

Proposal for a Parliamentary Resolution

On the Recognition of the Independence and Sovereignty of Palestine.

(Submitted to the Althingi in the 140th Parliamentary Session 2011-2012.)

Althingi resolves to assign the Government to recognise Palestine as an independent and sovereign state within the pre-1967 Six-Day War borders.

Commentary on the Present Proposal for a Parliamentary Resolution.

The purpose of the present Proposal for a Parliamentary Resolution is to seek the Althingi's permission to recognise Palestine as an independent and sovereign state within the pre-1967 Six-Day War borders.

In recent months a fresh breeze of democracy and liberty has blown through the Middle East and North Africa. The inhabitants of the states in the region, especially young people and women, have risen up and made legitimate demands for increased human rights, social justice and a more humane society. The reforms demanded are among the most meaningful fundamental values of any society: respect for democracy, human rights and equality.

While this positive democratic development takes place in the region the dispute between the Palestinians and the Israelis remains unresolved. The Palestinians have for decades lived under occupation and violations of human rights contrary to international law and the resolutions of the United Nations General Assembly and the Security Council.

In 1974 the United Nations General Assembly recognised the Palestine Liberation Organization (PLO) as the legitimate representative of the Palestinians. In 1988 the PLO declared the establishment of the State of Palestine and called for a peace process based on the so-called two-state solution. Since 1988 127 states have recognised Palestine as an independent and sovereign state.

The Palestinians demand the right of self-determination in their own state. Since 29 November 1947 the international community has assumed that an Arab state will be established in Palestine. This was done through Resolution No 181 of the United Nations General Assembly which mandated the establishment of a Jewish state and an Arab state in Palestine. The resolution was never fully implemented as only a Jewish state was established in May 1948 and not an Arab state. A special emphasis is placed on the fact that the Palestine Liberation Organization and the Palestinian National Authority (PNA) have abandoned armed struggle, recognised the State of Israel and have agreed to the pre-1967 Six-Day War borders as future borders.

Iceland has for many years supported the right of the Palestinian people to self-determination and the establishment of an independent State of Palestine, emphasized peaceful settlement of disputes between the Palestinians and the Israelis and has stressed the urgency for the international community to do its utmost to bring about an agreement between the the two parties. The Government of Iceland has always supported a negotiated settlement between the Palestinians and the Israelis and has supported the peace process aimed at that solution. Moreover, the Government of Iceland has in words and deeds declared full support for the security of the State of Israel and its right to exist. Thus, on 18 May 1989 the Althingi adopted a Parliamentary Resolution concerning the disputes between the Palestinians and the Israelis, including the following statement:

“Althingi emphasises that the right of the Palestinian people to self-determination and the right of the State of Israel to exist, should be recognised. Furthermore, the right of Palestinian refugees to return to their former homes should be recognised as frequently reiterated in United Nations resolutions.” On 30 April 2002 the Althingi adopted a Parliamentary Resolution where it was demanded “that peace negotiations on the establishment of an independent State of Palestine and the security of the State of Israel within internationally recognised borders should begin”.

In the manifesto of the Government emphasis is put on, “establishing political relations with the Palestinian National Authority and Icelandic support for the right of self-determination of the Palestinian people and an independent State of Palestine”. The Minister for Foreign Affairs has pursued the Government’s policy by maintaining relations with the leaders of the Palestine Liberation Organization and the Palestinian National Authority and with the governments of Israel, Egypt and Jordan. The Minister for Foreign Affairs has consulted with the Foreign Affairs Committee of the Althingi on the affairs of Palestine and visited the West Bank, the Gaza Strip and East Jerusalem in July 2011 in accordance with the will of the majority of the Foreign Affairs Committee. Consultations between the Minister for Foreign Affairs and Palestinian leaders demonstrated a definite wish for Icelandic recognition of the State of Palestine and support for its application for membership to the United Nations.

States primarily attain standing in the international community through recognition by other states. Recognition is based on a political assessment by the state which grants the recognition. However, recognition entails the belief by the granting state that the state being recognised fulfils the objective conditions of international law for the existence of an independent state, which is able to exercise rights and carry obligations under international law. It is generally considered that a state needs to have 1) territory, 2) inhabitants, 3) a government that actually governs the territory in question, and 4) independence for the purpose of maintaining relations with other states. Recognition of a new state in the international community is therefore first and foremost a foreign policy act on the basis of international law. Thus, recognition of a state is a bilateral act based on sovereignty and reciprocity, and is not dependent on formal approval by the international community even though such approval may subsequently materialise in the form of membership of the state in question in international organisations.

