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U.N. GENERAL ASSEMBLY MEETINGS HELD OUTSIDE NEW YORK

*Yehuda Z. Blum**

The decision taken by the United Nations General Assembly on December 2, 1988 "to consider the question of Palestine . . . in plenary, at the United Nations Office at Geneva during the period from December 13-15, 1988"¹ has raised some questions regarding the procedural requirements that have to be fulfilled for General Assembly meetings to be held away from U.N. Headquarters in New York. For a better understanding of the issues involved, it would seem appropriate to summarize briefly the background and developments that led to the General Assembly's decision.

On November 24, 1988, the Chairman of the "Palestine Liberation Organization" [hereinafter "PLO"], Yassir Arafat, applied for a United States visa to attend the U.N. General Assembly session in New York and to address it on the question of Palestine. The PLO had been granted observer status by the General Assembly under its resolution 3237 (XXIX) of November 22, 1974.² Prior to the adoption of the resolution, Mr. Arafat had addressed the General Assembly, on November 13, 1974, by virtue of the invitation extended to the PLO "to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings."³

On November 26, 1988, then United States Secretary of State George Shultz rejected Mr. Arafat's visa application on the grounds that "the U.S. Government has convincing evidence that PLO elements have engaged in terrorism against Americans and others" and

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1. G.A. Res. 43/49, 43 U.N. GAOR Supp. (No. 49) at 49, para. 2, U.N. Doc. A/43/L.43 (1988). The resolution was adopted by 154 votes, with two (the U.S. and Israel) against and one (United Kingdom) abstaining.

2. G.A. Res. 3237(XXIX), 29 U.N. GAOR Supp. (No. 31) at 4, U.N. Doc. A/9631 (1974). The General Assembly invited the PLO "to participate in the sessions and the work of the General Assembly in the capacity of observer."

3. G.A. Res. 3210(XXIX), 29 U.N. GAOR Supp. (No. 31) at 3, U.N. Doc. A/9631 (1974). The legality of these resolutions and their compatibility with the provisions of the Charter and U.N. practice have been a matter of heated controversy ever since; however, a discussion of these questions would clearly go beyond the scope of the present paper. On the status of observers at the U.N. in general, see Suy, *The Status of Observers in the International Organizations* 1978, 2 RECUEIL DES COURS 75-179 (1979); R.G. SYBESMA KNOL, *THE STATUS OF OBSERVERS IN THE UNITED NATIONS* (1981).

that Mr. Arafat, as chairman of the PLO, "is an accessory to such terrorism."⁴ It was further stated on behalf of Secretary Shultz that the Headquarters Agreement of June 26, 1947, concluded between the United Nations and the United States,⁵ "reserves to us the right to bar the entry of those who represent a threat to our security."⁶

On November 28, 1988, following the negative determination by Secretary Shultz regarding Mr. Arafat's visa application; the U.N. Committee on Relations with the Host Country heard a statement of the U.N. Legal Counsel to the effect that the U.S. refusal was in violation of the obligations undertaken by the U.S. under the Headquarters Agreement and that "the host country was and is under an obligation to grant the visa request by the Chairman of the Executive Committee of the PLO."⁷

In its resolution 43/48 of November 30, 1988, the General Assembly "deplored" the U.S. refusal to grant Mr. Arafat the entry visa and "urged" the United States to "reconsider and reverse its decision."⁸ After the Secretary-General reported to the General Assembly that the U.S. government stood by its decision to deny Mr. Arafat entry to the United States,⁹ the General Assembly, in its resolution 43/49 of December 2, 1988, decided "in the present compelling circumstances and without prejudice to normal practice," to discuss the question of Palestine in plenary, in Geneva, from December 13-15, 1988.¹⁰ Accordingly, the General Assembly held its meetings on the agenda item away from U.N. Headquarters in New York and subsequently resumed its meetings in New York until December 22, 1988, at which time its deliberations were suspended, to be resumed at a later date.¹¹

The general rule concerning the place of meeting of the General Assembly is found in rule 3 of the Rules of Procedure of the General Assembly [hereinafter "RPGA"] which provides:

The General Assembly shall meet at the Headquarters of the United Nations, unless convened elsewhere in pursuance of a decision taken *at a*

4. *U.S. Denies Visa to PLO Leader Arafat*, DEP'T ST. BULL. 53 (1989) (Department Statement of Nov. 26, 1988).

