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Research Report

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Palestine at the United Nations

Options, Risks and Chances of an Application for Full Membership and Recognition

Muriel Asseburg

This autumn the Palestinian leadership intends to apply for Palestine to be accepted as a full member of the United Nations and recognised as an independent state. It can rely on the support of the greatest part of the international community, but can also be sure to see an American veto in the Security Council – which would suffice to stymie UN membership. Nevertheless, EU member states should continue to actively pursue a two-state settlement. This implies that they unite in recognising the Palestinian state and voting in favour of its UN membership. At the same time they should grasp the opportunity to anchor parameters for conflict settlement based on a two-state approach in the respective UN resolutions.

In September 2010 U.S. President Barack Obama told the UN General Assembly that he hoped to bring about peace between Israel and Palestine within a year, and on this basis welcome an independent and sovereign State of Palestine as a new member of the United Nations. Peace talks quickly broke off, however, as the Palestinian leadership felt encouraged by Obama's call for a settlement freeze to refuse to negotiate until the Israeli government reinstated its moratorium on settlement-building (which was only partial anyway). The Israeli government, for its part, demanded recognition of Israel as a Jewish state as a precondition for talks, and later added the cancellation of the May 2011 Palestinian reconciliation agreement. The Palestinian Authority had to choose "either peace with Israel or peace with Hamas".

It became increasingly clear to the Palestinians that negotiations with the Netanyahu government would not lead to compromise. The Israeli Prime Minister outlined his position to both houses of Congress at the end of May 2011: the 1967 borders were not defensible, Jerusalem would remain the united capital of Israel, Israel would keep a long-term military presence along the river Jordan, and there would be no right of return for Palestinian refugees. The gulf between the two sides had become unbridgeable. At their July 2011 meeting the members of the Middle East Quartet (United States, European Union, Russian Federation and United Nations) were unable to agree on a joint position for restarting the talks.

The Fayyad Plan and Reconciliation

Back in August 2009 Salam Fayyad, the prime minister of the Ramallah government, presented a state- and institution-building plan designed to lead to independence within two years. The EU, its Quartet partners, international organisations and even Israel enthusiastically welcomed Fayyad's efforts. The achievements are indeed substantial: the economy has been boosted, infrastructure upgraded, administration streamlined and the security situation improved. But these advances are restricted to about 40 percent of the West Bank, which is fragmented by Israeli settlements, settlement infrastructure and the separation wall. East Jerusalem is excluded and the Hamas-governed Gaza Strip remains under blockade.

Nonetheless, in spring 2011 the UN, the International Monetary Fund and the World Bank all confirmed that Palestine had fulfilled the preconditions for statehood – to the extent possible under continuing occupation. At the end of July the United Nations Special Coordinator for the Middle East Peace Process, Robert Serry, told the Security Council that the Palestinian Authority was “ready to assume the responsibilities of statehood at any point in the near future”.

The reconciliation agreement signed in early May 2011 in Cairo by representatives of the two main Palestinian movements, Fatah and Hamas, as well as smaller Palestinian factions represented a significant first step towards overcoming the divisions within the Palestinian camp. However, its implementation has been held up as the two sides could not agree on the prime minister of a technocratic interim government.

Options at the UN

This autumn the Palestinian leadership intends to apply for Palestine to be accepted as a full member of the United Nations and recognised as an independent state. This move has the approval of all

relevant PLO bodies and the support of the Arab League. But how exactly PLO Chairman Mahmoud Abbas will proceed remains unclear. There is serious doubt about the prospects of success – and about what success would actually mean in this context.

In principle two separate matters are involved. The first concerns the status of Palestine at the United Nations. Full membership is open to all peace-loving states that accept the obligations of the UN Charter and are willing and able to carry them out. The General Assembly would have to approve an application with a two-thirds majority after the Security Council has made a positive recommendation with at least nine votes and no veto. This course currently appears to be blocked as the United States is expected to use its veto.

Still, Palestine's status at the United Nations could be improved by a majority in the General Assembly, without even having to involve the Security Council. However, below the threshold of full membership Palestine would gain little in the way of new rights as it already enjoys observer status with far-reaching privileges (UNGA Res. 52/250 of 1998). One option would be to make Palestine a “non-member state” (the status of the Vatican and of Switzerland before it became a full member in 2002) and a permanent observer. Concretely, Palestine could be given the right to nominate candidates for UN posts and to apply for full membership of UN organisations.

The second matter concerns securing recognition of the state of Palestine by the greatest possible number of states. Although such recognition is a bilateral matter it could be “crowned” by a corresponding General Assembly resolution. Even though the Palestinians expect that a two-thirds majority of member states would vote for such a resolution, the 129 of 193 votes are not guaranteed. About 120 states have so far recognised the State of Palestine, mostly following the November 1988 decision by the PLO leadership-in-exile to accept a two-state solution and proclaim

the state of Palestine. Thirteen more, above all Latin American states, have followed suit more recently and others such as Honduras have announced their intention to do so. But at the same time some former Eastern Bloc states, included in the group of 120, might vote against *de jure* recognition in the autumn.

