



No Path To Peace: The Potential Consequences of Palestinian Unilateral Actions at the United Nations General Assembly

A Strategic Briefing for Policymakers

Paper No. 5
September 5th, 2011

Executive Summary and Recommendations

- Palestinian President Mahmoud Abbas has declared his intention to pursue the recognition of statehood for Palestine as a full member of the UN at the UN General Assembly in September as part of an attempt to ‘internationalise’ the conflict between Israel and the Palestinians.
- Such a unilateral course of action runs counter to the explicit Palestinian commitment as per the Oslo Agreements to seek to resolve the conflict between Israel and the Palestinians through direct bilateral negotiations leading to a final status agreement and the end of all claims.
- The Palestinian unilateral gambit entails not only significant risks to Palestinian economic progress but also carries grave potential for the escalation of violence on the ground.
- Firm US opposition to such a unilateral Palestinian initiative at the UN is premised on an understanding that only bilateral negotiations in a US and Quartet-led framework have the potential for real progress leading to a final status agreement between Israel and the Palestinians.
- Though the modalities of a relevant Palestinian resolution at the UN General Assembly are not yet clear, it can be assumed that EU member states will be in a position to cast the pivotal votes that will determine the outcome of the Palestinian initiative.
- As signatories to the commitments to resolve the conflict between Israel and the Palestinians through bilateral negotiations, and on account of

the significant potential for a deterioration in the situation the unilateral initiative posits, EU member states should work to avert such a course of action by the Palestinians and if necessary vote against recognition, whilst making clear that they support the creation of a Palestinian state living side-by-side in peace and security with Israel as per a final status agreement negotiated directly between the parties to the conflict.

1. Background

Writing in the *New York Times* in May, Palestinian National Authority President Mahmoud Abbas declared that “this September, at the United Nations General Assembly, we will request international recognition of the State of Palestine on the 1967 border and that our state be admitted as a full member of the United Nations.”¹ Such unilateral Palestinian action is strongly opposed both by Israel and the United States as well as a number of European states, including Germany and Italy, ultimately on the basis that it will prove a significant hindrance to progress in the Peace Process. It has serious potential consequences leading to a deterioration in the dynamics of the Israeli-Palestinian conflict in both the immediate and the long term, as well as impacting on the role of the international community and multilateral institutions in this and similar scenarios.

Despite the continued categorical public statements indicating that the Palestinian leadership aims to pursue this path to its full extent, President Abbas’ diplomatic corps has simultaneously partaken in a frantic diplomatic search to avert the potentially grave fallout from such an enterprise, giving credence to claims that their initiative has been pursued without a coherent strategy behind it. At the time of writing, the diplomacy remains unsuccessful and it appears that the dynamic of expectation unleashed by the Palestinian leadership may have passed a point of no return. With the possibility of a major last minute diplomatic intervention receding, policymakers are likely to be confronted with the consequences of Palestinian unilateralism sometime around September 20th.

1. *The Long Overdue Palestinian State*, Mahmoud Abbas, *New York Times*, May 16, 2011

Though it is far from clear what exact form President Abbas' course of action at the UN General Assembly will take, the contours of an expected Palestinian unilateral initiative have come into focus as the diplomacy has unfolded. The UN cannot confer statehood per se – states are generally declared by the political leadership in a relevant territory, subject to various stipulations, including control of said territory, provisional institutions for the state-to-be and other obvious prerequisites. The UN can then admit states to the body – an act that entails the passage of a recommendation to do so by the Security Council and a two-thirds majority vote by the General Assembly.

Since the U.S. has made its opposition to Palestinian unilateralism clear and is firmly expected to veto any such initiative in the Security Council, the focus has shifted to potential Palestinian action in the General Assembly, where the Palestinian delegation enjoys an automatic majority of support drawn from the Arab League, Islamic Cooperation and Non-Aligned blocs. Though complex, in principle the modalities of available courses of action for the Palestinians here are tied into their long-standing use of the 'Uniting for Peace' mechanism – a procedure originally designed to sidestep super-power gridlock in the Security Council during the Cold War – which results in non-legally binding resolutions that generally have little consequence in real terms. However, given the grave wider implications for the status of diplomacy in the Israeli-Palestinian conflict that the Palestinian unilateral gambit carries, even such a more limited General Assembly resolution could have far reaching consequences in this case. With UN member states' positions of support or opposition to the Palestinian unilateral initiative clear, ostensibly the major determining factor of success for the gambit will come from the votes cast by those European Union and associated countries that can confer or deny a sense of diplomatic legitimacy to the outcome of a relevant UN General Assembly vote.

