New Year's Resolutions for Palestinian Rights

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| As 2015 draws to a calamitous close, the calendar of human rights and, in particular, Palestinian rights concludes with significant commemorations.  For instance, this year has marked the 40th anniversary of the UN General Assembly establishment of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP), in 1975.1 That anniversary should have evoked a serious evaluation of the Committee’s mandate and performance, particularly in light of its unique mandate among UN bodies and mechanisms, addressing the Palestinian people as a whole,2 without qualification, exclusion, preference or fragmentation by geographical or other status criteria.3 CEIRPP’s mandate of reporting and suggestions to the General Assembly, Security Council and Secretary-General4 may have yet to realize its full potential, particularly in cooperation with civil society over the past 30 years.5  Last year, the inventory of relevant norms included commemoration of the 10th anniversary of the ICJ’s Advisory Opinion on the legal consequences of the construction of a wall in Palestine.6 However, that milestone also contrasted with the inertia on the part of the international community in implementing states’ obligations to act, as the Court clarified. That same International Year of Solidarity with the Palestinian People, 2014, highlighted the United Nations’ “permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy.”7 While that solidarity led to raising the Palestine flag at UN Headquarters, such symbolism has not offset the many missed opportunities to uphold the law, or the continuously deteriorating conditions for the Palestinian people as a whole.  The New Year 2016 poses new challenges, choices and opportunities in addressing the Question of Palestine in international law and diplomacy. The principal human rights commemoration in the coming 2016 calendar is the 50th anniversary of the two International Human Rights Covenants.8 Relevant to Palestine in 2016 also is the 25th anniversary of Israel’s ratification of those Covenants (1991). With the status of the State of Palestine—supplanting the Palestine mission’s formerly broad representational role as PLO—and the State’s unreserved ratification of the major human rights treaties also pose new legal dimensions, opportunities--and challenges--in addressing the Question of Palestine in the UN system.  Besides the State Party’s periodic reviews under the Covenants, this quarter century of Israel’s performance under these treaties deserves a special review. Such a review would assess whether the international community, including treaty artners and the United Nations, has lived up to States and public institutions’ own mandates to uphold peremptory norms of international law, including human rights and other inalienable rights of the Palestinian people.  In the New Year, defenders of Palestinian rights, both looking forward and reflecting back, also commemorate cyclical anniversaries. In 2016, these include the 115th year since the founding of the Jewish National Fund (1901). Throughout this period, the JNF has maintained a cross-border operation of organized population transfer and colonization not only throughout historic Palestine, but also from bases in some 50 other sovereign States.  While these thoughts occupy us through 2016, further afield are at least 17 auspicious commemorations coming up also in 2017. The obvious one is the centennial of the Balfour Declaration (1917). However, precedent and more relevant, too, will be the 170th anniversary of the Congress of Lima, Treaty of Confederation (1847), which enshrined the international law principle of uti possidetis, prohibiting the partition and recolonization of the territory of a people subject to self-determination. The ultra vires Balfour Declaration followed 60 years hence, and its expression in the UN General Assembly recommendation to partition Palestine (A/RES/II/181) fell on the centenary of that codified prohibition.  Beyond such norms and the flouting contradictions, the New Year calendar evokes at least the following seventeen commemorations for analysts and campaigners to consider:   * + 170 years since establishment of the principle of nonrecognition and the prohibition against “partition” and “recolonization” by military or other means any territory whose people subject to self-determination process and independence, Treaty of Confederation, Congress of Lima (1847);   + 120 years since the First Zionist Congress and the founding of the World Zionist Organization (Basle, 1897);   + 100 years since the British government`s “Balfour Declaration” (1917);   + 85 years since the League of Nations adopted the Stimson Doctrine, recognizing occupation, colonization and population transfer as violations of international law (1932);   + 75 years since the