

Presenter: Wolfgang Bock, Federal Agency for Security Policy

Title: “**Public International Law and the Palestinian Knot**”

Panel: Israel Studies

1. Public International Law is legally and politically strong, as long as it is realized scholarly and precisely according to legal dogma and as it is transformed into state politics likewise. If Public International Law is made the maidservant of politics and its central elements are subverted by political ideology into their opposite, it becomes worthless.
2. Fundamental for the legally uncontested formation of the state of Israel is the mandate of the League of Nations from 1922. The mandate paved the way towards the legal foundation of a national state of the Jewish people on the territory of Palestine (minus Trans-Jordan): „a national home for the Jewish people“. The mandate granted other groups in Palestine their civil rights without mentioning any other right of self-determination.
3. The failed partition plan proposed by the General Assembly of the United Nations in 1947 did not change this legal situation.
4. The right of national self-determination, invoked by the Palestinian side, is subject to decisive legal restrictions: Israel owns a legal title to the whole territory of the mandate. Without a political and legally binding agreement between the state of Israel and the Palestinian side there is no way for a Palestinian state in conformity with International Public Law. A recognition of Israel is a precondition. No state worldwide has a legal obligation to tolerate the foundation of an adjacent new state aiming at its annihilation.
5. The Palestinian side connects their demand of national self-determination with two political and ideological aims: first, the political misleading self-designation as a liberation movement with the implication to fight and to expell all foreign settlers from the national or religious “holy ground;” second, the negation of the very right of existence of Israel in form of an asserted, but legally non-existing right of return of more than 5 millions of Palestinians.
6. Favouring a Palestinian state under these conditions without previous agreement with Israel sacrifices fundamental requirements of Public International Law and rational policy together. Not taking account of these basic elements of Public International Law subdues Israel to standards not being applied to any other state and raises the suspicion of antisemitism.