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NEGATIVE BRIEF: Recognize Jerusalem Capital of Israel – bad idea

By Vance Trefethen

**This brief argues against a plan for the US recognized Jerusalem as the capital of Israel (right now our embassy is in Tel Aviv).**

HARMS / SIGNIFICANCE

Israel unfazed. Israel doesn’t care what anyone else thinks about Jerusalem as the capital

Ryan Jones 2012. (journalist) ISRAEL TODAY 29 Mar 2012 Obama admin refuses to call Jerusalem Israel's capital <http://www.israeltoday.co.il/NewsItem/tabid/178/nid/23174/Default.aspx?article=related_stories> (brackets in original)

The United States continues to maintain its embassy in Tel Aviv, despite a 1995 act of Congress that stipulated the American mission was to be moved to Jerusalem no later than 1999. Successive American presidents have consistently invoked "national security" powers to avoid implementing the Jerusalem Embassy Act. Israel is unfazed by the fresh commotion over the status of its capital, said an official [cited by the*Times of Israel*][3]. "Jerusalem is Israel’s capital by decision of the Knesset and nothing can change that,” Foreign Ministry spokesman Yigal Palmor stated. “It’s our capital, no matter what anyone else is saying."

INHERENCY

U.S. is already a huge supporter of Israel

Jeremy M. Sharp 2014. (Specialist in Middle Eastern Affairs, Congressional Research Service3) 11 Apr 2014 “U.S. Foreign Aid to Israel” <http://fas.org/sgp/crs/mideast/RL33222.pdf>

Israel is the largest cumulative recipient of U.S. foreign assistance since World War II. To date, the United States has provided Israel $121 billion (current, or non-inflation-adjusted, dollars) in bilateral assistance. Almost all U.S. bilateral aid to Israel is in the form of military assistance, although in the past Israel also received significant economic assistance. Strong congressional support for Israel has resulted in Israel receiving benefits not available to any other countries; for example, Israel can use some U.S. military assistance both for research and development in the United States and for military purchases from Israeli manufacturers. In addition, U.S. assistance earmarked for Israel is generally delivered in the first 30 days of the fiscal year, while most other recipients normally receive aid in installments, and Israel (as is also the case with Egypt) is permitted to use cash flow financing for its U.S. arms purchases. In addition to receiving U.S. State Department-administered foreign assistance, Israel also receives funds from annual defense appropriations bills for rocket and missile defense programs. Israel pursues some of those programs jointly with the United States. In 2007, the Bush Administration and the Israeli government agreed to a 10-year, $30 billion military aid package for the period from FY2009 to FY2018. During his March 2013 visit to Israel, President Obama pledged that the United States would continue to provide Israel with multi-year commitments of military aid subject to the approval of Congress.

US and Israel have strong bilateral relationship

Jeremy M. Sharp 2014. (Specialist in Middle Eastern Affairs, Congressional Research Service3) 11 Apr 2014 “U.S. Foreign Aid to Israel” <http://fas.org/sgp/crs/mideast/RL33222.pdf>

For decades, the United States and Israel have maintained strong bilateral relations based on a number of factors, including robust domestic U.S. support for Israel and its security; shared strategic goals in the Middle East; a mutual commitment to democratic values; and historical ties dating from U.S. support for the creation of Israel in 1948. U.S. foreign aid has been a major component in cementing and reinforcing these ties. Although successive Administrations have disapproved of some Israeli policies, including settlement construction in the West Bank and— prior to Israel’s 2005 disengagement—the Gaza Strip, U.S. officials and many lawmakers have long considered Israel to be a vital partner in the region, and U.S. aid packages for Israel have reflected this calculation.

SOLVENCY

Israel’s own law declaring Jerusalem the capital didn’t accomplish anything. Such laws are useless and may even cause damage

Prof. Daniel Friedmann 2014. (served as Israel's justice minister from 2007 to 2009) Jewish nation-state law can only cause damage 23 Nov 2014 <http://www.ynetnews.com/articles/0,7340,L-4594931,00.html>

The law failed to change anything for Israel either. Jerusalem was and remains our capital. The world's nations refuse to recognize that, and Israeli legislation trying to force them to do so means nothing to them. Declarative laws don't have the power to solve theoretical or social disputes. At best they are useless, but they do have the power to cause damage.

No country recognizes Jerusalem as Israel’s capital.

