sovereign equality is undermined is four-fold. While Becker's study analysed the focal point in order to understand decoy voting, this chapter has shown that this phenomenon exists in the WHO as well as UNGA, and has also looked more broadly at the reasons why Israel became the focal point, previously. This chapter has not simply highlighted examples of anti-Israel bias at the UN, but has used neo-liberal theory and game theory to further elaborate on why Israel is targeted, and why this has happened at the WHO.

Based on the available UN documents, it can be surmised that Israel's regional neighbours have historically sought to destroy and undermine Israel, as its existence damages their regional hegemon, and also because of anti-Semitic beliefs fuelled during the Second World War. Unable to destroy Israel through military means, these countries turned to the world stage whereby they could undermine its sovereign equality by creating a critical mass of resolutions against it, which could be deemed as international law. This would give legitimacy to their claim that Israel is an 'illegal' state. Conveniently for these states, Israel is a useful focal point because those countries which are not Free can prevent attention being paid to them by highlighting Israel.

Further, by highlighting a humanitarian problem, they can bolster domestic prestige without fear that they will be criticised in turn. The proliferation of member states created in the period of decolonisation gave greater power to these opponents of Israel, and the language of decolonisation

²⁴⁶ Pierson Dixon, *French Decision to Leave the UN Assembly after the Vote on Algeria (PREM 11/902)*, 1955.

was used to undermine Israel and gain the support of these resolutions from the developing world, notably through the NAM. While the USSR had been supportive of Israel when it appeared that it could become a regional satellite, it quickly turned against the state when it became a clear ally of the USA. This gave resolutions against Israel the weight of a superpower, as well as the support of the NAM. On the understanding that they could not delegitimise Israel alone; the Arab League states used coercion and co-operation in order to build a coalition of criticism to undermine Israel's sovereign equality. The WHO's simple majority threshold for passing resolutions, made it a useful forum for undermining Israel's sovereign equality. Further, its status as a specialised medical agency meant that its resolutions carried a perceived objective legitimacy not necessarily available to the UNGA.

Conclusion

"The role of the independent technician, scientist, expert, is indispensable for the political body making the final decision, and [...]

Internationally WHO was planned for this purpose. [...]

Each time we deviate into a discussion of purely political problems we not only lose valuable time; we also weaken our Organization internally and reduce the status of WHO in the world"

-Norwegian delegate to the 25th WHA
Dr K. Evang²⁴⁷

This study has shown that Israel's sovereign equality continues to be undermined at the WHO. A coalition of criticism incorporating the Arab States the NAM and the USSR, all of whom use the WHO as a tool with which to undermine Israel's sovereign equality by using Israel as their focal point.

This has been achieved through the use of resolutions, language and precedent. Despite the WHO being a nominally non-political body, the WHA has been a forum establishing a concerted effort to undermine Israel. Following the 1967 war, Israel's Arab adversaries began a campaign to undermine Israel's sovereign equality at the WHO, having failed in their mission on the battlefield. This campaign became more established following Israel's military victory in 1973. Co-operating against a mutual enemy, the Arab League were able to utilise the evolving global political situation to their advantage. Through creating a coalition with the USSR, Arab States found a superpower that would support their claim, and in turn the USSR gained influence in the region. Meanwhile, by using language reminiscent of that employed by independence movements in Africa, this growing coalition was able to co-opt the support of the developing world. The NAM supported over a decade of resolutions against Israel which claimed that the PLO was the legitimate representative of all Israeli territory, viewing Israel as a colonial power oppressing its member, Palestine. This clearly undermined respect for Israel's personality as a state – a key aspect of sovereign equality.

The majority of UN Members being not Free gave Israel's original adversaries an ability to create a coalition of criticism that would protect one another from censure while undermining an opponent state. One presented example was that of Uganda; moving from supporter of Israel to vocal opponent and co-sponsor of the resolution targeting Israel within the space of a year. That same year, Uganda was offered economic assistance by Libya – an opponent of Israel – and in a quid-pro-quo, supported condemnation of Israel, thereby avoiding criticism for displacing tens of thousands of

²⁴⁷ World Health Assembly 25, *Twenty-Fifth World Health Assembly, Geneva, 9-26 May 1972: Part II: Plenary Meetings: Verbatim Records: Committees: Summary Records and Reports* (Geneva, 1972) <http://apps.who.int/iris/bitstream/10665/85851/1/Official_record202_eng.pdf>.

people.²⁴⁸ This herd immunity has protected the not Free countries that make up a voting majority at the WHA.

By creating CILs against Israel, this coalition undermined Israel's juridical equality. As each resolution targeting Israel refers to the one before it, these resolutions create a narrative of Israeli belligerence. However, these resolutions changed in substance over time – with criticism of Israel being the only connecting factor between 2017's resolution and that of 1968. Israel faced either accepting resolutions against it, thus undermining its sovereign equality by instructing policy, or allowing itself to be treated as juridically unequal; breaking international laws simply by continuing to exist as a state.

The WHO serves as a useful forum for passing resolutions. As a technical body, with resolutions being drafted and voted on by doctors, its resolutions carry a perceived weight that is not seen in overtly political UNGA resolutions. When the WHO passes a resolution, it implies that its subject is a health matter, not a political issue. In persisting in passing resolutions against Israel at the WHO, that body is used to undermine Israel's juridical equality.

While existing research has discussed the theory behind sovereign equality, or its practical implications at the UNGA and UNESCO, this is the first to analyse how the WHO has been used to undermine Israel's. Using the UN's definition of sovereign equality to understand how this principle can be weaponised as well as undermined, it can also be extrapolated to study other areas of the undermining of sovereign equality at the UN. While anti-Israel bias has been identified by NGO's, governments and scholars, this study presents how bias undermines the UN's core principle of sovereign equality. This study could have benefited from an insight into the direct legal implications that CIL's that are designed to undermine sovereign equality have had on the creation of domestic legislation. Further research on this subject might look more specifically at the role of the PLO in the WHO, as well as the role of resources in the creation of coalitions. It could also use this methodology to study which other countries have had their sovereign equality undermined by coalitions of criticism.

The WHO's constitution, like the UN's Charter, refers to its ambition to achieve 'harmonious relations' between states, and that the WHO will work 'in conformity' with the principles of the UN Charter. Undermining Israel's sovereign equality at the WHO in no way contributes to creating these harmonious relations. Instead these actions undermine the WHO as a technical body. Delegitimising Israel's sovereign equality can undermine the important healthcare work the WHO carries out,

²⁴⁸ Gitelson.

particularly in a region where violent conflict is a reality. The de-legitimisation of Israel has distracted from important public health causes around the world, with states utilising the herd immunity effect of the focal point against Israel to distract from their own health crises. This is the case with Nigeria (1968), Uganda (1972), the USSR (1980) and continuing to this day in Syria. Through allowing political issues to infiltrate its important work on global health issues, the WHO itself risks being undermined.

This paper sought to understand the meaning of sovereign equality through the UN Charter. It sought to understand how and why the WHO is used to undermine Israel's sovereign equality. It has shown that through undermining Israel's juridical equality and its full sovereignty, the WHO has been used as a tool by Israel's adversaries. This coalition of criticism understood that they wielded the power to pass any resolution they wished against Israel, and in doing so would be able to deflect from their own problems – both health-related and political.

The WHO's mission is to create a healthy world. This study has revealed a sickness in the system, whereby an automatic and autocratic majority can hijack a technical body for political and propaganda purposes. If a cure is not found soon, it could spread until the sovereign equality of all those who face a coalition of criticism is undermined.

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