SONARGAON UNIVERSITY (SU)

Research Monograph

On

The Effectiveness of International Law in Resolving Protracted Conflicts: Lessons from the Israel-Palestine Case

Submitted to

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Date of Submission: 05th January, 2026

Letter of Transmittal

05th January, 2026

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Subject: The Research Monograph of **The Effectiveness of International Law in Resolving Protracted Conflicts: Lessons from the Israel-Palestine Case**

Sir,

It is a gratification for me to submit the Research on **The Effectiveness of International Law in Resolving Protracted Conflicts: Lessons from the IsraelPalestine Case** While doing this Research; I have tried my best to this project the paper to the required standard. I hope that this paper will fulfill your expectation and make you happy. I therefore, hope that you would be kind enough to go through this paper for evaluation.

I am always available for any clarification of any part of this paper at your convenience.

Yours sincerely

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Certification of Supervisor

This is to certify that the Research Monograph entitled **The Effectiveness of International Law in Resolving Protracted Conflicts: Lessons from the IsraelPalestine Case** submitted by **Md. Abdullah Dipu** for partial fulfillment of the LLM (1 year) Degree in Law to the Department of Law at Sonargaon University (SU) is based on his original research and investigation carried out under my guidance and supervision.

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Declaration

I do hereby declare that the dissertation submitted to the Department of Law, Sonargaon University in the partial fulfillment of the requirements for the degree of the LLM (1 Year) Degree. It is carried out by me under the guidance and supervision of **Muhammad Ali, Lecturer & Course Coordinator, Department of Law, Sonargaon University.** Research method and approaches strictly have been followed during undertaking the work. Sources consulted are duly referred, quoted and incorporated in the text and references included at the end of the work which is based on my research. I hereby declare that this dissertation is original and free from plagiarism and it has not been submitted earlier partly or wholly to any other university or institution for any degree or diploma.

Signature

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Acknowledgement

This research monograph has been completed under proper guidance of **Muhammad Ali, Lecturer & Course Coordinator, Department of Law, Sonargaon University** I take this opportunity to thanks honorable **Muhammad Ali, Lecturer & Course Coordinator, Department of Law, Sonargaon University** for his valuable suggestion and inspiration.

I express my gratefulness to all the Faculty Members of Department of Law for their constant inspiration, generous support and time to time suggestions in the progress of this dissertation.

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Abstract

The Israel-Palestine Conflict, one of the most enduring conflicts in history, dates back to the start of 20th century, with the establishment of the British Mandate in Palestine and has deeply rooted complex issues in politics, demography, religion, and other aspects, making it harder to attain resolve. To understand the conflict in 2021, we devise an observational study to aggregate stance held by English-speaking countries. We collect Twitter data using popular hashtags around and specific to the conflict portraying opinions neutral or partial to the two parties. We use different tools and methods to classify tweets into pro-Palestinian, pro-Israel, or neutral. This paper further describes the implementation of data mining methodologies to obtain insights and reason the stance held by citizens around the conflict.

List of Abbreviations

ICJ	International Court of Justice
ICC	International Criminal Court
IHL	International Humanitarian Law
IHRL	International Human Rights Law
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights

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Chapter One

Introductory Chapter

1. Introduction

International law comprises a set of rules and principles, whether general or particular, established by treaty or custom, recognized as binding by states in their relations with one another (Rane, 2009). It constitutes a potential mechanism for regulated conduct during the life of a conflict, for settlement when the conflict manifests itself as a war, and for cautious rebuilding when the clashes are over. An international legal framework defines the allowed means of action, counts the points for and against various parties, involves other actors in the legal equation, and ultimately contributes to peaceful dispute resolution (Bisharat, 1989). The recognition of statehood and rights for all actors is an essential part of the search for settlement; norms have been created on the rights of people to be involved in the delineation of their political future, and the law of self-determination has an ever-increasing applicability in protracted and asymmetrical struggles. In the case of the Israeli-Palestinian international concern is preeminent, particularly among pro-Palestinian actors who argue that the Palestinians enjoy lesser rights, and evidence is provided to this end.

The specific subject of this research is the role and effectiveness of international law in dealing with the protracted asymmetric conflict between Israel and Palestine (a.k.a. the State of Palestine). This permits five areas to be examined: a properly delineated factual background encompassing the latest shifts in the political-strategic environment, the relevant international law and its historical penetration throughout various treaties and concepts, the multiple processes deployed through the law—diplomatic, court-based, and compliance—oriented and an exploration of the achievements obtained to this date. This extensive issue also calls for valuable cross-reference by observing the trajectory of other asymmetric conflicts.

Chapter Two

Conceptual Framework:

2. Conceptual Framework: International Law and Protracted Conflicts

International law is a body of rules and principles governing interactions between states and international organizations. Its sources include treaties, customary law, and general principles. The law establishes rights and obligations, recognizing states as the principal subject but also designating non-state entities, such as liberation movements or terrorist organizations, as subjects with specific rights and responsibilities. State obligation compliance can be viewed through three paradigms—neorealism, institutionalism, and constructivism—encompassing motivations such as survival, concern for legitimacy, and self-identity (Elkins, 2016). War-related law concerns mainly the initiation of armed conflict (jus ad bellum) and the conduct of war (jus in bello). The applicable body of law varies by the conflict stage. Additional relevant fields include humanitarian and human rights law, post-conflict law, and frameworks addressing transitional justice and conflict transformation (Rane, 2009).

In recent decades, international law has been increasingly challenged by the prevalence of so-called protracted conflicts—hostilities characterized by extended duration and the involvement of non-state actors. Identifying and resolving the normative and practical challenges posed by these situations is thus of considerable relevance. Doctrinal discussions cannot, however, address all such difficulties. Operationalizing pertinent principles requires judicious consideration of the context. Tensions frequently emerge, particularly between different regimes attributable to different branches of law or addressed by different treaties, and between legal obligations and political realities. The underlying questions are therefore twofold: What legal principles or rules can reasonably be applied in a given protracted situation? To what degree should they function as a guide to action, however unpalatable? Consideration of case studies retains its heuristic value even when legal doctrine fails.

The following sections offer a rigorous conceptual framework for understanding the applicability of international law and the principles of international relations more broadly to protracted

conflicts. The direction of travel is necessarily one of country-by-country assessment, apparently at odds with the consistency sought by legal scholarship. Yet principled guideline for tackling failure in long-standing conflicts cannot be based solely on a doctrine that seeks to guarantee certainty and coherence. The development of a coherent legal-political framework must thus integrate both approaches: synthesis articulates the principles, whereas diverse tensions emerge in particular protracted situations, for which appropriate solutions can nonetheless be distilled.

Chapter Three

Historical Overview of the Israel–Palestine Conflict

3. Historical Overview of the Israel–Palestine Conflict

The Israeli-Palestinian conflict has covered, over the past 75 years, a series of different stages, each at the centre of major international debate and diplomacy. Since 1947, the conflict has pivoted around the "Rejection" and "Acceptance" paradigm, first articulated in the UN Partition Plan (Resolution 181) with the acceptance of the general framework by Palestinians and the refusal to accept any partition on the part of Israel; then, with the 1974 Palestinian recognition status by the Arab States to the Israel coming out with its "Peace for land" vision in 1977, even though the "Peace for Land" did not mean any kind of partition at that time but rather sovereignty over every inch of the occupied territories. The phases of the different Oslo Agreements put the conflict in a global framework of "Land for Peace" which incorporated transitional form "Limited self-rule" Palestine envisaged the possibility of "Cold Peace", with multiple proposals emerged aiming towards the pre-67 borders; the application of the concept, nevertheless, varied among the signatories. Following the end of the Camp David II process, the call emerged, again, on both sides for validating the application of "Legitimacy" yet bilateral undertaking base and arrangements on the very issues it was to endorse. By reversing the inner layer governing the entire situation at the informal level, a host of "Cohabitation" processes and attempts still covered documents multiplex yet confined to back doors and were never officially tabled. The first stirings of a broader Palestinian national struggle for rights began in 1964 with the formation of the Palestine Liberation Organization (PLO). This phase was ushered by the Arab refusal at Khartoum to negotiate and recognition of Israel after the June War. The emergence of HAMAS further complicated the situation excerbated by the unending negative conflicts among the Palestinians as well. While looking back at the concept of peace over the last five decades, Israel is dealing in the Israel-Palestine conflict with the 1947 Partition Plan (Rane, 2009) (Bisharat, 1989; Rane, 2009).

