

## **Palestine Is One Vote Short in the Security Council from Being Recognised as a State**

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**The total stalemate in resolving the Israeli-Palestinian conflict requires new thinking and weaning off of old paradigms. Currently as the result of the Hamas attack on October 7, the ensuing war in Gaza, and the deterioration of security in the occupied West Bank, the relations between the Israelis and the Palestinians are at their worst since 1948 and seem the least conducive to a new a peace process. However, events have demonstrated to the international community that allowing this conflict to fester has had disastrous consequences not only for Israelis and Palestinians, but it has also had far-reaching implications across the region and the rest of the international community. This paper argues that an important step to break the deadlock is recognition of Palestinian statehood by individual countries and by international organizations, in particular the UN Security Council. Such recognition should incentivize both sides to negotiate peace based on a two-state solution, as it would overcome the asymmetry in the negotiations between a recognized state and movement representing its people. It will empower the pragmatic elements in both societies who are invested in peace, and will also send a clear message of sincerity from the international community that a two-state solution is the one it is behind and it will support.**

### **A. Introduction – Palestinian Statehood: the Upward Trajectory**

In May this year, the United Nations General Assembly overwhelmingly supported a Palestinian bid to become a full UN member. It recognised it as qualified to join and recommended the UN Security Council to “reconsider the matter favourably.” On that occasion, the Assembly adopted the resolution with 143 votes in favour and nine against – among them the US and Israel – while 24 abstained, most of them fearing Washington’s wrath. To be sure, the UN Security Council has voted, as late as April this year, in support of Palestinian statehood, and not for the first time, with a majority of 12, while two abstained – the UK and Switzerland – and it is not exactly top secret that these two countries support a two-state solution but for their own reasons decided to sit on the fence. However, since the US, which has veto power, was the country to oppose this resolution, it didn’t pass, something which over the years has become a matter of routine, and by that prevented the only global political body with the power to bestow such recognition from doing so.

Recognising Palestinian statehood is the other side of the coin of a two-state solution, or the notion of partition of British Mandatory Palestine, so it is not new. The Zionist movement, and later Israeli leaders, has accepted the principle of this solution several times over the

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course of the Israeli–Palestinian conflict. The Oslo process, even if not explicitly, at least strongly implied a peace agreement based on a two-state solution and by that a recognition of the right of Palestinians to self-determination. This was the case in the peace negotiations at Camp David in 2000 when Ehud Barak was Israel’s prime minister, and former prime minister Ehud Olmert’s peace plan of 2008 that proposed a near-total Israeli withdrawal from the West Bank to establish there, and in lands swapped by the two, a Palestinian state.

Moreover, in a now almost forgotten speech, the current prime minister Benjamin Netanyahu, back in 2009 agreed, grudgingly, for a Palestinian state to be established, although as part of a peace agreement between the two protagonists. What Israel has constantly disputed is the sequencing. It has always insisted that international recognition of Palestinian statehood would follow successful peace negotiations that would lead to full closure and an end to all demands. Thus far, and more than 30 years after Oslo, this approach hasn’t yielded the required result of peace based on two states, Israel and Palestine, coexisting peacefully.

This paper would like to argue that one of the obstacles, and an important one although far from the only one, is the absence of a recognition of Palestinian statehood, which perpetuates the asymmetry in the peace process and negotiations, whereas removing that obstacle might well facilitate and accelerate peace negotiations.

## **B. The US Is Gradually Becoming Isolated in Its Rejection of Palestinian Statehood**

In the litany of Washington’s contradictions regarding the Israeli–Palestinian issue, the repeated vetoing of Palestinian statehood is one of the most bewildering, especially as its most senior foreign policy decision-makers, including President Joe Biden, have repeatedly expressed their support for a two-state solution, the logical conclusion of which is an independent Palestinian state. It is especially bemusing as years of right-wing Israeli governments through their settlement policies and entrenching of the Occupied Palestinian Territories have made a territorially contiguous Palestinian state extremely difficult to achieve. One of the rare occasions when the US did not veto a UN Security Council resolution was in December 2016, in the dying days of the Obama administration, in allowing the passing of UNSC Resolution 2334 that reiterated its demand that Israel immediately and completely cease all settlement activities in the Occupied Palestinian Territories, including East Jerusalem. But this remains an isolated case in which the US has said one thing outside the corridors of the UN, while within its walls it has voted for the opposite of what it believes is right. Supporting the PLO’s application for recognition as a Palestinian state is still a Rubicon that no US administration seems able to cross.