**Analysis: Affirmative has to prove how the US acting alone in the world will make any significant difference**

Michael Curtis 2014. (Distinguished Professor Emeritus of Political Science at Rutgers University ) 11 Nov 2014 “Jerusalem In Israel” AMERICAN THINKER <http://www.americanthinker.com/articles/2014/11/jerusalem_in_israel.html>

The particular constitutional issue may be legally tricky, but the underlying problem is not.  There are really two issues.  One is that no country recognizes Jerusalem as the capital of Israel.  Many recall the proposal of U.N. General Assembly Resolution 181, the Partition plan, that Jerusalem have a special status, a corpus separatum, under a special international regime.

DISADVANTAGES

1. Arab Backlash

Link: The reason we haven’t done the plan thus far is because we know Arab opinion will backlash

**Analysis: Congress passed a law telling Pres. G. W. Bush to move the US embassy from Tel Aviv to Jerusalem in 2002, but he refused to do it due to the backlash it would cause. He got away with refusing because of Separation of Powers (Congress can’t dictate to the President specific details of our foreign policy like what countries or capitals we recognize)**

Reuters news service 2002. (journalist Alistair Lyon) Arabs Enraged By US Naming Jerusalem Israel's Capitol , 1 Oct 2002 <http://www.rense.com/general30/sdje.htm>

[President George W.] Bush signed the Foreign Relations Authorization Act for 2003 on Monday. Its provisions go beyond previous moves by Congress, which has pressed successive administrations on the related question of moving the U.S. embassy from Tel Aviv to Jerusalem. The administrations have promised to make the move but have repeatedly put it off because of the ill feeling it would create in the Arab world, which considers East Jerusalem to be occupied territory and the capital of a future Palestinian state.

Link: Discussing moving the embassy to Jerusalem creates anger in the Arab world. Example: Canada’s embassy

Michael Bell 2013. (former Canadian ambassador to Egypt, Israel, Jordan and the Palestinian territories) Canada now paying the price for Baird’s misstep into East Jerusalem 6 May 2013 GLOBE & MAIL <http://www.theglobeandmail.com/globe-debate/canada-now-paying-the-price-for-bairds-misstep-into-east-jerusalem/article11730522/>

As the location of the third holiest site in Islam, under Muslim rule for longer than Anglo-Saxons have been in Britain and the place from which Mohammed by tradition ascended into heaven, East Jerusalem goes to the core of the Arab cultural and religious narrative regardless of sect. There is a widespread fear that symbolic moves, seemingly innocent in themselves, will gradually facilitate Israel’s absorption of this sacred space, divesting Arab Muslims of respect and dignity. They see such seemingly innocuous steps as part and parcel of a broader policy involving discriminatory zoning and planning, demolitions, evictions and archeological excavations. Such accusations may or may not unfairly pillory Israelis, but what matters here is that they reflect deeply held beliefs. That is why Canadian governments have traditionally taken what has been called a “fair-minded” approach to such matters: concern, a willingness to use our good offices and sensitivity to the claims and needs of both sides. Historically when we have departed from such a path, there have been repercussions: in 1979 when Joe Clark, as leader of the opposition and then as Prime Minister, promised to move the Canadian Embassy in Israel from Tel Aviv to (albeit Jewish West) Jerusalem, Arab reaction was swift and negative. In their minds the move was aimed at legitimizing Israel’s claim to the city in its entirety.

Brink: Bad time to be doing this. Status of Jerusalem is a “tinderbox” issue, as tensions and violence are flaring

Ishaan Tharoor 2014. (journalist) 5 Nov 2014 Why the Supreme Court’s ‘born in Jerusalem’ case is such a tinderbox, WASHINGTON POST <http://www.washingtonpost.com/blogs/worldviews/wp/2014/11/05/why-the-supreme-courts-born-in-jerusalem-case-is-such-a-tinderbox/>

