

**The Palestinian Bid for Statehood
&
Full Membership in the United Nations**

Bridges for Peace

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A submission by
Bridges for Peace South Africa

to the

Portfolio Committee of the Department of International Relations and Co-operation

regarding

The Palestinian Bid for Statehood

&

Full Membership in the United Nations

Introduction

The current reality dictates a *Two-State Solution*. We do not argue against an independent Palestinian state and would not deny any individual or people group the right to self determination in a country of their own.

However, *Bridges for Peace* and its affiliates object to the method currently being employed by the *Palestinian Authority* to achieve independence. We are of the conviction that direct negotiations and dialog between both parties (Israel and the Palestinians) will result in justice and peace for both parties involved.

In the following sections, the reasons motivating the objection of *Bridges for Peace (SA)* to the Unilateral Declaration of a Palestinian State shall be discussed. The areas focussed on will include (but is not limited to):

1. The Current Geo-political Setting
2. Existing Agreements
3. Palestine: A Sustainable Democracy
4. Factors which Necessitate Negotiation

It should be reiterated that *Bridges for Peace* does not object to the existence of Palestinian state, *Bridges for Peace* objects to the attempt to circumvent negotiations with Israel.

The Current Geo-Political Setting

Israel is a geographically minuscule country which is home to a variety of people from different socio-economic, ethnic, political and social backgrounds.

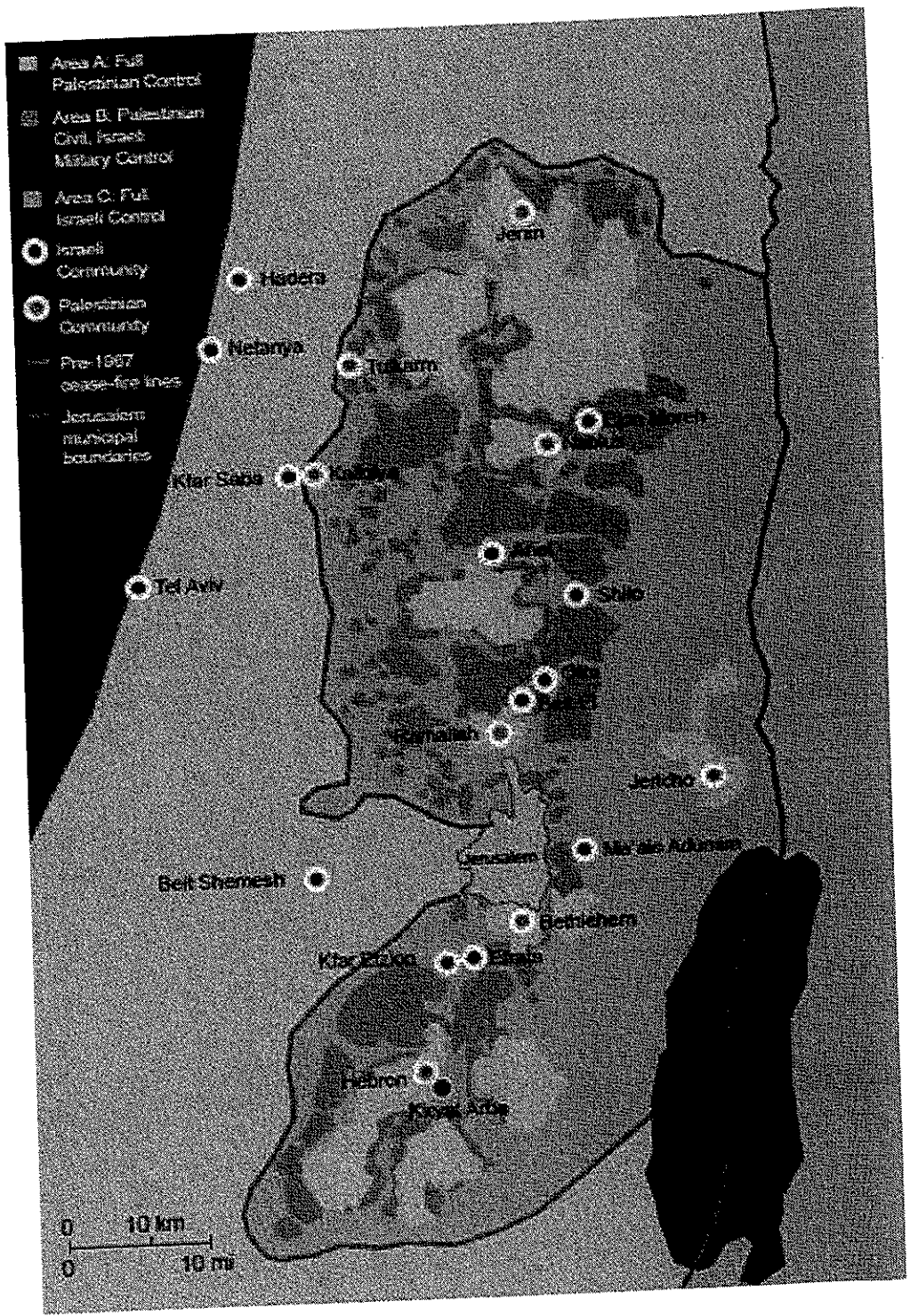
A region which has been in dispute for more than the past 2 decades is that of Judea and Samaria, also known as the West Bank. The West Bank / Judea & Samaria is an infinitely complex region in the Middle East. It is divided into areas *A, B and C*. Each code has a significant implication for this area. These are listed in *Table A*.