And, since the sixth Netanyahu government was formed in early 2023, one that is dominated by far-right, messianic-religious elements, the direction has been that of expanding settlements and increased settler violence with complete impunity against Palestinians, while some leading figures in the government openly state their goal of annexing the West Bank in its entirety. Moreover, following the war which broke out on October 7, there are suggestions among senior members of the Cabinet that Israel re-occupy the Gaza Strip and build settlements there. Despite these developments that have changed the political and physical terrain of the Israeli–Palestinian conflict and have made a peace agreement based on a two-state solution more difficult, the US approach, and for many years also that of most European countries, that recognising Palestinian statehood should not take place prior to a peace agreement with Israel, has remained intact. This rewards those who derail the

chances of peace, while a recognition of Palestinian statehood could go a long way to rectify that.

Evidently, the current US administration is exasperated with this Netanyahu government, first for its assault on the Israeli democratic system, especially its independent judiciary, and second for its tolerance of increasing settler violence against Palestinians that in many cases amounts to terrorism. Both of these activities are further undermining the stability of the territories in question, and for the first time the US, later joined by EU countries and the UK, has imposed sanctions on extremist settlers and settlements regarding their serious human rights abuses against Palestinians in the occupied West Bank and East Jerusalem. Those countries must internalise that as long as the settlers believe that they can prevent a two-state solution and with it Palestinian self-determination, they will continue these human rights abuses; hence both issues are interconnected.

Countries who have yet to recognise Palestinian statehood are in a minority, and their isolation in this regard is highlighted by the broad international support for such a recognition; while for many European states there is an intrinsic contradiction between their support for admitting Palestine to the UN as a sovereign state while at the same time not recognising that statehood. Moreover, the question of Palestinian statehood has brought to the fore the question of whether recognition would accelerate peace between the Israelis and Palestinians, would slow it down, or would make no difference. In Europe the discourse around this question is rapidly changing, much of it because of the war in Gaza, and Spain has led a partially successful move to recognise Palestinian statehood, recently affirmed by the European Union's foreign policy chief Josep Borrell on the sidelines of a World Economic Forum special meeting in Riyadh. Mr Borrell rejected the notion that, at this time, recognising Palestinian statehood is a gift to Hamas, declaring that "Recognising the Palestinian state is not a gift to Hamas, quite the contrary. Reinforcing the Palestinian Authority is not reinforcing Hamas; quite the contrary. It's aimed at giving greater strength to the part of Palestinian society which we recognize and with which we work." Ireland, Slovenia and Norway (not an EU member) have recently joined Spain in recognising Palestinian statehood, and it remains to be seen if other countries will follow suit.

In the US the issue is as much a case of domestic politics as it is an international issue, and with a cycle of major elections every two years, any move that is regarded as anti-Israeli – or even not pro-Israeli – is not something that any administration will take a risk with, unless as in the case of Obama when he was just a few weeks away from leaving the White House. Alas, a YouGov survey last year found that in the USA 37 per cent of voters agree that their country should recognise Palestine as an independent state, and only 20 per cent oppose this move, while the rest were not sure, in other words were rather indifferent and hence this won't affect their voting pattern. Public opinion in this case is therefore not an obstacle to Palestinian statehood, it is rather the political discourse that should change. Similar findings were found in European countries such as Germany, the UK, France, Spain and the Scandinavian countries, which should encourage more governments to move towards recognising Palestine as a state.

### **C. Is Palestine already a State?**

It can be argued that the question of recognising Palestinian statehood has long been overtaken by events and Palestine is already a state for all intents and purposes, and therefore UNSC recognition should be no more than a formality. First, it has governing bodies of sorts. The Palestinian Authority (PA) was formed in 1994 in accordance with the

Oslo Accords peace process. According to the agreement, the Israeli military was to withdraw from Gaza and parts of the West Bank, leaving the PA as those areas' new governing authority. Throughout the last three decades since the Oslo Accords were signed, and subsequent agreements between the Israelis and the Palestinians, the PA has gone through some tumultuous times and the governance between the West Bank and Gaza has been divided, but it functioned as a government of the Palestinian people.

Second, this political entity's pre-June 1967 borders are generally speaking internationally recognised, and even Israel during previous peace negotiations accepted that these borders are the benchmark for a two-state solution, even if the final borders between Israel and Palestine will not be identical to those pre-dating June 1967, and instead the two will swap land that will compensate for territory taken by Jewish settlements, to the effect that it would amount to 22 percent of Mandatory Palestine, which is equal to the size of the West Bank and the Gaza Strip combined.