5. For the text of the agreement, see G.A. Res. 169(II), 2 U.N. GAOR (101st plen. mtg.) at 91, U.N. Doc. A/519 (1948).

6. *U.S. Denies Visa to PLO Leader Arafat*, *supra* note 4, at 53.

7. *Report of the Committee on Relations with the Host Country*, 43 U.N. GAOR C.6 (136th mtg.) at 4, U.N. Doc. A/C.6/43/7 (1988).

8. G.A. Res. 43/48, 43 U.N. GAOR Supp. (No. 49) at 275, U.N. Doc. A/43/900 (1988).

9. *Report of the Committee on Relations with the Host Country: Report of the Secretary-General*, 43 U.N. GAOR at 1, U.N. Doc. A/43/909 (1988).

10. G.A. Res. 43/49, 43 U.N. GAOR Supp. (No. 49) at 49, U.N. Doc. A/43/L.43 (1988).

11. 43 U.N. GAOR (85th plen. mtg.) at 17, 43 U.N. Doc. A/43/PV.85 (1989).

previous session or at the request of a majority of the Members of the United Nations.¹²

Rule 4 then sets out the procedural requirements with which the General Assembly must comply for holding a session away from Headquarters at the request of the majority of membership. It reads as follows:

Any Member of the United Nations may, at least one hundred and twenty days before the date fixed for the opening of a regular session, request that the session be held elsewhere than at the Headquarters of the United Nations. The Secretary-General shall immediately communicate the request, together with his recommendations, to the other Members of the United Nations. If within the thirty days of the date of this communication a majority of the Members concur in the request, the session shall be held accordingly.¹³

12. *Rules of Procedure of the General Assembly*, rule 3, at 3, U.N. Doc. A/520/Rev.12, (1974) (emphasis added). The original text of this rule read as follows: "Sessions shall be held at the headquarters of the United Nations unless convened elsewhere . . ." *Provisional Rules of Procedure of the General Assembly*, rule 5, at 5, U.N. Doc. A/71 (1946). The rule in question was never formally amended by the General Assembly. However, on December 17, 1971, the General Assembly requested the Secretary-General to undertake a comparative study of versions of the rules of procedure in the various official languages with a view to ensuring their concordance and to making the relevant editing changes. G.A. Res. 2837, 26 U.N. GAOR Supp. (No. 29) at 5, 15 (annex II, para. 128), U.N. Doc. A/8429 (1972). The subsequent change in the wording of rule 3 is apparently one of the editorial changes made pursuant to the resolution. *Rules of Procedure of the General Assembly*, at 1, U.N. Doc. A/520/Rev.12, (1974).

In contradistinction to article 7, paragraph 1 of the League of Nations Covenant, which provided that "the Seat of the Organization is established at Geneva," the Charter of the United Nations is silent on the matter of the location of the Organization's seat. In fact, the very term "headquarters of the United Nations" does not even occur in the Charter; the sole Charter references to the seat of the U.N. appear to occur in article 28 which states that each member of the Security Council "shall . . . be represented at all times at the seat of the Organization," and that the Council "may hold meetings at . . . places other than the seat of the Organization, . . ." without, however, specifying the location of such seat. U.N. CHARTER art. 28, paras. 1, 2. In the course of the first part of its first session, held in London in January-February, 1946, and in response to an invitation to the U.N. extended on December 10, 1945 by the Congress of the United States to establish its permanent seat in the U.S., the General Assembly in a resolution adopted at its 33rd plenary meeting of February 14, 1946, resolved that "the permanent headquarters of the United Nations shall be established in Westchester (New York) and/or Fairfield (Connecticut) counties, i.e. near to New York City," G.A. Res. 15(XV), 1 U.N. GAOR at 37, U.N. Doc. A/64 (1946), and that "the interim headquarters of the United Nations shall be located in New York City." *Id.* However, following an offer by John D. Rockefeller Jr. of 8.5 million U.S. dollars for the purchase of the present eighteen acre site on Manhattan's East Side, the General Assembly, in its resolution 100(1) of December 14, 1946, repealed its previous decision concerning the location of the U.N.'s permanent headquarters and instead resolved to establish such headquarters at its current location. Pending the completion of the construction of the permanent headquarters in 1952, the U.N.'s temporary headquarters were located at various sites in the New York area, including Hunter College in the Bronx and the Sperry Gyroscope plant at Lake Success on Long Island.

