

Cologne Occasional Papers on International Peace and Security Law

Edited by
Claus Kreß

Number 4
July 2016

Jonathan Heuberger

From the Madrid Conference to the Kerry Initiative
An Insight into the Israeli-Palestinian Peace Process

Bibliografische Information der Deutschen Nationalbibliothek

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie;
detaillierte bibliografische Daten sind im Internet über <http://dnb.dnb.de> abrufbar.

Bibliographic information published by the Deutsche Nationalbibliothek

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie;
detailed bibliographic data are available in the Internet at <http://dnb.dnb.de>.

Information bibliographique de la Deutsche Nationalbibliothek

La Deutsche Nationalbibliothek a répertorié cette publication dans la Deutsche Nationalbibliografie;
les données bibliographiques détaillées peuvent être consultées sur Internet à l'adresse <http://dnb.dnb.de>.

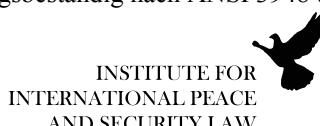
ISSN: 2196-0801 · ISBN: 978-386376-184-4

Alle Rechte vorbehalten.

© 2016 Institute for International Peace and Security Law, Universität zu Köln,
Albertus-Magnus-Platz, D-50923 Köln; Internet: <http://www.iipsl-cologne.com>.

© Optimus Verlag, Geiststr. 3, 37073 Göttingen; Internet: <http://www.optimus-verlag.de>.

Papier ist FSC zertifiziert (holzfrei, chlorfrei und säurefrei,
sowie alterungsbeständig nach ANSI 3948 und ISO 9706).



Jonathan Heuberger is a German attorney specializing in public international law. In April 2015, he joined the *Center for Applied Negotiations* at the *Institute for National Security Studies (INSS)* in Israel, where his research focuses on the Middle East peace process and the legal status of the Gaza Strip. *Jonathan Heuberger* is a graduate of University College London (UCL) and the University of Cologne. He completed his legal clerkship at the Supreme Court of Berlin. From 2007–2010, *Jonathan Heuberger* worked under Professor Dr. *Claus Kreß* as a research fellow at the *Institute for German, European and International Criminal Law, Peace and Security Law* in Cologne. His work at the institute focused on legal questions arising in the context of the Israeli-Palestinian conflict such as the Oslo agreements, the legality of targeted killings, the West Bank barrier, the jurisdiction of the International Criminal Court over the Situation in Palestine and the role of armed non-state actors under the laws of armed conflict. *Jonathan Heuberger* has lectured and published on the legal nuances of the Israeli-Palestinian conflict.

Contents

Introduction	7
A. Historical Overview.....	8
I. Roots of the Conflict	8
1. McMahon-Hussein Correspondence.....	9
2. Balfour Declaration.....	11
3. Arab Revolt of 1936–1939	14
II. The Establishment of the State of Israel.....	18
III. The Foundation of the Palestine Liberation Organization	22
IV. The 1967 War, UN Security Council Resolution 242 and the Emergence of Palestinian Nationalism.....	23
1. The 1967 War	23
2. Security Council Resolution 242	27
3. The Emergence of Palestinian Nationalism	30
V. The 1973 War and UN Security Council Resolution 338	31
1. The 1973 War	31
2. UN Security Council Resolution 338	33
VI. The Algiers Declaration and the First Intifada.....	35
1. Algiers Declaration.....	35
2. First Intifada.....	36
B. The stages of peace negotiations.....	38
I. Madrid Conference.....	38
II. Declaration of Principles (“Oslo I”.....	40
1. Opposition to Peace Negotiations	43
2. Gaza-Jericho-Agreement	44
III. Interim Agreement on the West Bank and Gaza Strip (“Oslo II”)......	45
1. Hebron Protocols	47
2. Wye-River Memorandum	48
3. Memorandum of Sharm-el-Sheikh	48
IV. Camp David	49
1. Taba Summit.....	52
2. Second Intifada	54
3. Arab Peace Initiative.....	55
4. Geneva Initiative	57
5. Roadmap for peace	58
6. The Barrier, Israeli Disengagement and Palestinian Elections	59

V. Annapolis Conference	63
1. Gaza Conflict of 2008/2009.....	66
2. New York 2009.....	67
3. Maritime Incident 2010	67
VI. Kerry Initiative	69
1. Gaza Conflict 2014	75
2. Third Intifada?	76
3. Draft Resolutions in the United Nations Security Council	77
C. Final status issues	80
I. Borders and Territory	80
II. Security arrangements	82
III. Settlements	83
IV. Palestinian Refugees and Jewish State.....	88
V. Jerusalem.....	93
D. Pragmatic suggestions.....	97
I. Establishment of a Gaza Seaport coupled with adequate security arrangements and regional diplomatic understanding	97
II. Middle East peace summit on mutual recognition	100
III. Israeli-Palestinian Humanitarian Aid and Claims Commission	101
IV. Israeli-Palestinian Negotiation Office.....	101
E. Conclusion	103