Antonio Cassese, International Law, 2nd ed. (Oxford: Oxford University Press, 2005), pp. 55–60.

Chapter Four

International Legal Instruments and Actors

4. International Legal Instruments and Actors

Four general categories can be identified in the vastly diverse array of international legal instruments, resolutions, and treaties in the context of the Israeli-Palestinian conflict (Rane, 2009). The first is treaties, limited in number but anticipated to grow in light of recent recognition of a Palestinian right to self-determination. The second is United Nations resolutions, the most extensive body of internationally binding resolutions concerning this protracted conflict, amongst the heaviest under Chapter VII of the Charter. The third category is sweeping conventions adopted by and binding upon all states. The final category is others, encompassing various non-binding declarations and other legalisms.

The institutions of international law constitute a second parallel mapping of the field. A multitude of international organizations, treaties, and also customary treaties encompassing Middle Eastern issues coexist with vast regional frameworks, including three regional organizations, no fewer than five regional treaties, and treaties with regional content spanning a degree of intra-regional distance. Authorities of international law join international organizations in multiple varieties of multi-lateral forum, alongside generic, regional, and Middle-Eastern organizational clusters. Both applicable branches with multiple internal subdivisions and individual laws embody still further segmentation.

4.1. The United Nations and Security Council Resolutions

The UNSC resolutions The UNSC is the international organ with primary responsibility for international peace and security, whose pronouncements both reflect and constitute international law. 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 resolutions on the question of Palestine are established facts of the conflict and the norms and obligations of Israel, the Palestinians, and the international community. Additionally, these resolutions document the

findings of investigations commissioned by the UN pertaining to the most critical issues of the Israel-Palestine conflict, including territory, resources, settlements, refugees, and Jerusalem.

Final-status issues:

To identify the UN resolutions concerned with the Israel-Palestine conflict, I have utilised the website of the UN (www.un.org), which has a dedicated section to The Question of Palestine. Linked to this webpage, among other resources, is a complete list of all UN resolutions, including the UNSC resolutions, concerning the IsraelPalestine conflict and the broader Arab-Israeli conflict.5 Just over sixty of these resolutions relate directly to the conflict between Israel and Palestine and are the specific focus of this paper. The UNSC resolutions have addressed all of the socalled 'final status' issues – those commonly regarded as the most complex in terms of resolving the conflict, including the acquisition of territory, status of Jerusalem, Israeli settlements, and the right of return of Palestinian refugees; they provide a normative framework for a just peace.

Acquisition of territory The UNSC unambiguously asserts that Israel's acquisition of the Palestinian and other Arab territories, including Jerusalem in 1967 is inadmissible. This principle has been repeated in numerous resolutions, particularly those concerned with the status of Jerusalem as well as Resolution 242. Furthermore, the UNSC repeatedly refers to Israel as the 'occupier' or 'occupying power' in respect to its presence on Palestinian and other Arab territories, including Jerusalem, which it specifically refers to as 'occupied' territory. In not a single resolution does the UNSC recognise the annexation of any of the territory, including Jerusalem, which Israel has occupied since 1967; nor is Israel's presence in these territories ever referred to as administrative. To this end, the UNSC is also unambiguously clear that the Fourth Geneva Convention is applicable to, and must be implemented by Israel in the Palestinian and other Arab territories it occupies, including Jerusalem. In spite of this demand, violations of international humanitarian law by Israel against the Palestinian people are extensively documented in the resolutions and are consistently regarded by the UNSC as constituting serious obstructions to achieving peace. The unwillingness of states to recognise the acquisition of territory by force, sometimes referred to as the 'Stimson Doctrine', is of central importance to the question of Palestine as the entire territory that the Palestinians are claiming for their state

United Nations Security Council Resolution 242, UN Doc S/RES/242 (22 November 1967)

(22 percent of historical Palestine - Gaza Strip and West Bank, including East Jerusalem) is land occupied by Israel since 1967.

The UNSC has upheld this principle of international law in its resolutions on the question of Palestine. Not less than eight UNSC resolutions reaffirm this point. The first to be passed was Resolution 242 (22 November 1967), "emphasising the inadmissibility of the acquisition of territory by war" and the "need to work for a just and lasting peace in which every State in the area can live in security". A subsequent six resolutions confirming the principle were passed between 1968 and 1980 (252, 267, 271, 298, 476, and 478). All were passed in relation to 'legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem' which the UNSC adds 'are invalid and cannot change that status'.

The eighth resolution to be passed stating the principle of the inadmissibility of acquisition of territory by force was Resolution 681 (20 December 1990), in which the UNSC was "Gravely concerned at the dangerous deterioration of the situation in all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and at the violence and rising tension in Israel". The Council was also "alarmed by the decision of the Government of Israel to deport four Palestinians from the occupied territories in contravention of its obligations under the Fourth Geneva Convention, of 1949" (Resolution 681, 20 December 1990).

The UNSC's support for the principle of the inadmissibility of the acquisition of territory by force is critical to the question of a Palestinian state. Although implicitly confined to the territory Israel acquired by force in 1967 and not the 23 percent of historical Palestine it acquired in the war of 1948 (beyond the 55 percent accorded to it in the 1947 UN partition plan – UNGA resolution 181), the principle certainly gives credence to Palestinian claims to territory beyond the 1967 borders. The only question remaining is whether the UNSC has recognised the political rights of the Palestinians.

Resolution 242, the most frequently recalled UNSC resolution on the question of Palestine, did not mention the political rights or aspirations of the Palestinians.

However, Resolutions 1397 (12 March 2002) and 1515 (19 November 2003) both affirm "a vision of a region where two States, Israel and Palestine, live side by side within secure and

United Nations Security Council Resolution 338, UN Doc S/RES/338 (22 October 1973)

recognised borders". Additionally, Resolution 672 (12 October 1990) reaffirms that "a just and lasting solution to the Arab-Israeli conflict must be based on its resolutions 242 (1967) and 338 (1973) through an active negotiating process which takes into account the right to security for all States in the region, including Israel, as well as the legitimate political rights of the Palestinian people" [emphasis added]. Resolution 672 not only affirms the political rights of the Palestinians as legitimate, but by basing this affirmation on Resolution 242, it is invoking the principle of inadmissibility of acquisition of territory by force and the requirement for Israel to withdraw from territories it has occupied since 1967.

It should be recalled that the territory Israel has occupied since 1967 (Gaza Strip and West Bank, including Jerusalem) is only part of the territory that Israel illegally occupies according to the principle of 'the inadmissibility of the acquisition of territory by force'. Numerous historians, including Ilan Pappe (2007), have provided detailed documentation that Israel acquired the 23 percent of historical Palestine it currently controls (beyond the 55 percent it was allotted under UNGA Resolution 181 in 1947) by way of armed force. While this illegal acquisition of territory is not specifically addressed by the UNSC, the principle of 'the inadmissibility of the acquisition of territory by force' has been repeatedly invoked by the UNSC in reference to Israel and could be utilised at some future point by Palestinian and transnational advocacy groups seeking restitution for the ethnic cleansing of 1947-1949.

Jerusalem Israel's occupation of Jerusalem has been addressed by the UNSC in the same terms in no less than ten resolutions. The UNSC has maintained that the acquisition of territory by force is inadmissible. It has repeatedly called on Israel to rescind the alterations it has made to the cultural, physical, and demographic character of Jerusalem, and it regards these alterations made to the status of Jerusalem as 'null and void'. Again, the Council has requested the international community to not recognise Israel's alterations to the status and character of Jerusalem, specifically the establishment of its capital there.