Lastly, Palestine has already a formal status among the family of nations, as it was accepted as a non-member observer state of the UN General Assembly in November 2012 by a vote of 138 countries in favour and opposed by only nine member states. The more recent vote in the General Assembly has mainly reiterated this broad support for Palestinian statehood. In many countries Palestinian diplomatic delegations are treated on an equal footing with embassies, and 11 of the 27 EU member states have already recognised Palestine as a state, as have most African, Asian and Latin American countries. Until the Trump administration decided to close the PLO mission in Washington in 2018, this was the case also with the US. It is particularly significant that over the last few months as a result of the war in Gaza, Spain, Norway, Ireland and later Slovenia have joined seven other EU countries that already recognise Palestinian statehood, creating within the European Union a powerful bloc that lobbies for the Union as a whole to do so too. In practical terms it can be argued that this leaves the question of whether formal UNSC recognition would be mainly symbolic. Nevertheless, should such a bid in the Security Council be successful, it would be the final stamp of international approval, well beyond a mere symbolic gesture, and would remove this contentious obstacle to statehood and subsequent peace negotiations. Recognition in Palestinian statehood goes beyond symbolism, especially as the Knesset voted recently with an overwhelming majority a resolution rejecting Palestinian statehood. Recognition of Palestinian statehood by additional states, and by the UNSC should send a clear signal that the international community is in full support of it at a time that the far-right Israeli government is creating facts on the ground to make the possibility of a Palestinian state obsolete. Recognition of Palestinian statehood could reverse these trends, but also allow it to exercise the powers of an independent state to adopt its own monetary system, be in charge of the movement of people in and out of its recognised borders, and will change entirely its diplomatic and legal status as much as its obligations to ensure peace and security along its borders.

#### **D. Recognition Will Create a New Dynamic**

Whatever merit there is in claiming that recognition of Palestinian statehood would be merely gestural, there is a persuasive argument that it would mean a substantial departure from the current situation, which disadvantages not only the Palestinians but also the cause of peace itself, because of the very asymmetric nature of this conflict between the two main protagonists, which by itself is a hindrance to peace. Recognising Palestine would mitigate some of this asymmetry and create a different dynamic in relations between the Palestinians and Israel, and with it the general international approach to the nature of the negotiations.



There is a marked difference in relations, especially in the context of negotiations, between one side which is a recognised state, a well-established one with a powerful military and economy, and with all the symbols and trappings of such an entity, let alone territorial integrity and recognised borders. At the same time, the other is an entity that is mostly under harsh occupation, and currently, part of its territory in Gaza has been devastated, demolished, and tens of thousands of its people have been killed in the war, while the population that survives – so far – suffers from severe trauma, while their security and economy are at the mercy of the occupier.

Recognising Palestinian statehood according to the pre-June 1967 borders, albeit without defining the exact borders, would reiterate that the entire jurisdiction over the West Bank and Gaza should be a Palestinian one ruled by their elected bodies, and should make the division between areas A, B and C obsolete. Currently Israel is still officially in full control of area C which constitutes more than 60 per cent of the West Bank, and militarily controls area B. For all means and purposes Area A should be out of bounds to Israeli security forces, yet is also at the mercy of Israel, in violation of the Oslo agreement. Since recognition of Palestinian statehood would change the status quo, the division of the West Bank into three areas should become irrelevant. Consequently, it should lead to a transitional phase, until there an agreement on final borders between the two states, all subject to negotiations all within an agreed time framework.

Recognition of Palestinian statehood will not only make all Israeli activities in the Occupied Palestinian Territories illegal, but will also put the onus on the Palestinian Authority to prevent militancy against Israel and Israelis, and demonstrate that it is capable of doing so as a sovereign state. This should serve as an incentive for both sides to revive peace negotiations with the aim of agreeing on borders and other outstanding issues, including security for all those living on both sides of the Green Line. Recent Advisory Opinion by the UN's top court, the ICJ stated that "'Israel's... continued presence in the Occupied Palestinian Territory is illegal," and that "The State of Israel is under the obligation to bring an end to its unlawful presence in the Occupied Palestinian Territory as rapidly as possible," resolved at least from an international law perspective the illegal status of the occupation and the settlements. It removes any Israeli claim to legal legitimacy over any of this territory, which by default assigns it to a future Palestinian state.

