

## **ICEJ Issue Brief**

### **Legality of the proposed Unilateral Declaration of Palestinian Statehood**

*Taken from a letter drafted jointly by lawyers of the Legal Forum for Israel and by Amb. Alan Baker,  
Director of the Institute for Contemporary Affairs at the Jerusalem Center for Public Affairs  
and directed to the Secretary-General of the United Nations.*

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1. The legal basis for the establishment of the State of Israel was the resolution unanimously adopted by the League of Nations in 1922, affirming the establishment of a national home for the Jewish People in the historical area of the Land of Israel. This included the areas of Judea and Samaria and Jerusalem, and close Jewish settlement throughout. This was subsequently affirmed by both houses of the U.S. Congress.
2. Article 80 of the UN Charter determines the continued validity of the rights granted to all states or peoples, or already existing international instruments (including those adopted by the League of Nations). Accordingly, the above-noted League resolution remains valid, and the 650,000 Jews presently resident in the areas of Judea, Samaria and eastern Jerusalem reside there legitimately.
3. "The 1967 borders" do not exist, and have never existed. The 1949 Armistice Agreements entered into by Israel and its Arab neighbors, establishing the Armistice Demarcation Lines, clearly stated that these lines "are without prejudice to future territorial settlements or boundary lines or to claims of either Party relating thereto." Accordingly, they cannot be accepted or declared to be the international boundaries of a Palestinian state.
4. UN Security Council Resolutions 242 (1967) and 338 (1973) called upon the parties to achieve a just and lasting peace in the Middle East and specifically stressed the need to negotiate in order to achieve "secure and recognized boundaries."

5. The Palestinian proposal, in attempting to unilaterally change the status of the territory and determine the "1967 borders" as its recognized borders, in addition to running squarely against Resolutions 242 and 338, would be a fundamental breach of the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, in which the parties undertook to negotiate the issue of borders and not act to change the status of the territories pending outcome of the permanent status negotiations.

6. The Palestinians entered into the various agreements constituting what is known as the "Oslo Accords" in the full knowledge that Israel's settlements existed in the areas, and that settlements would be one of the issues to be negotiated in the permanent status negotiations. Furthermore, the Oslo Accords impose no limitation on Israel's settlement activity in those areas that the Palestinians agreed would continue to be under Israel's jurisdiction and control pending the outcome of the permanent status negotiations.

7. While the Interim Agreement was signed by Israel and the PLO, it was witnessed by the UN together with the EU, the Russian Federation, the U.S., Egypt, and Norway. It is thus inconceivable that such witnesses, including first and foremost the UN, would now give license to a measure in the UN aimed at violating this agreement and undermining major resolutions of the Security Council.



Israel is currently facing an unprecedented campaign of delegitimization. The boycott, sanctions and divestment (BDS) movement is at the forefront of a concerted effort by western pro-Palestinian activists, radical trade unionists, neo-Marxist groups, mainline Christian denominations to combat the perceived US political bias towards Israel. The Israel Defense Network is your chance to speak up!

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