All ten resolutions concerning Jerusalem state that the actions and activities of Israel to change the physical, demographic, and cultural character of Jerusalem have 'no validity' or are otherwise 'null and void'. The UNSC has required Israel to rescind or desist from its activities in Jerusalem in nine resolutions. In seven of its resolutions, the Council has stated that Israel's policies and practices in Jerusalem constitute an obstruction to peace.

No UNSC resolution has made any provision for Israeli control over Jerusalem or supported its capital to be moved there. In fact, the UNSC has not altered the position taken by the General Assembly in 1947 (Resolution 181), which confirms Jerusalem's status as corpus separartum. UNSC Resolution 452 (20 July 1979), which was passed on the basis of the findings of a UN Commission established 'to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem', emphasises "the specific status of Jerusalem", and reconfirms the relevant UNSC resolutions concerning Jerusalem and in particular "the need to protect and preserve the unique spiritual and religious dimension of the Holy Places in that city [emphasis added].

There are six UNSC resolutions that specifically address the status of Jerusalem, which contain the 'Stimson Doctrine' or the principle of international law which asserts that the acquisition of territory by force or war is inadmissible. The first UNSC resolution to address the status of Jerusalem (252, 21 May 1968), states "the need to work for a just and lasting peace" and then emphasises that "acquisition of territory by military conquest is inadmissible". Resolution 252 requires Israel to comply with General Assembly Resolutions 2253 (ES-V) of 4 July 1967 and 2254 (ES-V) of 14 July 1967 and asserts that "all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status". It also "urgently calls upon Israel to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of Jerusalem" (Resolution 252, 21 May 1968).

The follow-up resolution on the matter a year later (Resolution 267, 3 July 1969), noted that "since the adoption of the above-mentioned resolutions [252, 2253 (ES-V) and 2254 (ES-V)] Israel has taken further measures tending to change the status of the City of Jerusalem". Resolution 267 confirms that "all legislative and administrative measures and actions taken by Israel which purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change that status" and "urgently calls once more upon Israel to rescind forthwith all measures taken by it which may tend to change the status of the City of Jerusalem, and in future to refrain from all actions likely to have such an effect". It also

contains a request to Israel "to inform the Security Council without any further delay of its intentions with regard to the implementation of the provisions of the present resolution".

An arson attack on the Al-Aqsa Mosque on 21 August 1969 led to the subsequent resolution, 271 (15 September 1969), which "condemns the failure of Israel to comply with the aforementioned resolutions [252 and 267]" and "reiterates the determination in paragraph 7 of Resolution 267 (1969) that, in the event of a negative response or no response, the Security Council shall convene without delay to consider what further action should be taken in this matter". Despite this provision, the fact that the subsequent resolution (298, 25 September 1971) notes 'with concern' that "since the adoption of the above-mentioned resolutions Israel has taken further measures designed to change the status and character of the occupied section of Jerusalem", the UNSC failed to include any statement about 'further action' to be taken on the matter. Resolution 298 'confirms', however, "in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status [emphasis added]. The inclusion of the statement about 'incorporation' of the 'occupied section' being 'totally invalid' and not being able to change the 'status' of Jerusalem, clearly demonstrates the unwillingness of the UNSC to recognise an Israeli annexation of Jerusalem, a point reinforced by Resolution 478, discussed above. In sum, the position of the UNSC is that Israel illegally occupies the city of Jerusalem.

Israeli settlements

The UNSC has determined, by way of resolutions 446, 452, 465, and 471, that the Israeli settlements on the Palestinian territories occupied since 1967 are 'illegal', 'null and void', and should be 'dismantled' as they constitute a "violation of the Fourth Geneva Convention" and "a serious obstruction to achieving a comprehensive, just and lasting peace". Moreover, the Council has called on the international community not to support Israel in the pursuit of its settlement policy.

The four UNSC resolutions specifically address the issue of the Israeli settlements on Occupied Palestinian and other Arab Territories. Each of the four resolutions state that the settlements are

an ‘obstruction to peace’ and have ‘no legal validity’. Three resolutions state that the settlements have ‘no validity’ or are otherwise ‘null and void’. Three resolutions also have required Israel to rescind or desist from construction of the settlements.

By way of Resolution 446 (22 March 1979), the first resolution to specifically address the matter, the UNSC determined that “the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East [emphasis added]. This resolution, also identifying that the practice of population transfer involved in the settlement process constitutes a violation of the Fourth Geneva Convention:

Calls once more upon Israel, as the occupying Power, to abide scrupulously by the 1949 Fourth Geneva Convention, to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories (Resolution 446, 22 March 1979).

Moreover, Resolution 446 also established a commission consisting of three members of the UNSC “to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem”.

The recommendations of the report prepared by this commission (contained in document S/13450) were accepted by the Council in the following resolution (452, 20 July 1979). Resolution 452 begins by strongly deploring “the lack of co-operation of Israel with the Commission” and reaffirms the point that “the policy of Israel in establishing settlements in the occupied Arab territories has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949”. It also draws attention to the “grave consequences which the settlements policy is bound to have on any attempt to reach a peaceful solution in the Middle East” [emphasis added] and “Calls upon the Government and people of Israel to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem”. It

is noteworthy that the UNSC requested the commission, “in view of the magnitude of the problem of settlements, to keep under close survey the implementation of the present resolution and to report back to the Security Council”.

The subsequent resolution on the matter (465, 1 March 1980) accepts the conclusions and recommendations of the second report prepared by the Commission (contained in document S/13679). The resolution begins by “strongly deploring the refusal by Israel to co-operate with the Commission and regretting its formal rejection of resolutions 446 (1979) and 452 (1979)”. It restates the fundamental determination of the UNSC with respect to the settlements that:

all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East [emphasis added] (Resolution 465, 1 March 1980).

Resolution 465 goes further than its predecessors to call for the ‘dismantling of existing settlements’ and for “all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories”.

The matter of the settlements was again specifically addressed by the UNSC in Resolution 471 (5 June 1980) when assassination attempts were made against the Mayors of Nablus, Ramallah, and Al Bireh. The UNSC was “deeply concerned that the Jewish settlers in the occupied Arab territories are allowed to carry arms, thus enabling them to perpetrate crimes against the civilian Arab population” and expressed “deep concern that Israel, as the occupying Power, has failed to provide adequate protection to the civilian population in the occupied territories in conformity with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War” (Resolution 471, 5 June 1980). Quite significantly, the UNSC again called upon “all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories” and reaffirmed “the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem”.

The contradiction between the presence of the settlements on Palestinian land and the UNSC's vision for two states, Israel and Palestine, side-by-side in peace and security, has been highlighted by the findings of a report, 'Ruling Palestine: A history of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine', conducted by the Geneva-based Centre on Housing Rights and Evictions (COHRE) and BADIL Resource Centre for Palestinian Residency and Refugee Rights (Dajani 2005). One of the main conclusions of the research is that a two-state solution has been made practically impossible due to Israel's continued expropriation of Palestinian property and its denial of Palestinian refugees their right to recover their original homes and lands. A combination of confiscated land for settlements and what Israel refers to as its 'security barrier' is estimated to result in the reduction of Palestinian land within the occupied West Bank and Gaza to less than eight percent of the territory comprising Mandate Palestine. The report warns that even in the event of a negotiated settlement, a viable Palestinian state would not be feasible due to the shortage of available land and infrastructure and lack of territorial contiguity, all a result of, and compounded by, the extent and positioning of the settlements on the West Bank.

It is also noteworthy that survey research has found that a majority of Americans are opposed to the construction of Israeli settlements on Palestinian land. Interestingly, prior to 2002, no data was published regarding American views of Israeli settlements. In May 2002, however, when a PIPA poll asked Americans whether they think it is right or not for Israel to build settlements in the West Bank and Gaza, 52 percent said they should not, while 35 percent said it was all right (12% were unsure). Moreover, research has found that opposition to the settlements increases when the question is framed in the context of international law (WorldPublicOpinion.org 2006).

