

**DIPLOMATIC ATTEMPTS AT CONFLICT  
RESOLUTION : ≐  
A CASE STUDY OF IRAN-IRAQ CONFLICT**

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Certified that the dissertation entitled  
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the Master of Philosophy, is his own work and that  
such a work has not been submitted by anyone other  
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## PREFACE

The present dissertation makes a study of the diplomatic attempts made to resolve the conflict between Iran and Iraq. It is necessary to do so in the proper historical context and without losing sight of international legal dimensions. This dissertation deals substantially with a conflict of opinions, not of the opinions of individuals, but of the opinions prevailing among the peoples of the two nations. It is clear to everyone that Iran's policy in the Gulf has met a series of reverses, including some major disasters in the years since the conflict broke out in early September 1980. I believe that because of the narrow political understanding of the new leaders in Iran for the region and their personal analysis of the area and, therefore, that these failures need never have happened. The purpose is to try to show that it was opinion - easily discoverable by anyone prepared to listen to ordinary people, to those whom they say "yes" to the peace, not to war.

Above all, to explain why we ignore that opinion which was so decisive. The dissertation raises the question: "how long" should the lessons of Iran-Iraq continue unheeded?

The dissertation has been divided into five chapters; the first chapter deals with historical background of the conflict; the second chapter deals with the diplomatic

attempts made by the United Nations and the resolutions of the Security Council. The third chapter deals with the efforts made by the Islamic Conference Organization through its good offices to defuse the issue. In the fourth chapter, the Non-Aligned Movement, which played an active role in this issue and tried hard to stop the fighting between the two members of the Movement, and its efforts made by it at various levels to defuse the Iran-Iraq conflict have been dealt with. At the end, I concluded my study in a fifth chapter which deals with the general outlook of the conflict and the expected outcomes. I hope this work will help in solving this dispute which has, for so long, marred relations between Iran and Iraq. It is my belief, that understanding is the necessary preliminary condition of a just and fair solution.

I am grateful to my supervisor, Mr V.K.H. Jambholkar, whose able and inspired guidance enabled me to complete this work and without whose encouragement this work could not have been able to see the light of the day. I am equally thankful to Professor Satish Kumar, Head of the Diplomatic Studies Division, School of International Studies, Jawaharlal Nehru University and to Dr. Pushpesh Pant of the same Division, for their encouraging approach. Needless to say, they have been of immense help to me in the completion of this work.

The staff of the following institutions/libraries must receive my gratitude for the co-operation that I was extended throughout the period of my study: Iraqi Cultural Centre (New Delhi), Central Library, Jawaharlal Nehru University (New Delhi), India International Library (New Delhi), United Nations Library (New Delhi), American Centre Library (New Delhi), Delhi University Library (Delhi), and Indian Council of World Affairs Library (New Delhi).

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## INTRODUCTION

Diplomacy means art of management of a nation's relations peacefully among the various states of the world, bilaterally, trilaterally, collectively or whatever in manner.<sup>1</sup> Scholars, decision-makers and even diplomats often speak that diplomacy is the manifestation of foreign policy or - diplomacy and foreign policy of a country are synonyms to each other. The foreign policy of a state is influenced and determined by the external environment and domestic politics and economics.<sup>2</sup> Elaborately, the form of geographical settings, historical traditions, attitude of the ruling class, extent of modernisation, etc. are important features in decision-making. The character of political elite, parties - the quest for national security, character of economic developments, a character of leadership also play an important role, besides ideology and national interests. Pressure of global politics have a hand in shaping the evolution of a country's foreign policy. The international milieu, bipolarity, regional politics - military alliances also play pivotal role in shaping and moulding a nation's foreign policy.<sup>3</sup>

The emergence of powerful international organisations in politico-economic-strategic and in many fields after the

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1 Harold Nicholson, Diplomacy, p.46.

2 J. Bandhopadhye, The Making of India's Foreign Policy, p.22.

3 Ibid., p.56.

Second World War - United Nations and its several valuable agencies, powerful regional groups - Commonwealth, EEC, ASEAN, OPEC, CENTO, Non-aligned, Islamic Bloc, OAU and, more especially, the emergence of independent states from the colonial yoke, growing interdependence between South - South, South - North countries have assured them with great significance.<sup>4</sup> That is why it was always a positive motivation in the worldly states and their governments to solve their problems through diplomatic means and create a just and understandable world free from international, regional competitions and rivalries, with utmost care with the tools developed by the modern world diplomacy. Since this paper, Diplomatic Attempts at Conflict-Resolution : A Case Study of Iran-Iraq Conflict, related to a very sensitive region - geographically, strategically and economically for various policy makers, this study is specially meant for conflict-resolution and through successful diplomacy a nation can solve her security, dispute and war crisis. Historical evidence can prove it that even in the past, nations were heavily involved in solving their problems through tactical means-diplomacy. Even in the past nations had conflicts with one another but they solved it through the successful negotiations.

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4 A.K. Ray, World Focus, March 1981, p.13.

An international problem cannot be divorced from its historical framework and direct causes. It may have so many pros and cons. But the efforts to solve the outstanding conflict in a just and honourable manner require precise understanding to the nature of the conflict and in the light of its correct historical background.<sup>5</sup>

Contemporary world has a history of conflict. Even the history of today's most developed world was the history of greatest turmoil and blood. France, Germany, India and so many others from the Third World had fought their war for their territorial sovereignty - territorial integrity, unification of their national land. Even today when the United Nations as world organisation is there to protect the interests of nations, states are busy with the tricks of war to gain territorial, ideological, economic, political and strategic dominance over one another. And that is the place where tension, turmoil and war look their shelter and birth. The prolonged Iran-Iraq war is the product of that aforesaid factors, played by regional sinners and imperialist forces to trap the country like Iraq which is most law-abiding, progressive and helpful with the world community. Since Iraq was committed to its people's well being, national progress and prosperity, the anti-social forces did the dirtiest/ fiercest work which is against the United Nations Charter

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5 Ibid., p.15.

and principles laid down by our Prophet (Peace be upon him).<sup>6</sup>

Today, when humanity is suffering under the terror of nuclear holocaust, where not only nation's integrity but existence of the humanity as a whole is at stake. And Iraq-Iran war is a small point where not only the existence of two civilisations is at stake but the existence of two most dominant nations at the international scene for all points, is at stake. They have a history of wars and disputes. Centuries ago or one can say when Islam was born in that very fertile crescent disputes existed. It is a war between two civilisations; two nations having different culture, ethnicity, language system and way of life.<sup>7</sup> And geography played a very significant role in departing them in all the ways. Relations between the two neighbours were never cordial even before Islam came to that area or before Arabian conquest to Persia (637 A.D.). This conquest did open the road inside Persia for Arab conquerors and throughout the ages it became part of the Arab region. It became free Persia only somewhere in early 16th century when they struck back under Ismail, the founder of Safawid dynasty. After that they had so many disputes followed by treaties but significant among them was Erzerum in 1647 and Constantinople in 1913. And later Algiers - in 1975. The present war is

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6 Baghdad Observer, no.4739, 1 April 1982, p.6.

7 Middle East Monitor, 1 June 1982, p.17.

the manifestation of the old territorial disputes and ambitions of Persia to control over the Shatt-al-Arab by any means to gain a superiority over Arabs in trade lanes, strategic passage by controlling that very strait point.<sup>8</sup>

Today no human being could support a war anywhere on any land of the world. Only a sick and derailed person can. War does always create a problem more than it solves. War does always affect the international community and into-days world, while every nation is dependent over one another bilaterally, trilaterally or collectively, it would be shameful if one is saying that one is free from war. Likewise the Iraq-Iran war cannot be an exception. Both the states are minerally rich and specially about the world most needed mineral - energy/oil. Oil is the source over the rest of the world dependent over it considerably. Not only that they are controlling the world's most strategic lanes, routes, channels, cardinals, straits passages for international shipping channels/ passage - cables for communications. One can imagine how much damage this war has done to international community. Just after the war serious negotiations started and the war has been condemned in each and every capital by its leaders and strong voice has come for the immediate

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8 Nicola Firzli, Iraq-Iran Conflict (Paris, 1981), p.16.

ceasefire of war and to solve the dispute bilaterally or under the arbitration of international agencies like, United Nations, International Islamic Conference and the Non-Aligned countries.<sup>9</sup> Till today nothing significant has been achieved and despite various attempts in this direction by these bodies. But before examining diplomatic efforts in conflict-resolution, let us have a brief sketch of Iraq.

Iraq occupies the land of ancient Mesopotamia (between the two rivers). The area (171,000 sq. miles) includes the great depression between the desert on the west and the mountains on the north and northwest, and it bounded by the Arabian Gulf and Kuwait on the south. In contrast to the mountains belt in the north, the alluvial plain of the twin rivers extends southward and forms the fertile basin known for its ancient civilisations.

Shatt-al-Arab river is formed by the confluence of the Tigris and Duphrates rivers. It extends from Qurna at the junction of the two rivers to Fao on the Arabian Gulf. The importance of Shatt-al-Arab as a navigable river is restricted to its lower reach from Basrah port to Fao. The total length of Shatt-al-Arab is about 123 miles with an average breadth of 600 yards and,

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9 Time, 9 August 1982, p.4.

at some points, the river widens to a mile. The lower part of the river along which the Iraqi-Iranian frontier descends is about 85 miles long. The river is Iraq's only access to the sea and it handles considerable trade and shipping.

The estimated amount of salt coming down from the river annually is about half a million tons. These deposits would render the river useless without continuous dredging which is effectively maintained by the Iraqi authorities.<sup>10</sup>

Being a small and developing country, there is nothing Iraq wants more than peace. The peace Iraq desires is the one with full independence and non-interference in internal affairs.

The present armed conflict with Iran is not desired by Iraq. It was forced upon Iraq by Iran, and Iraq has to defend its territorial integrity in land and water, and its internal and external security.<sup>11</sup>

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10 Khelid Alizai, The Shatt-al-Arab Dispute (London, 1981), p.99.

11 Iraq-Iran Conflict (Ministry for Foreign Affairs, Baghdad, 1980), p.1.

**Chapter I**

**"Historical Background of the Conflict"**

(One ancient and serious historical quarrel survives that Iran and Iraq - these two major Gulf States both depend on sea passage through the Gulf for the best part of their foreign trade; both want to be sure of a clear way at its narrow exit. They differ about navigation right in their shared waterway - the Shatt-el-Arab.<sup>12</sup> So let us take up the history as a guideline to this issue, and put on diplomatic efforts to find out a final solution for it).

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12 Yohya Armajani, Iran (Tehran, 1969), p.143.

The rivalry between Iraq and Iran is more than 450 years old, with each trying to gain an upper hand when the other was weak. But great unease crept into the relation when the Iraqi coup of 1958 by Abd al-Karim Kassem overthrew the Monarchy and in the 1963 coup the country brought more radicals (posing a threat to the next-door monarchy in Iran). While the Shah lasted, he carried the day, and as the events between 1960 and 1978 have shown, Iraq lost the race for Gulf leadership. Since Shah of Iran became the Policeman of the Gulf - under the Western military umbrella, after the British withdrawal, thus creating a vacuum in the region.<sup>13</sup>

British withdrawal from the Suez area which lowered the Western power profile in the Gulf, made the Shah anxious that Iran's vital oil industrial-components on the Gulf oil wells at the head of the Gulf, the biggest oil refinery in the world Abadan, on the Shatt-al-Arab, estuary and the loading facilities at the Kheng island were left vulnerable. The Western interests were also served in encouraging him to take responsibility for protecting the vital scalves of the Gulf. He called the important checkpoint at the straits of Hormuz the "Juglar Vein of the West".<sup>14</sup>

13 David-E-Long, The Persian Gulf - An Introduction to Its People, Politics and Economics (London, 1967), pp.1-52.

14 Nicola Firzli, ed., Iraq-Iran Conflict (Paris; Institute of Studies and Research, 1981), p.39.

Iran's irredentism soon asserted itself when the Shah of Iran reasserted his claim to Abu Musa and Tunb islands held by the Emirate Sheikhdoms - Sharjah and Ras al Khaimah. The Sheikh of Sharjah in 1971 agreed to share the authority over his island Abu Musa with Iran and Tunb with Ras al Khaimah. But it was later occupied by Iran. Protest was done by the Arabs. This was followed by Iranian support to Oman in crushing the Dhofar insurgency, on the pretext that it was posing a threat to the safe passage of vessels through the straits of Hormuz. With such actions, there was no doubt left that Iran was a major regional power. The boundary dispute is a longstanding one. Iran's boundary with Iraq on the West is a continuation of the Irani-Turkish boundary. The Iraqi section of it has been difficult to delineate satisfactorily despite their boundary treaty of 1987. The actual disputed portion consists of the Shatt-al-Arab border river.<sup>15</sup> It is composed of a small section of the confluence of the Tigris and Euphrates and then the confluence of these rivers and the Iranian river Karun; this section flows to the southeastern Iraq and southwestern Iran, and empties into the Gulf. Iran claims that over 60 per cent of the water flowing into the Shatt

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15 Sreedhar, The Gulf Scramble for Security (New Delhi, 1982), pp.30-64.

comes from Iranian rivers, the Karun, the upper and lower Zab, Dailah and Kabur. Iran argued that the treaty had been imposed on both Iraq and Iran by British and Iran had no obligation to adhere to it because of changed circumstances. Thus Iran declared the treaty null and void. Again, with the exception of two areas, the whole of the 'river had been handed' to Iraq, by means of this treaty contrary to the principle of international law which provides for dividing a frontier river into two equal sections between neighbouring states.

While the Shatt-al-Arab question was hotting up, Iran found a new leverage in aiding the Kurds in their insurgency against the regime in Baghdad.<sup>16</sup> The Kurdish demand for autonomy dates back to the 1940s. It was ruthlessly put down by the Iraqis in the late '50s and early '60s, but in January 1966, Iran and the Kurds came to an understanding under which the former agreed to provide arms and advisers. Iran probably also acted as a conduit for arms shipped to the Kurds<sup>17</sup> by Israel. This new lease of life to the Kurdistan movement tied down the Iraqi armed forces and started threatening the regime in Baghdad by

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16 S. Akhtar, "The Iraq-Iranian Dispute Over Shatt-el-Arabe", Pakistan Horizon, vol.22, no.2, 1961, p.22.

17 H.S. Agwani, Politics in the Gulf (New Delhi, 1978), p.157.

the early 1970s.<sup>18</sup>

From above mentioned it shows that any problem cannot be divorced from its historical framework and direct causes. The efforts to solve the present outstanding conflict in a just and honourable manner require precise understanding to the nature of the conflict and in the light of its correct historical background.<sup>19</sup> The war between Iran and Iraq erupted in early September 1980, adding new dimensions to the already turbulent affairs of the Middle East. This violent confrontation has disrupted the economies of both countries and has inflamed international tensions, precipitating both covert and overt threats by the major Powers of military intervention in the region. ] The intricacies of the conflict between Iran and Iraq transcend the manifestation of current events, however. The conflict has historical, legal and ideological dimensions that are deep-rooted and complex.<sup>20</sup>

The problem between Iraq and Iran goes back to more than 450 years of history as mentioned earlier. If we want to trace it chronologically, it is not a mere

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18 Aghili S. Mohd M., Iran and Iraq : Disputes Over Sovereignty, and Shipping Rights of the Two Countries on Shatt-al-Arab (Tehran, 1981), p.20.

19 "Iran-Iraq War", Midstream, vol.27, no.1, January 1981, pp.4-7.

20 Tareq Y. Ismael, Iraq and Iran - Roots of Conflict (Syracuse University Press, 1982, p.xi.)

boundary problem, nor is it a minor conflict over navigational rights. It is much wider than that, as the problem signifies itself in Iran's expansionist ambitions in the neighbouring and adjacent Arab areas and since 1520, eighteen Treaties have been concluded between the Persian State and its Western neighbours regarding its relations therewith, including the question of borders. On all occasions, the state (Iran) chose the opportunity to violate the said Treaties whether by word or deed.<sup>21</sup>

The Persian and the Ottoman states concluded the first Treaty in 1520 after Iran had occupied and annexed some areas of Iraq, which was then part of the Ottoman State. The Persian State was forced by that treaty to withdraw from the territories it had occupied. That treaty was followed by others, notably the treaty of 1639 which was concluded at Zehab, and which included, for the first time, the basis for the delimitation of boundaries between the two States. The said treaty was affirmed by the treaty concluded at Kerdan in 1746, which provided that the boundaries between the two states were those provided for in the treaty of 1639.<sup>22</sup>

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21 Alternatives, "Iran - Foreign Relations", vol.6, no.3, September 1980, pp.487-90.

22 Ibid., p.83.

It is worth noting that in both of those treaties, the Persian State was forced to withdraw from Arab lands within the Ottoman state against which, due to reasons of geography, the Persian State used to expand.

Subsequent to the war that took place between the Ottoman and the Persian State, the first treaty of Erzerum was concluded in 1823. This treaty affirmed the previous treaties concluded in relation to frontiers, especially that of 1746, and considered them binding and still in force. In this new treaty, the two parties emphasized specially the prevention of interference by the Persian State and in whatever manner in the affairs of Iraq which was at the time part of the Ottoman state. But the boundary problems between the two states continued because of the continuation of Persian territorial encroachments and despite the treaty already referred to. Due to the emergence of competition between Tsarist Russia and Britain to control the area, the Ottoman and the Persian States considered reaching final and firm borders for them. In this connection, Tsarist Russia and Britain performed the role of mediators, and the second treaty of Erzerum was concluded in 1847. In that treaty, the Persian State obtained its first territorial expansion at the expense of Arab rights. The boundaries before 1847 were to the east of the island of Abadan in the area of Shatt-al-Arab, and they became running along the eastern bank of Shatt-al-Arab

In this connection, although Shatt-al-Arab remained with all its waters in the hands of the Ottoman State, and a part of Iraq which was then part of the Ottoman State, yet the Persian state secured a territorial gain over the lands on the eastern bank in the form of recognizing Persian sovereignty over the port and anchorage of Muhammara in front of al-Haffer-Canal in Karoun river, and the island of Khizr, now called (Abadan). The rest of the lands, towns and ports on the said bank remained in the hands of the Ottoman state.

It is worth noting that the treaty of 1847 explicitly provided that each party renounced all its territorial claims in the lands of the other and undertook not to interfere in its internal affairs.<sup>24</sup>

Accordingly, a joint commission was set up to mark the frontiers on the maps in accordance with the frontiers description provided for in the treaty. That task was not achieved because of the wars which took place in the area, namely, the Crimean war between the Ottoman State and Russia (1854-1856), the British-Persian war (1856-1857), and the Balkan war (1876-1878).<sup>25</sup> So the situation remained stagnant until 1911 when a difference arose

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24 Time (Magazine), 9 October 1982, p.4.

25 The Middle East Journal (Washington), vol. XXII, 1969, pp.350-357.

regarding the implementation of the treaty of Erzerum as a result of the refusal of the Persian state to abide by it.

\*Consequently, the protocol of Tehran was concluded in 1911, which contained the agreement of the Ottoman and the Persian States to set up a joint commission to meet in Istanbul to decide upon and fix the frontier line between the two countries in a detached and mutual spirit. <sup>+</sup> Afterwards, a technical commission was to apply the description of the boundaries on land according to the provisions of the treaty of Erzerum of 1847.

After the parties had met in Istanbul in 1912, they could not agree on the plan of work. As a result of the mediation of Russia and Britain again, the Istanbul protocol of 1913 was concluded, which was signed by representatives of both parties and the mediating powers. The said protocol provided for a clear description of the frontier line between the two countries, which was similar to that of the treaty of Erzerum (1847). The protocol provided for demarcating the frontier line and constructing the necessary pillars by a commission the tasks of which were specifically determined. The protocol also provided that any sector of the frontiers demarcated on land shall be considered as finally determined and shall not be subject to any amendment or revision thereafter.<sup>26</sup>

26 Shameen Akhtar, "The Iraqi-Iranian Dispute Over Shatt-al-Arab", Pakistan Horizon, vol. XXII, 1969, pp. 213-220.

In this protocol, the Persian state once again secured a territorial gain at the expense of Arab rights. The Ottoman state ceded part of the Arab territory in Shatt-al-Arab in front of Muhammara Port and for a distance of four miles. Hence, the frontier line in this area became running in the mid-channel for the said distance and refers back to follow the eastern bank of the river until it reaches the sea, leaving under Persian control a number of islands.

