



Report from the ECI Law Symposium at The Hague on 7 June 2016

Hague Symposium - time for new principles to govern the peace process

On 7th June 2016 the European Coalition for Israel organized a Symposium in The Hague, Netherlands, on the topic of the Israeli/Palestinian peace process.

The symposium marked the launch of The Hague Institute for International Law and Policy on Israel and the Middle East – a think-tank on issues concerning the application of international law and policy in relation to the Middle East.

ECI Legal Counsel Andrew Tucker: “The international conference hosted by France in Paris on 3rd June 2016 has demonstrated that the international community needs to re-examine the legal and policy principles underlying the peace process. The two-state solution is seriously flawed. Fundamental issues need to be resolved before the Palestinians are ready for statehood. This is in the interests not only of Israel, but also of the Arab Palestinians themselves. The PA and PLO are breaching fundamental human rights of their own people. In the meantime, there is no legal requirement to put international pressure on Israel to make concessions. International law does not mandate the creation of a Palestinian state, it definitely does not require Israel to withdraw to the 1949 Armistice Lines, and it does not render all settlements illegal.”

Professor Abraham Bell (Bar Ilan University and San Diego School of Law): “Israel’s borders, like the borders of all other states emerging from the Mandate system, are determined by the legal principle of *uti possedetis juris*. In Israel’s case, this means its borders are the boundaries of the Mandate for Palestine on 14th May 1948. Israel has a right under international law to negotiate adjustment of those borders and terms of a peace agreement with its neighbors. And the Palestinians have a duty to ensure they renounce violence and are willing and able to protect the basic rights of minorities before they can be accepted as a UN member state.”

Tucker: “The suggestion by the Paris conference participants that ‘ongoing settlement activity’ conflicts with international law is complete nonsense. Saying so effectively makes it unacceptable for Jews to live in East Jerusalem, Judea or Samaria. That line of argument gives credence to Palestinian demands to remove Jews from the new Palestinian state. That is nothing short of ethnically cleansing – clearly something that conflicts with basic European law and values”.

According to Professor Bell, Israel is being unfairly singled out for criticism that it does not comply with international law. “The truth is that no state in the world complies 100% with international law. Of all states in the Middle East and Northern Africa, Israel has by far the most successful record in terms of protecting human rights. So why pick on Israel, and not, for example, Morocco in Western Sahara or Turkey in Northern Cyprus? It makes more sense to be supporting the development of Israel, rather than singling Israel out for boycotts, divestment and sanctions.”

Bell: “Israel has legitimate claims to territorial sovereignty over East Jerusalem and the West Bank. It is highly questionable whether the law of occupation applies to Jerusalem and the West Bank. But even if it does, the international law of belligerent occupation does not say anything about the sovereignty of the territories that are being occupied. It is a distortion of the truth to refer to these territories as “Palestinian”, as if they somehow belong to the Palestinian people, because there is no legal basis for that claim”.

Matthijs de Blois (Associate Professor, University of Utrecht) argued that settlements also do not conflict with the right of the Palestinian people to self-determination. “The right to self-determination is a relative concept. There is no such thing as a ‘right to statehood’. The Palestinian claims to self-determination may not conflict with the sovereign rights of the state of Israel under international law. The International Court of Justice allowed itself in 2004 to become part of a political campaign against Israel”.

Notwithstanding the fact that over 130 nations have recognized “Palestine” as a state, the claim that Palestine is already a state is totally unfounded, according to Tucker. “Under international law, states exist or do not exist according to whether they satisfy objective criteria. One of the most important of these criteria is that a state must have an autonomous and effective governing authority. In the case of “Palestine” this is patently lacking. The formal powers of the Palestinian Authority, which was established under the Oslo Accords, remain extremely limited and fragmented. And the PA has no effective authority over Gaza and parts of the West Bank where Hamas and other groups are in control. The Palestinians have a long way to go before Palestine can be said to be a state under international law”.

The Hague Symposium was followed by meetings in the Second Chamber of the Dutch Parliament, addressing the labeling of products produced in the West Bank, and the ongoing PA funding of convicted Palestinian terrorists. The leaders of the Christian Party (Christenunie) and Reformed Party (SGP) pledged to address both issues. On 14th June, the Dutch Parliament, at the request of these parties, adopted a motion requiring the Dutch government to use its best endeavors to put an end to PA funding of convicted Palestinian terrorists.