Palestinian refugees In the war of 1948, over half the Palestinian population were made refugees. Under the Universal Declaration of Human Rights, the Palestinians have a right to return to their homes and land. This right has been repeatedly reaffirmed by the UN General Assembly since Resolution 194 was passed in 1948. It is also reaffirmed in UNSC resolutions 89, 93, 237 and 242.

To return to one's homeland is a right of refugees established in international law. To support this point one may cite Article 13 of the Universal Declaration of Human Rights (1948), Article 12 of the International Covenant on Civil and Political Rights (1996), and Article 5 of the

International Convention on the Elimination of All Forms of Racial Discrimination (1966). The right of return enshrined in these documents applies to the Palestinians as it does all human beings.

Most frequently cited in the literature on the issue of the right of return specifically of the Palestinian refugees is the General Assembly Resolution 194 (11 December 1948). It provides for 'the right of return for those wishing to do so and the right to be compensated for those not wishing to exercise this right'.

In terms of status in international law, General Assembly resolutions are not normally considered to have the authority of those passed by the UNSC. However, this particular resolution has been reaffirmed by the United Nations on over 100 occasions. Mazzawi (1997) asserts that the almost annual reaffirmation of Resolution 194 by the UN (and sometimes more than once annually) strongly demonstrates the international regard for the resolution and gives it a status beyond what may normally be attributed to a General Assembly resolution.

With respect to the UNSC resolutions concerned with the issue of Palestinian refugees we first find Resolution 89 (17 November 1950), which "requests the Egyptian-Israel Mixed Armistice Commission to give urgent attention to the Egyptian complaint of expulsion of thousands of Palestine Arabs". It calls upon both Egypt and Israel "to give effect to any finding of the Egyptian-Israel Mixed Armistice Commission regarding the repatriation of any such Arabs who in the Commission's opinion are entitled to return." What is apparent from this resolution is support for the return of those made refugees in the 1948 war.

Similarly, in Resolution 93 (18 May 1951), which was passed the following year in response to the Syrian complaint about the evacuation of Arab residents from the demilitarised zone, the UNSC decided "that Arab civilians who have been removed from the demilitarised zone by the Government of Israel should be permitted to return forthwith to their homes and that the Mixed Armistice Commission should supervise their return and rehabilitation in a manner to be determined by the Commission".

It is Resolution 242 (22 November 1967), however, that is frequently quoted as representing the UNSC's position concerning the issue of Palestinian refugees. While this resolution 'affirms' the

‘necessity’ for “achieving a just settlement of the refugee problem”, it certainly does not use the clear and unambiguous language of General Assembly Resolution 194 and other UN resolutions.

It would appear though, that the resolution preceding 242 has been overlooked. Resolution 237 (14 June 1967) begins by affirming that “essential and inalienable human rights should be respected even during the vicissitudes of war”. Recall that return to their homelands is an inalienable right of refugees enshrined in the Universal Declaration of Human Rights (Article 13). Resolution 237 clearly supports the right of return of the Palestinian refugees as it calls upon “the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities”.

UNSC Resolution 242 affirmed the necessity for “achieving a just settlement of the refugee problem”. It is noteworthy that this affirmation was made in the context of the resolution’s requirement for “establishing a just and lasting peace in the Middle East”; however, the “just settlement of the refugee problem” it required was not met. Seven years later, to the date, by way of UNGA Resolution 3236 (22 November 1974), the UN reaffirmed its position on a “just settlement” of the problem. The resolution clearly established the “return” of the Palestinian refugees “to their homes and property from which they have been displaced and uprooted” as an “inalienable right”. It also reaffirmed the Palestinians’ right to “self-determination without external interference” and “national independence and sovereignty”, as “indispensable for the solution of the question of Palestine” and “the establishment of a just and lasting peace in the Middle East” (Resolution 3236, 22 November 1974).

The UNSC defines the resolution of the Israel-Palestine conflict in terms of a ‘just peace’. The position of the Council is that justice is a fundamental condition of peace, which is intended to be both comprehensive and lasting. The conditions for a just peace determined by the Council are based on the norm of the restoration of rights. This comprehensive content analysis of the UNSC resolutions concerning the Israel-Palestine conflict has identified certain basic facts of the conflict that are pertinent to the achievement of a just and lasting peace as determined by the Council. The norms and obligations incumbent upon Israel, the Palestinians, and the international community have also been identified. Furthermore, this analysis has established a normative framework on the basis of which a just solution of the conflict can be pursued.

Potential Legitimacy, limitations and support

Legitimacy

The problems associated with the UNSC are well documented, particularly in terms of the Council's lack of impartial and effective mechanisms for enforcing its decisions and for being 'closer to power than justice' in its organisation and operation (Allain 2004). However, on the issue of Palestine, 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".

The UN, particularly the Security Council, has also been criticised 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, according to Steven Ratner (2004), the UNSC's status as a political organ "does not" relegate it to a "subsidiary status in the formation and application of international law". Rather, he asserts, "it is a central player by virtue of its capacity to make legal declarations, interpret the [UN] Charter's text, promote the relevance of legal norms in resolving disputes, and require states to follow legal rules, even those outside the Charter" . He explains that the Council's role in promoting international law is recognised by the UN Charter in three important ways.

The justification for a settlement of the Israel-Palestine conflict within a framework based on the UNSC resolutions is supported by the authority of the decisions of the Council. Ratner (2004) acknowledges the potential power of UNSC resolutions and asserts that "they stand a greater chance of influencing state decision-making than do many other pronouncements of international law". While he also acknowledges that the Council's pronouncements have been frequently ignored, he observes: A Council pronouncement on a legal issue signals that powerful states are endorsing the legal claims embodied in the resolution. When those states choose to take measures to make the resolution really stick, the Council's legal pronouncements are not merely law on the books but law on the ground.

Moreover, international norms, which have the capacity to constitute national interests of even the most powerful states (Klotz 1995), become established not necessarily because of 'great

powers', but the campaigning of transnational advocacy networks on the basis of international law (Risse, Ropp, and Sikkink 1999). The normative framework for a just peace based on the UNSC resolutions is potentially a vital resource for transnational Palestine advocacy networks in terms of pressuring Israel to adhere to the terms of a just peace. It is noteworthy that there exists an extensive network of Palestine advocacy groups globally. Transnational advocacy networks play an important role in reminding Western governments of their own values and of their identity as liberal, democratic societies (Sikkink 1993). The diffusion of human-rights norms internationally depends on the ability of domestic and transnational advocacy networks to inform public opinion and Western governments (Risse, Ropp, and Sikkink 1999).

Limitations

The normative framework for a just peace contained within the resolutions of the UNSC provides a necessary, but not a sufficient, basis on which the international community and transnational advocacy networks can pursue a resolution of the Israel-Palestine conflict. A fundamental flaw of the UNSC has been its failure to account for the vast power imbalance of the conflicting parties in advocating a negotiated settlement. Recent scholarly debates and opinion polls, however, suggest that the issue of Israel-Palestine is moving in a direction favourable to a resolution based on the UN framework.

The continuity of the Israel-Palestine conflict is not due to indecision on the part of the UN as to what constitutes a just peace, but rather, Israeli non-compliance with these terms. The international community has been unable to compel Israel to adhere to the terms of a just peace. In addition to being the main, almost exclusive, broker for peace, the US has also been Israel's primary diplomatic, financial, and military supporter. Ramsbotham et al (2005) find US support for Israel to be the "lynchpin of the conflict" and argue that a resolution requires a modification of US economic, political, and military support for Israel.

In his 'End of Mission' report to the UN, Alvaro de Soto (2007) advises the SecretaryGeneral to either take a stand on the status quo or "seriously reconsider membership in the Quartet" (p.24). He states that the Quartet's ability to resolve the conflict is fundamentally undermined by the US' "very serious qualms about exerting pressure on Israel" (p.25). He documents that the US

"usually floats proposals with the Israelis before presenting them to the Palestinians" and that "Israelis also take advantage of their unique ability to influence the formulation of US policy".