Consequently, a joint commission was set up according to the protocol, and composed of representatives of Russia, Britain, the Ottoman state and Iran. The commission demarcated the frontier line on land in accordance with the description mentioned in the protocol from the point of confluence of Shatt-al-Arab with the Arab Gulf in the south till Ararat, in the north. The commission completed its work in October 1914, along with the records of its meetings, decisions, maps and the construction of 126 frontier pillars. These are the documents known as "the Proceedings of the Meetings of the Commission for the Delimitation of the Turco-Persian Frontiers, 1914". Thus, one should assume that the boundaries became final and recognised by the two parties.<sup>27</sup>

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27 Ministry of External Affairs Documents (Dehhdad, 1981), p.16.

When Iraq became independent of the Ottoman Empire after the First World War, it succeeded the said Empire, in accordance with the rules of international law,<sup>28</sup> to the Turkish treaties relating to the Iraqi territory, the last of which were the 1913 protocol and the proceedings of the Frontiers Delimitation Commission of 1914. It was, therefore, to be expected that Iran should not raise any problem to Iraq in this respect. But, in fact, in the early days of Iraq's independence, and particularly in 1932 Iran committed a number of encroachments against Iraq's territory, and declared its non-adherence to the 1913 protocol and the 1914 proceedings. It started to commit a series of acts of armed intervention in Shatt-al-Arab and territorial encroachments by constructing border posts guarded by military forces inside Iraq. These encroachments were the subject matter of the complaint by Iraq in the League of Nations in 1934. The League recommended that the dispute be settled through direct negotiations.

The said conflict came to an end by the conclusion of the Border Treaty between Iraq and Iran on 4 July 1937. Article 1 of that Treaty considered the 1913 protocol and the Proceedings of the Meetings of the Frontiers Delimitation

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28 Majid Khadduri, Republican Iraq (London, 1979), p.112.

Commission of 1914 as valid and that the two parties were bound to observe them, and provided, accordingly, that the boundary line between the two states was that defined and traced by the above-mentioned Commission of 1914.

As regards Shatt-al-Arab, Iran expanded again in accordance with this treaty at the expense of Iraq's territorial sovereignty and obtained a new territorial gain in addition to what it had already gained in accordance with the 1913 treaty, namely, Iraq ceding a small part of Shatt-al-Arab in front of Abadan to Iran wherein the frontier line runs along the 'Thalweg' for a distance of about four miles.

With the exception of that, the boundary line between Iraq and Iran remained at the low water level at the eastern bank of Shatt-al-Arab according to the delimitation of the frontiers described in the Proceedings of the Meetings of the Frontiers Delimitation Commission of 1914.

Article 3 of the 1937 treaty provided for appointing a Commission for erecting the frontier pillars the location of which has been fixed and constructed by the 1914 Commission and of fixing additional pillars which it considers useful to erect. The purpose was, as was declared in the preamble of the Treaty, to settle definitely the frontier question between the two countries. The Frontier pillars Commission was constituted in 1938 and proceeded with its work until it was interrupted in 1940 because of Iran's

withdrawal from it when it realized that it had committed a large territorial encroachment on Iraqi lands in the area of Um Sheer in the Governorate of Maysan in south-eastern Iraq. (Shortly afterwards, Iran reverted to raising the same boundary problems to Iraq which it used to raise before the conclusion of the 1937 treaty. It started again to encroach upon Iraqi lands in numerous areas by constructing armed border posts and commit acts of armed intervention in Shatt-ol-Arab, calling for entrusting the navigation therein to the competence of a joint commission with legislative, executive and judicial powers despite the fact that it is a national river subject to full Iraqi sovereignty, as its name indicates.

Iran continued to raise these problems to Iraq during the era of both the monarchical and the republican regimes. It escalated its position, despite the fact that Iraq continued to seek through the diplomatic channel to settle the dispute and forge normal relations with Iran according to the legal obligations in force of both countries.<sup>29</sup> )

Despite all that, Iran followed the same path which it had used to pursue in the past. It declared unilaterally on 10 April 1969, the termination of the Border Treaty of 1937.

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29 "Iraq and the Arab World, Gulf War and After", World Today, vol.37, no.5, May 1981, p.94.

Accordingly, Iran continued to deny its international obligations and violation of Iraqi sovereignty over land and in Shatt-al-Arab. It persisted in the flagrant interference in the internal affairs of Iraq through all means. The situation became so critical to the extent of committing an armed aggression against Iraq in certain border areas, which prompted Iraq to launch a complaint against Iran in the Security Council in 1974.

Iraq sought all means to settle the dispute with Shahinshah of Iran in accordance with the rules of international law. But all Iraq's efforts were met at times with refusal and with procrastination at others.

Iran this time used to choose every given opportunity to call for the re-delimitation of the boundaries in Shatt-al-Arab on the basis of the Thalweg, i.e., the line of the deep navigable channel. The aim is clear naturally, namely, to achieve a new territorial gain at the expense of Iraq by obtaining half of Shatt-al-Arab for a long distance in the river.

This situation continued from 1969 after Revolution of 1968 in Iraq until 1974 when the Algiers Agreement of that year came about.<sup>30</sup>

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30 Iraq-Iran Conflict, Documentary File, Baghdad, 1980,  
p.30.



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Before dealing in detail with the Algiers Agreement, it is pertinent to explain its immediate background, for that would shed an enormous light on its paragraphs and fundamental objectives.

Since the Revolution of 17 July 1968, Iraq was and still is one of the firm adherents to the policy of non-alignment, which is based on the principles of non-interference in internal affairs of others, respect of national sovereignty of all states, and ensuring peace and security in the world.

In addition, Iraqi foreign policy does not tolerate any interference in the independence of Iraq and the Arab countries' sovereignty, territorial integrity in any form, from any side or on any pretext whatsoever. Iraq have adhered to this policy and these principles in the foreign policy proceedings form a profound need and a long national and Pan-Arab experience in this regard. For, as Iraq, no doubt, is aware that any disequilibrium in the basis of balance in state relations would certainly lead to impairing the rights and sovereignty of one side in favour of another.

In order to avoid this phenomenon which has often led to tension and crisis, it is imperative to find international cooperation on rules that aim at the achievement of joint interests within the framework of non-interference in the internal affairs of other states. That is particularly

true in the case of neighbouring states, because the geographical reality imposes upon them a policy of good neighbourliness, and non-intervention in internal affairs.

In its relations with Iran, Iraq has adhered firmly to that policy, an approach which is based on a number of realities that arise from the geographical neighbourliness and the historical ties between the people of Iraq and the Iranian people.

Iraq's relations with Iran have witnessed grave crisis because of the policies of successive regimes in Iran which have considered Iraq and the Arab homeland, particularly the Arab Gulf area, as a sphere for domination and influence. \*

The said policies have been expressed in different forms appropriate to the particular exigencies of the time. During the rule of the Shah, arrogance, aggression, territorial expansion at the expense of the Arabs and attempts to harm Iraq's national sovereignty and the rights of the Arab nation were a constant pattern. Iraq and the Arab nations were regarded as a sphere of influence for the expansionist plans of Iranian interests. That policy has been followed throughout history by the state of Persia against its neighbours to the west. <sup>31</sup> \*

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31      Arnold T. Wilson, The Persian Gulf (London,      ),  
p.21.

When the Revolution of 17 July 1968 took place in Iraq, and at the time when Iraq was occupied with building a new society on the basis of justice and welfare, struggling to liberate its national wealth from the exploitation of colonial monopolies, adding its efforts to those of its Arab brothers in the struggle against the Zionist aggression, in that particular time, the regime of the Shah in Iran was acquiring arms at a very exceptional level. That regime was preparing itself to exercise the role of the policeman in the region with the full support of, and in coordination with the United States of America and the colonial forces in the world. That suspect policy drove the Shah to provoke independent Iraq constantly seeking to weaken and harass the national regime brought about by the Revolution. The beginning was a propeganda campaign and numerous attempts at plotting, creating political crises, supporting the rebellions and mutinous movements in northern Iraq openly, and unabatingly, continuing with the territorial encroachments, ignoring international agreements, and committing armed aggression in actual fact. ]

Then, in order to achieve his ambitions, the Shah began to exert military pressure directly or indirectly, believing that the military means would ensure the achievements of his expansionist aims and ambitions.

The Shah began to support the reactionary secessionist rebellion in northern Iraq on a large scale and hence started to exercise a direct role in the field in order to dismember Iraq.

The Shah's support for the secessionist rebellion was limitless. He provided the reactionary leadership of the rebellion with huge quantities of modern and sophisticated armaments and put at its disposal all his material, military, political and media facilities, including the services of his advanced intelligence apparatus. He presented it with direct military support by sending contingents of his army to the areas of fighting, and amassed his troops along all the borders with Iraq. <sup>x</sup>All that took place, under the care and with the encouragement of the United States, and the participation of the Zionist entity through its representatives whose Prime Minister declared on 29 September 1980, that the Zionist entity had provided Barazani with weapons, equipment, instructors and provided the rebels with training from 1968 to 1975. <sup>32 x</sup>

Iraq fought a bitter conflict against that agent clique and the aggressive policies of the Shah, in order to defend its sovereignty and national unity. Iraq suffered sixty thousands casualties between martyrs and wounded of armed forces personnel and civil population, aside from the enormous material losses. The military situation reached a dangerous point when the Shah advanced his military troops on numerous occasions to fight directly against Iraqi forces in various fronts with a view to supporting the military position of the agent rebellion.

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32      Caractus, Revolution in Iraq (London, 1976), p.44.

These were the conditions which dictated upon Iraq and indeed forced Iraq to work towards a political solution. Hence, when the late President of Algeria, Houari Boumedienne, took the initiative of communicating with Iraq and Iran, Iraq agreed to that initiative, and the Algeria Agreement was concluded on 6 March 1975, under these circumstances.

The spirit of the Algiers agreement appears in its Preamble, which provided that the parties had reached the agreement in order to arrive at a final and permanent solution to all existing problems between the two countries in application of the principles of territorial integrity, inviolability of frontiers and non-interference in internal affairs. The four paragraphs of the Agreement provided the following:

1. Carrying out a definitive demarcation of territorial frontiers on the basis of the Istanbul Protocol of 1913 and the proceedings of the meetings of the Delimitation Commission of the Turco-Persian Frontiers of 1914.
2. The delimitation of the fluidity frontiers in Shatt-al-Arab according to the Thalweg line.
3. The undertaking of the two parties to restore security and confidence along the common frontiers and the obligation to exercise a strict and effective control over the said frontiers for the purpose of cessation of all acts of infiltrations of a subversive character.

4. The agreement to consider all the above-mentioned arrangements as indivisible elements of a comprehensive solution, and that hence any violation of which shall naturally be considered as against the spirit of the Algiers Agreement. That is to say that any violation of any of the three interconnected paragraphs will be considered a violation of the paragraphs as a whole. This is the Algiers Agreement and these are its circumstances.<sup>33</sup>

‡ In order to put these arrangements in the form of documents containing the technical details, a joint ministerial Iraq-Iranian Commission was established with the participation of Algeria. The treaty on state frontiers and good neighbourliness, its three protocols and annexes were signed at Baghdad on 13 June 1973.<sup>x</sup>

It is evident from Algiers Agreement that it represented a package deal in which the political and the juridical aspects were balanced in a manner which made the violation of any of its constituent elements a violation of that balance and a reason for the collapse of the Agreement. By the same token, it follows logically that in the implementation of the settlement referred to, the

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33 Nicola Firzli, The Iraq-Iran Conflict (Paris; Institute of Studies and Research, 1981), p.72.

two parties should be able to achieve the balanced gains which they have agreed upon at the time, and in accordance with the circumstances to which mention has already been made. X But what happened in fact was that Iran scored an instant and direct gain as soon as the Algiers agreement entered into force, X for its position in Shatt-al-Arab became that of a partner in sovereignty over a large part of its territory. X This was because of the redelimitation of the frontiers in Shatt-al-Arab on the basis of the Thalweg. As for the Iraqi lands upon which Iran had encroached, they were not delivered to Iraq before the fall of the regime of the Shah. Iraq was in the process of receiving them when the Revolution in Iran began; their delivery was in fact delayed and when the new rulers took over, they did not return these lands to Iraq - Iran thus continued to occupy Iraqi lands; they have not been delivered after the fall of the Shah's regime.

The new regime in Iran came to power after the fall of the Shah's regime, and the situation regarding the implementation of the Algiers agreement was that Iran has achieved a new territorial gain which it benefited from at the expense of Iraq, but Iraq has not obtained what was due to it according to all the international agreements concluded before 1975, and the 1975 agreement itself.

Despite that, Iraq expected that the new rulers would open a new page in their relations with Iraq and the Arab nation. On this basis, Iraq on its part took numerous positive initiatives towards achieving that goal.

In the Ministerial meeting of the Coordinating Bureau of Non-Aligned Countries which was held in Colombo in 1979, Iraq was behind the inclusion of a paragraph in the final declaration welcoming Iran's withdrawal from CENTO. Iraq also welcomed Iran's application to join the Movement of Non-Aligned Countries and adopting a recommendation to that effect at the Summit Conference in Havana.<sup>34</sup>

Iraq have taken all these steps in order to putting Iraq's relations with Iran on correct and positive basis. (Iraq's starting point was the policy of good neighbourliness, and the desire to establish normal relations with Iran. But, in their well-known arrogance, the new rulers of Iran turned away from all these initiatives. They were determined with full intention to abuse Iraq, and expand at its expense, and go along the same hostile and expansionist path taken by the Shah of Iran.) This appeared from the statements made by them, and their deeds and practices, regarding which Iraq have disturbed to the distinguished delegations' dossiers containing ample and documented information.

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34 Ibid., p.75.

The basic motive behind the hostile position adopted by the new regime in Iran is the desire to expand at the expense of Iraq and the Arab countries in the Arab Gulf region and to interfere in its internal affairs. This has taken now a new cover which is what the Iranian responsible officials term as the exportation of revolution to the neighbouring countries.<sup>x</sup>

The attitude and intentions of the Iranian rulers in the so-called exportation of revolution did not stop at making statements, but passed that limit in the endeavours to transfer it to actual reality against Iraq and other Islamic countries. This took place under the direct supervision of the regime's leaders. In Qom and Tehran, specialised institutions and quarters were established to plot against Iraq and the neighbouring states. The plotting against Iraq was escalated through the commission of acts of terrorism and sabotage by Iranians, which the Iranian authorities helped to infiltrate inside Iraq, and assisted by Iranian residents in Iraq and individuals of Iranian descent. In fact, these groups committed during the first half of 1980 ugly terrorist acts, from which not even the Muslim praying masses in the mosques escaped. All these terrorist acts were directed from Qom, as has been established by the instructions issued and broadcast daily to the agents of the Iranian regime from the official Iranian broadcasting stations, which included even

instructions as to manufacturing local bombs. This is in addition to the official statements emanating from the responsible Iranian officials which instigated murder, terrorism and sabotage. The most cruel act of terrorism was the hurling of bombs at a huge students gathering held at al-Mustansiriyah University in Baghdad on 1 April 1980, which resulted in killing and wounding of a large number of students. Similarly, the hurling of bombs on 5 April 1980, from the Iranian School in Waziriyah at the funeral procession of the martyrs who were killed at al-Mustansiriyah incident. In this second operation, some Iranian officials of the Iranian school teachers participated.

The rulers of Iran have not stopped at that, as they started, parallel with their sabotaging activities, to renew the life of the agent rebellious movement in Northern Iraq. The Iranian Government recalled the leaders of that movement, already defeated in 1975, from the United States of America to Iran and have them a new support, as the Shah did formerly, in all means in order to threaten Iraq's security and national unity. The Iranian government has also put a special broadcasting station at the disposal of that clique which cooperated with the Zionist entity between 1965 and 1975, as has been recognised by Begin in his speech.<sup>35</sup>

35 George F. Curzon, Persia and the Persian Question, vol.II (London, 1962), pp.132-137.

It has already been referred a while ago to the question of the <sup>X</sup>Iraqi lands which Iran did not deliver to Iraq despite its long encroachment thereon, as provided by the Algiers agreement, and how the fall of the Shah regime led to the more completion of delivery. The new regime came to power and Iraq granted it the opportunity to implement Iran's obligations. But what happened with the advent of the era of the new regime is that with the beginning of tension, the Iranian military presence in those Iraqi lands increased instead of delivering them back to Iraq. Those very areas, being areas of Iraq, became themselves the source of armed attacks on the Iraqi border region. The attacks were coupled with persistent violations of Iraqi air space by the Iranian Air Force.<sup>36</sup>

<sup>X</sup> On 4 September 1980, a dangerous turning point in the chain of these violations occurred. The Iranian military forces used American-made heavy artillery of 175mm calibre to bombard peaceful Iraqi towns. Thus, the towns of Qhanagin, Mendeli, Zurbatia and the oil region known as Naftkhana, where the savage bombardment started, were all exposed to heavy shelling which resulted in severe loss of life and damage to property. It is worth mentioning that concentrated savage bombardment was carried out from

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36 Al-Anba, (Kuwait) (Newspaper Arabic), 19 January 1981, p.3.

the area of Zain al-Qaws, Saif Sa'ed and Maimak which are part of Iraqi lands usurped by Iran, and which are recognised as such and documented in all international treaties concluded between Iraq and Iran, including the 1975 Agreement.<sup>K</sup>

Iran has persisted in its hostile attitude, and has not shown any respect to the 1975 agreement. On the contrary, the Iranian responsible officials stated publicly more than once that they do not recognise that agreement, describing it as against the interests of Iran. They even described it as dead, saying that it was suspicious, and concluded under the auspices of the USA, by Saddam Hussain and the Shah. These declarations were made before and after the rulers of Iran assumed power. In particular, they did not reply to the Iraqi official and written note of 27 June 1980, in which Iraq specifically asked them whether they considered that Agreement as still valid between the two countries.]

In view of all this clear evidence, it was established by the government of the Republic of Iraq that the Iranian Government had terminated it unilaterally. Consequently, the Iraqi Government decided on 17 September 1980 to consider the said Agreement and those following it and based upon it as terminated on the part of Iraq after Iran had terminated them by word and deed. This was done in accordance with paragraph 4 of that Agreement and Article 4 of the Treaty

on State Frontiers and Good Neighbourliness which was based upon it.

On that occasion, Iraq called upon the Iranian authorities to accept the new situation and act rationally and wisely in view of the exercise by Iraq of its legitimate rights and full sovereignty over all its territorial and fluvial territory in Shatt-al-Arab.

(Iraq declared on that occasion, that Iraq did not desire any war with Iran, and did not aim at widening the area of conflict with it outside the restoration of Iraq's legitimate rights in territorial sovereignty, and that Iraq had no territorial ambitions in Iran. Yet, the Iranian Government escalated the conflict.) It began as from 19 September to shell with heavy artillery and bombard with places densely populated areas and vital economic installations in Iraq, Iraqi and foreign incoming and outgoing commercial vessels in Shatt-al-Arab and the navigational channels in the river as well as its approaches in the Arab Gulf, aiming meanwhile at Iraqi military forces. In addition, the Iranian authorities declared the closure of its air space to civil aviation, and the closure of the Strait of Hormuz to Iraqi navigation, contrary to international law. It also declared public mobilization and amassed with great concentration its military forces along the whole border, and started

with wide military operations. The Iranian military forces issued four military communiqués, broadcast over radio Tehran, relating to its activities during the period 18 September, 1980. In its third communique issued on 19 September, 1980, Iran stated that it had used the air force in its military operations. In the third communique issued on 19 September, 1980, the Iranian authorities boasted that it had set on fire Naftkhena field in Iraq. All this happened before 22 September, 1980, which is considered by some to be the beginning of the war between Iraq and Iran, while the war began on 4 September 1980, as explained by all these accidents and confirmed by military communiqués, broadcast with impunity and boasts.