first explicit codification of population transfer as an international crime (January and October 1942)9;   + 70 years since the UN General Assembly’s partition resolution 181 and Zionist forces’ implementation of their village-massacre and terror campaign (November 1947);   + 65 years since UNGA resolutions 615 and 616 determining apartheid to be a threat to international and regional peace and security; and 65 years since Israel’s “Law of Citizenship,” “World Zionist Organisation/Jewish Agency (Status) Law” and “Covenant between the Government of Israel and the Zionist Executive” (1952), formalizing institutionalized material discrimination against indigenous Palestinians and in favor of persons with “Jewish nationality,” applied also to eligible citizens of other states;   + 55 years since the UN Security Council “censured” Israel for its attack on al-Samu` village in the West Bank (SC resolution 228, 6 April 1962);   + 50 years of Israeli war and ensuing occupation in Palestine`s West Bank, East Jerusalem and Gaza Strip (June 1967);   + 40 years since adopting the 4th Geneva Convention’s Protocols, and the Israeli Foreign Minister Moshe Dayan’s false claim before the UN General Assembly that colonization of occupied territory and its elements (his term, “settlements”) are “legal”10;   + 35 years since the UN General Assembly specified trade, military and/or diplomatic sanctions as obligatory countermeasures to Israeli colonization (“settlements”)11; also 35 years since Israel’s war on Lebanon and UN Security Council’s call on Israel to stop attacks against Lebanon and withdraw its troops (SC resolution 501, 25 February 1982), “condemning” Israel`s attack into West Beirut (SC resolution 520, 17 September 1982); and the 35th anniversary of Israel’s organization and oversight of the Sabra-Shatila massacre (16–18 September 1982);   + 30 years since the 1st intifada (December 1987) and introduction of “administrative house demolitions” and “Jerusalem residency revocation” policies (1987);   + 25 years since the Oslo negotiations and “mass deportations” began (December 1992), and 25 years subce the UN Sub-Commission’s study on “The Human Rights Dimensions of Population Transfer” (1992–93);   + 20 years since the Hebron Protocol (January 1997);   + 15 years since the Rome Statute on the International Criminal Court entered into force (July 2002); and since Israel’s attack on al-Darraj neighborhood, Gaza City (22 July 2002);   + 10 years since the UN Committee on the Elimination of Racial Discrimination (CERD) identified Israel’s breach of its obligations to prevent, prohibit, combat and eradicate all practices of apartheid in territories under its jurisdiction12;   + 5 years since the UN General Assembly recognized the observer status of the “State of Palestine” (December 2012).   One of the recommendations from civil society participants to a September 2015 international meeting organized by CEIRPP and the Division for Palestinian Rights has been to support a diplomatic and civil society campaign to commemorate “The Palestinian People, 2017,” recalling and reviewing relevant historic dates. A corresponding objective for 2017 rising from that meeting also echoed the repeated recommendation of the Russel Tribunal13 and others to reconstitute the Center against Apartheid as a specific function of the General Assembly (on the 55th anniversary of its original establishment).14  As decades pass, meaningful reflection and evaluation of these significant dates are in order. The impunity with which these crimes and breaches continue also should give us pause, particularly as so many other actors in the Middle East region are imitating Israel’s long-established behavioral model.  The yet-untried strategy to combat chaos in the Middle East region is the restoration of the international rule of law and world order. Nonetheless, the remedy and reparation of the crimes and breaches reviewed here give occasion for that normative New Year’s resolution, beginning with the core issue that has caused so much disaffection with the international system based on fundamental norms and inspired the resort to violent conflict.  Endnotes:  \* Joseph Schechla is coordinator of the Housing and Land Rights Network, Habitat International Coalition, based in Cairo, Egypt.    1 By its resolution 3376, the UN General Assembly established CEIRPP, requesting it to recommend a program of implementation to enable the Palestinian people to exercise their inalienable rights, among them explicitly mentioned in the resolution were self-determination without external interference, national independence and sovereignty, and return to their homes and property from which Israel had displaced and uprooted them. The Committee of 20 Member States, represented by their ambassadors, reports to the General Assembly annually. A/RES/3376 (XXX), 10 November 1975, at:  <https://unispal.un.org/DPA/DPR/unispal.nsf/a06f2943c226015c85256c40005d359c/b5b4720b8192fde3852560de004f3c47?Ope0nDocument>. The Assembly also established the Division for Palestinian Rights as its secretariat in resolution A/RES/32/40(B) of 2 December 1977, at:  <https://unispal.un.org/DPA/DPR/unispal.nsf/a06f2943c226015c85256c40005d359c/2da3d547118bfd25852560dd006bf4bb?OpenDocument>.  