It is worth noting here that the establishment of an international organization's headquarters does not necessarily entail that all its organs should have their seat at such headquarters. Thus, the International Court of Justice — one of the principal organs of the U.N. under article 7(1) of the Charter, and its principal judicial organ according to article 92 — has its seat at The Hague. STATUTE OF THE INTERNATIONAL COURT OF JUSTICE art. 22, para. 1.

13. This rule did not appear in the original version of the Provisional Rules of Procedure of the General Assembly adopted in 1946, U.N. Doc. A/71 (1946). It was added as rule 6 of the

A closer scrutiny of rules 3 and 4 seems to yield the following conclusions:

(a) Any decision by the General Assembly to convene at a location other than Headquarters must be taken at a session *preceding* the one to be held outside New York. Accordingly, the third regular session of the General Assembly was convened in Paris, pursuant to a decision taken by the second regular session.¹⁴ Likewise, the sixth regular session of the General Assembly was again convened in Paris, pursuant to two resolutions adopted by the General Assembly at its fifth regular session.¹⁵

(b) A request by a member of the U.N. to convene a session away from Headquarters must be submitted at least 120 days before the date set for the opening of the regular session,¹⁶ and will be effective only if a majority of the membership concurs within thirty days. This provision — allowing for a minimum period of ninety days to elapse between the decision taken to convene a session away from New York

RPGA, as approved by the General Assembly in G.A. Res. 173(II), 2 U.N. GAOR at 104, U.N. Doc. A/519 (1947). In the comment to the rule, contained in Part III of the *Report of the Committee on the Procedures and Organization of the General Assembly*, it was pointed out that "this new rule sets forth the procedure to be followed in the case of a request for the holding of a regular session elsewhere than at the headquarters of the United Nations. It implements the last clause of rule 5 [now rule 3] in respect of regular sessions." 2 GAOR Annex 4, U.N. Doc. A/388 (1947).

14. G.A. Res. 184(II), 2 U.N. GAOR at 153, U.N. Doc. A/519 (1947). The General Assembly resolved to hold its third regular session "in Europe" and authorized the Secretary-General to choose a suitable European city, in consultation with a nine-member committee designated for this purpose by the President of the General Assembly. Following such consultations with the French Government, the Secretary-General chose Paris as the site of the third regular session. U.N. Doc. A/526 (1948).

15. The General Assembly decided to convene its sixth regular session "in Europe" and instructed the President of the General Assembly and the Secretary-General to select the most suitable city for this purpose. G.A. Res. 497(V), 5 U.N. GAOR Supp. (No. 20) at 80, U.N. Doc. A/1775 (1950). In its Resolution 499(V), in pursuance of its previous decision on this matter, the General Assembly selected Paris as the venue of its sixth regular session. G.A. Res. 499(V), 5 U.N. GAOR Supp. (No. 20A) at 2, U.N. Doc. A/1775/Add. 1 (1951).

It should be added, though, that the General Assembly also held the closing meeting of its fifth regular session in Paris. That meeting took place on November 5, 1951, one day before the formal opening of the sixth regular session. This unusual step was taken purely for reasons of convenience and economy, the closing meeting having been essentially of a ceremonial character. As was explained by the President of the fifth session, the Secretary-General had sent on October 11, 1951, a communication to this effect to all U.N. members and had received thirty-six replies, all of them in agreement with his proposal. 5 U.N. GAOR (332d plen. mtg.) at 747, paras. 2, 3, U.N. Doc. A/PV.332 (1951). While no Member State explicitly objected to this departure from the strict provisions of rule 3 of the RPGA (which, under the circumstances, was only a departure of a technical character), the representative of the Philippines, Gen. Carlos Romulo (himself a former president of the General Assembly), termed as "curious" the fact that "the session which opened in New York is coming to a close today in Paris." *Id.* at 750, para. 39.