Code	Description
A	Full Palestinian Control
B	Palestinian Civil Control, Israeli Military Control
C	Full Israeli Control

Table A.

The West Bank/ Judea Samaria consists of both Arab and Jewish communities. Both these groups have an historical connection to the region.

There are those who claim that Israel currently occupies this region. In contrast others assert that Israel reclaimed a region which Jordan occupied and unsuccessfully annexed between 1948 – 1967; a region which was awarded to the Jewish people by the League of Nations in 1920, as well as the United Nations in 1948.



declares that all outstanding issues relating to permanent status will be resolved through negotiations.”

“The PLO commits itself to the Middle East Peace Process, and to a peaceful resolution of the conflict between the two sides and declares that all outstanding issues relating to permanent status will be resolved through negotiations.”

Oslo II (Interim Agreement, Article 31)

“Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the Permanent Status negotiations.”

The Quartet Agreement

The Quartet consisting of the US, Russia, EU and UN, reaffirmed:

- (i) “That there must be a negotiated permanent settlement based on UN Security Council Resolutions 242 and 338.”
- (ii) A clear, unambiguous acceptance by both parties of the goal of a negotiated settlement.
- (iii) Unilateral actions by either party cannot pre-judge the outcome of negotiations and will not be recognized by the international community.”

Palestine: A sustainable democracy ?

Within the Palestinian leadership structures, Fatah and the Islamist Hamas are in disagreement regarding the unilateral bid for statehood. In the event that a Palestinian state is created, there is a possibility of intense conflict between the two factions.

Furthermore, the founding charters of Hamas, it refuses to acknowledge the sovereignty of the state of Israel and challenges the existence of the state of Israel. Hence, if it so happens that the two factions do agree on the unilateral bid for statehood, there is an increased risk that Israel will gain a neighbouring enemy state. It should be noted that Hamas is outlawed by a number of legal entities throughout the world (United Kingdom, United States).

If a Palestinian state is established by unilateral actions, the United States Congress may decide to terminate aid to the Palestinian Authority. The US is the largest financial aid contributor to the Palestinian Authority. In 2011 an estimated \$460m in aid was transferred to the Palestinian Authority. This unilateral move could jeopardise this aid with a devastating effect on the economy of envisaged Palestinian state.

Factors which Necessitate Negotiation

There are certain factors which need to be considered before negotiation is bypassed:

1. Negotiation will ensure that both the future Palestinian state and Israel have defensible borders.
2. Negotiation will ensure that both the future Palestinian state and Israel have reasonable access to natural resources in the region (*i.e. water, arable land etc*)
3. Negotiation will establish the guarantee that the religious freedoms of all people in the region will not be prejudiced. (*i.e. access to religious sites*)
4. Negotiation will ensure that there is no violation of prior agreements by either of the parties involved.

5. Negotiation will advance the spirit of democracy in a currently volatile region of the world.

The fragile relationship between Israel and the Palestinians could be further fractured since the bid for the unilateral declaration of a Palestinian state arouses expectation in the hearts of the Palestinian people. If it so happens that the vote is not passed, enmity between Palestinians and Israel could grow. Furthermore, if the vote is not passed, it will complicate the process of negotiations even more since there might be a greater reluctance on the part of the Palestinians to negotiate.

Conclusion

Regardless of the outcome, the premature support for Palestinian statehood, while many territorial issues are unresolved with Israel, could easily lead to an escalatory spiral, enraging the populations of Arab states as well as Muslim communities in Europe.

Professor Malcolm Shaw of the UK has argued in an October 18, 2010 submission to the Office of the Prosecutor of the International Criminal Court on this very issue of the declaration of a Palestinian state. There is a general principal of law that "an illegal act cannot produce legal rights" (*Ex Injuria Non Oritur Jus*). Recognizing a state that was created through a treaty violation would be extremely problematic. There is also an American tradition in this same matter. According to the second Restatement of the Foreign Relations Law of the United States (1981), a state is required not to recognize or treat as a state any entity which was "attained the qualifications of statehood in violation of international law."

Palestinian unilateralism entails a significant shift away from a negotiated settlement of the Arab-Israeli conflict and contradicts legal obligations that the PLO undertook when it first signed the Oslo Agreements in the 1990's. However in a world wearied by the intractable nature of the Israel/Palestine conflict, it will unfortunately be viewed as a solution and although not easily implementable will increase pressure on Israel substantially.

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