

International Law Matters

Part III - A Role for Jordan?

by William Brinton

On April 29, 2002 a Special Agent of the FBI, Robert Walker filed a Criminal Complaint in the United States District Court for the Northern District of Illinois Eastern Division (Chicago). Amongst other allegations it stated under oath "Defendants Benevolence International Foundation Inc. (BIF) and Enaam Arnaout have "committed violations of Title 18 United States Code, Section 1623, making false declarations to a United States Court. Arnaout has a relationship with Usama Bin Laden and many of his key associates dating back more than a decade...BIF is an organization that al Qaeda has used for logistical support, including the movement of money to fund its operations....various persons involved in terrorists activities specifically including persons trying to obtain chemical and nuclear weapons on behalf of al Qaeda...BIF has had direct dealings with representative of the Chechen mujahideen as well as Hezb e Islami, a military group operating at various times in Afghanistan and Azerbaijan...BIF was originally founded in the 1980's by a wealthy Saudi Arabian national named Sheik Adul Abdul Galil Batargy...who transferred control of BIF to the current Executive Officer, Enaam M. Arnaout..." (Those interested in reading this 36-page Criminal Complaint may get copies from the Clerk, United States District Court and assigned Case Number 02CRO414). It now

seems clear that at least one more Saudi national may be added to those fifteen Saudi hijacker identified by name and photo. Batargy however, may still testify at a trial arising from allegations of the Criminal Complaint filed by the United States on April 29, 2002. Additionally, both the Crown Prince Abdullah and President Bush have announced they will operate jointly. The president will deal with Sharon, and the Crown Prince deal will with Yasser Arafat. This is something like giving the Palestinian fox the key to the chicken coop.

Saudi Arabia's Crown Prince Abdullah has come and gone after first discussing peace in Israel with President George W. Bush in Crawford, Texas. By offering peace in a war-torn area of the Middle East, Crown Prince Abdullah seems to have forgotten that the peace process was to have been one consistent with United Nations Security Council Resolutions 242 and 338. The first resolution promised a solution Israel might have if it chose to ignore the unambiguous language that, among other things offered:

"Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty,

Saudi Peace Plan - 2002



The Saudi Peace Plan would have Israel withdraw to its 'Pre-1967 borders, which would leave them both vulnerable to Arab attack and with no clear solution for either Jerusalem or the Israeli settlements. In exchange for these concessions the Arab world would recognize Israel's right to exist. On map above, green areas represent the pre-1967 borders, including Jerusalem. but not Gaza

territorial integrity and political independence of every State in the area and their right to live in

peace within secure and recognized boundaries free from threats or acts of force.”

The Saudi offer was for less than Resolution 242 promised Israel. The Saudi offer required only that Israel must withdraw from all territories occupied by it “during the recent (1967) conflict.” To the Saudis this meant the West Bank, the Gaza Strip, the Golan Heights and East Jerusalem. In Crawford, Texas Bush told a press conference and reported: “I told the crown prince that we’ve got a unique relationship with Israel, and that one thing that the world can count on is that we will not allow Israel to be crushed,” Bush said. How secure something so platitudinous must reassure Israelis, the pleasure of not being crushed by deadly enemies.

Were this to occur, Israel would never be free of terrorism nor would it leave the remainder of Palestine militarily defensible. Elihu Lauterpacht, a distinguished scholar of international law has put the law into the service of Israel. See *Jerusalem and the Holy Places*, Anglo-Israel Association, Pamphlet No. 19 (1968) p. 52. Lauterpacht wrote:

“Territorial change cannot take place as a result as a result of the *unlawful* use of force. But to omit the word ‘unlawful’ is to change the substantive content of the rule and to turn an important safeguard of legal principle into an aggressor’s charter. For if force can never be used to affect lawful territorial change, then, if territory has once changed hands as a result of the unlawful use of force, the illegitimacy of the position thus established is sterilized by the prohibition on the use of force to restore the lawful sovereign. This cannot be regarded as correct or reasonable.”