Consistent with these observations, John Mearsheimer and Stephen Walt (2006) assert that an end to the Israel-Palestine conflict is dependent on US pressure and in this context they consider the Israel lobby to be a central factor in its continuation. They state that "by preventing US leaders from pressuring Israel to make peace, the Lobby has also made it impossible to end the Israeli-Palestinian conflict". The authors see the US as "complicit in the crimes perpetuated against the Palestinians".

One of the most revealing points of de Soto's report concerns the influence of Israel over not only US officials but also those in the UN. De Soto discusses "the tendency that exists among US policy-makers and even amongst the sturdiest of politicians to cower before any hint of Israeli displeasure, and to pander shamelessly before Israeli-linked audiences" (de Soto 2007, p.48). He writes that within the UN, there is a seeming reflex "to ask first how Israel or Washington will react rather than what is the right position to take" (p.49). De Soto is not alone in his realisation that this tendency to 'tread softly' where Israel is concerned "may lower the attack by one decibel in certain press circles, but it doesn't actually contribute much to pushing Israel to resolve the conflict with the Palestinians or its Arab neighbours".

Has politics triumphed over international law? Christian Reus-Smit (2004) contends that in "the modern era politics has given the institution of international law a distinctive form, practice, and content" but that "international law has also 'fed back' to condition politics" (p.5). Politics structures law and law conditions politics. He notes that strong states do not invariably ignore international law, and when they choose to deliberately violate it "they do so in the knowledge that as well as incurring political costs their actions will have to be justified as 'legal'.

Support

The 21st century has not seen the Israel-Palestine conflict fall from the global agenda, but the opposite. Polls conducted in the Arab and Muslim world have consistently shown that overwhelming majorities regard Palestine as the single most important issue to them personally. In a poll conducted between March and May 2006 by the Pew Research Centre nearly all Egyptians and Jordanians (97%) said that they sympathise with the Palestinians. Almost three-

quarters of Indonesians (72%) expressed the same sentiment, while 63 percent of Turks and 59 percent of Pakistanis also support the Palestinian cause (Kohut 2007).

The Israel-Palestine conflict is also of significant concern to the Western world. Over 85 percent of Americans consider that a resolution of the conflict should be an important US foreign policy goal. In a January 2005 Pew poll, just over one-third of Americans stated that a permanent settlement of the Israel-Palestine conflict should be the top US foreign policy priority, while another 42 percent said it should be a high priority. These percentages have remained fairly constant in Pew polls since 1993 (Allen and Tyson 2007). The majority of Americans also believe that there cannot be peace in the Middle East without a resolution of the Israel-Palestine conflict and that a resolution of this conflict is important for winning the 'war on terror' and would reduce the likelihood of terrorism (WorldPublicOpinion.org 2006).

As the debate about the relationship between the Israel lobby and US foreign policy continues, Americans themselves are calling for even-handedness from their government. About 70 percent of Americans say that the US should be even-handed and not take sides in the conflict. However, 57 percent state that this is not happening and that the US favours Israel (Kull 2007). A strong majority of Americans recognise that the US is not a fair broker in the Israel-Palestine peace process. In January 2006, a Public Agenda poll asked if the criticism that 'US policies are too pro-Israel for the US to be able to broker peace between Israel and the Palestinians' was justified or not. Sixty-two percent said that it was justified, while only 25 percent said it was not justified (WorldPublicOpinion.org 2006).

These findings come at a time when the perception of Israel around the world is highly negative. A poll conducted by the European Commission in October 2003 with a sample of 7,500 Europeans (500 from each of the then 14 EU member-nations) found that 59 percent placed Israel at the top of the list of nations that threaten world peace (Beaumont 2007). Additionally, in a poll conducted across 27 countries for the BBC World Service by PIPA and GlobeScan in late 2006 and early 2007, respondents were asked to rate 12 countries – Britain, Canada, China, France, India, Iran, Israel, Japan, North Korea, Russia, USA, Venezuela, and the European Union, as having a positive or negative influence. A majority of respondents stated that Israel and Iran have a mainly negative influence in the world (Kull and Miller 2007).

An average of 56 percent across the 27 countries have a mainly negative view of Israel, with only 17 percent having a positive view, which was the least positive rating for any country evaluated. In 23 countries the most common view was negative, with only two leaning towards a positive view (Nigeria and the US) and two divided (Kenya and India). The most negative views of Israel were found in the predominantly Muslim countries surveyed, including Lebanon (85%), Egypt (78%), Turkey (76%), UAE (73%) and Indonesia (71%). However, negative views of Israel were also expressed by large majorities in Europe, including Germany (77%), Greece (68%), France (66%), and Britain (65%) as well as in other countries, including Brazil (72%), Australia (68%), South Korea (62%), and China (57%) (Kull and Miller 2007).

Research published by The Chicago Council on Global Affairs and WorldPublicOpinion.org (2007) found considerable support for the UN, which is seen around the world as the key organisation for conflict resolution according to the report. Across the countries surveyed, most respondents said they were willing to accept UN decisions even if those decisions went against the preference of their own country. Ten countries (four majorities and six pluralities) out of 16 surveyed agreed to accept such UN decisions. Those with the highest proportions of respondents willing to accept UN decisions were China (78%), France (68%), US (60%), and Israel (54%). The fact that 54 percent of Israelis agreed (although 38 percent disagreed) that "when dealing with international problems, Israel should be more willing to make decisions within the United Nations even if that means Israel will sometimes have to go along with a policy that is not its first choice" is highly significant in terms of the viability of a UN-defined resolution of the conflict.

In the absence of external pressure on Israel, particularly from the US, a just and lasting resolution of the Israel-Palestine conflict is unachievable. Pressure for a resolution of the conflict is likely to continue to mount, however. Western governments will need to find a 'neutral' position between such demands and the pressure of Israel lobby groups to maintain the status quo. Though not favourable to the current status quo that tends towards Israel's advantage, Western leaders may find endorsement of the UNSC resolutions on the question of Palestine to be a viable option.

4.2. International Humanitarian Law and Human Rights Law

Intergovernmental scholarship broadly considers the distinct but complementary roles of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) in addressing the human consequences of armed conflict and other crises. IHL seeks the cessation of hostilities through established cease-fire arrangements, employing lex specialis principles to establish more detailed rules for military action, while IHRL aims for long-term order and security through established democratic institutions founded upon the rule of law and respect for fundamental human rights. During war and armed conflict, IHL occupies the commanding position, anticipated to prevail should a contradiction arise with IHRL. As the fighting subsides and sustainable peace returns to a stricken region, however, the converse principle takes over, IHRL becoming the overriding regime until a new armed conflict arises or the conflict remains dormant.

Traditionally, this interplay has been perceived as simple to spell out, law-practitioners operating with the tautology that law is in fieri always directing priority attention to the regime most specially suited for the occasion. In mixed situations, a balanced stability of opposites seldom prevails, and considerations are frequently unequally weighted; a general policy concerns the automatic acceptance of a mixture of attributive breaches when one state resorts to law trials against another simultaneously party to a counter thoroughly breaching the laws of war while their own violations remain in crude. Furthermore, the straightforwardness fades before contemporary situations that challenge the traditional rules governing the relation between the laws of war and the laws of peace. Counter-terrorism measures undertaken by the established institutions of state often conflict with the basic guarantees of the individual at the very moment of greatest danger to his life; regional degradation of the war into a police operation stands as the most complex challenge currently faced by intergovernmental law scholarship.

