BOOK REVIEWS

1. THE CASE FOR PALESTINE: AN INTERNATIONAL LAW PERSPECTIVE

John Quigley

Duke University Press (2005), p. 344

Reviewed by Stephanie Koury*

John Quigley’s The Case for Palestine: An International Law Perspective provides its readers with an overview of the relevant legal and factual issues surrounding the Israeli-Palestinian conflict. Quigley presents this information in five parts: Origins of the Zionist-Arab Conflict in Palestine; the 1948 War and the establishment of Israel; the Status of Arabs in Israel; the 1967 War, the West Bank and the Gaza Strip; and Resolution of the Palestine-Israel Conflict – with each of these topics comprised of several brief chapters. Quigley successfully identifies and addresses the most relevant points of each topic. For example, with regard to the status of Arabs in Israel, Quigley discusses Jewish settlement in Palestine; acquisition of Palestinian land by Israel; Arab commerce, agriculture, economic, and commercial sectors in Israel; Israeli legislation on Jewish identity and nationality and restrictions on Palestinians within the Israeli political system; and discriminatory legislation and practices.

While readers and advocates of Palestinian issues often differentiate between Israeli measures in the West Bank and Gaza as being distinct from those within Israel, Quigley clearly establishes a compelling link between the two and reveals a story of ongoing dispossession. Quigley starts by addressing the British interest in early Zionism that led to the incorporation of the Balfour Declaration into the British Mandate, followed by subsequent Jewish immigration and the consequent displacement of Palestinians from their land. He also looks at British and United Nations (UN) ineffectiveness in the face of violence and the 1947–1948 war, and the establishment of Israel, which subsequently led to further dispossession – particularly due to Israeli use of regulatory and legislative powers. The book then describes the lead-up to the 1967 war, Israel’s subsequent occupation of the West Bank and Gaza and its settlement policy, which furthered the process of Palestinian dispossession. He provides a very useful overview of the early legislative and regulatory measures taken by Israel against its Palestinian

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population that radically transformed their livelihoods. These measures, subsequently replicated in the West Bank and Gaza Strip, included land confiscation, movement restrictions, labor restrictions, and the denial of access to sufficient water resources. Readers cannot help but recognize a history of uninterrupted dispossession.

Quigley’s reference to less-known facts or resources is one of the most interesting aspects of his book. For example, Quigley informs readers that after the vote on UN General Assembly Resolution 181 for the partition of Palestine, the Security Council abandoned the partition plan and asked the General Assembly to consider other solutions as opposition to partition mounted. Quigley reveals that in 1947, a subcommittee of states of the General Assembly’s Ad Hoc Committee on the Palestine Question recommended seeking an advisory opinion from the International Court of Justice to determine if the Balfour Declaration violated the right to self-determination of the Palestinian population or whether the General Assembly has the power to suggest or enforce a territorial solution – that recommendation was narrowly defeated. Quigley notes that among different quarters within the UK, such as the House of Lords and subsequently the British High Commissioner, opposition existed to the Balfour Declaration and continued Jewish immigration on the basis of self-determination as the extent of Palestinian dispossession and discontent became obvious. Of interest too is the 1981 agreement between Israel and the PLO, under which the PLO agreed not to launch attacks into Israel – although at the time neither had officially recognized the other. Quigley also provides a compelling account of the lead-up to the 1948 war and the depopulation of Palestinian villages with his use of statistics and sources.

Perhaps most useful to advocates is Quigley’s identification in each chapter of the key historical and legal arguments that often characterize debates on the Israeli-Palestinian conflict. He provides rebuttals to these oft-accepted but incorrect historical and legal narratives. For example, he challenges the assumption that Israel was justified in attacking Egypt to start the 1967 war, citing Israeli military officials such as Generals Rabin and Peled or Ezer Weizman, who stated that Egypt was not intending to attack Israel and denied that the Egyptian military threat represented a danger to Israel at that time. Quigley relies on the law of the UN to counter the assertion that the General Assembly was competent to determine the future status of Palestine and that Resolution 181 was binding, concluding that the General Assembly only had powers to recommend a settlement. He also addresses Israel’s claim that General Assembly Resolution 194 is only a request, pointing instead to the underlying principles of law encapsulated therein. He assesses Israel’s use of demographic concerns to deny the right of return and concludes that such concerns do not have a legal basis. In challenging Israel’s settlement policy, he rebuts Israel’s long-held but discredited position on the non-applicability of the Fourth Geneva Convention to the Occupied Palestinian Territories. In doing so, he provides readers and advocates with useful argumentation, a less-publicized historical narrative, and useful resources for further studies.

Throughout the book, one is repeatedly struck by the absence of the application of international law in the attempts to date to resolve the Israeli-Palestinian conflict. Quigley paints a pattern of increasing marginalization and ineffectiveness of the UN in the conflict. This marginalization is due in part to its failure to act – particularly