16. The provision contained in rule 1 of the RPGA, according to which "[t]he General Assembly shall meet every year in regular session commencing on the third Tuesday in September," means that such a request must be submitted no later than mid-May preceding the regular session for which such a request is made.

and the formal opening of such session — is apparently necessitated by the considerable logistical and administrative demands involved in the transfer of a General Assembly session from its permanent site.¹⁷

(c) Rules 3 and 4 of the RPGA solely envisage the possibility of convening *regular* sessions of the General Assembly away from Headquarters. This conclusion emerges not only from the language of rule 4 (which refers explicitly to regular sessions) but also from the fact that both rules 3 and 4 are located in the section of the RPGA under the heading of “Regular Sessions” (rules 1-6). By contrast, the provisions specifically relating to special sessions (including emergency special sessions) are contained in the section entitled “Special Sessions” (rules 7-10), while those applicable both to regular and special sessions are contained in a separate section (rule 11). Neither of those sections contains any provisions analogous to those of rules 3 and 4. This silence warrants the conclusion that the RPGA do not contemplate the possibility of holding special sessions (including emergency special sessions) of the General Assembly away from Headquarters under any circumstances. In the present view, such sessions must always be held at Headquarters, and no departure from this rule is possible.

It might conceivably be argued that, while the RPGA dealing with special sessions do not provide for holding these sessions away from Headquarters, they are equally silent with regard to their being held at Headquarters, thus permitting the General Assembly to convene such sessions at any place it deems suitable. However attractive such an argument might appear at first sight, on closer scrutiny it appears to be logically flawed. It overlooks the fact that the purpose of rules 3 and 4 is *not* to lay down a general rule according to which regular sessions shall normally be held at Headquarters. Even without a specific provision to this effect in rule 3, one of the main objectives of establishing a permanent seat for any international organization is precisely to designate the site at which its functions (including the meetings of its various organs) are to be normally carried out. The real purpose of rules 3 and 4 is rather to provide for the exception, i.e. for the possibility, under certain circumstances and upon the fulfillment of the requisite procedural requirements, of convening regular sessions of

17. Nevertheless, the requirement of having a minimum time-lag of ninety days can be thwarted by the General Assembly itself. Since most of the regular sessions of the General Assembly have closed in the calendar year following the one in which they opened (some only on the day preceding the day of formal opening of the next regular session), the General Assembly could conceivably decide to convene a regular session away from Headquarters with a twenty-four hour notice, while still technically observing the requirement that such a decision be made at the previous General Assembly session. However, if such a decision were taken by the General Assembly, this would, in the present view, certainly run counter to the spirit of rule 3 of the RPGA.

the General Assembly away from U.N. Headquarters. It would, however, make little sense to provide for the exceptions without first having stated the general rule. It thus became necessary, for reasons related to elementary drafting techniques, to state that while regular sessions are normally held at Headquarters, they may also be convened elsewhere if certain procedural conditions have been met.

The silence of the RPGA on this matter of specifically dealing with special sessions must therefore be construed to mean that only the general rule is applicable with regard to such sessions and that the exceptions laid down for regular sessions to be held outside Headquarters do not apply to special sessions.

Moreover, this conclusion is justified not only by the logic of legal drafting and interpretation, but also by practical considerations. Under rule 8(a) of the RPGA, a special session of the General Assembly shall be convened within fifteen days upon receipt by the Secretary-General of a request for such a session from the Security Council, the majority of the Members of the U.N., or the concurrence of the majority in a request made by a member, in accordance with rule 9(a).¹⁸ Similar procedural requirements govern the convening of emergency special sessions under rule 8(b), which replaces the fifteen-day time limit of the special sessions with a twenty-four hour limit with regard to emergency special sessions.

Given the assumed urgency of emergency special sessions and the consequential short time lag permitted to elapse between the decision to convene them and their actual opening, it would be eminently impracticable — indeed, well-nigh impossible — to convene them in an orderly fashion away from Headquarters. These considerations have likely also contributed to the absence from the RPGA regarding special sessions of provisions analogous to those contained in rules 3 and 4.

(d) A session held away from Headquarters, under rule 4 of the RPGA, must be held at the site so designated *in its entirety*. In other words, a session of the General Assembly cannot be split between two or more locations. While this requirement is not explicitly expressed in rule 4, it seems to follow inexorably from a close reading of the rule

18. The fifteen-day time limit does not apply to special sessions convened by a decision of the General Assembly itself, for under rule 7 of the RPGA, “[t]he General Assembly may fix a date for a special session.” It may be questioned whether the very summoning of a special session by the General Assembly itself is compatible with article 20 of the Charter which provides that “[s]pecial sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.” In practice, however, most of the fifteen special sessions held to date — and all of those held since 1975 — were convened by the General Assembly.

and from comparison with the relevant provision of the Rules of Procedure of the Economic and Social Council [hereinafter "ECOSOC"].