Successive administrations in the White House, irrespective of their own ideological predilections, have maintained the U.S.'s longstanding neutrality on the question of Jerusalem's status -- even as Israel has steadily (and controversially) changed the facts on the ground. But, as Slate's Dahlia Lithwick [summarizes](http://www.slate.com/articles/news_and_politics/supreme_court_dispatches/2014/11/supreme_court_zivitofsky_v_kerry_case_can_a_u_s_passport_call_jerusalem.html" \t "_blank), that has not impeded Congress from meddling:  
Congress doesn’t agree with [the White House's] posture, and in 2002 it passed a law that, among other things, allows Jerusalem-born applicants for U.S. passports to record their place of birth as “Israel” if they so request. President Bush signed that law but attached a signing statement declining to enforce the passport provision because it “impermissibly interferes with the President’s authority to conduct the Nation’s foreign affairs.” Barack Obama similarly contends that the provision is unconstitutional.  
The "[Zivotofsky vs. Kerry](http://www.scotusblog.com/case-files/cases/zivotofsky-v-kerry/" \t "_blank)" case invokes this 2002 passport law and has returned a thorny debate over executive power and foreign policy to the highest court in the land. It also takes place at a [moment of profound crisis](http://www.washingtonpost.com/world/israel-blocks-jerusalem-holy-site-amid-rising-tensions-after-activist-shot/2014/10/31/cefa337e-60d9-11e4-9f3a-7e28799e0549_story.html" \t "_blank) in Jerusalem itself, as liberal Justice Elena Kagan, who sides with the administration on the matter, noted. "Can I say that this seems a particularly unfortunate week to be making this kind of, 'oh, it’s no big deal' argument," Kagan [said](http://www.washingtonpost.com/politics/courts_law/court-asked-to-consider-jerusalems-sovereignty-on-us-passports/2014/11/03/dbad1498-638f-11e4-9fdc-d43b053ecb4d_story.html" \t "_blank), referring to the arguments of those backing the Zivotofsky claim. "I mean, history suggests that everything is a big deal with respect to the status of Jerusalem." Kagan described Jerusalem as a "tinderbox," and she is right. In recent weeks, [tensions have flared](http://www.cnn.com/2014/11/03/world/meast/jerusalem-temple-mount-crisis-lister/" \t "_blank) to alarming levels in this city, which is holy to Jews, Muslims and Christians alike. An escalation in tit-for-tat violence and attacks saw Israeli authorities briefly bar access to the al-Aqsa mosque in the city's ancient Temple Mount, prompting angry rhetoric from Palestinian officials.

Impact: Violent religious war could break out

NEW YORK TIMES 2014. (journalist Jodi Rudoren) 18 Nov 2014 In Jerusalem’s ‘War of Neighbors,’ the Differences Are Not Negotiable <http://www.nytimes.com/2014/11/19/world/middleeast/in-jerusalem-war-of-neighbors-the-differences-are-not-negotiable.html?_r=0>

Amid the condemnations from all corners of Tuesday’s deadly attack at a Jerusalem synagogue, there were also disturbing signs of celebration. A cartoon of a bloody meat cleaver like the one used in the attack that killed four Orthodox Jews circulated on social media. Residents of the Gaza Strip paraded in the streets singing victory songs, giving out candy, waving flags. The cartoon was captioned, “For you, oh Aqsa,” a reference to the contested Old City holy site at the heart of a recent violent escalation that increasingly seems to be beyond the control of Israeli or [Palestinian](http://topics.nytimes.com/top/reference/timestopics/subjects/p/palestinians/index.html?inline=nyt-classifier) leaders. That blood splattered the victims’ prayer shawls and holy books underscored growing indications that extremists on both sides are turning the stalemated battle over territory and identity into a full-throated religious war.

2. Prejudging the status of Jerusalem.

**Right now the status of Jerusalem is contested among Palestinians and Israelis and they are supposed to be negotiating it as part of an overall peace settlement. Any actions we take that declare things about the status of Jerusalem before those negotiations finish would be “pre-judging” the status of Jerusalem, and would block settlement of the Israeli/Palestinian conflict.**

Link: Making statements about Jerusalem as the capital would prejudge the status negotiations

Ryan Jones 2012. (journalist) ISRAEL TODAY 29 Mar 2012 Obama admin refuses to call Jerusalem Israel's capital <http://www.israeltoday.co.il/NewsItem/tabid/178/nid/23174/Default.aspx?article=related_stories> (ellipses in original)

The Obama Administration's position on Jerusalem took center stage this week when a State Department spokeswoman refused during a press briefing to accept that the city, even the non-contested and Jewish dominated western half, is the capital of Israel. Early in the week, the Washington Free Beacon political blog [discovered](http://freebeacon.com/state-department-wont-say-jerusalem-is-in-israel/) that a State Department communication posted online had identified "Jerusalem" and "Israel" as separate Middle East entities. Following that revelation, the State Department quickly altered the communique to list only cities and not countries. At Wednesday's weekly press briefing, a reporter asked State Department spokeswoman Victoria Nuland to comment on the issue, to which she replied, "Our policy with regard to Jerusalem is that it has to be solved through negotiations. We are not going to prejudge the outcome of those negotiations, including the final status of Jerusalem. ...That's all I have to say...”