In the face of these acts, Iraq issued a statement on 22 September, 1980, warning the ruling authorities in Iran of the consequences of that escalation and the indiscriminate strikes which they have committed, putting the full responsibility in connection therewith upon the said authorities. The Iraqi government also explained in that statement that the acts committed by Iran made it necessary to direct preventive strikes against Iranian military targets inside Iran with a view to protecting the safety, security and vital interests of Iraq. Thus, once again Iraq was forced to exercise its right to preventive self-defence in accordance with international law in order to repel aggression.

It is clear from the above that it was Iran which started the war against Iraq on 4 September, 1980, and expanded it during the following days. Iraq has not encroached upon Iran's borders or rights, when it forced to liberate Iraqi lands in Zain Al-Qawa, Gaif Sa'ed and Maimak and other Iraqi territories from the illegal Iranian occupation during the period 8 September to 11 September, 1980. Despite the Iranian escalation and widening of the military operations, Iraq was patient throughout the whole period of 11 September to 22 September 1980, without crossing the frontiers line into Iran. Iraq's patience came to an end when Iran widened its aggression to the extent of closing Shatt-al-Arab, its sole national fluvial outlet to the sea, striking at Iraqi vital economic interests and peaceful cities, including oil installations and the closing of the Hormuz Straits, and gaining ample evidence as to the wider aggressive intention of Iran, when the totality of Iraq became exposed to wide military action from Iran. Iraq was forced again on that date to defend themselves by pushing the Iranian military forces deep inside the Iranian land mass in order that Iraqi towns, population and interests remain secure from aggression.

All these acts and practices committed by the rulers of Iran left nothing of the provisions of the Algiers Agreement. The Agreement was demolished by Iran in word and deed. And it is surprising that the Iranians raised

after a month from the beginning of war on 4 September, 1980, the question of applying the provisions of the 1975 Treaty relating to settlement of disputes contained in Article (6) of the said Treaty. That Article related to the settlement of differences between the two parties regarding the interpretation and application of the Treaty, and this presupposes the existence of the Treaty through the adherence of both parties to it. It is untenable logically and legally to have Iran allowing for itself the termination of the Treaty by word, deed, and aggression, and then come to apply a provision which presupposes, at the time of its application, the adherence of Iran to the Treaty that contains it. Any argument to the contrary would be dangerous from the viewpoint of substance, namely, that there is a contradiction between the provisions regarding this question and those contained in Article (4) of the Treaty, which incarnated the provisions of Paragraph (4) of the Algiers Agreement. The meaning of this would be to divorce the Algiers Agreement and the Treaty from being a comprehensive settlement composed of indivisible politico-juridical elements.<sup>37</sup>

This is how the war started between Iraq and Iran. Despite all these bitter facts, Iraq cooperated with all the international efforts to settle the conflict and end

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37 Baghdad Observer (Newspaper - English), 15 March 1981.

the fighting. Iraq have offered Iran peace on 28 September, 1980, and declared that what it seeks is to regain its legitimate national rights in its lands and waters. Iraq have also declared her full readiness to withdraw from the Iranian territories and establishing normal relations with Iran on the basis of respect to sovereignty and non-interference in internal affairs. Iraq have accepted the Security Council Resolution (479) of 28 September 1980 (for details see the forthcoming chapter), and declared on its part unilaterally a ceasefire from 5 to 8 October, 1980, in response to the request of H.E. President Muhammed Zia-ul-Haq of Pakistan, who was undertaking a good-offices mission in his capacity as the Chairman of the Islamic Conference at that time (for details see Chapter III). We may realize, how dangerous it is for one side to take the initiative of ceasing fire unilaterally while the two armies are locked in battle? The Iraqi Army was locked in bottle with the Iranian Army but when President Zia-ul-Haq asked Iraq to take the initiative as a brotherly, face-saving gesture towards Iran, Iraq responded because it did not want to humiliate the Iranian people or army but Iraq did not allow anyone to humiliate its people and army, or to violate its sovereignty and security. Thus, Iraq accepted a ceasefire. Iraq declared its acceptance of this stop three days earlier, although Iran rejected it. Iraq adhered to the date and time decided upon to ceasefire, but Iran

tried to exploit it to launch a counterattack. It is then natural that such a ceasefire is impractical and incorrect. But Iran did not meet these sincere intentions except by its persistence in aggression, arrogance, and hostile statements. Moreover, some have misinterpreted this gesture of goodwill on the part of Iraq, its readiness to establish peace and ceasefire as a weak point, in the hope that, Iran, through a military solution, may impose a new fait accompli upon Iraq, contrary to its sovereignty, security and the interests of its people.<sup>38</sup>

Iraq have emphasised to all those who have sought to stop the war and the achievement of a peaceful settlement that Iraq have fought in response to the Iranian aggression and for legitimate rights, and that Iraq aimed at restoring those rights and achieving a just and honourable settlement to the conflict and pushing away the evil from its sovereignty and people. Iraq have also emphasised the necessity for the prevalence of the principle of non-acquisition by force in the relations between Iraq and the Arab nation, on the one hand, and Iran, on the other. The lands and rights which Iran has usurped by force, should be restored to its lawful owners.<sup>39</sup>

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38 Amir Sadeshi, Hossein, ed., Security of the Persian Gulf (London; Croom Helm, 1981), p.212.

39 Salamat Ali, "Iran-Iraq War : Long, Costly and Indecisive", Far Eastern Economic Review (Hong Kong), vol.112, no.15, 3 April 1981, pp.22-24.

This is one of the (Indian) constant principles as well as being a principle in international law; a divine as well as a mundane law Iraq is fully ready to restore the Iranian lands occupied in the war. By all this, a just and honourable settlement would be achieved. Hence, the appropriate climate for the establishment of normal relations between Iran, the Arab and Iraq, away from the expansionist inclinations and the acts of aggression would be achieved, as well as the appropriate conditions for all the countries in the area for evolution, development, stability and real independence and Iraq's desire and readiness to cooperate with all the international organizations.<sup>40</sup>

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40      Gordon Murray, Conflict in the Persian Gulf, 1981, p.26.

**Chapter II**

X **"The U.N. Mediation in Iran-Iraq Conflict"**

"In the whole of our recorded history there have been few periods when so many people have been involved in such deep changes in the way of their life, or engaged in such a diversity of conflicts. It is outstanding, therefore, that universal society of the United Nations survives and that it is,<sup>41</sup> if anything more deeply rooted more tenaciously adhered to, than it is the ongoing conflict between Iran and Iraq".<sup>42</sup>

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41 L.N. Srivastava, International Politics (New Delhi, 1975), p.301.

42 Khalil-ol-Izzi, The Shatt-al-Arab Dispute - A Legal Study (London, 1981), p.186.

The United Nations Organization, the outer skeleton of which had already been formed during the course of the Second World War, took its birth from the ashes of the League of Nations. The San Francisco Conference contemplated over the essentials of the United Nations Charter in April-June 1945 under the guidance and presidency of first, the U.S. President Roosevelt and then Truman. The USA and USSR participated in all the concerned conferences from the very beginning of the United Nations Organization which earlier comprised of the membership of 50 nations from all over the world. Now this number has reached about 157. The United Nations Charter consists of one hundred and eleven articles and its primary object is the establishment of peace and security in the world, besides carrying of friendly relations between the states of the world and the safeguarding of the people's right of self-determination. The chief organs of UNO are: its General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat. <sup>43</sup>

During its existence, the United Nations has done a commendable job of maintaining international peace and security. The United Nations has contributed directly or indirectly to the settlement of numerous disputes which

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43 L.N. Srivastava, International Politics (New Delhi, 1975), pp.384, 385.

could have posed a serious threat to the world peace. I shall, therefore, confine my study to some of the important disputes, which if not handled properly, could have threatened world peace.<sup>44</sup> The Iranian Case - The first important case handled by the Security Council pertained to the Soviet Union's interference in the internal affairs of Iran. The case was reported by the Government of Iran and the Security Council after thorough discussion, decided to refer back the case to the parties for negotiation. Two months later the Iranian Government once again informed the United Nations that the Soviet Union was persisting with its policy of interference. When the Security Council took up the matter for discussion, the Soviet Union representative tried to get it postponed. Failing this, he walked out of the Council. After further consideration of Iran's case, the Council decided to defer further consideration and keep the question on its agenda for an indefinite period. After it became clear that the Soviet troops had been withdrawn further discussion was adjourned.<sup>45</sup>

Indonesia - In <sup>1947</sup>1947 a dispute arose between Holland and Indonesia when the Dutch troops began military action against the Republic of Indonesia. This case was brought to the notice of the Security Council by India and Australia

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44 Hans J. Morgenthau, Politics among Nations, pp.457-461.

45 Ibid., p.482.

on August 1947. The Security Council, after putting aside the objection of the Dutch Government, the dispute was within the domestic jurisdiction called upon both the parties to cease hostilities and settle their disputes by peaceful means. It appointed a Good Offices Committee composed of the representatives of Australia, Belgium and United States to bring about a compromise and ceasefire. The Committee brought about a ceasefire in August 1947. In 1948, the truce was violated by Holland. In 1949 the Security Council called on Holland to withdraw to the 1948 truce lines, release the Indonesian leaders and try to reach a peaceful settlement with them, under threat of enforcement measures. The Dutch complied with the demand and ultimately Indonesia became independent.

Greece - The Greek question was brought to the United Nations by Greek Government on the ground that the communist states on her border were aiding the guerillas. A special Investigation Commission was appointed by the Security Council to examine the situation. The Commission submitted its report that the three northern states, Albania, Bulgaria and Yugoslavia were supporting guerilla warfare in Greece. During discussion on Greece in the Security Council, the Soviet Union used her 'veto' several times and the debates were marked with bitterness. Consequently, the question was taken up by the General Assembly. Even the General Assembly could not achieve much success.<sup>46</sup>

The Indians in South Africa - In June 1946, the Government of India took the question of treatment of the Indians in South Africa on the plea that South Africa Government had enacted discriminatory measures which not only violated the existing agreements between the two countries, but also constituted a violation of the principles enshrined in the Charter concerning human rights and freedoms. The Union of South Africa denied the competence of General Assembly to deal with the case on the ground that it concerned a matter essentially within its domestic jurisdiction. After a long debate, the General Assembly passed a resolution that the treatment of Indians in the Union of South Africa should be in conformity with international obligations. Next year, India informed the General Assembly that the Government of South Africa had taken no steps to put their resolution into effect. Ever since India has been raising this issue and the South Africa Government has refused to enter into negotiations.

Kashmir Question - The Kashmir question, which led to conflict between India and Pakistan was brought to the Security Council by the representative of India in January 1948 on the plea that the situation in Kashmir posed a threat and danger to the international peace and security. India complained that tribesmen were being encouraged and assisted by the Pakistan Government to invade Kashmir.

Pakistan not only denied the charges of India but also pleaded that the accession of Kashmir to India was illegal. She brought forward a number of counter-allegations against India. After hearing both the parties, the Security Council passed a resolution calling upon them to improve the situation. A United Nations Commission for India and Pakistan was formed for investigation of the situation on the spot. The Commission asked both the Governments to issue ceasefire and accept certain principles on the basis of which the truce agreement was to be negotiated. These principles were: (1) Pakistan would withdraw its troops recently stationed in the State and do its best to secure the withdrawal of tribesmen and Pakistan nationals not normally residents there; (2) Pending a final solution, the territory evacuated by troops would be administered by local authorities under the surveillance of the Commission; (3) Where the Commission notified India that Pakistan was complying with these terms, India would begin to withdraw the bulk of its forces in stages to be agreed on which by the Commission; and (4) Pending the acceptance of conditions for final settlement, the Indian Government would maintain within the lines existing at the moment of ceasefire those forces considered necessary to assist local authorities in observing law and order. India, after classification, accepted the resolution but Pakistan turned it down. As the Commission was able to achieve only limited success (it was

was able to secure ceasefire but could not succeed in paving the way for plebiscite), it was placed by one individual who was to make efforts to bring the two governments together on the unresolved issues. Sir Owen Dixon of Australia was entrusted with his responsibility. After about six months he reported his inability to secure demilitarisation or arrangement of plebiscite and requested that he should be relieved of his assignment. In March 1950, Dr Frank Graham of USA replaced him. He also made numerous proposals for demilitarisation but could not achieve any success. In August 1965, an unprecedented number of violations of ceasefire took place and the United Nations military observers reported that clashes had occurred between regular armed forces of India and Pakistan. As a result, the Security Council in the first week of September called for an immediate ceasefire and a withdrawal of troops to their respective positions before 5 August 1965. Although the recommendations of the Security Council were accepted both by India and Pakistan, yet the cases of violation of ceasefire continued on both sides. To make the ceasefire effective, the Secretary General increased the size of the UN military observer group for the stretch of international border between India and West Pakistan. On 10 January 1966, Prime Minister Lal Bahadur Shastri of India and President Ayub Khan of Pakistan met at Tashkent and agreed to withdraw their respective armed personnel to positions held before 5 August 1965.

This withdrawal was to be completed before 25 February 1966. In the recent war between India and Pakistan, following Pakistan aggression on Indian territories, the Kashmir problem once again came into limo-light. Both India and Pakistan violated the ceasefire and some minor changes were effected in the old ceasefire line. Now, a new ceasefire line has come into being. Thus, the Kashmir problem has remained unresolved all over those years. No doubt, the efforts of the United Nations did not lead to any happy solution of the problem, but it cannot be denied that without United Nations, the Kashmir dispute would almost certainly have precipitated a major international crisis.

Palestine Question - Of all the disputes referred to the United Nations, probably the Palestine question was one of the most complex one. The question of Palestine was first brought before UN by Great Britain in April 1947 when it wanted the General Assembly to take up the future set up of Palestine. In accordance with the British request, the General Assembly set up a Special Committee on Palestine. The Committee submitted its report in August 1947 and recommended that Palestine should be divided into an Arab State, a Jewish state and a special area, including Jerusalem under the international government. The recommendations of the committee were accepted by the General Assembly by a two-thirds vote. The General Assembly named

a Commission to implement these recommendations. The Jewish leaders hailed the action of the Assembly as a great victory, but the Arabs warned that such a plan would never be accepted by them. The Palestine Commission soon reported to the Security Council that it was not in a position to discharge its responsibilities regarding termination of the Mandate unless assisted by armed forces. Accordingly, in April 1948, the Security Council requested all groups in Palestine to desist from acts of violence and established a Truce Commission. In spite of all this, the situation did not improve. As soon as the Britishers gave up their Mandate on 15 May, the Arab States instituted armed action in Palestine. To see an end to the dispute, the General Assembly appointed a UN Mediator and Count Folke Bernadotte of Sweden was appointed to this office. The mediator was successful in arranging a four-week truce. The mediator was not given any extension as at the end of this period, the Arab states refused to extend the truce and fresh hostilities started. In an emergency session the Security Council warned that both sides would be responsible for any violation of the truce. On 17 September 1947, the mediator and the chief of the French observers were shot dead in the Israeli sector of Jerusalem. After incessant fighting, mediation efforts proved successful and the Governments of Egypt and Israel concluded a general armistice. Similar armistices were concluded by Israel with other Arab countries like Jordan, Syria, Lebanon, etc.

Corfu Channel Question - In January 1947, the British Government brought before the Security Council a complaint against Albania. She pleaded that a loss had been caused to the life and property of the British Warship in Corfu Channel. Albania denied the charge and accused Britain of violating the territorial waters of Albania. The Security Council referred the dispute to the International Court of Justice. The court held that Albania was responsible for the explosions under international law and asked her to pay a compensation of ££43,947 which it never paid.

The Berlin Question - The dispute regarding the blockade of Berlin was taken to the Security Council by France, United Kingdom and U.S.A. on 29 September 1948. They called the attention of the Security Council to the serious situation arising as a result of unilateral imposition by the Government of USSR of restrictions on transport and communication between the Western Zones of occupation in Germany and Berlin. This act of Soviet Union was described as a direct violation of Article 2 of the Charter and threatened the peace. The Soviet Union contended that this question did not fall within the competence of the Security Council because the responsibility for the solution of problems relating to Germany was a matter for the Governments responsible for military occupation. Although the Soviet Union refused to participate in the discussion, the Security Council decided to hear the question. However, the UN representatives of the four occupying powers agreed to hold

information conversation on this issue and agreed to lift all restrictions imposed by them regarding communications, transport and trade between different zones. Thus, the question of Berlin blockade was ultimately resolved outside the United Nations.<sup>47</sup>

Korean Question - The Korean crisis was probably the acutest of the ability of the UN to stop aggression and maintain world peace. At the close of the Second World War, the allied powers agreed that after the Japanese surrender, the Soviet troops would take care of areas north of the 38th parallel and the UN forces would take care of areas south of the line. The two occupying powers established a joint commission with a view to establish 'Provisional Korean Democratic Government'. However, the Commission could not reach any agreement and the United States of America took the question to the UN in 1947. The General Assembly set up a temporary Commission to supervise the election of representatives in that country. All efforts of the UN to bring about a united independent Korean state failed and in 1948 two separate governments were established in South Korea and North Korea.

Hungarian Question - In October 1956, a popular uprising took place in Hungary; Russia sent troops to suppress the revolt. This armed intervention by Russia was brought to

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47 Lo Land H. Goodrich and Anne P. Simons, The United Nations and the Maintenance of International Peace and Security (Paris, 1959), pp.593-603.

the notice of the Security Council by U.K., U.S.A. and France. The Russian action was described as a violation of the fundamental rights of the Hungarian people. The Security Council was requested to ensure that USSR in appropriate agreement with the Government of Hungary, should withdraw all troops from there forthwith. The resolution was 'voted' by Soviet Union, whereupon USA demanded an emergency session of the General Assembly to consider the situation in Hungary. In November 1956, the General Assembly adopted a resolution asking the Soviet Union to withdraw her troops from Hungary without any further delay and affirmed the right of the Hungarian people to have self-government. For this purpose, free elections were to be held under the auspices of the U.N. The Secretary General was also asked to investigate the situation.<sup>48</sup>

Suez Canal - The Suez question was one of the most explosive questions which threatened the peace of the world. In July 1956, President Nasser of Egypt announced nationalization of the Suez Canal and froze the Suez Canal Company funds in Egypt. Great Britain and France took a serious view of the nationalization and asserted that the action taken by the Government of Egypt was in contravention of the International Charter of Canal established by the

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48 Ibid., p.610.

Treaty of Constantinople of 1888. The fundamental issue involved in this case was whether there could be any international control over the canal. Egypt promised to pay full compensation to the shareholders of the French company, managing the canal, in which the controlling interest was held by the British Government. As the protests lodged by France and England failed to evoke favourable response, a twenty-four nation conference was convened at London in August 1956. However, only twenty-two nations sent their representatives to the Conference. At the conference, Dulles of the United States submitted a plan for a settlement of the Suez Canal and wanted to establish a definite system to guarantee for all the powers the free use of the Suez Maritime Canal. India suggested a plan by which the sovereign rights of Egypt were recognised and the Suez Canal was accepted as an integral part of Egypt. The plan also declared the canal as a waterway of international importance and provided free and uninterrupted navigation for all nations in accordance with the contention of Constantinople. However, Egypt did not accept the Dulles plan or Indian proposals. Consequently, the case was referred to the Security Council which adopted a unanimous resolution urging that: (i) There shall be free and open transit through the canal without discrimination; (ii) Egypt's sovereignty shall be respected; (iii) the operation of the canal shall be insulated from the politics of any country; (iv) the manner of fixing tolls

and charges shall be decided by the Government between Egypt and the users; (v) a fair proportion of the dues shall be allotted for development; and (vi) in case of disputes, unresolved affairs between the Suez Canal Company and the Egyptian Government shall be settled by arbitration with suitable terms of references and suitable provisions for the payment of sum found to be due. However, the Soviet Union used its veto on certain parts of the Proposals.<sup>49</sup>

Algerian Question - The Algerian question was brought before the Security Council by Saudi Arabia in January 1955, on the plea that a grave situation existed in Algeria. The Algerian people wanted freedom from French rule and French troops dealt with them very severely. In the process 40,000 Algerians were annihilated. When the question was brought before the Security Council, the French Prime Minister Mollet declared that France would never give up Algeria, although she was willing to hold free election within three months of any ceasefire. She also claimed that the United Nations had no jurisdiction with regard to the Algerian question as it fell within her domestic jurisdiction. France was backed in her stand by USA and UK. In February 1957, the UN Political Committee passed a resolution expressing the hope that France and Algerian

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49 Ibid., p.622.

people would try to end the bloodshed in Algeria through negotiations. France did not pay any heed to the resolution and the war continued. In December 1957, the UN General Assembly approved another resolution which expressed the wish that in spite of effective cooperation pourparlers would be entered into and very appropriate means utilised with a view to find out a solution in conformity with the principles of the Charter. The dispute between France and Algeria came to an end after about seven years when on 18 March 1962 the two parties concluded a ceasefire agreement. This paved the way for Algerian freedom. In referendum the people of Algeria followed independent posture in cooperation with France and Algeria became independent on 3 July 1962.

