Chapter 2

The United Nations Security Council Resolutions on the Question of Palestine

A Normative Framework for a Just Resolution

The question of Palestine and the broader Arab-Israeli conflict have been before the UN for the past sixty years—almost as long as the UN has been in existence. While the Israel-Palestine conflict dates back to the end of World War I and the disintegration of the Ottoman Empire, of which Palestine was a part, it was not until early 1947 when Britain, the mandatory authority over Palestine, brought the case before the UN. The question of Palestine was initially addressed by the UN General Assembly (UNGA), but the Security Council (UNSC) also became involved by 1948 with the onset of the Arab-Israeli conflict. Since that time, the question of Palestine and the broader Arab-Israeli conflict has continued to be a major agenda item for both organs of the UN.

As one observer writes, “No issue has been on the agenda of the Council as long as that of the Middle East; nor has any issue generated as many resolutions (244) or as many vetoes (forty-five)” (B. Jones, 2004, p. 400). The UNSC is the international organ with primary responsibility for international peace and security, whose pronouncements both reflect and constitute international law (Ratner, 2004; Scott, 2004). This chapter offers a comprehensive content analysis of all the UNSC resolutions on the question of Palestine. It is specifically

H. Rane, Reconstructing Jihad amid Competing International Norms
© Halim Rane 2009
concerned with certain basic facts of the conflict as identified by the UNSC and the decisions it has taken concerning a peaceful settlement. What emerges from this analysis is a normative framework for a just resolution of the Israel-Palestine conflict based on the resolutions of the UNSC.

That the UN has demonstrated such a level of concern for the question of Palestine is a reflection of its centrality in terms of global peace and security, particularly in the context of the Middle East and broader hostility between “Islam” and “the West.” Primary responsibility for the maintenance of international peace and security is vested by the UN Charter in the UNSC. When a complaint concerning a threat to peace is brought before it, the UNSC’s initial response is generally to facilitate a resolution by way of encouraging the disputing parties to come to an agreement. To this end, the UNSC may employ such resources as the good offices of the Secretary-General, utilize various mediation strategies, and also authorize investigations of certain matters. When an agreement cannot be reached by the disputing parties, as in the case of Israel and Palestine, the UNSC’s role is to establish the principles for a peaceful settlement. It may also utilize other resources, such as the deployment of peacekeeping forces, the imposition of economic sanctions, and the authorization of collective military action.

The problems associated with the UNSC are well documented, particularly in terms of the UNSC’s lack of impartial and effective mechanisms for enforcing its decisions and for being “closer to power than justice” in its organization and operation (Allain, 2004). However, on the issue of Palestine, Jean Allain (2005) considers that “international law and the United Nations should be considered as instrumental in this struggle.” While he acknowledges that they do not in themselves provide a solution, he argues that they do provide “a normative framework and fora within which such a solution can emerge” (p. 8). Allain argues that international law and the UN have established the “norms and obligations incumbent on Israel, the Palestinians, and the international community” (p. 43).

The UN, particularly the UNSC, has been criticized for being a political body and therefore unable to provide an objective position on an issue where the interests of members are at stake. However, the decisions of the UNSC, and also those of the UNGA, do not merely reflect the political interests of certain member states. Contained within the body of these resolutions are established facts on the conflict and the norms and obligations of Israel, the Palestinians, and the international community. Additionally, contained within these