If a two-thirds majority of the General Assembly were to vote in favour of such a recognition resolution this would be first and foremost a political success for the Palestinians. While support for such a resolution would represent a legally binding recognition this would only apply to those states that voted for it. It would not grant Palestine the status of a sovereign, generally recognised state.

Risks

Three arguments are usually advanced against recognition: that unilateral action on the part of the Palestinians would violate or endanger the peace process; that it would delegitimise Israel; and that it could provoke a new wave of violence.

An application to the UN can hardly be termed unilateral. What the Palestinians actually want is to crystallise the support of the international community and internationalise conflict-resolution. In fact, it is high time to find new ways to arrive at a two-state settlement. For if the fragmentation of the territory foreseen for the future Palestinian state continues such an arrangement will soon become impossible. Also, given that the Peace Process has made no meaningful progress since the Interim Agreement (Oslo II Accords) of 1995, the United States and the Middle East Quartet have also been discredited as mediators.

It goes without saying that recognition would not remove many of the obstacles to effective Palestinian statehood: the occupation regime, the presence of Israeli settlers and soldiers in the West Bank and East Jerusalem, the isolation of East Jerusalem, the blockade of the Gaza Strip. Nor would it do anything to resolve the other

contentious bilateral issues. But the point of the exercise is not to substitute negotiations; rather the emphasis is on realising the Palestinians' right to self-determination, defining the contours of a two-state settlement and creating a more balanced starting point for negotiations. This also implies that there is no danger of delegitimising Israel. On the contrary, what the Palestinians demand is recognition of their state in the 1967 borders, i.e., next to Israel.

Given that neither recognition nor UN membership would bring about tangible improvements for the Palestinian population, some fear that disappointment could trigger violence. That possibility cannot be excluded. Even mass demonstrations of the kind planned to accompany the UN process can easily escalate into violence. Whether this happens will depend decisively on how Israel reacts to and handles them as well as on the Israeli response to the Palestinian UN initiative. Some of the retaliatory actions the Israelis have threatened will definitely not be helpful: abrogating the Oslo Accords; stopping transfers of revenues derived from Palestinians taxes and social security contributions paid in Israel as well as duties on Palestinian imports; terminating security cooperation; or even annexing parts of the West Bank. Nor would it be helpful if the U.S. Administration were to freeze its support to the Palestinian Authority as demanded by Congress.

In fact the disappointment of the Palestinians is likely to be even greater if neither the institution-building promoted by Fayyad nor negotiations nor recourse to the UN does anything to advance the cause of independence. In this case, the international community will be faced with the question as to what other paths remain if all peaceful and legal possibilities to achieve Palestinian rights under international law are blocked.

Disappointment about the failure of an initiative at the UN could set in motion a development that is often discussed as a "third Intifada". In a clear departure from the (largely non-violent) first Intifada and

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the second Intifada (which was characterised by guerrilla tactics), a third uprising would probably feature a stronger regional component. Even if Palestinians are increasingly propagating “civil resistance”, there is certainly the danger of a violent escalation up to and including a regional war. Neighbouring states could see stoking conflict or provoking skirmishes as a chance to distract attention from their domestic problems. The confrontations on the Syrian-Israeli border at the beginning of June 2011 (on the anniversary of the 1967 war) gave a taste of that. Activities to show solidarity with the Palestinians should also be expected in other neighbouring states. The Arab Spring has made it even less appealing for Arab governments to step in as Israel’s protector in the event that their civilians march peacefully on its borders.

Defining a Consistent European Stance

Since the beginning of the Oslo Process in 1993 the EU and its member states have supported the building of a Palestinian state with considerable financial and technical assistance. In March 1999, towards the end of the interim period agreed in Oslo, the EU announced that it would consider recognising a Palestinian state “in due course”, an intention reiterated in the Council Conclusions of December 2009 and 2010. As the largest European donor to the Palestinians, Germany has actively supported this stance. In May 2011, responding to a parliamentary question, the German government agreed that the Palestinian Authority was already “operating above the threshold of a functioning state in key areas”.

European governments – including Berlin – that currently oppose recognition of a Palestinian state should therefore reconsider their negative attitude and instead work within the EU framework to pursue the European line of consistently supporting a two-state settlement, recognising the Palestinian state and supporting its full

membership in the United Nations. Anything else would be a severe blow to EU credibility in the Arab world – and far beyond too.

At the same time the EU should take Israel’s legitimate interests seriously. Also for this reason, it should seek to link the UN resolutions with parameters for conflict resolution (along the lines of what the Europeans presented to the Security Council in February 2011): a territorial arrangement on the basis of the 1967 borders with an agreed exchange of territory; security arrangements that meet the needs of both sides; a just and agreed solution for the refugees; Jerusalem as the capital of both states. One thing is obvious: Without active, consistent mediation by the international community there is little hope of resolving the conflict. Moreover, if proactive and forward-looking crisis management is not enacted, violent escalation threatens – and the demise of the two-state solution.