It should be noted that, in referring to a request by a Member of the U.N. to convene the General Assembly away from Headquarters, rule 4 of the RPGA requires that such request be made for "*the session*" to be so convened: this must be construed as referring to the General Assembly session as a whole. This is a compelling conclusion when one compares the language of rule 4 of the RPGA with that of rule 5 of the Rules of Procedure of ECOSOC:

Sessions shall be held at the Headquarters of the United Nations unless, in pursuance of a previous decision of the Council or at the request of a majority of its members, another place is designated *for the whole or part of a session*.¹⁹

Clearly, then, the drafters of the Rules of Procedure of ECOSOC, when envisaging the possibility of holding a part of an ECOSOC session away from U.N. Headquarters, knew how to give expression to such intention. The absence in rule 4 of the RPGA of wording analogous to that of rule 5 of the ECOSOC Rules of Procedure must be seen to imply the rejection of the possibility of splitting General Assembly sessions between two or more locations.

Moreover, this conclusion seems further warranted by practical considerations, mainly of a financial character: the convening of a General Assembly session outside New York involves considerable expenses in addition to the already heavy expenses of a session held at Headquarters. As the first Secretary General of the U.N., Trygve Lie, told the third session of the U.N. General Assembly at its last meeting in Paris on December 11, 1948, "[t]he moving of so complicated an apparatus as the General Assembly involved much extra cost and inconvenience."²⁰ Consequently, splitting any given session between two locations could only further augment the already grave financial difficulties of an organization notoriously strained for the financial resources required for its orderly functioning.

To what extent does the foregoing legal analysis also apply to General Assembly sessions convened away from New York by decision of the General Assembly itself [rule 3 of the RPGA], as distinct from those held outside New York at the request of the majority of membership, in accordance with rule 4? This question arises in view of the editorial changes made in rule 3 in 1972, in accordance with a recom-

19. G.A. Res. 694(VII), 7 U.N. GAOR Supp. (No. 20) at 69, para. 1(b), U.N. Doc. A/2361 (1952) (emphasis added). Under rules 1 and 2 of the Rules of Procedure of ECOSOC, the Council normally holds an organizational session each year in February and two regular sessions in May and July. The July regular session is held in Geneva.

20. 3 U.N. GAOR (187th plen. mtg.) at 1045 (1948).

mendation made by the General Assembly under its resolution 2837(IIVI) of December 17, 1971.²¹ Prior to 1972, it will be recalled, the original version of rule 3 stipulated that "sessions [of the General Assembly] shall be held at the Headquarters of the United Nations."²² Following the 1972 editorial changes, rule 3 now states that "the General Assembly shall meet at the Headquarters of the United Nations."²³ This latter version might conceivably be interpreted to enable the General Assembly to decide to hold *some* of the meetings of a session at a place other than Headquarters.

However, even if this interpretation of the post-1972 version is accepted, it still cannot explain the General Assembly's departure from the provisions of the original version of rule 3 prior to 1972, which is discussed at greater length below. Moreover, it is at least doubtful whether the editorial changes made in 1972 do justify, on legal grounds, any differentiation between General Assembly sessions held away from Headquarters by decision of the General Assembly itself and those convened outside New York at the request of the majority of membership.

Admittedly, past practice of the General Assembly seems to contradict these conclusions. Prior to the recent Geneva intermezzo, the General Assembly had been convened outside New York on four instances. On only one occasion — at the sixth regular session (November 6, 1951 - February 5, 1952) — did the General Assembly meet for an *entire* session away from Headquarters.²⁴

By contrast, in 1946, the General Assembly met for the first part of its first session in London (January 10 - February 14) and then reconvened in New York for the second part of that session (October 23 - December 15, 1946). Furthermore, the third session of the General Assembly was convened in Paris, pursuant to General Assembly resolution 184(II) of November 15, 1947.²⁵ In its resolution 263(III) of December 6, 1948, the General Assembly resolved that it would adjourn its session in Paris on December 11-12, 1948 and that "a second part of the session be held at the headquarters of the United Nations . . . , the resumption in New York to take place on April 1, 1949."²⁶

21. See *Rules of Procedure for the General Assembly*, *supra* note 12, at 2.

22. *Supra* note 12.