Those who approved the United Nations Charter would find this language supported Israel, particularly Articles 2 (4) and 51 thereof.. The State of Israel has now been attacked at least three times between 1948 and 1973. In this period, Israel has always been supported financially by the United States, essentially because it is the only democracy in the Middle East and acts as a shield for vital national interests of the United States. Taiwan is also protected by the United States, particularly with military hardware essential to prevent Taiwan from being forcibly annexed by the Peoples’ Republic of China Up to May 2002 Jiang Zemin has been the key official of the PRC. However, in March 2003, Vice president Hu Jintao will succeed Jiang. Very little is known about this mysterious Communist official Since he is visiting the United States in May we can expect some posturing based on American policies of economic and military support for Taiwan. Taiwan’s entry into the World Health Organization was a subject of irritation in Beijing.

Except for the one incident of violence in 2001 where an American spy plane with crew was shot down and detained at a detention camp in China and finally released and when the CIA gave President Clinton an out-of-date address in Belgrade during the bombing of Serbia in 1997. The Chinese Embassy in Belgrade was accidentally hit killing three Chinese members of its staff.. Even that was non-military and shown by controlled demonstrations in Beijing. Recognition of still Communist China in 1972 was a dramatic display of Richard Nixon’s few real talents with an assist from Henry Kissinger No Democratic candidate for president could possibly welcomed China into world standing simply by noting it was the largest market in the world but full of political contradictions. In 1989, it dealt harshly with students in Tiannanmen Square and consistently with its suppression of dissent sought membership in the World Trade Organization without any regard for human rights. Richard Nixon was elected president in 1968. In 1972, he headed into the Watergate scandal and thus destabilized his presidency that ended on August 9, 1974. He chose retirement rather than impeachment. Gerald Ford became president for the remainder of Nixon’s term. In 1972, however, Nixon had opened the door into China, the Peoples’ Republic of China. In Beijing, the capital of the PRC Nixon negotiated recognition of a Communist regime and the exchange of diplomats that recognition required. However, it was not until 1979 that President Ford signed the Taiwan Relations Act. By enacting this it should be noted that the United States undertook to arm Taiwan according to the Taiwan Relations Act of 1979 that President Ford signed. This legislation provided that the United States must consider “any effort to determine the fate of Taiwan by other than peaceful means...a threat to the security of the Western Pacific area and of grave concern to the United States {and}...to maintain the capacity of the United States to resist any resort to force or other means of coercion that would jeopardize the security or the social and economic system of the people of Taiwan.” Presidents Ford, Carter, Reagan, Bush Sr. and Clinton have all used this

language to support sales of military hardware to Taiwan. During the Eisenhower, Kennedy, and Johnson years, the United States stored some of its nuclear weapons in Taiwan for possible use against the PRC or the Soviet Union. Their status today is uncertain. See *War in Asia?* for more on the subject of Taiwan. That article is available at the same Web site as this article.

Most of the weapons used by the Peoples' Liberation Army (PLA) were of Soviet origin. In the year 2000 they included 150 Soviet Suv-27 jets, three Soviet-built missile destroyers with one more on order, pilot less drones, and ballistic missiles. All these were purchased from Russia. The PRC also has an unknown number of nuclear weapons. In 1963, however, Chairman Mao launched at least two nuclear missiles to make a point that the Soviet Union had enough of these weapons of mass destruction to use two to test them.

The Republic of China considered the possession of arms extremely important so it might defend against the PRC. It openly signified it would forcibly reunite this island with its status as a renegade province belonging to the PRC. So far, some violence has occurred. Since this agreement in which Nixon established the ground rules, some five presidents publicly agreed with the status of Taiwan. All these presidents have agreed that it defend Taiwan against any attempt to reunite it with the PRC by the use of force. The PRC has not publicly acted aggressively until an Air Force spy plane was forced to land at a Chinese field in 2001. It took several weeks to negotiate an agreement repatriating the American crew. During the bombing of Kosovo approved by Clinton, the CIA incorrectly targeted the PRC embassy in Belgrade. Angry protesters in Beijing almost occupied the American Embassy in Beijing in what was then classified as a planned show of Chinese anger until the United States made appropriate comments apologizing for this terrible blunder by the CIA.