Link: Pre-judging the status of Jerusalem would conflict with efforts to stop illegal Israeli settlements

Ishaan Tharoor 2014. (journalist) 5 Nov 2014 Why the Supreme Court’s ‘born in Jerusalem’ case is such a tinderbox, WASHINGTON POST <http://www.washingtonpost.com/blogs/worldviews/wp/2014/11/05/why-the-supreme-courts-born-in-jerusalem-case-is-such-a-tinderbox/>

"We continue to engage at the highest level with the Israeli government to make our position absolutely clear," [said](http://www.jpost.com/Israel-News/US-Opposition-to-east-Jerusalem-housing-plans-unequivocal-and-unanimous-380663" \t "_blank) Edgar Vasquez, a State Department spokesman, "that we view settlement activity as illegitimate and that we unequivocally oppose unilateral steps that prejudge the future of Jerusalem."

Link: Moving the US embassy to Jerusalem would undermine Mid-East peace process

Dr Leon Hadar 2012. (Ph.D. from School of International Service at [American Univ](https://en.wikipedia.org/wiki/American_University) ) 10 Sept 2012 Until We Have Built an Embassy, THE NATIONAL INTEREST <http://nationalinterest.org/commentary/til-we-have-built-embassy-7442>

"It's shocking that anybody would make such a proposal," said Reagan-era secretary of state George Shultz in 1988, after then Democratic presidential candidate Michael Dukakis called for moving the U.S. embassy to Jerusalem. Several election cycles later, the Republican candidate has made a similarly "shocking" proposal, stating that the U.S. embassy should move. Presidential aspirants often say many things that they have no intention of fulfilling and that are expected to be forgotten if they get elected. Since a U.S. embassy in Jerusalem would undermine any future negotiations toward Middle East peace, let’s hope it turns out to be another forgotten campaign promise.

Link: Prejudging status of Jerusalem blocks Israeli/Palestinian peace settlement

Bloomberg News 2014. (journalist Calev Ben-David) 28 Oct 2014 Israeli Plan for Jerusalem Settlements Strains U.S., Europe Ties <http://www.bloomberg.com/news/2014-10-28/israeli-plan-for-jerusalem-settlements-strains-u-s-europe-ties.html>

“We view settlement activity as illegitimate and unequivocally oppose unilateral steps that prejudge the future of Jerusalem,” State Department spokeswoman Jen Psaki said in [Washington](http://topics.bloomberg.com/washington/) yesterday. “Israel’s leaders have said they support a two-state solution, but moving forward with this kind of action would be incompatible with the pursuit of peace.” The Jerusalem building plan is “ill-timed and ill-judged,” Maja Kocijancici, a spokeswoman for EU foreign policy chief [Catherine Ashton](http://topics.bloomberg.com/catherine-ashton/), told reporters in Brussels. “We stress that the future development of relations between the EU and Israel will depend on engagement towards a lasting peace based on a two-state solution,” she said.

Impact: Thousands die. Israeli/Palestinian conflict has killed over 8000 people in the last 14 years

Max Fisher 2014. (journalist) 14 July 2014 This chart shows every person killed in the Israel-Palestine conflict since 2000 <http://www.vox.com/2014/7/14/5898581/chart-israel-palestine-conflict-deaths>

You'll notice right away that the overwhelming majority of the deaths are Palestinian, and have been for the almost 14 years since B'Tselem began tracking. Overall, the group has recorded 8,166 conflict-related deaths, of which 7,065 are Palestinian and 1,101 Israeli. That means 87 percent of deaths have been Palestinian and only 13 percent Israeli. Put another way, for every 15 people killed in the conflict, 13 are Palestinian and two are Israeli.

3. Violates UN Security Council Resolution 478

Link: UN Security Council Resolution 478 rejects Israel’s claim of Jerusalem as the capital

Michael Curtis 2014. (Distinguished Professor Emeritus of Political Science at Rutgers University ) 11 Nov 2014 “Jerusalem In Israel” AMERICAN THINKER (note: the word “ha” is a typo that was in the original) <http://www.americanthinker.com/articles/2014/11/jerusalem_in_israel.html>

On December 5, 1949 the Israeli Government ha declared Jerusalem the capital of Israel. All official offices, legislative, executive, and judicial, are in the city. However, UN Security Resolution 478 adopted on August 20, 1980, and passed by 14-0 with the US abstaining, declared the Law “null and void.”