Congo Crisis - In June 1960, Congo was granted independence by Belgium. Taking advantage of the widespread disorder, prevailing in the country at the time of independence, the province of Katanga under Tshombe raised a revolt against the Central Administration, thereby threatening the very existence of the State. This civil strife in the country soon assumed menacing proportions. While the USSR and other communist countries, like China and Czechoslovakia supplied war material to central government under Lumumba, the Western powers encouraged Tshombe, who was pro-Belgian, and thereby encouraged Belgians to come back in Katanga Kasai provinces. As it was feared

that the situation may lead to international friction, Mr Dag Hammarskjöld, the UN Secretary General called an emergent meeting of the Security Council and asked for authorisation for a UN military force for Congo. Congo was the greatest military challenge to UNO in 1960. It was, as Hammarskjöld held, the gravest responsibility which UN had to shoulder in the last fifteen years. During its stay of four years, the UN succeeded in helping the Congolese Government to maintain her independence and territorial integrity. It helped in maintenance of law and order and rendered extensive civil service. But perhaps the greatest achievement of the UN Congo force was that it succeeded in preventing the Congo from becoming a scene of a general war.

Cuban Crisis - Towards the close of October 1962, one of the gravest international crises since World War II presented itself in Cuba. The USSR had established missile base in Cuba. In view of the threat presented but here bases to the United States and to the Western Hemisphere in general, President Kennedy of USA ordered on 22 October 1962, a naval blockade around Cuba with a view to prevent military shipments reaching the Cuban island. First USSR adopted a stiff attitude and there was every possibility of this crisis developing into a shooting war. But, due to the mediation efforts of the United Nations Acting Secretary-General U Thant, the USSR ultimately

agreed to dismantle the missile bases in Cuba under international supervision. An announcement to this effect was made by the Soviet Premier which was hailed as an important contribution of Russia towards peace.

Rhodesian Question - The policy of apartheid induced the white settlers of the British colony of Rhodesia in South Africa to make Unilateral Declaration of Independence on 11 November 1965. The UN Trusteeship Council passed a resolution urging Great Britain to 'employ all necessary measures', including military force to make Rhodesia observe standards of behaviour which are considered civilised. This resolution of trusteeship council was subsequently approved by the General Assembly. This made it imperative for Great Britain to take the issue to the United Nations.

Arab-Israeli Wars 1967 and 1973 - Towards the close of 1966 tension mounted on the Israeli borders. Israel blamed the Arab terrorists and informed members of the UN Security Council that she could not remain silent in the face of continued aggression against her territory. The Arab States on their part alleged that Israel was becoming increasingly militant. In mid-May, the UAR and Syria proclaimed a state of emergency and began to mobilize forces along Israel's border. On 18 May, the UAR formally requested the UN Secretary General to withdraw the UN Emergency Forces along her border with Israel since

1956. Although the UN Secretary General expressed grave misgivings about the move, the request was complied with. The positions vacated by the UN Emergency Forces were soon taken over by the armed forces of UAR. On 24 May, the UAR leaders announced the closing of the straits of Tiran to Israel shipping. Israel called on UN to act because this constituted a denial of free navigation in these waters. A war between two parties broke out on 5 June 1967. During the war, the Security Council was almost continuously in session and passed a number of resolutions calling upon both the parties to effect immediate ceasefire. But these resolutions proved of no avail and Israel won a quick victory over Arabs. Ultimately, an agreement for ceasefire was concluded on 10 June, although violations continued on both sides.<sup>50</sup>

Soviet Intervention in Czechoslovakia - On 21 August 1968, the Soviet Union supported by her Warsaw Pact allies occupied Czechoslovakia without any provocation. This was considered a violation of the United Nations Charter. However, the Soviet Union declared that the troops had entered Czechoslovakia at the request of the Czech officials to meet a threat to the social system. She pleaded that request for urgent assistance had been made by the Czech Communist Party and leaders of Czechoslovakia.

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50 L.N. Srivastava, International Politics (New Delhi; 1975), p.305.

A special meeting of the Security Council was convened on 22 August 1968 where USA, Britain and France along with seven other countries submitted a resolution condemning the Soviet action and called for an immediate withdrawal without any further violence or reprisals. The Soviet Union 'voted' the resolution. India also supported the resolution except the portions which condemned the Soviet Union and her Warsaw Pact allies for 'armed intervention' into Czechoslovakia.

The discussion of the various disputes handled by UN this study leads us to the conclusion that though the UN failed to 'settle definitely most of the disputes', it cannot be denied that it has helped in relieving the tension in many crucial situations. In defence of the United Nations, two points must be noted: First, few international disputes are really settled - they may be compromised, postponed or otherwise prevented from leading to serious international crisis and with the passage of time may lose much of their explosive character. Second, the United Nations encourages the parties to a dispute to "seek a solution by negotiations, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice". The services of the United Nations are requisitioned only when other methods of peaceful settlement have been exhausted,

"although the United Nations does not have many striking successes to its credit in the handling of political disputes, its services as a mediator have been valuable in several instances."

It is true that the United Nations has failed to handle some of the political issues in the international field, yet it would be unfair to blame the UN for these failures. "The roots of this failure lie deeply embedded in nationalism, sovereignty and nation-state psychology and also in the perversities of human race"<sup>51</sup>. It cannot be denied that the 'veto' power of the big permanent members of the Security Council has been a great handicap in the way of United Nations maintaining international peace and security. Any of the Big Five can stop the United Nations from taking any step against the aggressor.

The absence of coercive power to punish the offending states also renders it weak. As a result the United Nations Organisation is not able to help the innocent states. Further, it cannot take any action against big powers who have 'armed themselves to the full' and insist that the great Peace Organisation shall have no authority over them. They make certain promises of good behaviour but remain free to do as they like. The United Nations cannot achieve any success unless the people of the world, or at least those of the great powers are willing to support its efforts on their behalf.

51 Theodore A. Coulombis and James H. Wolfe, International Relations ( ), pp.114-117.

In the conclusion, it can be said that in spite of its weakness and inadequacies the United Nations has proved to be an 'indispensable institution'.

Since the modern world is not the world of 40s and 50s, it has gone manifold changes - the complexities of modern world; regional, intra, extra territorial, economic, political, strategic interests of the individual states changed the whole (old) perception.) The emergence of powerful bipolar politico-economic-military world, emergence of newly independent powerful Third World with the new awakening of 'non-alignment', Uhuru, Moroka and Pan-Islamism changed and aggravated the remaining system of pulls and pressures.

The United Nations, an organisation of sovereign nations, representing almost all humanity, has as its central goal, the maintenance of international peace and security, to save succeeding generations from the scourge of war. The Article 1 of the Charter reads:

1. To maintain international peace and security, and to that end, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends. 52

There are many examples where the United Nations had played, and still playing, an active role in reducing tensions, preventing conflicts, or putting an end to fighting. And, quite apart from security or politically related problems, there is today a range of challenges which can only be dealt with through international institutions and efforts and that is very clear in Article 33 of the Charter in which it reads:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means. 53

The meeting rooms and corridors at the United Nations Headquarters provide the familiar setting where these and

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52 Charter of the United Nations and Statute of the International Court of Justice (New York), Article 1, pp.3-4.

53 Ibid., Article 33, p.19.

other problems can be discussed and solutions sought, and where the representatives of all member states - great and small, rich and poor, with varying political, economic, social views - have a voice and a vote in shaping a common course of action.<sup>54</sup>

Today, more than ever, peace and security in the sensitive region of Middle East (Gulf) is in grave danger. The conflict between Iran-Iraq has been going on for more than over two and a half years. But they are not the only target. The whole Middle East, Arabian Peninsula and particularly the Arab Gulf region are in danger. Should the Council fail to deal with the situation swiftly and effectively, the consequences for international peace and security would be far-reaching.<sup>55</sup>

In fact, Iraq welcomed the new regime in Iran upon the down-fall of the Shah and expressed the hope that a new page would be opened in the relations between Iran and the Arab nations. Iran, in particular, despite the Iranian allegations that Iraq adopted a hostile attitude towards Iran during its transformation of power.<sup>56</sup>

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54 . Theodore A. Coulombis and James H. Wolfe, International Relations, p.672.

55 Nicola Dirait, ed., Iraq-Iran Conflict (Paris; Institute of Studies and Research, 1981), p.39.

56 Khalid Alisai, The Shatt-al-Arab Dispute - A Legal Study (London; Third World Centre, 1981), p.178.

In fact, Iraq adopted several positive initiatives with a view to forging normal and balanced relations in the interests of the people of the region, its security, stability and welfare. Contrary to this, Iranian regime's response to Iraq's initiatives was not positive. After the installation of Islamic regime, the clergymen started hostile pronouncements against Iraq and Arab states of the Gulf region. The harshness of their pronouncements was related to various matters, including the nature and policies of the regime, territorial sovereignty of states, their freedom to choose political and social systems, their regional and international relations. The net result of this attitude was the adoption of policies of "Exporting the Revolution."<sup>57</sup> This idea was very clearly stressed in the speech drafted by Khomeini on 31 March 1981 and read for him by his son, in which the Ayatollah stated: "We are doing everything possible to export our revolution to other countries in the world".<sup>58</sup> The Iranian attitude was manifested, however, against Iraq. This was done as the Iranian public, media and Iraq had, and is still having, the same direction.

The Iranian public and media indicated under the direct supervision and control of the Iranian clergy leaders.

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57 Nicola Firzli, ed., Iraq-Iran Conflict (Paris, 1981), p.31.

58 Jourhouri Islami, (Tehran) (Newspaper - Persian Language), 1 April 1980.

All these Iranian actions created tension in the relations between the two. With the beginning of the tension, the Iranian military presence was augmented in the Iraqi territories upon which Iran had encroached in defiance of the frontiers agreements binding upon both countries and which, in pursuance thereto, the Algiers agreement of 6 March 1975 provided for their return to Iraq. Therefore, Iraq declared on 17 September 1980, the abrogation of Algiers agreement, due to the unfulfilment of its clauses by Iranian side.

The said Iraqi territories became a staging area for launching of armed attack inside Iraqi frontiers. During the period of 1979-80, there had been 240 violations of Iraqi air space, 244 incidents of firing, attacks and obstruction of navigation in Shatt-al-Arab; 3 incidents of firing at civilians; 7 of shelling economic installations, including oil blockade. Iraq also, for the sake of defending its territories, launched armed attacks inside Iranian frontiers.

In early September 1980, a dangerous situation occurred in the claim of the above mentioned violations, when Iranian artillery bombarded the towns of Kheneguin, Mendili, Zurbatis and the oil locality known as Wafckhandi. The shameful condemnable, violotive act was repeated causing loss of valuable lives and property. Gradually, this act was intensified and repeated by the Iranians. This act

was condemned by Iraq and a letter was handed over to Iranian Charge-de Affaires that Iraq had sovereign right over Iranian occupied Zain al Qaws and asked for the withdrawal. Iranian revolutionary government refused to listen anything. As against these actions, Iraq issued on 22 September 1980 a statement in which the ruling authorities in Iran were warned against intensifying the conflict and the indiscriminate bombardment. The statement pointed out that the Iranian actions left Iraq with no choice to exercise against its right to self-defence by directing a strike at the military objectives inside Iran in order to protect its security and vital interests. About 30 months of fierce war between Iraq-Iran and loss of hundreds of thousands of lives and billions of dollars, both the fighting states are now looking for a halt. No doubt, Iraq had repeated several times to stop the war if the Iranian state can do. But due to the adamant attitude of Iran, no progress could be achieved to resolve the conflict. But recently few alternatives had come before them through the international community and organisations. And these initiatives have thus far become the basis for diplomatic efforts aimed at finding a solution to the conflict.

The first is that of the Secretary-General Dr Kurt Waldheim, by sending out an appeal to both the countries, on 22 September 1980, inviting them to ceasefire and open

negotiations. This request was transmitted to the representatives of the two countries in the United Nations.<sup>59</sup> Iraq responded favourably; with regard to the Iranians, they altogether failed to reply to the Secretary-General Dr Kurt Waldheim.

Like the usual conflicts, disputes and crisis, Iran-Iraq conflict is an evil symptom for international peace and security. The role of the United Nations is to pacify the disputes. Since United Nations played a very significant role in solving the disputes and nations have faith in that transnational organisation, it would be imperative to follow the UN rules by the member states. When the Council took up this question in the autumn of 1980, Iran and Iraq expressed in detail the facts of the aggression launched against each other. The Security Council adopted its first resolution No.479<sup>60</sup> on 28 September 1980, in which it referred its deep concern about the developing crisis situation between Iran and Iraq. It called upon both countries to refrain immediately from any further use of force and to settle their disputes by peaceful means. The full text of resolution 479 of 1980 is as follows:

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59 An-Nahar (Beirut), 28 September 1980.

60 UN Security Council Resolution No.479, 28 September 1980, S/15471, p.1.

Having begun consideration of the Item entitled,  
"The Situation Between Iran and Iraq",

Mindful that all member states have undertaken the  
charter obligations to settle their international disputes  
by peaceful means and in such a manner that international  
peace and security and justice are not endangered.

Mindful as well that all members are obliged to  
refrain in their international relations from the threat  
of or use of force against the territorial integrity or  
political independence of any state.

Recalling that under Article 24 of the Charter the  
Security Council has primary responsibility for the main-  
tenance of international peace and security.

Deeply concerned about the developing situation  
between Iran and Iraq:

1. Call upon Iran and Iraq to refrain immediately  
from any further use of force and to settle  
their dispute by peaceful means and in conformity  
with principles of justice and international law;
2. Urges them to accept any appropriate offer of  
mediation or conciliation or to resort to  
regional agencies or arrangements or other  
peaceful means of their own choice that would  
facilitate the fulfilment of their charter  
obligations;
3. Call upon all other states to exercise the  
utmost restraint and to refrain from any act  
which may lead to a further escalation and  
widening of the conflict;
4. Supports the efforts of the Secretary-General  
and the efforts of his 'good offices' for the  
resolution of this situation;

5. Requests the Secretary-General to report to the Security Council within forty-eight hours. 61

At that time Mr Hammadi, Foreign Minister of Iraq emphasised at the outset that the problem was neither new nor simple and that it was necessary for Iraq to take a hard look at the problem in its proper perspective, if a viable solution were to be found. He pointed out that on the basis of experience throughout a considerable period of history, Iraq have become convinced that the successive regimes in Iran, regardless of its form or colour, have considered Iraq and the Arab Gulf region as their sphere of influence.<sup>62</sup>

While the Iranian Prime Minister gave an hour-and-a-half speech in front of the Security Council, he explained Iran's position at the same time as he attacked Arab nationalism. He said that the super powers wanted to create a new Israel in the Middle East, under the colour of Arab nationalism. He also criticised the use of Soviet arms by the Iraqis. On his conclusion he said, "We are not here to ask for anything whatsoever from the Security Council".<sup>63</sup>

At the same time United Nations played an important role to defuse the tension in the region by sending a delegate Mr Olaf Palme for the same purpose.<sup>64</sup> Mr Palme had

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61 Ibid., p.2.

62 UN, S/16203, p.2.

63 UNO, S/PV.2251, p.21.

64 UN Chronicle, December 1980, p.20.

departed New York on his mission on 16 November 1980. In a letter of 11 November 1980,<sup>65</sup> the Secretary General had informed the President of the Security Council, Sir Anthony Parsons (United Kingdom), that he had been in touch with both governments and had been informed that they would accept the Secretary-General's representative as soon as possible, and that he had asked Olof Palme of Sweden to serve in that capacity. The Secretary-General referred to the statement by the Council President of 4 November 1980, in which he had said that the Council members had welcomed the idea of sending a representative to the region. His first visit to Tehran and Baghdad was very optimistic and a landmark in the history of mediations/since the break-out of Iran-Iraq war Palme was carrying out his second visit to Tehran and Baghdad. He returned to New York more optimistic and glad than after his first visit in mid-November 1980. It was supposed to be a golden opportunity for both Iran and Iraq to respond to his task for settling the dispute. Since this was an initiative from United Nations and both countries and the responsible members of the United Nations, they are subjected to the UN Charter. Both countries are supposed to obey and carry out UN resolutions and principles, if not violating state should be punished and sanctions should be allowed against it, according to the directives of the UN charter.

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65 UNO, S/14251, pp.1-2.

Olof Palme, the Secretary-General's special representative on Iran-Iraq, reported on 1 March to Javier Peres de Cuellar on his visit to the region in February. Palme informed the Secretary-General that he had held thorough and extensive discussions with the leaderships of Iran and Iraq on the possibilities of a peaceful settlement of the conflict between them. "The discussions", he said, "covered questions related to a ceasefire, withdrawal of troops and negotiations on issues underlying the conflict". The discussions were linked to an outline for a comprehensive settlement presented by him to the two sides in June 1981 together with new ideas and some changes in approach. The Governments of Iran and Iraq stated that they had no intention of interfering in the internal affairs of each other, that they had no territorial ambitions, and that they wished to achieve a lasting peace. Palme said that he welcomed these statements as evidence of the desire of both countries to end the conflict through peaceful means. However, he was of the view that their positions were still far apart on the central issues. Both the Secretary-General and Palme expressed their dismay at the continuation of the war and the great loss of life, human suffering and material destruction. However, they were convinced that it was possible to reach a peaceful and honourable settlement which would safeguard the legitimate interests of both countries.<sup>66</sup>

At press briefings on 1 and 2 March 1961, a United Nations spokesman said both the Secretary General and Palme felt that it had been an extremely useful mission, that it facilitated the communication between the two governments, and that it gave the Secretary-General a clear and authoritative vision of what the problem was, when asked if the problem of Shatt-al-Arab water-way in which 70 ships lay immobilized had been discussed. The paper presented to both governments in June by Palme had envisaged as a priority matter, the restoration of the Shatt-al-Arab to full use within the context of a comprehensive settlement. The possibility of solving the problem of the ships as a separate operation had been exhausted and that part of the operation was unfortunately impossible at present, he further stated on the question of visits by families of prisoners of war; the spokesman said arrangements were proceeding satisfactorily. It was complicated matter, however, since it involved the travel of over 30,000 persons. It was envisaged that four members of the families of each prisoner would be travelling. The Red Cross was working actively on the matter and was keeping the United Nations informed. The spokesman said that the aim of the Palme mission had not been to return with an agreement between Iran and Iraq. It had been an exploratory mission aimed at renewing contact with both governments and hearing their views. Palme, who last visited the area in June 1961,

was appointed special representative on the Iran-Iraq conflict by Secretary-General Kurt Waldheim, Mr Perez de Cuellar's predecessor in November 1980.<sup>67</sup>

Again<sup>in</sup> the Security Council on 22 July 1982, after the unanimous adoption of resolution 514 (1982), Iraqi delegate explained to the Council of their initiatives for peace from 28 September 1980 to 30 June 1982, on which date they completed the unilateral withdrawal of Iraqi forces from Iranian territories to the international frontiers. The members of the Council are aware of the fact that Iraq have accepted the Council resolutions 479(1980) and 514 (1982), and that Iraq is ready to cease fire and immediate end to all military operations. Iraq have already withdrawn its all forces from Iran. It has agreed to negotiate with its counterpart directly on all issues pertaining to the conflict.