With this in mind, the latest round of diplomacy appears to be edging towards an outcome that will see the Palestinian leadership retreat from seeking to become a full member state and instead aim to garner European support for a resolution elevating Palestine from having Observer Status at the UN to becoming a Non-Member State (similar in status to the Holy See). Though it is not clear what the specific text of any resolution to be tabled will be, the possibility of such a resolution making reference to the 1967 line around which bilateral negotiations between the parties have focused adds further fuel to the unilateral fire in attempting to pre-judge the issue of borders which under the Oslo Agreements is clearly reserved as

an essential part of bilateral negotiations. Indeed, any unilateral attempt by the Palestinians to seek a form of UN recognition of statehood under the modalities described stands in express contradiction to the obligation of resolving the conflict by bilateral negotiation that past agreements between Israel and the Palestinians expressly carry, a position endorsed by the US, EU and Quartet.

The consequences of the expected Palestinian unilateral action are however not only legal in nature. The diplomatic process, realities on the ground and not least the UN system and international law may suffer serious negative consequences if European states accede to such an attempt to remove the search for a two-state solution from the established bilateral framework. Progress towards two states living side by side in peace and security will only be achieved through direct negotiations between the parties, however difficult. Since the EU member states on whom the outcome now appears to hinge are expressly determined to reach such an outcome, it is vital that they send a clear message that the Palestinian unilateral initiative is a dead-end – at best a costly distraction, at worst a recipe for significant deterioration.

2. Consequences of Palestinian Unilateral Actions for the Diplomatic Process

Despite the significant uncertainties about the exact form the unilateral Palestinian initiative will take, the extreme volatility inherent in popular impetuses and diplomacy in the Middle East gives cause for grave concern on a number of levels if the Palestinians go ahead with their initiative.

For the diplomatic process the consequences of such an initiative will be significantly detrimental in a manner that should be of serious concern to those interested in promoting constructive steps between Israel and the Palestinians. Two problems are paramount – the failure to abide by the express commitment to the principle of the resolution of the conflict through negotiations between the parties; and the related broader attempt to move the conflict into a multilateral diplomatic setting which will significantly

diminished chances of success. There are also broader concerns about international diplomacy and the UN system per se inherent in the proposed Palestinian action.

2.1. Negating the Commitment to Bilateral Negotiations and Statehood as ‘End of Claims’

The principle of resolving the Israeli-Palestinian conflict through bilateral negotiations is a long-standing part of the diplomatic framework seeking to address the conflict, and is a fundamental principle agreed between the parties as part of the Oslo Agreements. Starting with the exchange of letters on mutual recognition in 1993, in which the PLO committed itself to a declaration that “all outstanding issues relating to permanent status will be resolved through negotiations”, and followed in the 1995 Interim Agreement (Oslo II) by a commitment not to take any step that would change the status of the Palestinian territories pending the outcome of the permanent status negotiations (an agreement to which the EU is a signatory), this principle has not only binding validity on the parties, but has been reaffirmed time and again as the only acceptable basis for a resolution of the conflict. Both the founding position of the Quartet as well as the so-called Roadmap to Peace have maintained this clear core component of the Peace Process. Nor is this a legalistic point alone – this core understanding exists since it is clearly understood that no successful outcome will be achieved unless the parties abide by this principle. As such, a move away from the principle of bilateral negotiations, as a Palestinian unilateral attempt at declaring statehood would entail, is not only a problem in terms of past agreements, it is also counter to the accepted modalities statesmen have posited for decades as the only possible way forward between the parties. The gravity of abandoning the principle of a negotiated solution as the only acceptable way forward in the Middle East Peace Process cannot be overstated.

For the potential implications that such a grave reversal of long standing paradigms involves, one need only look at the Israeli reaction. Given the centrality of the bilateral requirement to the Oslo paradigm, top Israeli policymakers have mooted a potential cancelation of the Oslo Accords in response to the Palestinian initiative as part of a package of options being prepared to counter what is perceived to be a major diplomatic affront. Though these are measures deemed to be the preferred option of only a minority of Israeli cabinet ministers, the implications are that if one party violates

such a fundamental principle of the diplomatic agreements, the other will feel warranted to pursue equally strong measures, leading to an inevitable erosion of the hard-fought for principles of the entire process. This has to be understood quite apart from any frustration on behalf of the parties with their opposite and the rough-and-tumble of high stakes diplomacy, but rather as a fundamental paradigm shift away from even the limited constructive framework the parties are committed to. Inevitably, such a dynamic would be majorly detrimental to the Peace Process and external actors have a duty to act to avoid such a scenario.

