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Secret

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Re: Observations on Malik's Speech at the 646th Meeting  
of the Security Council held on 11 December 1953 (S/PV 646)

Malik builds his speech on four postulates. None of them refer to the B'not Yaakov Project itself, to its characteristics or to the specific issues it has raised. The question of land and water rights, even the problem of military advantage have all been relegated into oblivion. The Project as such does not constitute any longer an issue. The problem, according to Malik, is Syria's right to give and to refuse consent to development projects in the Demilitarized Zone. Now, that the original Syrian charges have been conclusively disproved, there is only one way to prevent the Canal Project from continuing, namely to accord Syria a status in the Demilitarized Zone which would make every civilian activity within it subject to Syrian consent. There must be no misunderstanding about this thesis. It amounts to a suggestion to place the Demilitarized Zone under effective Syrian tutelage. Syria would thereby cease to be the state whose only connection with the Demilitarized Zone - aggressive occupation in violation of Charter obligations and in defiance of the expressed will of the United Nations, was ended with the signing of the Armistice Agreement. Malik would not be satisfied even with a status of equality with Israel (which Syria never possessed in law or in fact). His design is more ambitious. While denying Israel's right to interfere with the normal civilian life of Arab villages in the Demilitarized Zone, he does claim for Syria the right to control Israeli civilian development in the Zone.

There are not many arguments that could be harnessed into support of so extreme and unfounded a thesis. The most amenable are of course distortions of law and fact, and simple political invectives.

Let us examine them.

1. "Question of Sovereignty over the Zone".

We have already pointed out that the question of sovereignty over the Zone was considered irrelevant by the Security Council in its discussions regarding development projects in the Demilitarized Zone. In his reports on the Canal Project, Gen. Bennike does not refer to this question at all.

However, it is essential to bear in mind that while Israel's views regarding the status of the Demilitarized Zone (including her views on sovereignty) have never been ruled illegitimate, Syria's have. Israel's stand was indeed explained in the Security Council debate of 1951 and repeatedly reported by Gen. Riley to the Security Council. On no occasion has it, however, been declared as unlawful.

It is interesting to observe the artifice to which Malik resorted himself in alleging that Israel's attitude with respect to sovereignty over the Zone is contrary to the Armistice Agreement. He did not find a single reference to the problem in Gen. Bennike's report on the B'net Yaakov Canal. He turned, therefore, to the Qibya report wherefrom he cites several descriptions of specific difficulties that have arisen out of the rather complex regime of the Demilitarized Zone. These are not at all unusual difficulties and they do not fall outside the framework of normal and legitimate implementation of Article V. None of these descriptions ruled Israel's views on sovereignty over the Zone to be unfounded. Yet, Malik would that we accept the notion that every difficulty in the Demilitarized Zone, even such as the economic situation of the local Arabs which he cites from the General's report, or the problem of the relationship between the local Israeli police and their headquarters outside the Zone, are inevitably violations of the General Armistice Agreement, and that mere reporting of Israel's attitude on sovereignty brands it automatically as illegitimate. This approaches more the artifices of demagoguery even than the methods of intellectual sophistry.

The argument on sovereignty is interspersed with such distortions as the statements that since 15 May 1948 the Demilitarized Zone "was for a much longer period under Syrian control than it was under Israeli" and that "it is also obvious that Israel is a state without fixed boundaries, and it will continue to have this undetermined shape so long as its neighbours have not recognized its boundaries, for a boundary, by definition, is the mutual recognition of a fixed line between neighbours."

In the course of this area's entire history Syria exercised control over part of it during a period of one year only, and this as a result of aggression branded as such in the Security Council. Only one criterion could have led to describing this period as having been longer than that of free existence, and that is the measure of destruction which the Syrians succeeded to imprint upon the Zone during their occupation. The development of years was annihilated so completely that the area turned into a vacuum and a wasteland, and it became the principal purpose of Article V of the Armistice Agreement to ensure that it would not remain in this state, and that the somber heritage of Syrian control would be removed.

As for Israel's boundaries, it is to be observed that the Armistice Agreements have established the "fixed lines" that Malik requires to satisfy his definition of boundaries. Furthermore Israel's boundaries have been recognized by more than 60 states and guaranteed in the Three Power Declaration. Malik's statement comes close to being a repudiation of one of the basic provisions of the Armistice Agreement, and belongs in the same category as Zeineddine's warning that Syria may be compelled to resort to force in "self-defence" against the continuation of the Project.