23. *Id.*

24. That session, it will be recalled, was convened pursuant to G.A. Res. 497(V) and 499(V), *supra* note 15, at 3.

25. G.A. Res. 184(II), 2 U.N. GAOR (115th plen. mtg.) at 153, U.N. Doc. A/519 (1948).

26. G.A. Res. 263(III), 3 U.N. GAOR at 180, U.N. Doc. A/810 (1949). The date of the session's resumption was subsequently changed to April 5, 1949. See 3 U.N. GAOR (187th plen. mtg.), *supra* note 20, at 1055. The session was concluded on May 19, 1949.

Lastly, the fifth session's closing meeting was held in Paris on November 5, 1951, on the eve of the opening of the sixth regular session there.²⁷

It should be borne in mind, however, that the first part of the General Assembly's first session was convened in London *prior* to the adoption of the General Assembly's provisional rules of procedure,²⁸ and to the designation of the United Nations Headquarters.²⁹ In fact, as was pointed out by Mr. Hector McNeil (United Kingdom) during discussions at the General Assembly's General Committee on December 5, 1948, "[t]he holding of the first part [of the first session] in London had been a temporary expedient, the primary purpose of which had been to choose the permanent headquarters where the second part would be held."³⁰

Likewise, the holding of the final meeting of the fifth session of the General Assembly in Paris should be regarded only as a technical departure from the provisions of rule 3 of the RPGA. The alternative on that occasion was to hold that largely ceremonial meeting in New York before transferring to Paris for the sixth regular session.

Thus, the only instance which appears to constitute a clear departure from rule 3 of the RPGA is the third session of the General Assembly, the first part of which was held in Paris, and which, following its adjournment on December 12, 1948, was then resumed in New York on April 5, 1949. It is certainly astonishing that during the lengthy discussions that took place first in the General Committee and then in plenary regarding the change of venue of the resumed session of the General Assembly, the legal-procedural aspects of this matter were not touched upon at all. Instead, the various speakers focused mostly on the logistical, administrative and budgetary aspects involved.³¹

Against this background, it is surely difficult to maintain that past practice by the General Assembly amounts to a *de facto* amendment (or authentic interpretation) of rule 3 of the RPGA. Such an argument, regardless of whether it has any intrinsic merits, would certainly

27. See *supra* note 15.

28. The Provisional Rules of Procedure of the General Assembly had been proposed by the U.N. Preparatory Commission. See *Report of the Preparatory Commission of the United Nations* at 8, U.N. Doc. PC/20 (1945). They were provisionally adopted by the General Assembly at its second plenary meeting of January 11, 1946, 1 U.N. GAOR (2d plen. mtg.) at 65-66 (1946).

29. U.N. Doc. A/64, at 37 (1946) (1948).

30. 3 U.N. GAOR Gen. Comm. (53rd mtg.) at 55 (1948). See also the comments of Mr. Entezam (Iran), *id.* at 63.

31. See generally 3 U.N. GAOR Gen. Comm. (51-54th mtgs.) at 42-75 (1948), see also 3 U.N. GAOR (187th plen. mtg.), *supra* note 20, at 1044-46.

have been more plausible had the General Assembly (or at least some of the Members participating in the discussions on this matter) addressed the pertinent legal requirements.

Nor can this apparent irregularity in the proceedings of the General Assembly be explained away by reference to the frequently invoked argument that the Assembly is "the master of its own procedure," which implies that since the RPGA were adopted in the first place by the General Assembly itself, the Assembly may at will disregard those rules at will. Such an approach runs counter to the basic constitutional concept that is supposed to govern the activities of any organization dedicated to upholding the rule of law. While it is perfectly true that the General Assembly is "the master of its own procedure," such "mastery" can legitimately be exercised only *within* the framework of the existing rules of procedure; it certainly cannot be manifested by deliberately violating or disregarding those rules. Of course, the General Assembly obviously has the power to amend at any given time its rules of procedure; yet this power must be exercised in conformity with the amendment procedure laid down in rule 163 of the RPGA.³²