Palestine must be considered to fulfil the aforementioned conditions of international law for the existence of an independent state that can be regarded as a subject of international law. It has been argued that Palestine does not exercise full control over its territory as a result of Israel’s unlawful occupation. However, it is one of the basic principles of international law that a state cannot create rights through unlawful acts. Control over a territory by virtue of the use of force is not regarded as a basis for legitimate sovereignty over that territory under international law. On this basis, the United Nations have adopted resolutions concerning Israel’s unlawful occupation of Palestinian territory and therefore it is clear that irrespective of the duration of the occupation it does not create any right to Israel over the territory in question. Consequently, with reference to the principle of legality under international law, it must be considered fully justified to recognise Palestine as an independent state even though Palestine does not exercise full control over its territory due to Israel’s unlawful occupation.

This conclusion is also supported by several precedents. Kosovo is an example close to hand, where the Government has not yet established full control over all its territory. Nevertheless, many states, including Iceland, recognised Kosovo in 2008. Iceland also recognised the Baltic states in 1991 despite the fact that the governments of those countries had not established full control over their territories.

Further still, it is right to consider the fact that the Palestinian National Authority has successfully implemented its economic and development programme and has now demonstrated clearly, by improving infrastructure and through institution building, that the State of Palestine can stand on its own feet. Recent assessments by the United Nations, the International Monetary Fund and the World Bank, have resulted in statements by these bodies that the Palestinian National Authority fully meets the threshold of a functioning state. Furthermore, the Ad Hoc Liaison Committee for assistance to the Palestinians, under the chairmanship of Norway, concluded at its meeting on 18 September 2011, that the Palestinians had in recent years been highly successful in developing their economy.

With the 1993 Oslo Accords a plan was drawn up for a negotiation process for a Palestinian and Israeli peace agreement based on Security Council Resolutions No 242 (1967) and 338 (1973). This position has been reaffirmed in many United Nations resolutions. In accordance with Security Council Resolution No 242 Israel is to withdraw its armed forces from territories that were occupied during the Six-Day War in 1967. In this case the criteria is the so-called Green Line, the armistice line from 1949. As mentioned before, the Palestinians have agreed that the pre-1967 Six-Day War borders should be the basis for the peace talks.

In 2002 the leaders of the League of Arab States emphasized this point at their meeting in Beirut. There, the Arab states expressed their will to establish normal relations with Israel, provided Israel would withdraw its armed forces to the pre-1967 Six-Day War borders.

The United Nations have a great responsibility for the affairs of Palestine, not only in a historical context, but also as the forum of the international community which is ordained to promote world peace and security. The United Nations should ensure respect for international law and human rights. Israel's tough position will not change without external pressure and the Palestinians are too weak to force any change. There are few signs that the peace process can be revived in the near future. On the contrary, illegal settlement activities, which have been the main factor in undermining the peace talks, have continued in the occupied territories. If the peace process is to be resumed, much more direct involvement by the international community is needed in order to find a solution.

Therefore it is only natural that the Palestinians have chosen the peaceful approach of submitting their case to the United Nations by filing a formal application for membership to the organisation on 23 September 2011. The Government of Iceland has expressed its support for the application for membership and has also affirmed that should the Palestinians choose to seek support for Palestinian statehood by way of a United Nations General Assembly Resolution Iceland would support such a resolution.

The recognition of Palestine as an independent and sovereign state is in line with the argument presented by Iceland and the international community that the Israelis and the Palestinians should seek to settle their differences by concluding peace agreements based on international law and United Nations resolutions. Human rights violations in the occupied territories are a particular concern and every opportunity must be used to call on the disputing parties to end at once all violent acts and to respect human rights and humanitarian law.

The Government of Iceland places great emphasis on Palestinian reconciliation. Iceland demands that Hamas cease all acts of violence and recognises the right of the State of Israel to enjoy peace and security among the states in the region. Furthermore, Hamas is urged to honour all agreements which the Palestine Liberation Organisation has concluded on behalf of the Palestinians.

Recognition of Palestine as an independent and sovereign state will not in itself alter the fact that the country will continue to be occupied. Recognition is on the other hand a way to work for better equilibrium in relations between the Palestinians and the Israelis without questioning the legitimacy of the State of Israel in any way. In 1949 Israel requested membership of the United Nations, but one year earlier Israel had unilaterally declared its independence based on the aforementioned resolution of the General Assembly No 181. The Government of Israel argued at the time that a settlement in their dispute with the Palestinians on the clarification of border issues should not be a precondition for the recognition of Israel and its full membership of the United Nations. Instead the disputes should be settled at the negotiating table, preferably under the guidance of the United Nations and with Israel as a full member state of the organisation. Iceland was one of the states that supported Israel's application for membership. Now, 62 years later, applying the same arguments to the Palestinians is long overdue and for them to have a rightful seat among other nations and for Palestine to be recognised as an independent and sovereign state.