4.3. International Court of Justice and Advisory Opinions

Advisory opinions constitute one of the specific forms of exercising the International Court of Justice's functions, designed to provide other institutions of the United Nations and specific intergovernmental organizations with legal answers that, although having no obligatory effect, are nevertheless considered authoritative from a legal viewpoint. Their non-binding nature is,

however, discussed in some doctrinal circles: a political authority argument goes beyond mere legality, maintaining they ought to be complied with because of their doctrinal convincement. Although advisory opinions are considered non-binding, there exists an extensive state practice that gives evidence of their basic acceptance by the requesters of the opinions rendered, who may recourse to these opinions independently of the power gained through ulterior resolution. The increased interest of the academic world for advisory opinions is linked to the fact that their ecological volume has augmented over the latest years.

Advisory opinions represent an interesting procedural and substantive aspect of international court rulings, given they do not resolve compulsory disputes between nations but, instead, provide answers to requests for legal opinions submitted by organs or institutions of the United Nations and by duly authorized specialized agencies. An increasing number of requests come from political institutions such as the General Assembly and Human Rights Council, rather than from the Security Council, the organ with circumscribed authority in shaping opinion topics. Political bodies are also reconsidering the argument of justiciability based on state consent, which is traditionally tackled. Indeed, questioned organs of the United Nations ought always to examine the supporting spherical and procedural advantages linked to the facility of making these institutions proclaim advisory opinions. It is legitimately asked whether the conditions influencing the degree of acceptance in practice are still satisfied.

4.4. Diplomatic Law and Peace Processes

A hushed tenement embraces a grieving family and their guests. Candles flicker before the vigil—their dimensions echo shadows in a dimly lit room. Friends, associates, and loved ones gather to share a cup of tea, wine, or a meal with the family of yet another victim of violence in a place not far from home—the tragic wreckage of yet another failed identity and yet more senseless acts of hatred.

That grief is far from one child's death rattle shrieking in pain at a parent's folly. It is engraved in the silent emptiness of a lost life, the void etched by the layers of hatred marked in blood that flow under the façades described as home. Those memories haunt more than the mourners of a

funeral. They are borne in homes of loved ones murdered and of those bereft for having taken the lives of the innocent and the guilty alike—all in the name of justice.

These memorials of human suffering resonate in every society where violence begets violence. They beckon a stubborn remembered promise on the diplomatic pathway through the fog of war. Peace is possible, war is an aberration, and like all aberrations, it must be surprising, short, and few. Neither the path to peace nor the accords to be reached will be without disagreements, testing relationships, and creating painful memories. But they are meant to be only intermittent speed bumps on a long-driving journey towards a better and brighter peaceful future, where peace as the expected norm will again be taken for granted.

As such, two tools play a central role. First, the actors involved in the mediation process. Second, the negotiating instruments creating the possible pathways, addressing not only the terms and structure of peace but also what happens in the event of war. Without these, peace agreements are just bold statements of hope ill-conceived illusions incapable of concern or attention at the moments of crisis and hatred. As negotiation these accords echo through societies, so too does the question of what brings the parties back to the table once the temporary cessation has run its course.

Chapter Five

Mechanisms of Law: Diplomacy, Courts, and Compliance

5. Mechanisms of Law: Diplomacy, Courts, and Compliance

Within the broader framework of international law in protracted conflicts, accountability and compliance have been prominent issues since the establishment of the United Nations (UN). The UN and its Secretary-General sought to enhance accountability related to the conflict between Israel and Palestine, particularly following the Goldstone Report of September 2009. Given this context, accountability is addressed through compliance mechanisms, which lie at the intersection of the international and domestic spheres. Adjudicatory processes depend on states' willingness to submit disputes, while legal and moral obligations and binding instruments remain ineffective in the absence of political will. Hence, major instruments are interpreted by constituencies on the ground, making domestic authority and local ownership essential for implementation. Accountability mechanisms thus operate in parallel with the preceding discussion on negotiation processes.

Accountability can follow negotiation processes, drawing on principles and precedents established through peaceful settlement efforts or on norms delineated in treaties, resolutions, or conventions. Adjudicatory options can supplement negotiation tracks by clarifying contentious issues, articulating core principles, or legitimizing post facto agreements. Options exist at the universal level (Welchman, 2009) and the regional level (Spain, 2009). The perspectives of both parties shape potential requests for legal opinions or advisory resolutions. Accountability mechanisms operate alongside the continuous implementation of measures contained in earlier engagements. Efforts to achieve political solutions can encounter implementation gaps, and complementing high-level negotiations with low-profile multilateral actions aids tangible progress (Rane, 2009).

5.1. State Compliance and Non-Compliance Dynamics

Understanding compliance dynamics—state and non-state compliance and non-compliance with international law, norms, and governance frameworks—requires a careful disaggregation of law,

power, and human effects. The applicable law includes elements of treaty law, customary norms, historic and current non-legal obligations, and control of war and occupation regime dynamics through jus ad bellum and jus in bello considerations. Particular political actors and movements at formal and informal levels propose and pursue distinct governance frameworks; these are articulated through suggested or direct policy and overt acts of compliance or non-compliance. Such decisions at different levels feed into a wider political narrative, seeking to establish an identity and claim legitimacy. Civilian actors—indeed, all suffering parties—are at the more pragmatic emotional core of war. These actors bear witness to the waging of war; the narratives forged from memory of loss, of survival, loss, and of agency serve both to honour wishes for an end to pain and suffering, and also provide implications for moral agency through International Law.

The related moral stakes—the rightful creation and maintenance of peaceful, just, and fair societies—frame the long episode of contemporary Palestine. Law, politics, and public consciousness failed to resort to moral imperatives or causes for transforming or acting—and placing law and legality as mere conscience beings rather than inherently sanctified political religious belief. The vast majority of the world watched, largely in silence, as another chapter in the unfolding of Palestinian pain was enacted. A highly concentrated Israeli bombardment of Gaza followed officially sanctioned explicit words of extermination used in reference to the Palestinian people, missile and military responses directed singularly against Hamas and Gazans, and international law and its historical neglect, non-application, and grievous breaches were, yet again, tragically rendered relevant through resounding silence.

5.2. Role of Third-Party Mediators and Multilateral Institutions

Third-party mediators and multilateral institutions play a crucial role in the prevention, management, and resolution of international and internal conflicts, particularly where direct negotiations between disputing parties have failed or are politically impossible. Their involvement is grounded in principles of neutrality, legitimacy, and collective responsibility under international law.

5.3. Norm Building, Deterrence, and Precedents

Norm-building, deterrence, and the creation of legal precedents are interrelated mechanisms through which international law seeks to influence state behavior, manage conflicts, and promote

compliance in an otherwise decentralized international system. In the absence of a centralized enforcement authority, these mechanisms collectively perform a regulatory function by shaping expectations, constraining choices, and establishing standards of acceptable conduct.

Norm-building refers to the gradual development of shared values, principles, and standards that guide the behavior of states and other international actors. In international law, norms often emerge through treaties, customary practices, judicial decisions, and the consistent conduct of states accompanied by opinio juris—the belief that such conduct is legally required. Over time, norms such as the prohibition of genocide, the protection of civilians during armed conflict, and the peaceful settlement of disputes have become foundational pillars of the international legal order. Norm-building is not merely a legal process; it is also a social and political one. International organizations, civil society, non-governmental organizations, and multilateral forums play a critical role in advocating, interpreting, and disseminating these norms. Even when compliance is imperfect, the existence of widely accepted norms alters the moral and diplomatic costs of violations, thereby influencing state behavior indirectly.

Closely linked to norm-building is the concept of deterrence, which operates on the premise that the threat of legal, political, or economic consequences can discourage violations of international law. Unlike domestic legal systems, international deterrence does not primarily rely on coercive enforcement but rather on reputational harm, reciprocal measures, sanctions, and, in some cases, international criminal accountability. Institutions such as the International Criminal Court (ICC) and ad hoc tribunals have contributed to deterrence by signaling that individuals, including heads of state and senior officials, may be held personally responsible for serious international crimes. While critics argue that deterrence in international law is weak and inconsistently applied, its normative impact should not be underestimated. The possibility of accountability—however remote—can influence strategic calculations, particularly for states concerned with international legitimacy, diplomatic relations, and economic cooperation.

