The Consequences of Not Vetoing the Israel Resolution

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AMID THE CONTINUING controversy over the Obama administration’s refusal to veto the Security Council’s resolution regarding Israeli “settlements,” it is important to understand why Israeli leaders across the political spectrum as well as American supporters of Israel — including many who oppose settlement expansion and favor a two-state solution — feel so negatively about this resolution.

Its text states that “any changes to the 4 June 1967 lines, including with regard to Jerusalem” have “no legal validity and [constitute] a flagrant violation under international law.” This resolution is not, therefore, limited to settlements in the West Bank. It applies equally to the very heart of Israel.

Before June 4, 1967, Jews were forbidden from praying at the Western Wall, Judaism’s holiest site. They were forbidden to attend classes at the Hebrew University at Mt. Scopus, which had been opened in 1925 and was supported by Albert Einstein. Jews could not seek medical care at the Hadassah Hospital on Mt. Scopus, which had treated Jews and Arabs alike since 1918. Jews could not live in the Jewish Quarter of Jerusalem, where their forbearers had built homes and synagogues for thousands of years. These Judenrein prohibitions were enacted by Jordan, which had captured by military force these Jewish areas during Israel’s War of Independence, in 1948, and had illegally occupied the entire West Bank, which the United Nations had set aside for an Arab state. When the Jordanian government occupied these historic Jewish sites, they destroyed all the remnants of Judaism, including synagogues, schools, and cemeteries, whose headstones they used for urinals. Between 1948 and 1967 the UN did not offer a single resolution condemning this Jordanian occupation and cultural devastation.

When Israel retook these areas in a defensive war that Jordan started by shelling civilian homes in West Jerusalem, and opened them up as places where Jews could pray, study, receive medical treatment, and live, the United States took the official position that it would not recognize Israel’s legitimate claims to Jewish Jerusalem. That is why it refused to move the American embassy from Tel Aviv to Jerusalem. It stated that the status of Jerusalem, including these newly liberated areas, would be left open to final negotiations and that the status quo would remain in place. That is the official rationale for why the United States refuses to recognize any part of Jerusalem, including West Jerusalem, as part of Israel. That is why the United States refuses to allow an American citizen born in any part of Jerusalem to put the words “Jerusalem, Israel” on his or her passport as their place of birth.

But that has now changed with the adoption of the Security Council Resolution. The UN has now determined that, subject to any further negotiations and agreements, the Jewish areas of Jerusalem recaptured from Jordan in 1967 are not part of Israel. Instead, according to the resolution, they are territories being illegally occupied by Israel, and any building in these areas — including places for prayer at the Western Wall, access roads to Mt. Scopus, and synagogues in the historic Jewish Quarter — “constitutes a flagrant violation under international law.” If that indeed is the status quo, absent “changes . . . agreed by the parties through negotiations,” then what incentives do the Palestinians have to enter negotiations? And if they were to do so, they could use these Jewish areas to extort unreasonable concessions from Israel, for which these now “illegally occupied” areas are sacred and nonnegotiable.

[View Story](http://www.bostonglobe.com/news/politics/2016/12/24/vote-against-israeli-settlements-will-complicate-peace-efforts-donald-trump-says/1kVeY7JfkKc3MhGY3NgLKO/story.html?p1=Article_Related_Box_Article)

#### [Trump calls UN vote a ‘big loss’ for Israel](http://www.bostonglobe.com/news/politics/2016/12/24/vote-against-israeli-settlements-will-complicate-peace-efforts-donald-trump-says/1kVeY7JfkKc3MhGY3NgLKO/story.html?p1=Article_Related_Box_Article)

[Donald Trump warned that the resolution condemning Israeli settlements will complicate peace efforts.](http://www.bostonglobe.com/news/politics/2016/12/24/vote-against-israeli-settlements-will-complicate-peace-efforts-donald-trump-says/1kVeY7JfkKc3MhGY3NgLKO/story.html?p1=Article_Related_Box_Article)

* [Netanyahu struggles to defend settlement policy](http://www.bostonglobe.com/news/world/2016/12/25/netanyahu-struggles-defend-settlement-policy/itvCxswigbI9hmayEfQGMM/story.html?p1=Article_Related_Box_Article_More)

This is what President Obama has wrought in his ill-advised refusal to do what American presidents have done for decades: exercise their veto in preventing biased, destructive, and one-sided resolutions from being enacted against Israel by the automatic anti-Israel majority that exists in every institution of the UN.

The bad news is that no future president, including President-elect Trump, can undo this pernicious agreement, since a veto not cast can never be retroactively cast. And a resolution once enacted cannot be rescinded unless there is a majority vote against it, with no veto by any of its permanent members, which include Russia and China, who would be sure to veto any attempt to undo this resolution. Obama’s failure to veto this resolution was thus a deliberate ploy to tie the hands of his successors, the consequence of which will be to make it far more difficult for his successors to encourage the Palestinians to accept Israel’s offer to negotiate with no preconditions.

The good news is that Trump can ameliorate the effects of this resolution immediately upon assuming office. He can do so by officially recognizing Jerusalem as Israel’s capital and moving its embassy there. This would dramatically demonstrate that the United States does not accept the Judenrein effects of this bigoted resolution on historic Jewish areas of Jerusalem, which are now forbidden to Jews. The prior refusal of the United States to recognize Jerusalem as Israel’s capital and to move its embassy there was based explicitly on the notion that nothing should be done to change the status quo of that city, holy to three religions. But this resolution does exactly that: It changes the status quo by declaring Israel’s de facto presence on these Jewish holy sites to be a “flagrant violation under international law” that “the UN will not recognize.”

Since virtually everyone in the international community acknowledges that any reasonable peace would recognize Israel’s legitimate claims to these and other areas in Jerusalem (and indeed, to settlement blocks in close proximity to Jerusalem), there is no reason for allowing the UN resolution to make criminals out of every Jew or Israeli who sets foot on these historically Jewish areas.

Before the enactment of this resolution, I was not in favor of Trump immediately moving the US embassy to Jerusalem. I advocated that such a move should take place in stages, over time, and with consultation among America’s Muslim allies in the region. But now that the UN has made it a continuing international crime for there to be any Israeli presence in disputed areas of Jerusalem, including areas whose Jewish provenance is beyond dispute, there is a need for immediate action by Trump, upon taking office, to untie his hands and to undo the damage wrought by his predecessor. Congress will surely approve such a move, since the overwhelming majority of its members disapproved of the American decision not to veto the resolution, and since, in 1995, Congress enacted a statute, signed by President Clinton, declaring that the “United States maintains it embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel” and urged “the United States [to] conduct official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.”

Obama’s ill-advised, lame duck, and undemocratic effort to tie his successor’s hands must not be allowed to destroy the prospects for a negotiated peace between Israel and the Palestinians.