Despite all this, the attitude of the Iranian Government was negative. Iraq learned through the report of the Secretary General, that resolution 514 (1982) was transmitted to the Iranian Government immediately after its adoption. From that report and the reply of the Iranian Government,<sup>68</sup> Iraq finds that it took no minor course than

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67 UN Chronicle, vol.KIX, no.5, May 1982, p.38.

68 UNO, 9/15292, 1982, p.3.

to insult the Council telling it what its responsibilities were and dissociating itself from any action taken by the Council.<sup>69</sup> This was done under the pretext that the Council has so far given its disguised support to the country that Iran alleges is the aggressor. Thus, the Iranian Government stands on an equal footing with the Zionist entity in rejecting cooperation with the Council and refusing to abide by its resolutions. Iranian government should be made aware that in mis-interpreting the Charter, as it did in connection with Article 24, offers it no refuge when it violates the charter.<sup>70</sup>

In that Article, member states conferred on the Council's primary responsibility for the maintenance of international peace and security and agreed that in carrying out its duties the Council acts on their behalf. In the discharge of these duties the Council shall act in accordance with the purposes and principles of the UN through specific powers granted to it in the manner laid down in Chapters VI, VIII, VIII and XIII of the Charter. Resolutions 479 (1980) and 514 (1982) fall squarely within this framework and the Iranian rejection of the Charter seemed irrelevant. Moreover, the Iranian Government should also be reminded of the explicit agreement of member states in Article 25,<sup>71</sup> "to accept and carry out" the decisions of

69 UNO, S/15293, 1982, pp.2-6.

70 UN Charter, Article 24, p.15.

71 UN Charter, Article 25, p.16.

the Council in accordance with the Charter. Its rejection of the Council resolutions, therefore, is another grave violation of the Charter for which it is accountable.

Iraq's another significant fact regarding the position of the Iranian government was that as soon as Iraq commenced the withdrawal of its forces from Iranian territories, that Iraqi undertaking was a lie and part of an imperialist plot. It is well known that the day the Security Council passed the resolution 514(1982) on 12 July, Iranian forces launched a large-scale armed attack against Iraqi territory in the area of Basra.

Between that date and 29 July, four similar attacks were carried out in the same area and with the same intensity. The details relating to these armed attacks have already been reported to the Council.<sup>72</sup>

The resolution 514(1982) adopted by the Security Council at its 2383rd meeting on 12 July 1982 reads:

Having considered again the question - entitled "The Situation between Iran and Iraq" deeply concerned about the prolongation of the conflict between the two countries, resulting in heavy losses of human lives and considerable material damage, and endangering peace and security, recalling the provisions of Article 2 of the Charter of the United Nations and that the establishment of peace and security in the region requires strict adherence to these provisions.<sup>73</sup>

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72 UN Security Council, S/15387, 29 July 1982, pp.1-3.

73 UN Charter, Article 2, p.4.

Recalling that by virtue of Article 24 of the Charter, the Security Council has the primary responsibility for maintenance of international peace and security,<sup>74</sup>

Recalling its resolution 479 (1980) adopted unanimously, as well as the statement of its President on 5 November 1980,<sup>75</sup> and taking note of the efforts of mediation pursued notably by the Secretary-General of the United Nations and his representative:

1. the resolution calls for a ceasefire and an immediate end to all military operations;
2. calls further for a withdrawal of forces to immediately recognised boundaries;
3. decides to despatch a team of UN observers to verify, confirm and supervise the ceasefire and withdrawal and requests the Security Council to submit to the Council a report on the arrangements required for the purpose.

It is important in this connection that the Iranian Government continues to allege that Iraqi forces still occupy parts of Iranian territory. In so doing, it attempts to put forward a pretext for continuing the fighting.

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74 UN Charter, Article 24, p.15.

75 United Nations, Security Council, S/14244, 5 November 1980, pp.4-7.

Iraq reaffirms strongly before the Council that, Iraqi forces have withdrawn completely to the international frontiers, and it is ready to accept the arbitration by the Security Council, if the Iranian regime accepts the same.

It is difficult to comprehend the internal reasons which prompt the Iranian regime to continue the war against Iraq. The crux of the matter is Khomeini's scheme to export his so-called Islamic revolution.<sup>76</sup>

By observing the seriousness of the ongoing war, Moroccan Foreign Minister, Hittaned Douchotta says that in two and half years of war the international community in general and the Arab/Moslem world in particular, and those in the region, have been following its development with deep sorrow and justified concern. Later skirmishes and destructive confrontations have continued to alarm us, particularly since we fail to see either the need for them or that they are inevitable in the settlement of the dispute between those two neighbouring Moslem countries, for in our opinion, the dispute is wholly within the purview of classic diplomacy, if both countries show equal goodwill and a sincere desire for peace and pursue it with the same diligence.<sup>77</sup>

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76 Khalid Alizzi, The Shatt-al-Arab Dispute (London, 1981), p.178.

77 UN Security Council, 12 July 1982, S/PV.2383, pp.6-10.

The similar opinion was expressed by the world leaders at various international forums. They requested both the warring states to shun down their bloody war for the sake of regional and international peace and prosperity, territorial integrity and sovereignty of the region and regional individual states. By speaking so, De La Barrede Nanteuil of France, Sherman from USA, Whyte of United Kingdom, Ling Quisq of China, Troyanovsky of USSR, all emphasised for the immediate ceasefire of the war, and offer support for any mediation to chalk out a frequent settlement of the dispute between Iran and Iraq. Speaking in the Security Council, the US delegate said, "since the beginning of this unhappy conflict with which the Council is now dealing with, the USA has held the position that a solution must be sought which preserves the independence and territorial integrity of both states. We have, therefore, been prepared to support any constructive and adequate equitable action by the Council which works towards that end."<sup>78</sup>

Speaking from the same forum the USSR delegate Troyanovsky said that it is the reason since war broke out between the two developing countries which maintain friendly relations with our own and share a great many of our historical and cultural values, the Soviet Union has taken a clear-cut position in favour of putting an end as

as soon as possible to the military action and resolving the conflict by means of negotiations. Leonid Brezhnev had frequently stated: "The Soviet Union decisively favours a peaceful settlement of this conflict and would condemn any attempt to prolong it or to pour oil on the flames of war". This fundamental position, this sincere desire to promote efforts to put an end to this tragic war, has motivated every act of the Soviet Union in connection with the Iran-Iraq conflict".<sup>79</sup>

Speaking himself, the Secretary General, Kurt Waldheim urged for renewed effort to peaceful resolution. On 12 March 1982, he said: "The Secretary-General is deeply concerned at the intensification of the armed conflict between the two. He is particularly saddened at the increased loss of human lives resulting from the escalation of military hostilities. The Secretary-General, therefore, reiterated at his urgent appeals to the Parties to exercise utmost restraint and to ensure that civilians receive the protection to which they are entitled in these tragic circumstances. The need to put an end to the war is all too evident; the Secretary General urges all concerned to renew their efforts to resolve the conflict by peaceful means. The Secretary-General himself and Olof Palme, his special representative, remain firmly committed to assist the parties in working out an honourable solution.

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79 Ibid., pp-16-18.

The effort is still in the process even in the absence of Olaf Palme, Kurt Waldheim, and hope in near future we will achieve the peace".<sup>80</sup>

The Security Council met again to resolve the same issue in the light of Articles 32, 33, 34 and 36 of the UN Charter and accordingly a call has been renewed for an end to Iran-Iraq conflict. The Security Council's meeting of 4 October 1982 on the issue repeated its call (made earlier in July 1982), for an immediate cease-fire and an end to all military operations against one another. It also reaffirmed its call for a withdrawal of forces to internationally recognized boundaries. The Council acted by adopting unanimously resolution 522 (1982), which had been prepared in the course of informal consultations. It was a request from Iraq to discuss "the serious deterioration of the situation concerning the conflict between Iraq and Iran" that brought the Security Council into session on 4 October. In a letter dated 1 October,<sup>81</sup> to the President of the Council, the Permanent Representative of Iraq, Riyadh Al Maysi said that Iranian forces had "launched a major armed attack at 01.00 hours (local time) on Friday, 1 October 1982, in the Sumar Sector

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80 Secretary General's Statement of 12 March 1981 (United Nations, Security Council), S/15449, pp.2-5.

81 UN Security Council Document No.S/15443, 1 October 1982, pp.1-2.

in an attempt to cross the international frontier near the Iraqi town of Mendeli". "That was", he said, "the sixth in a series of attempts to invade Iraq since the Security Council adopted unanimously resolution 514 (1982) on 12 July 1982, which Iran rejected". In resolution 514, the Council had called for "a ceasefire and an immediate end to all military operations", as well as a withdrawal of forces to internationally recognised boundaries. The Council had also decided to dispatch a team of United Nations observers "to verify, confirm and supervise the ceasefire and withdrawal". The Secretary-General had been asked to report to the Council on arrangements required for that purpose and on his mediation efforts to bring an acceptable settlement.

#### Secretary-General's Report

The Council had before it a report of the Secretary-General submitted in response to resolution 514 dated 15 July, in which he stated that the text of the resolution had been transmitted to the governments of Iran and Iraq immediately after its adoption. With respect to the arrangements mentioned in that resolution, he said he considered it necessary, as a first step, and with the agreement of the parties concerned, to send a small team of senior United Nations military officers who would ascertain the actual situation on the ground and assess the arrangements which would be required for the implementation of the resolution. On 13 July, the Secretary

General continued, "the Foreign Minister of Iraq had informed him, that Iraq was ready to cooperate in the implementation of the resolution. On 14 July, the Permanent Representative of Iran had transmitted to him the text of a statement issued by Iranian Government in which it dissociated itself from "any action taken by the Security Council so far with regard to the Iraqi war of aggression against Iran".

The Secretary-General concluded his report by stating that he would "continue the intensive efforts carried out since the armed hostilities began in September 1980 to put an end to the fighting and to achieve a settlement of the issues underlying the conflict".<sup>82</sup>

Iranian Note Verbale - In a note verbale dated 4 October to the Secretary-General, the Permanent Representative of Iran said that his country had only acted to recapture part of its own territory.<sup>83</sup> It would participate in the deliberations of the Council concerning "the Iraqi-imposed war of aggression" only if the Council was prepared to live up to its duties. The Council would have to condemn the "illegal occupation" of the territories of Iran by the

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82 UN Security Council Document No. S/15293, dated 15th July 1982, p.3.

83 UN Security Council Document No. S/15446, p.4.

Iraqi "army of aggression and its collaborators, and further also condemn their total disregard for international law and morality in their indiscriminate bombardment of civilian targets", and resolve that the Iraqi Government was responsible for the payment of damages caused by the "imposed war against the oppressed people of Iran", and - emphasise the necessity of the return and repatriation of those Iraqis who had been driven to exile by "racist policies and practices of the Ba'athist regime in Iraq". The item on the situation between Iran and Iraq had been before the Council since 26 September 1980, when it had adopted resolution 479 (1980), under which it had called upon the two sides to refrain immediately from any further use of force and to settle their disputes by peaceful means.

#### Resolution 522

Under the text of the resolution 522 (1982), the Council affirmed the need to implement without further delay its decision to despatch United Nations observers to verify, confirm and supervise the ceasefire and withdrawal. Also, it reaffirmed the urgency of the continuation of current mediation efforts, as well as its request to all other states "to obtain from all actions which could contribute to the continuation of the conflict and to facilitate the implementation of the present resolution.

The Council welcomed the fact that "one of the parties" had already expressed its readiness to cooperate in the implementation of resolution 514 and called upon the other "to do likewise".<sup>84</sup> The Council requested the Secretary General Javier Perez de Cuellar to report to it on the implementation of the resolution within 24 hours. In his statement following the adoption of the resolution, the Secretary General said that, with reference to its operative paragraph 4 (which affirmed the necessity of implementing without further delay the Council's decision to dispatch United Nations observers to verify, confirm and supervise the ceasefire and withdrawal), the effective deployment of United Nations observers was, naturally, "contingent on the concurrence and cooperation of the parties concerned and of the existence of a ceasefire". The dispatch of unarmed United Nations observers, without such prerequisites being met, would not be consistent with normal and well-tried United Nations peace-keeping practices. The Secretary-General added that should both parties convey to him their concurrence and cooperation, arrangements could be made for United Nations observers to be in the area in some 48 hours. He would continue to make every effort to find a peaceful solution to the conflict.<sup>85</sup>

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84 UN Security Council Document, No.S./15471, PP.1-2.

85 UN Chronicle, April 1962, p.13.

Statement of the Arab Group

Before the adoption of the resolution 522 (1982), the Council heard Boucetta of Morocco, on behalf of the Arab Group, who said that the lethal skirmishes and destructive confrontation between Iraq and Iran had continued to alarm the international community in general and the Arab and Moslem countries, and those in the region, in particular. They failed to see "either the need" for hostilities or that they were "inevitable in the settlement of the dispute between those two neighbouring Moslem countries". "In their opinion", he said, "the dispute is wholly within the purview of classic diplomacy, if both countries show equal goodwill and a sincere desire for peace and pursue it with the same diligence". "The unilateral Iraqi ceasefire was a responsible act of courage and an invaluable contribution to the international efforts to ensure peace", he said. Boucetta recalled that the Arab Summit Conference at Fez had emphasized the need for both parties to abide by Council resolutions 479 (1980) and 514 (1982) and to cooperate in their implementation in a coordinated fashion. The Council must remind Iran of all the obligations which stemmed from its membership in the United Nations. Iran must cooperate with the Council to restore a just and lasting peace to the region in accordance with international law as it related to good neighbourliness. The decisions of the international

community could not be ignored indefinitely. He welcomed all the positive actions that had been or that might be undertaken by either of the antagonist countries to expedite a peaceful solution. The prolongation of the dispute not only endangered international peace and security throughout the Middle East region but was unjustly and pointlessly hindering the development efforts of two peoples to which, he said, "We are linked by age-old bonds of brotherhood".

#### Jordan's Statement

"Since September 1980, Iran and Iraq had been locked in conflict and it was", as Jordan's United Nations Ambassador, said, in a letter to the President of the Security Council, "posing an imminent danger not only to regional peace, but to world peace and security in general". Date May, the letter expressed the hope that the Security Council would "shoulder its responsibilities in this grave situation". When the Security Council met to take up the matter on 12 July, it unanimously called for a ceasefire and an immediate end to all military operations between Iran and Iraq, as well as for a withdrawal of forces to internationally recognized boundaries. It decided to dispatch a team of United Nations observers to "verify, confirm and supervise the ceasefire and withdrawal". By adopting resolution 514 (1982), the Council also requested the Secretary-General to submit a report as well

within three months on the implementation of that resolution. The Council also urged that the mediation efforts be continued in a coordinate manner through the Secretary General with a view to achieving a comprehensive, just and honourable settlement acceptable to both sides of all the outstanding issues. In addition, the Council requested all other states "to abstain from all actions which could contribute to the continuation of the conflict and to facilitate the implementation of the present resolution". Statements before the vote were made by the representatives of the United Kingdom, China and USSR also. The Foreign Minister of Iraq, Saadoun Hamadi, made a statement. Iran did not participate in proceedings of the Council but responded with a letter to the United Nations Secretary-General after the meeting was over. The voting was 15 in favour to none against, with no abstentions. When the Council met on the situation between Iran and Iraq, it had before it a number of documents.<sup>86</sup>

#### Iran's Letter

A letter to the Council President from the permanent representative of Iran, Saïd Rajai Khorassani, dated 1 July 1982, said that "according to the latest information received from Teheran, the Iraqi forces of aggression, contrary to Iraqi claims, still occupy parts of Iranian territory. Although there have been some troop movements by Iraq in Western Iran, as yet these movements have

consisted only of retreating from undefendable positions in the plains and towns to the high lands, where they are digging in, while still remaining within Iranian territory. The continuation of the criminal acts of the Bathist regime of Saddam Hussein will only strengthen the resolve of the Moslem people of Iran to bring this inhumane regime to the punishment it deserves", he said.<sup>87</sup>

Iraq's letter - In his letter to the Council President dated 8 July, Salah Al-Ali, Permanent Representative of Iraq, referred to the letter of the Permanent Representative of Iran, Al-Ali said that Khorassani had "alleged, in the abusive language, which has become the standard Iranian jargon, that the Iraqi forces have not withdrawn from Iran". Ali-Ali then recalled a statement of 30 June 1982 by the spokesman for the Iraqi Ministry of Foreign Affairs through which he said, his government confirmed the completion of the withdrawal of the Iraqi forces from Iran. If there was any doubt, "it remains for the United Nations to verify this fact through appropriate machinery", he said.<sup>88</sup>

European Community - Also, before the Council was a letter of Belgium, addressed to the Secretary-General, which drew attention to an attached statement on the conflict issued by the Heads of State and the Government of the 10-state members

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87 UNO, S/7496, 1982, p.5.

88 UNO, S/17620, 1982, p.2.

of the European Economic Community at the conclusion of their meeting held at Brussels on 28 and 29 June 1982. In the statement, the Ten expressed their deep concern at the continuation of the damaging conflict, which was destructive for the two countries and seriously threatened the security and stability of the region. The Ten repeated the appeal for an end to hostility and a negotiated settlement, which was made on 24 May. They called for an intensification of the peace efforts currently underway and declared themselves ready to be of assistance. A statement issued by the Minister of Foreign Affairs of the 10-member states of the European Community was contained in another letter from the Permanent Representative of Belgium to the Secretary-General dated 11 June. In that statement, the Ten said that they deplored the fighting more because they had long-standing and close links with each of the two belligerents as well as with the other countries in the region.<sup>89</sup>

#### Various Statements on the Conflict

Statements made before and after the vote reflected the general opinion that the Council should take action in the grave and threatening situation between Iraq and Iran. France said the confrontation between Iran and Iraq had caused an exodus of hundreds of thousands of refugees and

that the war might well take a turn for the worse, if the bilateral conflict were to become a confrontation between two cultures and religions. The United States said that the text was balanced and aimed to preserve the independence of both Iraq and Iran. The United Kingdom called on all concerned to implement the resolution just adopted, but said that one of the parties seemed reluctant to accept the resolution. China hoped the resolution would contribute to the just and reasonable resolution of the conflict through peaceful means. The USSR said that it had spoken out decisively against imperialist attempts to use conflagration to increase their military infiltration in the Near and Middle East and cause further destabilization there. Iraq said, the decision adopted would have a constructive impact on generating a new momentum for peace. Iraq had welcomed the establishment of the new regime in Iran, and had tried to establish normal relations with that regime. Notwithstanding numerous acts of Iranian hostility which had culminated in the imposition of the armed conflict, Iraq continued to pursue peace in the form of a just and honourable settlement. Unfortunately, Iran's attitude towards those efforts for peace had been negative. "All should strive for the faithful implementation of the resolution," he said.<sup>90</sup>

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<sup>90</sup> UNO, S/PV.2396, 1982, p.3.

Iran's Response

In a subsequent letter to the Secretary-General, Kharassani (Iran) gave his government's response to the Council resolution. The text said, "The Islamic Republic of Iran dissociated itself from any action taken by the Council so far with regard to the "Iraqi war of aggression against Iran". It said the latest resolution in "harmony" with the Council's previous handling of the question, had failed to condemn the aggressor, and such an attitude was against the spirit of the Charter."<sup>91</sup>

Iran's letter

Mr Al-Ali (Iraq), writing to the President of the Council, charged that the Iranian forces, in "flagrant violation" of the Council resolution, had launched an attack and tried to cross Iraqi national borders. It said the attack was launched in the Basrah sector, and there had been Iranian shelling in three areas causing some damage and losses. He said his government called on the Council to condemn the violation and "put an end to this new act of aggression".<sup>92</sup>

Council Statement

After informal consultation among members on 15 July 1982, the Council President issued a statement on their behalf. It said the Council was concerned at the

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91 UNO, S/PV, 2412, 1982, p.6.

92 UNO, Security Council, S/17461, 1982, pp.1-2.

serious situation existing between Iran and Iraq, and the fact that its resolution had not yet been implemented. The President said he would remain in touch with the two sides on way to end the fighting and reach the settlement of the underlying issues.