Precedents serve as a bridge between norm-building and deterrence by translating abstract principles into concrete legal interpretations. Although international law does not strictly follow the doctrine of stare decisis as in common law systems, judicial decisions of international courts and tribunals carry significant persuasive authority. Landmark judgments—such as those of the International Court of Justice (ICJ), the ICC, and regional human rights courts—clarify the

content of legal obligations, interpret treaty provisions, and articulate the consequences of violations. These precedents contribute to legal certainty and predictability, enabling states to anticipate how similar conduct may be judged in the future. Over time, repeated reliance on judicial reasoning transforms precedents into authoritative interpretations that shape state practice and reinforce emerging norms.

The interaction among these three elements creates a cumulative effect. Norm-building establishes the moral and legal framework; precedents provide clarity and operational meaning; and deterrence reinforces compliance by attaching consequences to violations. For example, the development of international humanitarian law illustrates this dynamic vividly. Norms prohibiting war crimes were codified in the Geneva Conventions, reinforced through tribunal judgments in cases such as those before the International Criminal Tribunal for the former Yugoslavia (ICTY), and strengthened by the deterrent effect of individual criminal responsibility. Together, these processes have reshaped expectations of conduct in armed conflict, even if violations persist.

However, the effectiveness of norm-building, deterrence, and precedents is not without limitations. Selective enforcement, political considerations, and power asymmetries often undermine their credibility, particularly in protracted conflicts involving powerful states. When violations go unpunished or legal standards are applied inconsistently, norms risk erosion, deterrence weakens, and precedents lose their authority. Despite these challenges, these mechanisms remain essential to the functioning of international law. Their significance lies not only in immediate compliance but also in their long-term contribution to shaping behavior, legitimizing claims, and providing a framework for accountability.

In conclusion, norm-building, deterrence, and precedents collectively form the backbone of international legal regulation. While they may not always prevent violations, they influence how states justify their actions, how conflicts are framed, and how future disputes are resolved. In this sense, their enduring value lies in the gradual consolidation of a rule-based international order, where legality, legitimacy, and accountability continue to matter—even in the face of political and strategic realities.

Chapter Six
Case Analysis: Achievements and Limitations of International Law in Israel–Palestine

6. Case Analysis: Achievements and Limitations of International Law in Israel–Palestine

International law has played a prominent role in the Israel–Palestine conflict since the early twentieth century, framing the legal status of Palestine, holding Israel accountable for rights violations, and guiding international and national efforts to resolve the conflict. This section evaluates the accomplishments and limitations of international law in this context.

Several noteworthy achievements can be identified. In the course of the conflict, international law has produced a set of collective norms and principles concerning self-determination, protection of national groups and property during occupation, rights of refugees, settlement, and use of force, which are relevant to the parallel claims of the parties. Various mechanisms have sought to use these norms and principles to bring about a peaceful solution (Rane, 2009) and to mitigate violence during hostilities (Welchman, 2009).

International law has been invoked regularly to try to curb ongoing violations (M. Akram & Michael Lynk, 2006). Nevertheless, a number of constraints can also be detected. The balance of power between the parties is unambiguously skewed in favour of Israel, impacting the negotiation process. Restrictions on Palestinian political and civic space have exacerbated divisions among their representatives, limiting their collective voice in the international arena and diminishing states' willingness to pursue legal remedies. The considerable backing of the United States for Israel appears to deter attempts to exert meaningful pressure on it to comply with its international legal obligations.

6.1. Territorial Disputes and Occupied Territories

The hush of twilight envelops the small house. Shadows deepen in the folds of the carpet, the fading light barely softening the corners and cracks. My father's fingers glide over an array of maps, preserving all the places he has traveled, the places he has glimpsed in books. Some places

he has set foot in, like Kazan, Yerevan, Sofia, the fields of France. Others he has only felt near the engraved nomadic cuttings in the mountains of Kyrgyzstan, the candyfloss houses of Tashkent, Golestan Palace in Tehran, the breathtaking landscapes of Aleppo and Jerusalem, the curving spires of Samarkand. All these whispers fill me with desire.

These maps trace borders. Borders that split not only land, mountains, lakes, rivers, deserts, and seas, but also people, nations, languages, religions. And such simple lives, so unextordinary, suddenly become so important, so different: countless pointillist paintings woven into a harmonious whole called humanity. And yet these maps, with their letters delicately painted in Akzidenz-Grotesk, proclaim the opposite: words that enclose, that draw in the sand of childhood evenings; words that encapsulate all those people as if they were a flock of black crows; words that stand behind barricades and tankers; words that feel sick continents and cities; words that fall on man's shoulders and crush him to the ground; words that see his dreams spent and forgotten, and that, in the end, paralyze him. I too have a border that separates me from my cousins; a border that has cut the world in half; a border aged sixteen years that has never dared to pick up a pen. An external empty space that prevents me from sensing that wonderful echo we call humor, that prevents me from inhaling or tasting the sweet and sour world that perfumes and tortures my heart. A border such as this cannot be censored on a map, nor in everyone's heart. It is palpable, constantly monitored, yet quietly unceasing. It breathes, laughs, and hears every time the world outside is painted the pure white of snow. It has a life, a history, a way of composing facial expressions yet untranslatable to others. It has a memory filled with experiences drawn into the book of familiarity, a knowledge written down and authenticated with a signature of wealth yet poor, a culture designed by silence.

Yet there is no sense in writing an encyclopedia entry on a border; lives lived on an external space seem to lack greatness. But furthermore, layers of recollection pile one upon another and create the cosmos, the territory within which men feel free to understand beauty. Lives lived may be poor in all directions yet resplendently rich, those lives from which one man can travel across oceans and continents into the flesh of others; passing through, piercing through, feeling the heartbeat, inhaling the feelings of adoration, bating into eyelids, tasting the zest of life—quietly leaving, passionately returning.

Words memories borders whisper the sounds of quarrels. The peace that has suffocated lives for years sounds in the words of my mother, concealing a childhood map partially cut by a border. A map covered in red and blue lettered words that divide, unite, and communicate. One map among many others traced for years, like so many others painted on each soul's body. Three lonely faces framed in the heart of the image glance at me with an overflowing obscurity and pain; three colors combine; they hold their arms out with suffering, solitude, and inconceivable joy; they float and swim above oblivion. Such doubts fill, and such simple lives play the role of makers of history, narrators of borders, spies of souls that are invisible to man's mind, concealed in two-dimensional truths.

6.2. Human Rights and humanitarian law in Armed Conflict

Principles underlying protection in armed conflict are simple: violence will cause suffering, and immunity from its physically and mentally scarring effects is paramount. Yet even when the legitimacy of resorting to war is seen as a political choice, the ethical dilemma of what actions should and should not be permitted while fighting remains—and through it is born a body of law. Throughout the twentieth century, the majority of armed conflicts involved cast-iron distinctions between the rolls of participants and non-participants. Civilian lives and property were seen as having an added moral value. It was simply wrong to kill them. It was not just a matter of passing cautionary orders to swordsmen and bombers. A growing body of law actually sought to impose a special set of duties on those in control of armed force whose consequences would favour the non-belligerents.

The essence of the Geneva Principle holding that a nation must "not only refrain from using those weapons capable of causing ... suffering ... out of all proportion to the military advantage anticipated" may, again, be better approached zig-zag than as a series of self-contained sockets. Not least because—like the Passover, the fast of the Day of Atonement or the seven days of mourning--the task for soldiers at war does not come down to the observance of ritualistic acts on a single day or even a succession of days, but rests upon the lifelong assumption of a mantle of service throughout the period of a military engagement, year in and year out: Avoid the killing of those who belong to the category of non-combatants; avoid, rather, the simple slaughter of women, children and—the aged and the defenceless; avoid, rather, the naked use of weapons calculated to slaughter the women and children.