2. "Comparison of the Project with Development Projects in the past".

Malik realizes that his contentions would in fact legalize retroactively all economic development that has taken place in the Zone during the past years. There is only one possible method to avoid this conclusion. He states:

"It is true that many other changes were brought about in the Zone on Israeli initiative, but none of them had the importance or the far-reaching consequences of the present one. If the Chief of Staff of the United Nations or the Council authorized changes in the past, they did so with the firm conviction that such changes would neither modify the status of the Zone nor prejudice its fate."

The only difference Malik draws between the present Project and development in the past is one of degree, for it is obvious that the principles involved in development projects of the past are identical with those that are relevant to-day.

In any event, this "legalization" of past economic development in the Demilitarized Zone is a new departure. Malik did not put forward this view in his previous speech on 18 November. It constitutes in fact a repudiation of the Syrian position, and the question it raises is whether one should accept the Syrian view that their opposition to development projects in the Zone is as justified to-day as it has been in the past, or whether it is the Lebanese thesis which is the correct one, and therefore although Syria has been entirely wrong in her past policies and claims we are to believe that she is right in this exceptional case of the B'not Yaakov Project.

3. "Understanding" not "Veto". (pp. 16-17)

The deceptive coating Malik attempts to give to the concept of Syrian veto, has little meaning in the light of Syria's "a priori" pronouncement of the Project as a contravention of the Armistice Agreement which must be discontinued.

However, the most striking fact is that Malik supports his contention that Syrian consent is essential in the case under consideration, by means of two arguments, both of which are misinterpretations.

- (a) He refers to the "precedent" of the checking gates in which he alleges agreement between Israel and Syria was possible. It is to be recalled that the parties in that particular case were the Buteiha Farm owners and the representatives of the Palestine Land Development Corporation. Agreement was to be concluded on the measure of compensation that the owners of the farm were prepared to accept for damages resulting from the operation of the gates. The agreement was not reached simply because a way was found to avoid the infliction of damage upon the farm. If this case serves as a precedent for anything at all, it is for the contention that the rights of the Buteiha Farm owners can be affected even detrimentally, in which case the normal method of compensation is adopted.
- (b) Secondly, Malik suggests that direct consultations within the machinery of the MAC were deemed vain and useless in this case, while in his opinion "the normal and only right course is to seek understanding with the other party through the machinery of the Mixed Armistice Commission, for this is the only available machinery which might yield positive results." The fact is that the MAC is not at all a normal or an available channel for the consideration of matters arising from Article V. The Chief of Staff himself is responsible for the implementation of Article V, and that is the reason why he and not the MAC was seized with the Canal Project problem. It has been the established procedure, affirmed in rulings by Gen. Riley, that questions concerning civilian life in the Demilitarized Zone are excluded from the authority of the MAC on which Syria is represented. The reason for this difference between the implementation of Article V and the implementation of other provisions of the Armistice Agreement is precisely the intent to bar Syrian interference in the life of the Demilitarized Zone.

4.

"The Huleh Precedent", (pp. 21)

Malik's second cardinal postulate is:

"To condition the resumption of the work upon a prior agreement between Israel and Syria is not to dishonour the past jurisdiction of the Council, i.e., the Huleh case, but as we shall show, precisely to be consistent with that jurisdiction and with the provisions of the Armistice Agreement which are applicable to the present case".

In his expose of this point he succeeds to confuse us as well as himself. He begins by expressing support for the Syrian contention that the Huleh case was entirely different from the Canal problem. Then, however he admits that the principles involved in the Huleh case are identical with those in the present case. He actually says: "we are requesting the honourable members of the Council to take a similar attitude of principle on the Canal Project to that taken by the Council in the Huleh case." (pp. 24-25). Malik's way out of this confusion leads through a distortion of the decision adopted by the Security Council in 1951.

(a) Thus, he creates the principle of conflict between economic development and the provisions of the Armistice Agreement. He calls it politely subordination of projects of development to the implementation of the provisions of the Armistice Agreement. As we are well aware, in fact, the fundamental purpose of Article V of the Agreement is to ensure the restoration of civilian life and the normal economic development of the Zone. There is no subordination, no conflict of one aim with the other. They are one. The basic mistake made by Malik is in assuming that normal civilian development is capable of being contrary to the Armistice Agreement. The process of development, the execution of a particular project may involve infringement upon certain rights safeguarded by the Armistice Agreement, and such infringement must be prevented by modification and adjustment. It does not follow, however, that a civilian development project in the Zone could constitute, in principle, a violation of the Agreement. The 18 May 1951 Resolution, far from creating any principle of the kind suggested by Malik, established the principle of development in the Zone as having priority over any other consideration.