At present, recognition of their statehood, or more accurately preventing such recognition, is a tool being abused by Israel to pressure the Palestinians into making concessions. For Palestinians, recognition should revive their appetite for a negotiated agreement, will serve as an incentive to unite and reform their system of governance, and equally significantly, transform their discourse from that of a liberation movement that includes an armed struggle, to one that operates as a state with responsibility for the security and wellbeing of all its people. Furthermore, for too long the Palestinian people haven't seen a political horizon of ending the occupation leading to self-determination. Recognition of a Palestinian statehood will empower the moderate and pragmatic political forces within the Palestinian society who have long preferred historical compromise and the diplomatic route to a state rather than the painful and costly option of an armed struggle. It is impossible, and would be wrong, to ignore the deep crisis in the Palestinian political system and its leadership's lack of legitimacy after 18 years with no elections, which Israel contributed to. Concurrent with the drive for recognition, the international community should turn its attention Palestinians' political system to hold a free and fair election as soon as possible. Together, recognition and a new government can reinvigorate the peace discourse on both the Israeli and Palestinian sides.

Past and present Israeli administrations, including those that have supported the Oslo Accords and peace initiatives since then, have opposed recognising Palestine as a state because this would deprive the former of a key pressure point on the Palestinians, and during the Netanyahu years that stance has been part of a deliberate strategy of thwarting any peace agreement based on a two-state solution. For the international community, to present Israel with Palestinian statehood as a *fait accompli* would be to send a clear signal of intent and force Israel to accept it or find itself isolated. It is far from guaranteed that Israel would draw the right conclusions from the traumatic experiences following October 7, but one lesson, among many others, must be that preventing Palestinian statehood through meddling in Palestinian affairs only empowers the more extreme segments in the Palestinian polity who are least conducive to living peacefully side by side with a Jewish state.

To be sure, decades of delay over recognising Palestinian statehood have not advanced by one iota the cause of peace negotiations, let alone a peace agreement, and instead contributed to the constant deterioration in security, not to mention the horrific war in Gaza that has followed the atrocities committed by Hamas on October 7. By now it is clear, including to those who genuinely believed that recognising Palestinian statehood is merely an incentive to Palestinians not to make the necessary concessions that would facilitate a peace agreement based on a two-state solution, that the issue has become a bottleneck and a distraction that has prevented the sides from progressing on other outstanding issues between them. In truth, there is certainly the danger that one or both sides might draw the wrong conclusions if such a recognition becomes a reality, through either more countries recognising it individually, the EU as a whole adopting this approach, or in the unlikely event that the US removes its veto in the UNSC and allows such a resolution to pass. Israel, due to its entrenched distrust of the international community, would probably see it as another premeditated act of undermining its security and its survival; while the Palestinians might conclude that the tide has turned in their favour and against Israel, feel that there is no urgency to conclude a peace agreement, and consequently harden their position. If that were the case, it would be for the international community to ensure that this thinking is instantly countered and eliminated. In other words, there should be clear incentives and disincentives for both sides, be they political, economic, cultural or scientific cooperation, if they misuse such recognition to stall progress in negotiating towards a two-state solution. Those Israelis who support peace based on a two-state solution, but not a recognition of Palestinian statehood before the conclusion of peace negotiations, should also consider that reevaluating their position might lead to further normalisation with the rest of the Arab world, in line with the Arab Peace Initiative and a formal recognition of Israel in its pre-1967 borders.

If there is anything to learn from the ongoing Israeli–Palestinian tragedy that has spiralled out of control over the last ten months, it is that leaving the Israeli–Palestinian issue unresolved can only mean more war and bloodshed. Consequently, the domestic and international discourse over the conflict has changed dramatically, highlighting the understanding that avoiding any proactive approach to resolving it comes at an intolerable price, whose impact goes well beyond Israel and Palestine. For now, it is impossible to envisage Washington leading a radical change to this intractable conflict, especially in an election year. Hence, it makes it imperative that the EU, both as individual member states and as one of the more powerful and influential political bodies in international affairs, which has deep-rooted interests in the region and its stability, not to mention its historical connections, take the lead and the initiative in recognising Palestine as a state, a move which would be instrumental in creating a new and positive momentum for the stalled peace process. This will send a clear message to Washington that America either joins Europe in recognition or remains almost isolated from its friends and allies by not doing so. Eventually, the Netanyahu era will come to an end, and there are strong signs that this might come to

pass sooner rather than later. A new Israeli government will then have to form its policies towards a sovereign Palestinian state based on equal standing in international law and among the international community.

It will then remain to be seen how the recognition of Palestinian statehood will affect negotiations, but the working assumption is that a two-state solution remains the most viable peaceful option for this conflict, which considering the small territory and population density, should aim at each state leaving their borders open for political, economic and social activities. In other words, a two-state solution in a one-state reality. There is no silver bullet for reviving a peace process which is currently in complete stalemate, and simply recognising Palestine as a state will not provide one, but it will be the essential, crucial turning point towards a just and viable resolution to one of the most protracted and volatile conflicts in modern history.