6.3. Refugees, Right of Return, and Legislative Fragmentation

Step away for a moment from the towers of steel and glass, the cobblestones shining in the sun. Seek out one of the quieter corners of the capital, all too easy to overlook. Stand facing the surrounding walls or behind the peering iron bars, surrounded by men, women, and children seeking shelter under the wide canopy of the border traffic regulation recess, where it would take some twenty years before any family was allowed to pass through again. For this is not a waiting room for transportation. No ticket was issued for any leg of the journey—coped and unexpressed, unfeeling and yet barbaric, cruel in its innocence. Those resting here are awaiting nothing. No airlift moving from war to peace, no legal assistance bringing family from abroad. What lies ahead is not the return from a tourist destination, not the reunion with a beloved spouse or parent after a long business trip. Rather, a return is longed for to a home which no longer exists, whose refusal to be present is louder than the train horn announcing an arrival, and often a departure.

When the homecoming is longed for with such intensity, claimed by so many, when the longing for the other half of the family is raised to the level of constitutional law, the hearers must listen. These are the powers hearing the voices of sadness and longing speaking for all the people waiting for others to hear the cues from the waiting room of borders, because what is heard here must be heard in government offices, in the halls of diplomacy, in the check-in areas of airports. These are the thoughts of a refugee waiting for someone to open the door. Words spoken by many now seeking not the right merely to enter or to pass through, but the good fortune to be home—the fulfillment of a new element in the phantom HTML code, the achievement of a hope inscribed in law.

That new element in the code, that hope, cannot be personified by a single name and offered up as a representative for all. The President of the country, the holder of the highest office, has no house to return to, no grave to visit, and the office is even, at the moment, devoid of joys. The surname affixed to the person defies the Indian passport label stamped to the front page of its neat booklet: the label states that he is a citizen of India, and yet he himself is so very conscious that this is an untruth, a manipulation of language, an articulation of power. The only thing

Antonio Cassese, International Law, 2nd ed. (Oxford: Oxford University Press, 2005), pp. 55–60.

prompting its utterance is the unfounded assumption holding that time makes speech less demanding.

Yet the multiple voices cannot be allowed to drown one another in a jarring cacophony. The echoes of fading footsteps painted in the different hues of a common memory must be tempered and made into a rich and effective harmony. The sad faces of the lonely waiting are not the reflections of distinct, unallied emotions. Each remembers the reread pages in the few family albums, the traumas of departure and the trauma of pain inflicted by the returnee during the cadences of childhood; and nourished on these memories, the pages of the albums dare to take on the mantle of law so as to escape becoming but faint gestures, faded recollections, nostalgic visions.

Chapter Seven

Comparative Perspectives: Lessons from Other Protracted Conflicts

7. Comparative Perspectives: Lessons from Other Protracted Conflicts

What makes some conflicts last longer than others? Such seemingly simple questions, too frequently passed over when they appear too difficult to answer, should guide scholarly studies of all protracted conflicts. Individual memories, particularly the emotional and interactive memories of those who suffer the scars and sufferings of continuing war, reveal much about the personal experience of identity crises, trauma, and loss. Yet, these individual expressions represent just one strand in the fabric of how countries endure long-term protracted wars. How society endures, the strategies of endurance, and economic and social adjustments lie in the intersections of internal and external conditions. What shots heard as echoes of long war reply?

Peacemakers strongly seek an end to wars; there are good reasons for their efforts. No one yearns for their own people to suffer, die, and be driven into exile. However, one of the many paradoxes heard in all protracted conflicts is that the suffering of individuals, on whom wars imprint their worst scars, is not always fatal to the prospect of broad social endurance. Contemplating why, how, and when protracted conflicts mold society, examine particular deadlocks and distance traveled before reluctant hints appear that endings may be on some horizon. Why does war linger? What shapes the journey? When might it end? What lessons lie within these wanderings?

Chapter Eight

The Role of Abbreviations and Terminology in Legal Discourse

8. The Role of Abbreviations and Terminology in Legal Discourse

"Words, like little spoons," observes poet Geoffrey Hill, "attend with care always to meaning, rhythm, colour, dialect, authority, all in balance, of course." The delicate power of words in legal discourse is the theme of this narrative journey—a long, winding river voyage that moves through the emergence of abbreviations at the birth of common law, the expectation driven by routine terms, the quiet lexicon of jurisprudence, and the double-edged nature of precision and ambiguity before sailing outward, toward the tidal effect of the legal lexicon on issues of accessibility, equity, culture, and digital e-discovery. All along, the focus will be on how abbreviations and terminology shape not only a secure but a trust-based understanding of the conditions for society's long-standing agreement to be governed by the gentle, constant pressure of the law.

Their latent, often invisible power is perhaps nowhere more evident than in the two epigraphs that bookend the journey. A writer parlays clever, refreshing, and often dramatic phraseology into quotable openings, threads, and conclusions. Yet even a route traversed umpteen-kajillion times demands the storyteller's closest attention, since with every whispered repetition it nears the point of collapse into a translucent ward of dullness. Hill's caution points toward the process-oriented nature of justice. When, however, does a court judge's careful phrasing cease to merely fulfill and nurture customary, shifting expectations and instead become a melodically abstract masterpiece worthy of place in literature? The answer lies with breach of trust. Were phraseology or abbreviation to strand a lay participant in need of guidance and clarity, then something assuredly would have gone badly wrong.

Chapter Nine

Policy Implications and Recommendations

9. Policy Implications and Recommendations

Prolonged violent conflict exacts a terrible human cost; an enormous price in lives lost and futures shattered; countless children deprived of basic security, a home, friends, and family; and entireand entire social contexts, communities, household ties, and affectionate relationships brought to ruin in a few minutes. Continuing armed hostilities in Palestine cause deep suffering for both Israeli and Palestinian civilians. Attacks deliberately targeting civilians are war crimes. So is launching attacks in the knowledge that such an operation will cause excessive loss of civilian life or injury to civilians. So, too, is the use of indiscriminate or disproportionate weapons. The impacts of hostilities affect not only those immediately involved in the armed violence, but also countless men, women, and children on both sides who are unconnected to the violence. As the war scale increases, the number of affected people grows exponentially.

The scale of violence, particularly when it involves heavy bombardment or even air-strikes on densely populated civilian areas, creates deep psychic wounds in large numbers of people as they watch it on bleak screens. And on both sides, civilians are deprived of the basic necessities of life: they live in constant fear, are ignorant of the fates of close relatives, have lost family members, and often lack food, shelter, health care, or schooling. Many are displaced. Aid workers can deliver only a small fraction of the aid needed in conditions of terror, upheaval, and pandemonium. The humanitarian crises due to living conditions have grown so acute and the infrastructure damage has become so extensive that it will take years to reconstruct the economy. The social tissue of communities coping with prolonged violent conflict is also damaged. These various forms of civilian suffering are totally unnecessary, being the result of choices made by political and military leaders and policy decisions of the international community.

The aim is to outline the assistance needed to minimize human suffering now and in the immediate future, especially to injured, sick, and traumatized civilians (whether deprived of health services by hostilities on the other side or by the power asymmetries inherent in the continuation of the occupation); to provide them—especially children—with support as best as

can be done; to help keep the economy afloat; and to set them on the path toward nation-building and development when a halt to hostilities brings these prospects back onto the agenda. Engaging in yyy questions is crucial in order to mitigate the suffering of civilians caught up in the conflict, although the actions ultimately planned need to be clearly explained as neither fulfilling the perceptions and aspirations of one party nor undermining those of the other: the final goal must be both reducing immediate suffering and building a better future based on assurance of enduring peace, security, and normality for all people in the area.

Chapter Ten

Concluding Chapter

10. Conclusion

International law has played an indispensable yet limited role in addressing the Israel–Palestine conflict. While it has successfully articulated legal standards, affirmed rights, and documented violations, it has failed to compel compliance or deliver a lasting resolution. The case demonstrates that international law, without consistent enforcement and political neutrality, cannot by itself resolve protracted conflicts. However, abandoning international law is not the solution; rather, strengthening its enforcement mechanisms and insulating it from political manipulation is essential for future conflict resolution.

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