On a report of the Secretary-General in pursuance of Security Council statements and resolutions 514 (1982) and 522 (1982), the latter requested the Secretary-General to report in the implementation of the above mentioned resolutions. He said in his report that he had been engaged in intensive efforts begun by his predecessor. Soon after the outbreak of hostilities in September 1980, to facilitate the achievement of a comprehensive, just and honourable settlement of the underlying issues of the conflict between the Islamic Republic of Iran and the Republic of Iraq, his special representative, His Excellency, Olof Palme, had visited the area five times since November 1980 to pursue those efforts. Although regrettably no substantive progress has yet been made, he reiterated to both parties that he would be ready to assist them in any manner acceptable to them in order to facilitate a peaceful solution.<sup>93</sup>

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93 UNO, D/15293, 1982, pp.1-2.

With the resolutions 514 and 522, the United Nations efforts have reached to a close door, due to the acceptance of one side to all efforts made in this regard and refusal of the other. Therefore, the United Nations was left with no choice except welcoming any call for the settlement from both parties.

**Chapter III**

**"Mediation of the Islamic Conference"**

"It is not part of Islam to divide  
the unity of Muslims and separate  
them from each other."<sup>94</sup>

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94 Rouhollah K. Ramezani, The Persian Gulf - Iran's  
Role (Tehran, 1980), p.27.

Fourteen years ago in 1969, when the Organization of the Islamic Conference (OIC) was established by the first summit held at Rabat (Morocco), its feasibility was answered by the world - whether it is able to mobilize inter-state cooperation in a Muslim world which had barely emerged from its colonial past or its chances of playing an international role in the promotion of peace and order in the world.

Its creation was not as some might have believed, the establishment of a new bloc and share for international power politics. The number of the organization members has increased continuously from 26 at Rabat to 43 today which shows the growing impact and seriousness of its multiple and diverse activities. (Algeria, Bahrain, Bangladesh, Cameroun, Chad, Comoro, Djibouti, GAMBIA, Gambia, Guinea, Guinea-Bissau, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Malaysia, Libya, Maldives, Mali, Mauritania, Morocco, Niger, Oman, Pakistan, Palestine, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syria, Tunisia, Turkey, Uganda, UAR, Upper Volta (H), Yemen (South), Yemen), excluding Afghanistan and, Egypt has been suspended.

The importance of this organization cannot be measured only by the attachment of the members to its Charter and its principles or by their participation in its activities and in the organization's philosophy of

cooperation that the organization must look for evidence of the scope and importance of its activities. The cooperation is partly vertical between the member states themselves in different specific fields of endeavour, and partly horizontal, namely, between the organization on the one hand and other likeminded international and regional organizations, on the other. Foremost among the latter is the United Nations with which consultations and contacts on international developments are continuous and permanent within the framework of a cooperation agreement, and with the Non-Aligned Movement whose principles are subscribed to by the high totality of the Organization of Islamic Countries member states. Its main objectives are:

1. To promote Islamic solidarity among member states;
2. to consolidate cooperation among member states in the economic, social, cultural, scientific and other vital fields of activity, and to carry out consultations among member states in international organizations;
3. to endeavour to eliminate racial segregation and discrimination, and to eradicate colonialism in all its forms,
4. to undertake necessary measures to support international peace and security founded on justice,

5. to coordinate efforts for the safeguard of the holy places, and for support to the struggle of the people of Palestine to help them regain their rights and to liberate land;
6. to strengthen the struggle of all Muslim peoples for safeguarding their dignity, independence and national rights; and
7. to create a suitable atmosphere for the promotion of cooperation and understanding between member states and other countries.<sup>95</sup>

The emergence of Islamic Conference Organisation constituted a significant milestone in the course of the contemporary history of Islamic countries. For the first time in this era, world witnessed the formation of an organisation within which those responsible in the Islamic countries meet continually to explore means of cooperation and consolidation among themselves and to work towards supporting issues for which Islamic people's struggle like freedom, independence, progress, establishment of justice, upholding the principles of true religion, propagating Islamic culture, elucidating and equating world people with the great fundamental concepts of Islam, and devoting attention to Islamic institutions as well as to the affairs of the Muslims all over the world.

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95 South (London), April 1983, pp.19-22.

It is not unnatural for Islamic Conference Organisation, therefore, to occupy a prominent position in international community and to be in close link with international community and the world organisations which hold people who have common hopes and aspirations with Islamic bloc.<sup>96</sup>

Despite other mediatory efforts to resolve the Iraq-Iran conflict, the Islamic Conference Organisation started its early mediation efforts soon after the outbreak of Iran-Iraq conflict in early September 1980. Pakistan along with some other Islamic states took initiative by forming a team of Foreign Ministers of Islamic countries, consisting of Pakistan, PLO, Bangladesh, Gambia, Malaysia and Senegal, to mediate in solving the military conflict between Iran and Iraq. The above-mentioned committee's main task was to end the war and reach a ceasefire and then to regulate the process of starting negotiations between Tehran and Baghdad.<sup>97</sup> Pakistani Foreign Minister, Agha Shahi, was in favour of holding an emergency meeting at the Foreign Ministers level, of all Islamic states, in order to get a quick solution of the conflict between Iran and Iraq.<sup>98</sup>

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96 Time (New York), 1 April 1980, p.47.

97 Middle East Journal, vol.39, no.6, Winter 1983, p.130.

98 Shakir Nain, "Politics of Islamic Fundamentalism", Mainstream (New Delhi), 14 June 1980, p.16.

Pakistan President, Zia-ul-Haq, President of the Islamic Conference and then Chairman of the Committee, along with the Bangladesh President, Prime Ministers of Gambia and Turkey, PLO Chief and Mr Habib Shattî, the Secretary-General of the Islamic Conference started their first visit to Tehran on 27 September 1980. Ayatullah Khomeini refused to receive them as the Islamic Conference negotiators and said that war will continue till the last Iranian soldier.<sup>99</sup>

In Iraq, Islamic Mediatorial Committee was given a warm welcome. They (the committee members) met Saddam Hussein, Iraqi President on 28 September 1980, from where he got assurances that Iraq is a peaceful non-aligned country whose belief is in Islamic brotherhood and international understanding.<sup>100</sup> And to believe in the territorial and geographical sovereignty of a state has no such intention of intervening and acquiring territorial gains into neighbouring states. Similarly, Iraq has full right to defend her territorial and geographical integrity and sovereignty - and that is what Iraq is doing with Iran. The President told the Committee the entire situation and said that since new regime in Iran

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99 Al-Nahar, Al-Arabi Wa al-Dawli, (Paris), 24 March 1980, p.9.

100 Althawra (Baghdad), Arabic Paper, 29 September 1980, p.1.

has already denounced all international treaty obligations between Iran and Iraq and started claiming Shatt-al-Arab water-way and Iraqi land and neighbouring Arab lands, and then started interference in the domestic affairs of Iraq and exporting its newly acquired Islamic revolution to Iraq and neighbouring states.<sup>101</sup> Iraq welcomed Zia-ul-Haq's initiatives and assured him to give all possible help to any peaceful international/individual initiatives started by the international organization in which Iraq is a member state.

Zia declared after concluding his first visit to Iran and Iraq that he accepted the request of Islamic Conference Organisation and went along with the Committee to both the warring states as a fact-finding mission not as a peace negotiators. He declared that they had a talk with Iranian President Bani-Sadr and his statements which explain full details of the conversation. Iran, however, refused to oblige Zia-ul-Haq and his committee members and they said neither will Iran agree on ceasefire prepared by the Islamic Conference Organisation, nor to any other forcing mediations.<sup>102</sup>

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101 The Listener (BBC), 28-30 January 1980. Islamic Conference Report, vol.101, no.2594, p.69.

102 Ibid., p.21.

In Baghdad he heard the Iraqi point of view that Iran violated the Algiers Agreement of 1975 and their intention is not to capture any inch of Iranian soil except the disputed part. At the conclusion of their first mission, the committee declared that the talks with both the countries were fruitful and agreement hoped to be reached and the mediation said to be continued till the final aims of the conference committee were achieved.<sup>103</sup>

Al Habib Al Shatti, the Secretary General of Islamic Conference Organisation reached Baghdad on 16 October 1980 and met with Saddam Hussein. He again repeated the Iraqi policy to acknowledge and affirm international initiatives on the settlement of Iran-Iraq war and his readiness for a ceasefire and further for a peaceful negotiation.<sup>104</sup> Again, President Hussein repeated that his country wanted a just and honourable agreement to the conflict and that Iraq was ready for a ceasefire and hoped for peace in the region. He also expressed the hope that the same treatment will prevail upon Iranians.<sup>105</sup>

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103 Al Madina (Saudi Arabia Arabic Paper), 30 September 1980, p.3.

104 Al Jamhuriya, (Baghdad), Arabic paper, 17 October 1980, p.7.

105 Al Qabban (Kuwait), 7 October 1980, p.2.

When Al Shatti was in Baghdad he was waiting for a reply from Tehran in response to his desire to visit that country.

General Zia again sent a reminder requesting for a ceasefire, particularly in the month of Haj in Mecca, from 8-12 October 1980. He mentioned that Islam did not allow fighting in holy month.<sup>106</sup>

Iraq declared its readiness to stop the war and did so on early October 1980 in order to prove its good and clear intentions.<sup>107</sup> While Iran ignored the request. In the meantime, Khomeini approved Al Shatti to visit Tehran on his request. The approval came with the condition that Shatti must not discuss the proposals of the Islamic Committee or to mediate in stopping the war.<sup>108</sup> His main assignment would be to see war damages and take a support stand to Iran and not to stand as a non-aligned. He visited Tehran on 21 October 1980 and declared that Iran's stand was still far off to that of Iraq, and it was not easy to find out a mutual base between the two.<sup>109</sup> He added that Iran still emphasised on its own point of view in which she believed that no negotiation will occur before the Iraqi troops were going to withdraw from the Iranian soil in which Iraq occupied it at the

106 Middle East Journal, vol.36, no.9, Winter 1980, p.25.

107 ALIBAA (Dairut), 7 October 1980, p.6.

108 ALNAHAR (Cairo), 20 October 1980, p.8. (Arabic paper).

109 AL-NHAD (Arabic Paper), UAG, 22 October 1980, p.2.

beginning of the war.<sup>110</sup>

Al Shatti suggested to form a Presidential Committee from all Islamic Conference Organisation countries to solve the conflict. Iraq agreed for the proposal while Iran refused and again emphasised for the withdrawal of Iraqi forces from the Iranian soil. Shatti declared in the name of Islam and Muslim brotherhood to put an end to this destructive war and to stop the bloodshed of noble Muslims, and to maintain Islamic unity. He requested Iranians to give response to the said proposals and accept the Islamic Committee to pursue in its assignment. Iraq agreed to the proposal and Iran is yet to response. Later, Iran declared that no peace could occur between the two and Iran will decide it in the battle front. Thus, the mediation of Islamic Conference reached a close door.<sup>111</sup>

Islamic Summit (TAIF) - 25 January 1991

Although there was a hard effort to bring Iran into Islamic fold, it refused to attend the TAIF Islamic Summit. Though the war between the two Gulf states was the main agenda, the summit requested to the warring states to respond to its peaceful efforts for ceasefire immediately and form an Islamic force to maintain the peaceful borders.

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110 ALSAFIYR (Doirut), 23 September 1990, p.6.

111 Ibid., p.20.

The Islamic Committee constituted of Ahmed Sekou Toure of Guinea, Zia-ul-Haq (Pakistan), Zia-ur-Rehman (Bangladesh), President Daoud Gwara of Gambia, Turkish Prime Minister, PLO Chief Arafat, the Foreign Minister of Malaysia and Senegal as well as Mr Habib Al-Shatti, Secretary General of the Islamic Conference. The final document of the Islamic Conference did not pass any resolution concerning Iraq-Iran conflict, except their request to accept the ceasefire, and their worry for the continued war and loss of human lives. The Conference, however, agreed to form a goodwill mission at Presidential level at the request of the Islamic Foreign Ministers meeting held in New York on 26 September 1980.<sup>112</sup> Both the countries accepted the Islamic Mission. Pakistan's Foreign Minister, Agha Shahi visited Tehran on the request of the goodwill mission to convince Iran on accepting peace, but Iran came with a precondition that the mission should investigate the damages of war and not for a ceasefire. The mission started its assignment to find out a just and honourable solution to the problem.<sup>113</sup> The work was divided in three stages as:

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112 Aneed Alzanen, Third Islamic Conference (New Delhi, 1981), p.92.

113 Al Medina (Jeddah) (Arabic Paper), 1981, p.3.

The first stage : March 1981.  
 The second stage : October 1981.  
 The Third Stage : March 1982.

The first and the second stage started with the arrival of goodwill mission to Tehran, and had discussed and asked for suggestions. But Iran refused to do so. Instead, Iranian Foreign Office issued a declaration<sup>114</sup> saying that "we would like all international organisations, missions and Islamic States to know that we refuse any initiative or negotiations directly or indirectly for a ceasefire with Iraq".<sup>115</sup> "We warn them that any effort in this matter will get failure", the statement added. The then Iranian military spokesman (now) President, Ali Khamenei, declared after he had shown his ignorance to the assignment of the Islamic Mission that Iran will not bargain on its rights and her stand is very clear. "We do not want to add new approaches and will fight till the end. We are ready to hear the suggestions but we are not ready to accept it", he added.<sup>116</sup>

Khamenei himself addressed the Islamic Mission. He repeatedly said that there was no question to compromise

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114 KAYHAN (Tehran), 29 March 1981, p.1.

115 Jamhoriyat Eslami (Tehran), 28 March 1981, p.3.

116 Al Jomhūr (Tehran), 30 March 1981, p.1.

with faithless Iraqis.<sup>117</sup> Muslim should not think at all that there is a compromise between Iran and Muslims on the one hand and the non-Islam and non-Muslims on the other. The negotiation may destroy Iranian masses' will.<sup>118</sup>

How one can expect from such a man considering himself as a spiritual leader - a peaceful step. Where are the main principles of Islam, and the Holy Quran never teaches such things.<sup>119</sup>

The mission went to Iraq and was received by Iraqi President, Saddam himself. He said that Iraq wanted just and final solution according to the international covenants and agreements. The mission suggested the following points:

1. To form an Islamic force to maintain peace on border.
2. Withdrawal of Iraqi forces from the Iranian territories.
3. Obligation of non-interference in the internal affairs of each other.
4. Free navigation through Shatt-el-Arab waterway.
5. Mutual respect of sovereignty and territorial integrity.<sup>120</sup>

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117 Kayhan (Tehran), 6 April 1981, p.3.

118 Almsta Tha Deen (Tehran), 12 April 1981, p.6.

119 Baghdad Observer (Baghdad), 15 April 1981, p.8.

120 Al Medina (Saudi Arabia paper), 25 April 1981, p.9.

Iran refused to accept the above suggestions. Khamenia said that if we are going to sit down with the aggressor (Iraq) and even without the trial of Saddam, what we are going to tell the martyrs' family.<sup>121</sup> Moreover, Iran refused to name the mission as goodwill mission and named it as "Study - Aggression Committee on the Islamic Iran".<sup>122</sup> Mr Khamenie said that the Turkish member of the goodwill mission, Pooland, expressed the view that he did not find any difficulty to understand Iraqi point of view while in Iran so many opinions were aired and therefore Iran's stand was still not clear.<sup>123</sup> The mission declared that the mediation had been stopped due to non-cooperation of its members for a ceasefire. But Mr Shatti continued his mission efforts. He again started shuttling between Tehran and Baghdad (Tehran : 3 April 1981; Baghdad - 4 April 1981), to present his views with new proposals. He said that he was still optimistic about some diplomatic outcome to end the conflict. But he emphasised that he was still performing the Taif Summit decision to stop the war. The new

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121 Kuwait Times, 1 May 1981, p.1.

122 Saudi Gazette (Jeddah), 28 April 1981, p.3.

123 Down (Karachi) (Overseas Weekly), 7 May 1981, no.3041, p.5.

proposals are:

1. obligation for both of the countries not to occupy other's territory by use of force;
2. to normalise the relationship between the two and further not to interfere into other's internal affairs.;
3. Iraqi sovereignty over Sait Saad and Zau Alqou;
4. to form an Islamic committee to supervise the ceasefire; and
5. continuation of indirect negotiations between the two warring states.

Iran again refused the aforesaid proposals. Prime Minister Mohd. Ali Rajai said that the goodwill mission had failed to achieve its warranted goal, while Iran was ready to sign an agreement with Iraq on the battle-front only. The Iranian Foreign Office accused Al-Shatti that he was supporting Iraq.<sup>124</sup>

In June 1981, the Islamic Foreign Ministers Conference held in Baghdad, requested the goodwill mission to continue its mediation.<sup>125</sup> Iran boycotted the conference and declared its ignorance to all the efforts, for a ceasefire and solution of the war problem. The Iranian decision makers said that they cannot trust Islamic mission

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124 Kayhan (Tehran), 2 June 1981, p.4.

125 Baghdad Observer, 15 June 1981, p.16.

efforts unless and until they are not going to condemn the aggressors. They said Iran does not have East-West policy in practice.<sup>126</sup>

Just contrary to that Iraq accepted all the proposals, and efforts put forth by ICQ. But when Sani Sa'at disappeared suddenly, everything became shady.<sup>127</sup> Again the mission requested Iran and Iraq to sign a truce on the occasion of holy month of Ramadan from 12 July 1981 to 11 August 1981. The goodwill mission continued its great objectives and when Al-Shatti declared that the two sides were about to reach an agreement and the mission was going to form a committee to cover the following three angles:<sup>128</sup>

1. Ceasefire and withdrawal of forces and division of border line;
2. military supervision and peace-keeping forces; and
3. to identify the responsibility of the beginner.

While these negotiations were underway, the Iranian Prime Minister, Mohd. Reza Mahdavi Kari was dismissed from his post only because he invited Muslim states to interfere in the Iran-Iraq war and was ready to withdraw from the three Islands against Iraqi withdrawal from the Iranian territories.<sup>129</sup>

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126 Jehori Islami (Tehran), 20 July 1981, p.2.

127 Le Monde (Paris), 21 July 1981, p.6.

128 Saudi Gazette, 26 July 1981, p.3.

129 Arab News (Saudi Arabia paper), 19 August 1981, p.2.

On 6 October 1981, Mr Habib Al-Shatti proposed a new formula for ceasefire and withdrawal of Iraqi forces and punish the beginner at the same time. The result was as usual. Iraq accepted the proposal while Iran refused it.<sup>130</sup> Due to the hard stand of Iran, goodwill mission stopped its activities. During his third stage of goodwill negotiation, Mr Ahmed Sekhou Toure of Guinea and his committee arrived at Baghdad on 8 March 1982 accompanied by the members of the goodwill mission.<sup>131</sup> Again he had a long discussion with Saddam Hussain. Iraq declared its cooperation and readiness to accept any mediation proposals. Mr Sekoutoure said that he was there for a specific aim to a ceasefire. After concluding his visit to Tehran he said that the Iranian attitude was not yet changed.<sup>132</sup>

Finally, on their concluding efforts, the Islamic goodwill mission again came with a 6-point proposal to find a just solution of the war. Mr Shatti said that the mission was still facing a trouble to convince the Iranian side to respond to a ceasefire and accept the diplomatic efforts by Islamic Conference Organization.

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130 Kuwait Times (Kuwait), 7 October 1981, p.3.

131 Althawra (Baghdad), 9 March 1982, p.1.

132 Kuwait Times, 3 April 1982, p.1.

The mission also conveyed for a summit meeting between the two at Mecca. Hashimi Rajseanjani said that Iran had nothing new to say. Then there was no question of Iran attending the Islamic States' invitation to participate in the summit at Mecca.<sup>133</sup>

According to that reply the mission kept its option open in order to make the mission ready to continue its efforts at any time. The mission sent another communique requesting Iran and Iraq to come to fold and accept the ceasefire. Iraq was nevertheless ready to withdraw its forces from Iranian territories and at last the withdrawal occurred on 20 June 1982.<sup>134</sup> Saddam Hussein asked the world organizations to supervise the withdrawal and requested Iranian government to accept the ceasefire.<sup>135</sup>

Saddam's opinion is that let the international forces (any country's forces or the UN forces) should be present to observe our withdrawal from the Iranian territories.<sup>136</sup> Iran refused the initiatives and emphasized on the continuance of war against Iraq. Khomeini said that the Iraqi withdrawal was not enough and that

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133 Arab News (Saudi Arabia paper), 17 September 1982, p.3.