In any event, it is worth noting that all of the General Assembly meetings convened away from Headquarters, apart from those held in Geneva between December 13-15, 1988, took place *before* the completion of the construction of the *permanent* headquarters of the United Nations in 1952. Consequently, the General Assembly's decisions to hold its third and sixth sessions outside New York were dictated largely by the desire to avoid the inconvenience of having to meet at widely-scattered locations in various boroughs of New York and beyond. In fact, in its resolution 497(V) of December 14, 1950, to convene its sixth session away from New York, the General Assembly explicitly acknowledged this. Among the considerations that prompted it to move that session to a location outside New York, it mentioned "that the building intended for the holding of the General Assembly will not be completed until 1952," and "that in these circumstances there may arise technical difficulties liable to impede the normal functioning of the General Assembly and the convenience of its deliberations."³³

Without attempting here to justify the procedural irregularities surrounding the holding of the second part of the third regular session

32. Rule 163 provides: "These rules of procedure may be amended by a decision of the General Assembly taken by a majority of the members present and voting, after a committee has reported on the proposed amendment."

33. G.A. Res. 497(V), 5 U.N. GAOR Supp. (No. 20) at 80, U.N. Doc. A/1775 (1950).

in New York (and, to a much lesser extent, the holding of the closing meeting of the fifth session in Paris), it may be assumed with a high degree of certainty that those practices were perceived at the time as temporary expedients prompted by very unusual circumstances. They were not perceived as patent irregularities largely because of the apparently widespread feeling that the more stringent procedural requirements concerning the holding of General Assembly sessions away from Headquarters were intended to apply only after the Organization acquired its *real*, i.e. *permanent* headquarters. For this reason, too, whatever procedural irregularities occurred prior to the completion of the construction of the U.N.'s permanent headquarters, they can hardly be regarded as precedents relevant to the period after the completion of the construction of the Organization's permanent headquarters.

In light of the foregoing considerations, the decision taken by the 43rd session of the General Assembly to move some of its meetings to Geneva is clearly in violation of the applicable rules of procedure. Even if one does not subscribe to the admittedly arguable proposition concerning the General Assembly's lack of procedural power to hold any of its sessions at more than one location, one would still have to conclude that the decision of the 43rd session, by dispensing with the unambiguous requirement of rule 3 of the RPGA that a decision to meet outside U.N. Headquarters be taken at a *previous* session of the General Assembly, was adopted in clear violation and defiance of rule 3. The sponsors of General Assembly Resolution 43/49 were apparently aware of the lack of legal tenability of the General Assembly's decision, for they saw fit to include, in operative paragraph 2 of the resolution, the rather apologetic statement that the decision to move some of the session's meetings to Geneva was prompted by "the present compelling circumstances and without prejudice to normal practice."³⁴ While, admittedly, it was not possible during the course of the 42nd session of the General Assembly to foresee the chain of events that eventually led to the transfer of those meetings to Geneva, it is difficult to understand why these developments should have justified such an obvious departure from the unequivocal procedural requirements laid down in rule 3 of the RPGA. Moreover, even the allegedly "compelling circumstances" referred to in the resolution in question were not compelling at all; the U.S. refusal of an entry visa to Mr. Arafat did not prevent the PLO from addressing the U.N. General

34. G.A. Res. 43/49, 43 U.N. GAOR Supp. (No. 49) at 49, U.N. Doc. A/43/L.43 (1988).

Assembly in New York. As was pointed out in the U.S. State Department's press release of November 26, 1988, "a PLO Observer Mission has been in operation at the United Nations since 1975. The PLO, therefore, has had, and continues to have, ample opportunity to make its positions known to membership [of the United Nations]."³⁵

The General Assembly's decision must therefore be viewed as having been dictated less by "compelling circumstances" of any kind, than by the apparent pique felt by the majority of membership at the U.S. denial of an entry visa to Mr. Arafat. For many, this denial was perceived as a violation by the U.S. of its obligations under the Headquarters Agreement of 1947. Regrettably, such sentiments seem to have prevailed over the more relevant considerations pertaining to the legal propriety of the General Assembly's decision.

35. *U.S. Denies Visa to PLO Leader Arafat*, *supra* note 4, at 1.