The United States also sells arms to the governments of countries purchasing them for their armed forces. Normally such essentially defensive arms are manufactured in the United States with the funds advanced to domestic manufacturers such as Boeing, Hughes, and IBM. Such sales have occurred in some cases for a long period of time. When Nixon and Kissinger were plotting policies, the sales included attack military jets and helicopters. Sales to Israel, for example, require they be used only as defensive weapons. However, since Israel justifies their use by invoking Article 51 of the United Nations Charter-self defense against an armed attack by Palestinians-the Pentagon may possibly have waived this requirement. Hardly anyone insisted on proof of proportional use in support of a claim of self-defense. Modern military jets like the F-4 Phantoms rapidly became potent symbols proving that America was supporting the Israelis, but successive American presidents from Nixon to Clinton all supported such sales as a way of preventing more conflict. The original support of the United States seems to have begun in 1948 and grown to higher levels of financial support mostly to buy military jets for use against Soviet Migs acquired by both Egypt and Syria. During this period which continued after the Six Day War through the October War in 1973. During the meeting with Crown Prince Abdullah in Texas, Bush told him` "that we've got a unique relationship with Israel, and that one thing that the world can count on is that we will not allow Israel to be crushed." It must have been somewhat reassuring to hear this news but Israel acted in a predictable manner. It re-entered a West Bank village to pick up some Palestinian suspects in a recent "martyr" bombing. This entry was seen as conduct tweaking Bush on orders of Ariel Sharon. The Prime Minister may see an increase in his popularity polls within Israel. Israeli Defense Forces have agreed to end Arafat's isolation in Ramallah and Anthony Zinni is still negotiating the Church of Nativity deadlock in Bethlehem as of April 29, 2002. And on April 28, 2002 Chairman Yasser Arafat was released from some five months of isolation in his Ramallah office. He left for an unknown destination.

Meanwhile it's time to take a look at this high level terrorist. He was born in Cairo in 1926 and seems to have earned an engineering degree at an Egyptian university. From that point on he was caught up in Palestinian politics and organizing the Palestinian Liberation Organization. (PLO). In 1968, he became its chairman with a sound reputation as a terrorist. In the early days of 1970 Arafat either helped or oversaw the terrorist acts of his close friend George Habash, Chairman of the Popular Front for the Liberation of Palestine (PFLP). Habash was quite radical. He hijacked commercial passenger jets and blew them up within Jordan. He was not

universally popular.

In fact, King Hussein finally decided he needed help to rid Jordan of Arafat. Then, his advisors told him he could do it alone. In 1970, Arafat and his PLO followers were driven out of Jordan and fled to Lebanon. There he left his followers to shell Israel from behind a barb wired frontier. I visited this frontier in 1983 and saw the damage from Syrian-sponsored Hezbollah rockets and occasional Arab incursions into Israel with commando units revved up for suicide. Israel retaliated with its own incursions and jets hitting Lebanese targets with the inevitable collateral damage. It was not a wholly satisfactory situation. Eight years later, Ariel Sharon led an invasion of Lebanon to rid it of PLO foot soldiers that specialized in infantry raids. Syria had by this time occupied parts of Lebanon in the Bekaa Valley and they have not yet been driven out. In 1982 I followed the Israeli Defense Forces to a point just South of the Beirut airport. Inspections of caves and other sites were next. We were shown enough ammunition for an army plus other weapons. Sharon may have made a serious mistake. He stood aside as Phalangists slaughtered Palestinian refugees in the Sabra and Shatila camps. A board of inquiry found Sharon "indirectly responsible" for this massacre. Negotiations with the PLO produced agreement that Arafat and his followers could leave Lebanon for Tunisia with only their small arms. He and some of his followers made a triumphant return to the Gaza Strip last year in time to participate in the new struggle for an independent Palestinian state.]