134 Baghdad Observer, 15 July 1982, p.5.

135 Al Thawra (Baghdad), 21 June 1982, p.1.

136 Iraq (Baghdad) (Magazine), 15 July 1982, p.6.

his country would continue the war till Iran fulfilled its demand.<sup>137</sup>

Goodwill mission welcomed the Iraqi withdrawal and said that it was a positive step to launch a further negotiable proposal. Iran, on the other hand, continued its offences on East Basrah from 13-30 July 1982 in order to cross the Iraqi border.<sup>138</sup>

From above, we can easily see that the great efforts made by the Islamic Conference Organization and its goodwill missions to convince Iran for a just solution and a ceasefire was a vain effort and thus Islamic Conference Organization (ICO) was partially, or, to be very frankly totally, failed in its mission.<sup>139</sup>

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137 Kayhan (Tehran), 20 July 1982, p.1.

138 Al Jamhoriya (Baghdad), 31 July 1982, pp.5-7.

139 Mainstream (New Delhi), vol.XIX, no.15, 13 December 1982, p.21.

**Chapter IV**

**"Non-Aligned Mediation in Iran-Iraq Conflict"**

"Two roads diverged in a wood, and I,  
I took the one less travelled by,  
And that has made all the difference".<sup>140</sup>

- Robert Frost

"The Concept of non-alignment has never been officially defined. But its meaning and its implications in a polarised world were so clear in 1961 that 25 non-aligned nations found it worthwhile to meet and exchange views. The concept was also well enough understood to attract the hostility of the power blocs both before and after that meeting."<sup>141</sup>

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140 Robert Frost, and it has been quoted by Jawaharlal Nehru.

141 M.B. Alam, "The Concept of Non-Alignment : A Critical Analysis", World Affairs (Washington, D.C.), vol.140, no.2, 1977, pp.165-185.

Nonaligned today has become one of the most dominant trends in international relations and politics. By creating a rallying point, convergence of interests and pooling of diplomatic resources for combating common goals, nonaligned has provided a dignity and an autonomous power to the newly liberated countries of the world. In an astounding manner and with telling effect, it has propelled the 'powerless' of the world as peers of the most powerful in the councils where the ousting of mankind is made. And what is more, the 'powerful' today tremble before the 'powerless' because logic, history, morality and, above all, the majority of mankind is on their side.<sup>142</sup>

Since the Belgrade Summit of 1961, one can catalogue an impressive record. Decolonisation is virtually complete. Liberation movements of yesterday now rightly wield the reign of power.<sup>143</sup> Non-alignment has made a principled and lasting contribution towards the maintenance of world peace and prevention of global and local conflicts. It has been in the vanguard of the

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142 K.P. Misra, Non-alignment and Neutrality, p.76.

143 M.S. Rajan, Non-alignment - India and the Future (New Delhi, ), p.66.

continuing struggle against imperialism, colonialism and racialism. It has focussed attention on major economic issues facing the world and has made a constructive contribution in building up consensus for the evolution of a new economic order based on the principles of justice and equality.<sup>144</sup>

It derived its origin from certain perennial yearning of nation state for a safer, fuller and better life. It would, therefore, remain of abiding significance and was not dependent upon international political circumstances which were likely to change. It represented a new style of commitment to the solution of world and regional problems, based on a perspective of the globe that saw the division between the 'backward' and the 'advanced', the 'agrarian' and the 'industrial', the 'north' and the 'south', more basic and relevant than the division of the world between 'east' and 'west' based on the expediency of power-rivalries of major powers and paramountcy of the Atlantic European state system to determine the trends and tenor of world politics. Thus, while alignment was a policy of polarisation, nonalignment was a process of depolarisation of world politics.<sup>145</sup>

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144 Y.B. Chavan, "Ideals of Nonalignment", Secular Democracy, vol. IX, nos. XIV and XV, July-August (31-15), 1982, p.63.

145 K.P. Misra, ed., Nonalignment and Neutrality (New Delhi, ), p.82.

The basic interest of the newly emerging countries was naturally directed towards preserving their independence, security and stability. The issues available for this purpose were anti-colonialism and anti-racialism since its very inception nonalignment had an anti-status quo bias, directed against the ordering of the world into two antagonistic alliance systems. Nonaligned had many other impulses, the natural desire to remain un-involved in others' quarrels, the urgent need to diversify international contacts, the desire to reconstruct their countries through a non-capitalistic and non-communistic approach, the intention to prevent the polarisation of political forces within their countries and the apprehension that the cold war would relegate other international issues which are more relevant to their future in the world to a position of relative insignificance.<sup>146</sup>

The strategy of ensuring security within the framework of nonaligned is, therefore, completely different from that of seeking military alliances. An implicit arrangement in any military alliance is that the weaker power surrenders some part of its freedom of action to the stronger power in return for a guarantee

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146 Rasheeduddin Khan, "New Dimensions : Nonalignment - Relevance, Challenges and Dimensions", Secular Democracy, vol.IX, nos.XIV and XV, 31 July-15 August 1982, p.71.

of security.<sup>147</sup> Due to their military weaknesses, the nonaligned countries had to rely upon the international system and the balance of power to provide their security in the short run - the strategy of nonaligned also implied buying time, through maintaining maximum independence of policy by keeping aloof from the cold war politics of two power blocs during which they could develop themselves, first in the economic field and then in the military field. Obviously, in the early stages, their security could only come from the international system.<sup>148</sup>

It can now be examined as to what role the non-aligned nations play in the changing structure of world order and more specially when one state tries to dominate over other, even in the developing nations, whom the movement stands for. The traditional role of the nonaligned has been to spearhead the movement against colonialism and racialism. It reinforces the concern of the nonaligned movement to influence specific political developments in the world and emphasise its international character.<sup>149</sup>

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147 K.F. Misra and K.R. Narayanan, eds., Nonalignment in Contemporary International Relations (1981), p.30.

148 P.R. Chari, "Nonalignment for Security", Secular Democracy, vol.IX, 31 July-15 August 1982, p.171.

149 Ibid., p.175.

We have discussed earlier the peace mission by United Nations and ICO in Iran-Iraq war. Now, let us come and examine the role played by nonaligned groups in settling the disputes - among the two Muslim states. For nonaligned, a general framework of its principles, characteristic of its role played during various conflicts in general, have been noted before. But, about Iran and Iraq briefly one can say, both are members of the movement and played very significant role during various crises and disputes. And circumstances here brought them face to face and now they are fighting together, a prolonged war. A war, one can say, between two nonaligned states, two Muslim states or two neighbours. Like its two predecessors - United Nations and International Islamic Conference Organisation groups, nonaligned came to the forefronts to settle down disputes not only for the sake of Iran and Iraq's sovereignty, territorial integrity or regional and international peace and understanding but for the sake of whole humanity which is facing a nuclear holocaust and for the sake of unity and prosperity of the principles for which it emerged, grew and flourished since its inception.

Initially, the Palestine Liberation Organization (PLO) took an initiative as a member of the Coordination Bureau of Nonaligned Movement (NAM) to form a ministerial committee to mediate in finding out a solution to Iraq-Iran

conflict. The coordination bureau met on 20 October 1980 in New York. Representatives from both warring states participated. The bureau discussed the conflict and emphasised the importance of nonalignment group in solving the dispute. They agreed to form a committee to seek facts in order to be a trust-bridge between the two countries. The committee<sup>was</sup> headed by the Foreign Minister of Cuba, Esedoro Malimerica (Cuba was the NAM Chairman till March 1983). The other members in the committee were: India, Zambia, Pakistan, PLO and Algeria.<sup>150</sup> Later, it was, however, emphasised by the Iraqi decision-makers that Algeria, being an Arab state, should not come out as a mediator but should stand by the Iraqi side as the duty of every Arab state should be to stand behind Arabian cause in dispute with Iran. Then, ultimately Algeria agreed to withdraw her membership at Belgrade meeting from the Nonaligned Committee in mediating between the two warring states.<sup>151</sup>

Palestine Liberation Organization chief, Yasser Arafat, described the committee as a fact-finder and not as a mediator of Iran-Iraq dispute.<sup>152</sup> Few hours

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150 Nicola Firzli, The Iraq-Iran Conflict (Paris: Institute of Studies and Research, 1981), p.129.

151 Baghdad Observer (Baghdad), 11 October 1980, p.5.

152 Al-Amal (Beirut) (Arabic paper), 16 September 1980, p.2.

before when discussion was about to start the coordination bureau members got Iranian President's message to condemn Iraq.<sup>153</sup> The message said that the Islamic Republic of Iran asks all the Nonaligned Movement states to condemn Iraq, with respect to the principles of the Movement. Anyway, he was ready to welcome the NAM delegates but with the aforesaid pre-conditions.<sup>154</sup> But this pre-condition was not acceptable to NAM delegates. This was the first setback for NAM initiatives in the way of settling the dispute.<sup>155</sup>

Furthermore, the Committee started its work on 2 November 1980, at Belgrade, and declared its willingness to visit Tehran and Baghdad in order to settle the problem politically and amicably and again which was acceptable equally to both of them.<sup>156</sup> Both are the Nonaligned Movement (NAM) states. Iran stressed on fighting even if NAM degraded itself by not condemning Iraq as aggressor, and further dismiss its membership from the Movement. Whereas, Saddam Hussein declared to the Committee for Iraq's readiness to withdraw its forces

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153 Millet (Ankara), 17 November 1980, p.3.

154 ALNBAA (Kuwait Paper), 31 October 1980, p.3.

155 ALDESTOR (Jordan - paper), 29 October 1980, p.1.

156 Al Siyasa (Daily Kuwait), 3 November 1980, p.4.

from the Iranian territory, but only when Iran is ready to accept Iraq's sovereignty over Shatt-al-Arab.<sup>157</sup>

In the NAM Foreign Ministerial meeting held in Delhi on 4 August 1981, both countries' Foreign Ministers were present. Mr. S. Hamedani of Iraq declared that Iraq was ready for a ceasefire to start negotiations under the supervision of NAM.<sup>158</sup> Iranian Foreign Minister walked out, while Mr Hamedani of Iraq was delivering his speech, welcoming the NAM initiatives and its attitude in settling the dispute with Iran.<sup>159</sup> He called upon the Iranian leaders to respond to such initiatives and accept peace. The Iranian Foreign Minister emphasised in his speech on the pre-conditions which Iran had already declared, that is, war reparation and trial of Saddam Hussein. He emphasised to repatriate thousands of Iranians originally living in Iraq. That was because of their political consciousness.

He asked the NAM to come and see the war damages caused by Iraqi army.<sup>160</sup> The meeting ended with the request to both the states to accept the mediation of NAM.<sup>161</sup>

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157 Al-Nahar (Arabic Paper), "Iraq-Iran Conflict" (Beirut), 7 April 1981, p.3.

158 Iraq (Baghdad - English Magazine), 5 August 1981, p.4.

159 The Times of India, 5 August 1981, p.11.

160 Al-Jehad (Tehran), 6 August 1981, p.2.

161 The Times of India, 7 August 1981, p.12.

The NAM Committee visited Tehran and met the Iranian leaders. The Committee emphasised and requested the Iranian Government to come to its sense and accept the ceasefire and have negotiations with Iraq.<sup>162</sup> In a statement after the conclusion of Iranian visit, the Iranian President said that the NAM committee might visit Tehran at any time and let them see the barbarism done by Iraqi forces on Iranian civilians.<sup>163</sup> "The visit of said committee to Tehran will not bring any advantage", he said. On 13 May 1981, the NAM Committee arrived at Baghdad and met the Iraqi leaders. The Iraqi leaders extended their cooperation to the Committee and declared their readiness for ceasefire.<sup>164</sup> Concluding their visit to Baghdad, the NAM Committee issued a statement saying that its visit to Baghdad was fruitful due to the clear understanding of the Iraqi leaders and people on the issue and their readiness for ceasefire and negotiation.<sup>165</sup>

In Lusaka they came with the new proposals to settle down the ongoing problems which came during their previous visits to Tehran. The new proposals were mainly

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162 Al Safear (Daily Beirut), 21 November 1980, p.3.

163 Kayhan (Tehran), 15 December 1981, p.1.

164 Baghdad Observer (Baghdad), 15 May 1981, p.6.

165 Al-Thawra (Baghdad), 14 May 1981, p.1.

to convince Iran on a ceasefire and then pave the way for further negotiations, to bring the two warring states on the talking table to understand each other more rationally than their earlier stand, and thus clear the way for future, not to go for war, even in a worst situation.<sup>166</sup> They visited Tehran and met the Iranian leaders. Mohd Ali Rajai, the Prime Minister of Iran said that shuttling between Iran and Iraq will not bring any advantage or results. The battlefield will decide the final result.<sup>167</sup>

On 8 August 1981, the committee was in Iraq and received by Foreign Minister, Tariq Aziz. He extended his country's cooperation in finding out a just solution of the dispute.<sup>168</sup> The Committee also met Saddam Hussein, who explained Iraqi viewpoint, elaborately.<sup>169</sup> The visit has not come out with the final settlement to their dispute. In one of the extraordinary meetings of the Co-ordination Bureau, held in Kuwait on 4 April 1982, Iraqi Foreign Minister said that Iraq would like the NAM to form a committee to search the truth and to declare the beginner of the war. Iran suggested the same in the meeting.<sup>170</sup>

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166 Al-Dustoor (Amman), 20 July 1981, p.3.

167 Iran Liberation, "Iranian Mojahedin in India", 25 July 1981, p.2.

168 Al Thawqa (Baghdad), 9 August 1981, p.1.

169 Al Jenhoriya (Baghdad), 10 August 1981, p.9.

170 Al Watan (Daily, Kuwait), 5 April 1982, p.1.

The participants tried to bring Mr Haurmedi of Iraq and Mr Ali Akbar Vilayati of Iran together. The latter, however, refused by saying: "Have you ever seen Mr Arafat met with Mr. Begin of Israel?"<sup>171</sup> The committee met twice in Kuwait to find out a new proposal to start their mediation.

The Committee further proceeded to Iran immediately after the Kuwait Conference.<sup>172</sup> Iranian Government put forth certain proposals for negotiations, as: (1) unconditional Iraqi withdrawal, (2) international arbitration to investigate the responsibility of the aggressor, and (3) Iraq has to give war compensation.<sup>173</sup>

Moreover, Mr Hashimi Ratsanjani added one more condition - that is - to return all Iranians expelled by Iraq, due to their political activities.<sup>174</sup>

Saddam Hussein declared that he was ready to withdraw his forces as soon as Iran declared its end to all aggressive measures against Iraq and respected the rights of Iraq on land and water.<sup>175</sup> Iran refused the proposal and added that its fifth condition was to overthrow the Saddami regime.<sup>176</sup>

171 Al-Siyasa (Daily Kuwait), 6 April 1982, p.3.

172 Kuwait Times (Kuwait), 8 April 1982, p.2.

173 Iran Liberation, "Iranian Mujahedin in India", 12 April 1982, p.2.

174 Al-Jihad (Tehran), 15 April 1982, p.2.

175 Al-Thawra (Baghdad), 20 April 1982, p.1.

176 Jomhuri Eslami (Tehran), 27 April 1982, p.1.

Then NAM committee came with its final declaration that it could not pursue its efforts in these circumstances,<sup>177</sup> perhaps due to a belief that circumstances were not yet ripe for this mediation, or to their desire to give the Islamic mission a chance to follow up on its initiatives.

The seventh Non-Aligned Summit Conference in fulfilment of its responsibility has made significant contribution to the struggle of people for world peace, economic justice and national liberation.<sup>178</sup> The New Delhi Summit which was held in 7-12 March 1983 at a time of threat to world peace caused by the continued Gulf war three years ago, stalled Geneva arms talks between the USA and the Soviet Union, escalated war of nerves over the question of deployment of medium range missiles in and at the western Europe, presence of foreign combat troops in a number of countries of Asia, Africa and Latin America and the irresponsible outbursts of responsible world figures about the so-called "first-strike" in the 'United' war of mutual atomic deterrence (MAD).<sup>179</sup>

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177 Al Nwar (Daily, Beirut), 25 July 1982, p.7.

178 K.G. Mustafa, "Genesis of NAM", The Baghdad Observer, no.4740, 11 March 1983, p.5.

179 Ibid., p.8.

The leaders of 101 countries who gathered in the Indian capital faced with the new cold war squarely came out with bold denunciation of the forces of threat and aggression and expressed their full solidarity with the soldiers of peace and liberation. The fervent appeal of these world leaders for ending Iran-Iraq war by peaceful negotiations expressed their sincere desire to see a peaceful world where nations can live "with confidence and without fear".

Mrs Gandhi, the Indian Prime Minister, declared on her inaugural speech at the Seventh NAM gathering at New Delhi, on 7 March 1983: "What makes interference possible? Our economic weakness, yes, but also our differences, and the discords within our movement. At our meetings it is a tradition to avoid discussion on conflicts between member countries. We try to concentrate on matters which unite, and to enlarge such unity rather than get caught in acrimonious internecine conflicts. But, so many have approached me and so sincere is our friendship for Iran and Iraq, so strong our desire, that I appeal to Iran and Iraq to end their tragic war. I believe that this is the unanimous view of all their friends who wish them well".<sup>180</sup>

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180 Address by Mrs Gandhi at the inaugural session of the Seventh Non-Aligned Summit Conference, New Delhi, 7 March 1983.

President Zia-ul-Haq of Pakistan had appealed to both the Islamic, Muslim brothers to end their feud without any delay. As Chairman of the Islamic Conference Organization, he had done a lot to bring them to the negotiating table. And as a member of NAM again he decreed for the same.<sup>181</sup>

Saudi Prince, including most of the Gulf Sheikdoms disapproved the ongoing war between the two Muslim brothers and showed their worry to them, because this particular dispute had brought this region under war, instability of the region which closed the door for peace and amicability and brotherhood.<sup>182</sup>

The Algerian President declared in his speech his country's readiness to play an active role to settle down the dispute peacefully and stop the bloodshed and the economic damages to both the feuding states.<sup>183</sup> PLO chief Yasser Arafat also played an important part during the Seventh Non-Aligned Summit Conference at New Delhi, by holding several meetings with the participants and, more specially, with the Political Committee members, who were assigned to look after the matter of Iron-Iraq dispute.<sup>184</sup>

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181 Dawn (Karachi), 9 March 1983, p.1.

182 Kuwait Times, 9 March 1983, p.2.

183 Al Thawra (Baghdad), 10 March 1983, p.7.

184 The Times of India, 8 March 1983, p.11.

During the conference period, separate prolonged day and night discussions were held on Iraq-Iran conflict. The conference was on the verge of collapse on this issue, and at this juncture, India along with PLO and others, played a significant diplomatic role in resolving the issue. Thus, the final declaration of Non-Aligned Movement Political Committee stated that the Heads of State expressed their profound regret and sorrow at the continuing conflict between the two, resulting in tragic loss of lives and colossal damage to property in both the states. This tragic conflict is more painful because the parties are respected members of the movement. The principles of the Movement stipulate that no state shall acquire or occupy territories by the use of force, that whatever territories had been acquired in this way, should be returned, that no act of aggression should be committed against any state, that the territorial integrity and the sovereignty of all states should be respected; that no state should interfere or intervene in the internal affairs of another and that all differences or claims which may exist between states should be settled by peaceful means in order that peaceful relations prevail among member states. Both Iran and Iraq as members of the movement are committed to these principles. Bearing in mind the well-being of the people of the two countries and the utmost need for maintaining the Movement's unity in the face of grave international situation, the heads of

state fervently appeal to both parties and to all other states to refrain from any action which would further escalate the conflict and increase the scope for outside involvement therein.