Link: UN Security Council decisions are binding because we signed a treaty accepting them

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

The Security Council as a formal organization is entirely derivative of international law: it exists by virtue of the UN Charter, which is the inter-state treaty that brings it into existence and defines the extent and limits of its authority. The Charter is a multilateral treaty that is binding on the states that sign it. It requires that they comply with its terms, and these terms include an extensive degree of deference to the Security Council.

Link: Willingness to respect Security Council decisions is key to its effectiveness

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

The self-motivated deference of UN members to the Council is crucial for its effectiveness. The Council in fact has few instruments by which to induce or coerce compliance with its decisions -- in most instances, it cannot coerce states into acceding to its demands and therefore its success depends on the willingness of states to submit voluntarily. This includes being willing to contribute troops and resources to peace operations, to participate in sanctions regimes as demanded by the Council, to respect the decisions and authority of the Council more generally. While all these obligations are legally mandatory, it is clear as well that their performance depends on states’ believing that they have an interest in going along with them. This interest is in part dependent on the perception that the Council has some legitimacy.

Impact: UN is key to solving top US foreign policy issues and reducing conflict through peacekeeping

Dr. Esther Brimmer 2011. (PhD in International Relations from Oxford and Assistant Secretary of State for International Organization Affairs) “How Engagement at the United Nations Benefits the United States,” US Department of State, September 1, 2011, <http://www.state.gov/p/io/rm/2011/171889.htm>

On matters of international peace and security, the UN’s role has been central to several top U.S. foreign policy priorities. UN peacekeepers help prevent conflict and protect civilians around the globe, at a fraction of the cost of sending U.S. troops. Security Council sanctions on Iran have had a significant effect on that regime, including by hampering its efforts to develop nuclear weapons. UN counterterrorism sanctions have isolated terrorists and frozen their assets and those of their supporters. UN missions in Afghanistan and Iraq work to strengthen democracy and mediate local conflicts, meaning that we can draw down our military forces there on schedule.

Link & Impact: US respect for international law is key to preserving international order

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

The rule of law is often used to describe the international system, either as it actually is or as an ideal which should be sought. This generally refers to the idea that international politics should take place within a framework of law. States might argue over the meaning and content of international law, but it is uncontroversial to maintain that international law exists and that it makes a contribution to international order. This is the premise of John Ikenberry’s recent book on *Liberal Leviathan*, in which he argues that the international system is an “open and rule-based order” with the United States as the “hegemonic organizer and manager of that order.”

Backup Evidence for DA 3

Link: Recognizing Jerusalem as the capital violates UN Security Council resolutions

Arab News 2002. “OIC warns of Muslim backlash over US move on Jerusalem“ 29 Dec 2002 <http://www.arabnews.com/node/227109> (brackets added; ellipses and parentheses in original)

The Bush administration had been urging lawmakers to take out the call for the relocation of the embassy, but Congress went ahead and included it. “This decision is in total contradiction with (UN) Security Council resolutions,” [Organization of the Islamic Conference Secretary-General Abdul Wahed ] Belqeziz said in a statement in the name of the 57-member Islamic body based in Jeddah. “Such an attitude from the American administration at a time when Israel is waging an unprecedented campaign against the Palestinian people is liable to exacerbate resentment among Muslims ... and is not liable to facilitate the role of the United States as co-sponsor of the Middle East peace process,” he said. Meanwhile, Qatar, which holds the rotating chair of the OIC, called the congressional move “a flagrant violation of Security Council resolutions on Jerusalem and a provocation against the feelings of Islamic and Arab nations.”

Link: UN Security Council decisions are binding on member states

Office of the Historian Bureau of Public Affairs U.S. Department of State, October 2005 « The United States and the Founding of the United Nations, August 1941 - October 1945“ <http://2001-2009.state.gov/r/pa/ho/pubs/fs/55407.htm>

Determining the extent of the veto power of the permanent members of the Security Council proved a more serious potential obstacle to agreement on a United Nations charter.  The Soviet Union advocated broad use of the veto, viewing it as a possible tool to curb discussion on conflicts involving a permanent member.  Such an interpretation worried the smaller states, which were already hesitant about the permanent veto.  In order to gain Soviet agreement to modify such an expansive interpretation of the veto, Truman directed Harry Hopkins, who had many wartime discussions with Stalin, to travel to Moscow and negotiate with the Soviet leader on the issue. After bilateral Soviet-American negotiations in Moscow, the Soviet Union eventually agreed to a less extensive veto power.  While the permanent members retained veto power with respect to non-procedural matters, the Security Council would not require a unanimous vote to act, and would have the power to take decisions that would be binding on Member States.