President Bush must continue to arm Israel until it defeats the Palestinians-unlikely-or peacefully negotiate for a settlement fully consistent with the requirements of Resolutions 242 and 338. A settlement might be negotiated but those drafting one must understand Middle East history beginning with events during and after World War I. During this war, the British began to see how carving up the Ottoman Empire might serve their interests. This empire had unwisely sided with Germany. The British, feeling they could not defeat the Arab tribes alone, promised a Greater Arab Kingdom in exchange for its support against the Turks of the Ottoman Empire. After World War I, however, the British found they had other fish to fry and reneged on promises made in the McMahon Correspondence in 1915 and probably the terms of the Sikes-Picot Agreement of 1916. To make matters even more complicated, the British were persuaded to adopt the Balfour Agreement in 1917 meaning a National Homeland for the Jews in Palestine. This idea infuriated both Arabs and Jews. The Arabs saw a promise broken and the Jews saw less land for expanding the homeland. However, with the help of Winston Churchill, then the colonial



secretary, Transjordan was created in late 1921 under the rule of the Emir Abdullah and came into existence as a constitutional monarchy. In 1922, Great Britain, with bitter recriminations from the Jews, obtained approval from the League of Nations for excluding the territory of Transjordan from the provisions of the British Mandate for Palestine.

Now, eighty years later than this exclusion of Transjordan from Palestine it might help settle the problem of Palestinian refugees. Resolution 242 "affirms the necessity for achieving a just settlement of the refugee problem." An earlier resolution of the United Nations General Assembly, Resolution 194 established a procedure for allowing refugees to return under certain circumstances or to opt out and to accept compensation for their property. Jordan is only one country out of two-the other is Egypt-having a treaty of peace with Israel signed in 1994. On May 3, 2002 King Abdullah called on Israel and the Palestinians to negotiate "what they want in their hearts-a Palestinian state and security for Israel in the Middle East." Both Israel and the Palestinian Authority would like to settle all Palestinian refugees currently housed within Israel, e.g., Jenin on the West Bank. The total may be estimated at 750,000 including families within all of Israel. Israel doesn't want these refugees; they would undermine the ratio of Jews to Palestinians, and in the past Arafat has always tiptoed around this problem without a solution. However, a partial solution is only next-door in Jordan. With consent from King Abdullah II, most if not all of the Palestinians could be transferred to Jordan with enough money to build their homes and train them for jobs that pay a local market rate. Incidentally, an estimated 65 per cent of Jordan's total population is Palestinian as of 1994. Within Israel, the portion of the West Bank eventually allocated to a Palestinian state could be reduced by some fifty percent, thereby allowing some Jews to use renovated housing for its own population in the part of the West Bank retained by Israel for its own security. With all the estimated 750,000 Palestinian refugees housed in Jordan, the West Bank, or at least half of it could easily house an equal number of Israeli citizens. Post-1967 stability in Jordan saw significant economic growth. The industrial backbone of Jordan's modern economy rested on the potash, phosphate and cement industries, By 1995, Jordan had moved into the information technology age. By the year 2002 its secondary school system was all connected to the Internet, and Jordan had at least four universities and a well educated middle class Both the Ford and Rockefeller Foundations helped finance these developments. King Abdullah II was a monarch for the 21st century. Both Jordan and Syria are members of the Arab League. It will no doubt be asked to approve any settlement submitted to Crown Prince Abdullah for approval.

Permanent territory in Gaza may reasonably be allocated to the new Palestinian state. The security of its settlers has no rational connection with the costs to Israel of protecting them. With emotions running high, no government may safely surrender the Holy Sites within Jerusalem. Israel and the Palestinian Authority must work on a solution that allows each government to protect its own Holy Sites, e.g., Dome of the Rock and the Wailing Wall. Finally, Syria will want in to a solution negotiated by others. No dice. Before it's even allowed to negotiate, it must withdraw from the territory in Lebanon occupied by it in the Bakaa Valley. The Golan Heights need to be disarmed and converted to international peacekeeping status. Otherwise, Israel will continue to administer these Heights. Syria has used these strategic heights three times to attack Israel. Never again.

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