Further, the conference took note of the report submitted by the Foreign Ministers of Cuba, India and Zambia and PLO who had been mandated by Non-Aligned Conference Foreign Ministers' meeting held in Delhi in February 1981 to exert all possible efforts on the countries for the implementation of the principles of nonaligned with regard to the conflict between Iran and Iraq. They expressed appreciation of the work done by the group which aimed at finding a just and honourable solution to this unfortunate conflict.<sup>185</sup>

Again, Mrs Gandhi played a very significant role in mediation of the dispute during the Summit by appealing twice for peaceful settlement between Iraq and Iran.<sup>186</sup> This earnest desire for peace of the Seventh Summit attracted the attention of Iraq, including the world at large. The national and regional commands of the Ba'ath Party and revolution command council, which held a joint meeting under the chairmanship of Saddam Hussein, while summing up the Delhi Summit Conference, said that the

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185 Draft Political Declaration, Nonaligned Summit, 7 March 1983, New Delhi, pp.16-17.

186 The Times of India, 9 March 1983, p.16.

Seventh Non-Aligned Summit Conference expressed full support to the cause of peace by calling for an end to the war imposed on Iraq by Iranian regime and by urging peaceful settlement of the conflict in conformity with the principles of the Non-Aligned Movement and in keeping with the provisions of international law and Islamic principles.

The Summit's concern for peaceful settlement of Iraq-Iran conflict was also reflected in its political declaration which regarded the nonaligned nations to settle their differences "exclusively by peaceful measures" consistent with this principle of the Movement. Iraq's call for nonaligned nations' arbitration to settle the Gulf war received overwhelming endorsement in the conference. The Iranian rulers, as in the past, missed another opportunity in ending the war.<sup>187</sup>

In the final document the conference took note of the report submitted by the Foreign Ministers of Cuba, India, Zambia and the head of the political department of the PLO, who had been mandated by the Conference of Foreign Ministers of Non-Aligned Countries held in New Delhi in February 1981, to exert all possible efforts to contribute to the implementation of the principles of non-alignment with regard to the conflict between Iran

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187 K.G. Mustafa, "Non-Aligned Movement Survives Sub-region", Baghdad Observer, English Paper, no.4734, 26 March 1983, p.5.



and Iraq. They expressed appreciation at the work done by the group in finding a just and honourable solution to this unfortunate conflict.<sup>188</sup>

By concluding the New Delhi Summit, the Chairperson of the Seventh Non-Aligned Summit declared a statement based on the statements made by the heads of state or government. I should like to make the following statement, Mrs Gandhi said:

"We express our profound regret at the thirty-month old Iran-Iraq conflict and the grievous loss of life and destruction of property which it has caused to the two nations and their peoples. Iran and Iraq are both members of the nonaligned movement, which has amongst its principles, that all differences amongst member states should be resolved by peaceful means. We are convinced that an end to the Iran-Iraq conflict would contribute to strengthening the unity and solidarity of the movement. Therefore, we appeal to Iran and Iraq to bring an immediate end to the war. It is the universal desire that the fighting must stop at once and the two sides come to an honourable, just and enduring peace through negotiation and peaceful means."

"Suggestions and proposals have been offered by many heads of state or government. The overwhelming view is that the nonaligned movement should exert every effort to bring about a speedy and peaceful termination of this tragic conflict. This is very much on my mind and, as Chairman, I shall continue consultations and take all possible and appropriate measures towards this objective".<sup>189</sup>

From the above mentioned, it shows very clear that the nonaligned movement played an important role in solving the conflict, and the frequent visits made by the non-aligned peace mission to Iran and Iraq requesting an end to the war and finding out a peaceful settlement through negotiations. But all these efforts went far beyond the diplomatic expectations.<sup>190</sup>

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189 Ibid., p.299.

190 Al Siyasa (Kuwait), 20 August 1982, p.3.

## CONCLUSIONS

## CONCLUSIONS

In the preceding chapters we have discussed the history and background and the present state of affairs on the frontiers, along with the diplomatic moves to defuse the issue between Iraq and Iran, culminating in the unilateral abrogation by Iran on 19 April 1969, of the Frontier Treaty of 1937 which regulates the boundary between the two states on the Shatt-al-Arab, coupled with concentration of her troops along the Iraqi borders, particularly along her side of the Shatt-al-Arab, with the aim of intimidating Iraq into submission. The Iraqi offer "to refer all disputes concerning the application of the Iraqi-Iranian Boundary Treaty of 1937 to the International Court of Justice, and to abide by the Court's decision thereon" has so far evoked no favourable response from Iran and the relations between the two states remain surcharged with tension and conflict.

This study falls into five parts. In the first part we have studied the historical background of the present dispute on Shatt-al-Arab between Iran and Iraq. The first part has been sub-divided into three parts, namely:

1. the period before the first world war,
2. the period during the two world wars. (1919-1945),
3. the period after the second world war (1945 to the present day).

We have considered the main diplomatic attempts made by the United Nations to defuse the major world issues

since its inception till the present date, and then examined at length the Iranian refusal to the obligations of the appeals made by the Secretary General of the United Nations and also Security Council resolutions on the issue. The study has also examined the arguments put forth by Iran in denouncing unilaterally the 1937 Frontier Treaty and its validity in law and international legal order, and the Iraqi position in this regard. Wherever possible cross references to parallel situations and problems in other parts of the world at different times have also been made. In the third part of the study, we have discussed the Islamic Conference Organization efforts on this problem and requests made by its members frequently and also their visits to respective countries, to stop the bloodshed between the two Muslim countries. The fourth part of the study is focussed on the Non-aligned Movement and its mission to defuse the situation between the two members of the Non-aligned Movement.

The border dispute between Iran and Iraq dates back to the hoary past, indeed, to the era of the first civilization of Babylon and Persia. However, in its more modern form, the dispute can be traced to the era of the Ottoman domination over the Arab region, including Iraq. There were sporadic wars between the Ottomans and the Persians, the latter casting covetous eyes on Iraq which between 1508-1543 changed hands from one to the other four times.

To put an end to those battles a treaty was signed in May 1555, known as the "Amassia" treaty, the first written agreement between the two empires. However, this did not put an end to the state of war between them and Iraq was once again occupied by the Persians in 1623 to be recovered by Sultan Murad IV in 1639. The Treaty of "Zuhab" signed in that year is an important document in that it laid down precisely the borders between Iran and Iraq.

But no peace was secured even after the Zuhab treaty. The relations between the two empires were far from cordial. The reasons were partly religious and partly territorial. The two empires coveted each other's lands and sought expansion at each other's cost. On 23 July 1623, a treaty known as the first Erzerum Treaty was signed between Persia and the Ottoman Empire which is today of no more than historical importance. This treaty was followed by the second Erzerum Treaty signed between the Ottomans and Persian empires on 31 May 1647.

Despite protracted negotiations and the tireless efforts coupled with mediation by the Imperial governments of Russia and Britain, the border dispute between the Ottoman and Persian empires remained unresolved and was carried forward to disturb the peace of the area even after the dissolution of the Ottoman Empire as a result of the First World War and establishment of Iraq as a separate entity,

first under the League Mandate extended by Great Britain and later, as a sovereign independent state. Iraq legitimately contended that she had succeeded to all the treaties and protocols relating to her borders with the Persian Government that had been signed with the latter by the Ottoman empire.

Iran on her part did not admit the validity of the Constantinople Protocol that had assigned sovereignty over the whole of Shatt-al-Arab to Iraq. She in fact refused even to accord recognition to Iraq.

In these circumstances Iraq was impelled to refer her border dispute with Iran to the League of Nations on 29 November 1934. There were lengthy debates in the League Council, each side explaining the merits of its case. The Iraqi position was principally based on juridical inheritance, treaty rights and equity. She alleged that Iran had committed violations of her (Iraqi) sovereignty in three spheres, namely, illegal interference with Shatt-al-Arab navigation; territorial expansion; and the diversion of Gunjen Cham waters. Numerous instances of Iranian gunboat interference with normal shipping activities were cited; there had been disregard on the Iranian side of rules and bye-laws of the Port of Basrah; blocking of the one-way Rooka Channel; and rash navigation. Iran, on the other hand, questioned the validity of the Constantinople Protocol and the Delimitation effected by it on the Shatt-al-Arab. Her representative declared on

6 January 1935, that "The Persian government is of the opinion that the Delimitation Commission of 1914 has no force either in law or in equity to determine the frontier". He also described the Treaty of Erzerum, 1847, as null and void, on the pretext that the Iranian envoy delegated to sign it had exceeded his instructions in accepting the Explanatory Note of the mediating powers. He equally rejected the Protocol of 1913 on the grounds that it was based on the "non-existent" Treaty of Erzerum. Thus Iran denied the validity of all the agreements signed with the erstwhile Ottoman Government.

Notwithstanding the Treaty of 1937, the border conflict between Iraq and Iran remained unsolved. Despite the various legal and political arguments in which Iran has sought to clothe her grievances against the said treaty, the fact of the matter is that the Treaty did not satisfy Iranian ambitions on the Shatt-al-Arab and therefore on one pretext or another, Iran refused to abide by its terms, finally, unilaterally announcing its abrogation in 1969.

Iran has from time to time advanced one or more of the following arguments against the Treaty of 1937:

- (a) That the treaty of 1937 was a relic of the colonial era; that it was concluded under pressure of foreign powers.
- (b) That Iraq has failed to fulfil its obligations under the said Treaty and the Protocol attached to it, giving her the corresponding right to repeal the Treaty.

- (c) That the treaty is unjust and inequitable. The Shatt-al-Arab being a boundary river should under the rules of general international law be divided between the two parties on the thalweg line.
- (d) In announcing the unilateral abrogation of the Frontier Treaty of 1937, Iran has also, in justification of her action, advanced a plea under *rebus sic stantibus* claiming that a vital change of circumstances has occurred in the area and in view of these changed circumstances the treaty cannot any longer be held to be valid and operative.
- (e) The Shatt-al-Arab is a frontier river. It draws most of its water from Iranian sources. Yet under the 1937 Treaty the sovereignty over the entire river has been conceded to another government, namely, Iraq.

With this we enter into the merits of the legal issues raised by the Iranian Government and this is the subject matter of the second part of this dissertation.

H. Lauterpacht agrees that in regard to border rivers sovereignty may be attributed either in part to each of the riparian states or in full to one of them. He writes, "The fact that the former solution is one most generally followed in customary treaties, as well as being incorporated in the relevant rule of customary International Law, should not, however, be permitted to obscure the fact that the latter solution is by no means unprecedented". As we have said in the relevant chapter, in one study on international rivers no less than twelve treaties granting full sovereignty over the whole river to one riparian are noted.

Iran has also raised a legal argument against the 1937 Treaty based on the doctrine of *rebus sic stantibus*. From her extensive statements it is not very clear what she actually means by the "vital change of circumstances" which, in her view, have rendered the treaty negatory and ineffective. She refers to the period of colonialism of which the treaty of 1937 was a creation, and argues that "the results emanating from colonialism must also vanish with it". Is one to conclude from this that every treaty concluded during the colonial period of world history, even a border treaty, must come to an end with the end of colonialism? Surely this cannot be the Iranian argument.

Moreover, we have to deal with a treaty which establishes a border. Such a treaty does not become unapplicable by changed circumstances as mentioned by Iran. Sometimes Iran resorts to the plea that the non-fulfilment of her obligations under the Treaty by Iraq has given the other party, namely, Iran, the right to denounce the treaty itself. She alleges that the Iraqi Government never showed any inclination to bind itself to the obligations resulting from that Treaty, so that the two fundamental clauses 4 and 5 and clause 2 of its attached protocol "which refers to the joint administration of the affairs of Shatt-al-Arab, and the manner of expenditure of the revenues derived from it" have never been carried

out by the Iraqi Government. She further alleges that the continuous efforts of the Imperial Government of Iran to cause the Iraqi Government to fulfil its undertakings and the obligations emanating from it have proved ineffective, and that the Iraqi Government has conducted the affairs of Shatt-al-Arab during the past 30 years in a unilateral manner illegally keeping the administration under its own control.

The treaty of 1937 contains no provision requiring agreement upon the formation of a joint commission for administration of navigation on Shatt-al-Arab. It only stipulates that the two parties should conclude a convention to regulate navigation in Shatt-al-Arab. The fact of the matter is that it seems as if Iran is looking for pretexts and pleas in order to obstruct the conclusion of the Convention stipulated in Article 5 of the Treaty of 1937 and thus to frustrate the whole treaty. Looking retrospectively one may assume that these allegations were meant to be a prelude and a preparation for her abrogation of the treaty in 1969. If the Iranian government were justified in its allegations it should have responded favourably to the Iraqi suggestion formally made by her permanent representative in his letter dated 11 July 1969, addressed to the President of the Security Council that "all disputes concerning the application of the Iraqi-Iranian Treaty of 1937" may be referred to the International Court of Justice.

How do we explain the Iranian attitude refusing to honour its international obligations? How do we explain this violation of international law relating to treaties? How do we explain the Iranian refusal to the diplomatic efforts made to end the issue. The provisions relating to a 'vital change of circumstances' as codified in the Vienna Convention give no support to the Iranian case. The Convention expressly forbids the application of the "change of circumstances" doctrine to border treaties. Yet Iran advances that plea in justification of her abrogation of the Treaty of 1937 even without caring whether there are any material facts to support the assumption of a "vital change of circumstances" on which her denunciation of the 1937 treaty is claimed to rest.

As we have seen, the Iraqi position is that Iran has adopted in relation to Iraq a wholly arbitrary and unreasonable attitude which is hardly conducive to amicable and friendly relations between the two states. Her policy in regard to Shatt-al-Arab is but one illustration of her attitude. The same arbitrariness and unreasonableness marks, in Iraq's opinion, Iran's stand on other disputes with Iraq, particularly, those relating to common rivers between the two states, and those relating to land frontiers. It is felt that Iranian diversion of some of the common rivers (there are twentyfive of them) from the Iraqi soil in complete disregard of historical agreements

and her total indifference to its possible consequences to Iraqi agriculture are most regrettable. Justice requires that the waters of these common rivers should be so divided between Iran and Iraq as to meet their respective minimum domestic, municipal, industrial and navigational needs. To secure these ends, estimates of national needs should be drawn up on a scientific basis. These estimates should form the basis of negotiations between the two states and a mutually acceptable solution should then be evolved. Given goodwill and mutual accommodation it should not be difficult to arrive at.

Subsequently a Protocol on the allocation of waters should be signed between the two Governments. This Protocol should be based on the findings of actual field work and surveys carried out by expert, technical, bi-national committees.

These measures can be undertaken with any reasonable prospect of success only if there is goodwill and dedication to peaceful methods on both sides. In order for an amicable settlement to be envisaged, it is necessary for Iran to consider herself bound by her past treaty obligations.

Iranian actions may be explained not in terms of law, but in terms of power politics, and this brings us to a consideration of Iranian ambitions.

Iran, like many nations of Europe, is still haunted by dreams of past glory. Persia was once a great empire,

the only relic of it today survives in the title of its ruler. Even today Iran as compared to its neighbours is territorially much larger and politically more stable and militarily stronger than most of them.

After 1958 Iran and Iraq have travelled along wholly divergent paths. Iran is royalist, a member of CENTO, with a feudal-capitalistic economy. Iraq on the other hand has repudiated monarchy. She has established a socialist republic. She has withdrawn from the Baghdad Pact and has allied herself to the socialist, nationalist and anti-colonial forces emergent in the Middle East. In the modern world, royalty is fast on the wane. Several crowns have tumbled into dust in the Middle East since the end of the Second World War. The few that remain are constantly on the alert, fearful lest any liberal wind blowing from neighbouring republics should overturn their apple-cart. Iran cannot but be aware of the potential danger in this respect from her neighbouring republican regime in Iraq. It poses a psychological problem of adjustment and co-existence and may in fact adversely affect their overall relations. The strained Iraqi-Iranian relations may perhaps be explained in part in terms of this basic divergence in the political systems that the two represent.

Different political ideologies in neighbouring countries can stir up border conflicts so that borders hitherto peaceful can flare up suddenly, as can be seen

in the Himalayas between India and the People's Republic of China. This is of course not a general rule. States with a common ideology can nevertheless have border disputes and even armed clashes as can be seen on the Sino-Soviet borders. Border conflicts can however be raised to cover up territorial ambitions and this precisely seems to be the real substance in the Sino-Indian, Sino-Soviet and Iraqi-Iranian conflicts and clashes. It is the argument of this thesis that these conflicts and clashes can be aggravated by ideological differences between the border states. In any case the basic political divergence between Iran and Iraq may have played an important part in Iranian motivations, and in the Iraqi attitude to the Iranian claims.

As said above, the conflict between Iran and Iraq has been particularly aggravated after the Iraqi revolution of 1958, which led to the emergence of a nationalist spirit in this country. This coupled with the sweeping wave of Arab nationalism under the leadership of late Gamal Abdul Nasser and the evolving phenomena of Arab Unity may have contributed to the deterioration of relations between Iran and Iraq. Iran still remains virtually a protege of the United States. She continues to be a member of the regional defensive alliances fostered by the United States. There is thus inherent in this situation a basic divergence between Iran and her Arab partners

who are gradually emerging into nationalist, Independent, and socialist states, particularly because the very existence of such a spirit obstructs the relation of the Iranian dream of expansion at the expense of others.

The economic factors always important in determining international relations have assumed disproportionate significance in the modern world. The interests of trade and commerce have the same effect. Shatt-al-Arab is a navigable waterway of great importance and Iranian designs to share in its sovereignty, control and administration emanate from the great commercial importance of this river.

In Arab eyes, the overall picture which emerges is that of Iranian ambitions of territorial expansion, of her dream of filling in the vacuum created by the withdrawal of colonialism from this area, of her passion to revive her past imperial glory and possessions. Iran's ambition in the Arabian Gulf is an illustration in point. Any Arab observer of the political scene in the Middle East is impressed by the Iranian anxiety to take over the British role in the Gulf.

Iran's ambition on the Shatt-al-Arab and the steps she has taken to realize them, including the abrogation of the 1937 Treaty, and her demand for a share in the administration of the Shatt-al-Arab, clearly indicate her ambitions in the area.

From a legal point of view Iran's action is indefensible and our conclusion is that Iranian actions involve a breach of the law of nations, both customary and conventional, and also a violation of the Charter of the United Nations.

Iran's action in denouncing the 1937 Frontier Treaty together with concentration of her troops all along the Iraqi frontier constitutes a threat to the peace and a danger to international security in terms of Article 33 of the United Nations Charter.

As Professor Roling has said, "From both legal and realistic points of view, war can no longer be employed as a means of bringing about changes in international positions." These remarks can be aptly addressed to states such as Iran which, in advancement of her national interests, did not hesitate to adopt measures made unlawful by present day International Law and by the Charter of the United Nations.

The problem between Iran and Iraq is essentially a legal one. It turns upon important question of international law, mainly, upon the sanctity of treaties. It should therefore be possible for the two states to seek settlement through international adjudication or arbitration. It should be recalled that both Iran and Iraq, being members of the United Nations, are under Para. 2 of Article 2 of the United Nations Charter obliged "to fulfil in good faith the obligations assumed by them in accordance with the present Charter" and in accordance with Para. 3 of

the same article, equally obliged "to settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered".

If Iran were to listen to the message contained in these two provisions of Article 2 of the U.N. Charter there could be a reasonable hope of an amicable settlement of all the outstanding disputes between Iran and Iraq, and to this end this work is dedicated.

#### Until When?

However true it may be to speak of a historical antagonism between Arabs and Persians, this absolutely does not mean that it must persist in the present and in the future. If we have dwelled upon this aspect, it is in order to explain to those who are foreign to the Middle East the course of events leading up to the war.

The experiences of a great number of peoples prove that peaceful and just solutions based upon mutual understanding constitute the best way to put an end to conflict. On the contrary, experience also proves that partial solutions do not lead to peace, but quite often become the detonator or catalyser of future confrontations. Such precedents as Alsace-Lorraine, well known to all, need not be recalled here in order to demonstrate the correctness of our conclusions, reached after thorough research. The Iraq-Iran war is in itself an exemplary case.

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