Link: UN Security Council decisions are binding on us. We committed to accept them when we joined the UN

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

Council decisions are binding on member states and there are no channels for appeals or dissent -- all states commit themselves upon joining the UN to go along with all Council decisions and demands. Moreover, its resolutions can create new legal obligations on UN members by including them in resolutions. These two legal facts are clear in the language of Articles 25 (“The Members of the United Nations agree to accept and carry out the decisions of the Security Council…”) and 49 (“The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council”).

U.S. abstention on the Jerusalem capital Resolution 478 doesn’t mean we vetoed it. It means we didn’t like it, but we let it go through

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

However, from almost the first meetings of the Council in practice, it has operated on the opposite principle, that a permanent-member abstention is *not* a veto. The first occasion in which this happened resulted from the Soviet delegate storming out of a meeting, after which the remaining states took decisions in his absence. This gradually became the operating consensus in the Council and it has remained relatively uncontroversial ever since. The practical advantages of the current practice are often noted: treating abstention as something less than a veto allows for more nuanced signaling and diplomacy by permanent members. They can express displeasure with a draft while still allowing the will of the majority to go ahead.

Specific text of the Charter we agreed to follow, where we agreed to follow UNSC decisions

Security Council Report 2008. (independent non-profit research agency that studies the UN Security Council, chairman is Barry Lowenkron, Former Vice President, Program on Global Security and Sustainability, MacArthur Foundation) June 2008 Special Research Report No. 1: Security Council Action Under Chapter VII: Myths and Realities <http://www.securitycouncilreport.org/special-research-report/lookup-c-glKWLeMTIsG-b-4202671.php>

Chapter V of the Charter lays out the general powers and functions of the Security Council. Article 24 (1) and (2) reads: “1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf. 2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.” Article 25 goes on to provide that: “[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” Similarly, articles 48 (1) and 49 provide that: “[t]he action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine”, and that members “shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.”

“But UN Security Council would violate US national sovereignty” – Response: No, the US can veto any UNSC decisions.

**Analysis: And since we didn’t veto the one on Israel’s capital, we chose to be bound by it. We could have vetoed it if we didn’t want to be bound by it.**

Prof. Ian Hurd 2013. (Assoc. Professor in Dept of Political Science, Northwestern Univ) Chinese Journal of International Politics, The UN Security Council and the International Rule of Law, May 2013 (ethical disclosure about the source and date: This article can be found online in several locations. The URL cited here does not have Prof. Hurd’s name on it, but it has the 2013 date. Other pay sites have the same article but cite it as 2014 and list Prof. Hurd as the author. We took the older date just to be completely fair.) <http://faculty.wcas.northwestern.edu/~ihu355/Home_files/un%20sc%20and%20the%20rule%20of%20law.doc>

The need for the support of the permanent members comes from the decision-rule described above. This is obviously a legal and procedural requirement, without which the Council cannot take any important action. But it is also a reflection of the political realities of 1945 when the Charter was written, and arguably of today as well. If the Charter is to take action on international peace and security, it is unviable for it to act against the strongly held interests of the most powerful states. Doing so would threaten the survival of the organization as a whole. The Council was designed originally as a compact among the Great Powers of 1945 to manage the crises that threatened the stability of the system as they saw it. The veto ensures that it could never take enforcement decisions that were opposed by any of the permanent members.

“Nobody can tell a sovereign country what to do” – Response: But all countries agreed to follow the decisions of the UN Security Council, so, yes they can.

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The legal position of the Council contradicts the popular metaphor that describes the international system as an ‘anarchy’ of independent states. The idea of international anarchy presumes that states are not subject to any superior legal authority. Among states, Waltz says, “none is entitled to command, none is required to obey.” But this is not true. Since 1945, with the advent of the UN Charter, *all* states are required to obey the Council. The international political system has been placed within a legal hierarchy in which the UN Security Council in an unambiguous position of authority over all.