2 The indigenous people of historic Palestine, including those constituent parts living within the Palestinian people’s identifiable territory, as well as refugees and those otherwise in the diaspora, constitute a population of some 12.1 million human persons. Palestinian Central Bureau of Statistics, as of 2015, at: <http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/gover_e.htm>; Survey of Palestinian Refugees and Internally Displaced Persons, 2010–2012 (Bethlehem: BADIL Resource Center for Palestinian Residency and Refugee Rights, 2012), at: <http://www.badil.org/publication/survey-of-refugees.html>. The majority of the Palestinian people are victims, or the descendants of victims of population transfer policies carried out by the Israeli state and its institutions. Estimated at 66% (7 million) at end 2011, when the Palestinian population totaled 11.2 million. BADIL Survey, op. cit., pp. xxii–xiii.  3 “Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,” A/70/35, 6 October 2015, at: <https://unispal.un.org/DPA/DPR/unispal.nsf/1a411d623e29d5e585256c380070fd35/bf7d38521c2938e785257ef5005e8799?OpenDocument>.  4 “Committee on the Exercise of the Inalienable Rights of the Palestinian People,” A/70/L.10, 13 November 2015, para. 3, at: <https://unispal.un.org/DPA/DPR/unispal.nsf/53936ddf3dd093a1852575530073f2e6/5d79b164ac5de98c85257f02004eaf4d?OpenDocument>.  5 Formally initiated in the form of Symposia on the Question of Palestine as of 1985, but formally mandated as of “Question of Palestine,” A/RES/38/58(A–E), 13 December 1983, at:  <https://unispal.un.org/DPA/DPR/unispal.nsf/a06f2943c226015c85256c40005d359c/2fdd47753d2ae353852560d8006ca36b?OpenDocument>.  6 “For This 10th Anniversary, Give Concrete Action” (open letter of 88 international jurists), 9 July 2014, at:  <http://www.hlrn.org/news.php?id=pmhsZw==#.VoK5ydtul1M>.  7 “Special information programme on the question of Palestine of the Department of Public Information of the Secretariat,” A/70/L.12, 13 November 2015, at:  <https://unispal.un.org/DPA/DPR/unispal.nsf/47d4e277b48d9d3685256ddc00612265/3709e540b9f3652385257f020052a2ed?OpenDocument>.  8 International Covenant on Economic, Social and Cultural Rights (1966) and International Covenant on Civil and Political Rights (1966).  9 The earliest explicit mention of population transfer in an international legal document was the recognition of forced resettlements as a war crime in the Allied Declaration on German War Crimes, adopted by representatives of the nine occupied countries, exiled in London, on 12 January 1942. It stated, inter alia: “With respect to the fact that Germany, from the beginning of the present conflict, has erected regimes of terror in the occupied territories...characterized in particular by...mass expulsions… On 17 October 1942, the Polish Cabinet in Exile issued a decree on the punishment of German war crimes committed in Poland, imposing the penalty of life imprisonment or death if such actions caused death, special suffering, deportation or transfer of population.  10 Moshe Dayan stated: “The criticism which has been directed against Israel in respect of the establishment of settlements in Judea and Samaria is unfounded. The settlements are legal….And, above all, it is unacceptable to us that Jews should be prohibited from living in any part of their ancestral land.” “Report of the Special Committee to Investigate Israeli Practices affecting the Human Rights of the Population of the Occupied Territories, A/32/284, 27 October 1977.  11 General Assembly resolution “The situation in the Middle East,” A/37/123, 16 December 1982, para. 13.  12 “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Israel,” CERD/C/ISR/CO/13 9 March 2007.  13 “Specific actions at the United Nations,” in “Findings of the Final Session of the Russell Tribunal on Palestine,” Brussels, 16–17 March 2013, at: <http://www.russelltribunalonpalestine.com/en/full-findings-of-the-final-session-en>.  14 The UN General Assembly established the United Nations Special Committee against Apartheid (originally called the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa), in 1962, in order to sustain a consistent review of the South African Government’s racial policies. It began its work in April 1963. “The Policies of Apartheid of the Government of the Republic of South Africa,” resolution 1761 (XVII), 6 November 1962, at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/192/69/IMG/NR019269.pdf?OpenElement>. |
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