As Malik resorts to a misinterpretation of a statement made by Sir Gladwyn Jebb in the Security Council on 16 May 1951, let us call upon Sir Gladwyn to show to what extent the Resolution of 18 May 1951 established the priority of economic development in the Demilitarized Zone.

At the 547th Meeting of the Security Council on 18 May 1951 (S/PV.547 pp.34-35) Sir Gladwyn declared:

"If I may summarize the intentions which the sponsors of this draft resolution had in mind in drafting the third, fourth and fifth paragraphs, I should like to say that they hope that a negotiated settlement between the Palestine Land Development Company and the landowners might be quickly achieved, but that if in spite of the clearly expressed views of the Council to this effect no negotiated settlement proved possible, then the procedures and the machinery provided by the General Armistice Agreement should be used in order to make a final settlement possible. I believe I may say on behalf of the sponsors of this draft resolution that if the Government of Israel did apply to the Council for relief, in accordance with the General Armistice Agreement, to enable it to acquire the land on suitable terms and to proceed with the drainage operations, we should not - I speak for the sponsors - be unsympathetic to this approach; and it might well be that, as it could, the Security Council would then bestow upon General Riley the necessary authority to this end, provided, in his judgement, such action was desirable in the interest of the maintenance of international peace and security."

Thus, the Resolution envisaged even the possibility of expropriation by Israel of Arab owned land.

- (b) The principle of restoration of normal civilian life, the main object of Article V, is enunciated by Malik into the "principle of a restrictive restoration of civilian life".

In this connection he describes as illegitimate Israel's view expressed in the debate of 1951, that Israel's laws remain in effect in the Demilitarized Zone. He ignores the fact that although Gen. Riley, in his memorandum of 4 March 1951, expressed the opinion that these laws are in obedience in the Zone, he was successfully challenged and modified his position in the debate that ensued in the Security Council beginning 17 April 1951 (see S/PV. 544, pp.23).

Gen. Bennike himself left no doubt on this matter. In his letter of 20 October 1953 to Mr. Sharett he states:

"As indicated in the preceding paragraph, the rights of the Palestine Electric Corporation or the other private rights within the Demilitarized Zone to which you have referred are not in question." (S/3122 Annex 111, pp.4)

- (c) Finally, he reads into the decision of 18 May 1951, "a condemnation of unilateral acts committed in the Demilitarized Zone."

He makes it clear that unilateral acts are those taken by one Party without the consent of the other. This view is akin to the views held by the representatives of Syria and Pakistan. It is, however, inconsistent with Malik's own interpretation made in his previous speech. Speaking of the Huleh debate he said:

"In its conclusion on that case the Council limited itself to the confirmation of the authority of the Chief of Staff of the United Nations Truce Supervision Organisation to assure the arrangements in the Demilitarized Zone which were deemed necessary for the continuation of the drainage work. The Council did not make the mutual consent of the two Parties to the Armistice Agreement a condition for the continuation of the work." (S/PV. 639, pp.8).

5.

"Political Invectives".

The greater part of Malik's speech is devoted to an attack by political abuse.

In it the irrigation of the arid wastes of the Negev with waters of the Jordan River deserves condemnation. The suggestion that the Litani, like the other rivers of the area, should be included in a regional water scheme is a sin of aggressive intent. The Israel Foreign Minister's declaration of support for regional water plans is interpreted as a rejection of such plans by the representative of a Government that has publicly refused to participate in any regional scheme, because Israel would inevitably have to be a member of it.

Then progress itself and economic development come under the vituperation of the Lebanese representative. Like in a college thesis of a busy football player who has had little time to develop and substantiate his thought, the speech becomes a concoction of honoured names and half-phrases and demi-terms taken out of context, and deprived of all meaning.

The aim is all too clear, however. It is not to examine in all seriousness the problem before the Security Council. It is only to use the international forum in order to assert Lebanon's defiance of international opinion and international law. Israel's economic development must be limited; support granted to Israel must be reconsidered; an end should be put to the immigration policy of Israel. In the enthusiasm of his outburst, Malik has forgotten that such views and demands constitute violations of Lebanon's obligations under the Armistice Agreement and the Charter of the United Nations.

J.T.  
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