Nor is this the only paradigm shift the Palestinian unilateral statehood gambit entails. For such a move as conceived by President Abbas would serve to undermine another of the fundamental aspects of the Peace Process – that the recognition of Palestinian statehood through final status negotiations should be coupled to a reciprocal agreement establishing an ‘End of Claims’ on the part of the Palestinians. In fact, the unilateral scenario as pursued by President Abbas, envisages statehood, even in a more limited form, as a stepping-stone to the perpetuation of the conflict through multilateral bodies.

2.2. The Counterproductive ‘Internationalisation’ of the Peace Process

In his *New York Times* op-ed, Mahmoud Abbas posited explicitly that a major aim of the Palestinians’ attempt to unilaterally assert statehood through the UN was that this “would pave the way for the internationalization of the conflict as a legal matter, not only a political one. It would also pave the way for us to pursue claims against Israel at the United Nations, human rights treaty bodies and the International Court of Justice.” , making clear that he fully intended the initiative to serve to open up a new diplomatic and legal front in the conflict with Israel. Such an aim has found a sympathetic response in various quarters, belying the seriously detrimental effect towards real progress in pursuit of a final settlement it would entail.

Peace between Israel and the Palestinians rests not only on a viable Palestinian state emerging from a final status agreement, but is also dependent on Israel’s legitimate diplomatic and security concerns being addressed as part

2. *The Long Overdue Palestinian State*, Mahmoud Abbas, New York Times, May 16, 2011

of a deal between the parties. The only credible guarantor of this axiomatic component of a peace deal is the United States. Whilst there is a role for the EU, the Quartet and other parties, including the UN, the bilateral diplomatic framework as led by the US is the only one that has an inherent chance of success on account of its ability to deliver the legitimate assurances such a deal will entail. No serious observer interested in a successful outcome acceptable to both parties to the conflict can discount this reality. Much of the US' resistance to a unilateral move that entails a principal shift in the diplomatic venue for conflict resolution between Israel and the Palestinians to multilateral bodies is premised on the recognition of this dynamic. It is for this very reason that the opposition to the Palestinian unilateral gambit has been so vocal even from a US administration highly sympathetic to Palestinian aspirations.

As such, whilst such an 'internationalisation' of the conflict may on the surface appear attractive to the Palestinian leadership and its supporters, the net effects are in reality likely to constitute significant additional obstacles to peace. No credible peace-building initiative for Israel and the Palestinians has ever emerged from the UN General Assembly. Despite the obsessive focus on condemnation of Israel in parts of the UN structure, associated legal rulings and sustained efforts to constrain Israeli room for diplomatic manoeuvre, formal progress has only ever been made through direct negotiation between the parties in a US-led framework. Indeed, the internationalisation of the conflict, with potential attempts by the Palestinians and their supporters to mount significant diplomatic and legal challenges to Israel through international bodies deemed receptive to Palestinian grievances, will likely result in significant entrenchment on the part of Israel. Whilst such a scenario may entail perceived victories for the Palestinians, it would in truth only serve to perpetuate the conflict, with no hope of making progress towards a final settlement and constant potential for escalation.

No multilateral institution can supplant the role of bilateral negotiation and US engagement. Nor is the potential impact of such an internalisation of the conflict possible to control. As such, whilst the likelihood of a successful final settlement as a result of the internationalisation of the conflict appears non-existent, potential obstacles are multiplied exponentially by such a course, which if successful would soon turn out to be a Pyrrhic victory for the Palestinian leadership.

2.3. Implications for International Diplomacy and the Problem of Precedent

As noted above, the Peace Process between Israel and the Palestinians is built on a framework of agreements that explicitly bind the parties to resolve their differences and reach a final status agreement through bilateral negotiations. In the case of the 1995 Oslo II Interim Agreement, and as reaffirmed by the policy commitments made as part of the Quartet, both the US and the EU member states are signatories to these commitments. As such, European member states that support a unilateral Palestinian resolution would significantly impede their ability to serve as an honest broker in future negotiations between the parties, since Israel would credibly blame them for renegeing on vital agreements and understandings about the Peace Process in support of unilateral Palestinian actions.

There are also wider concerns about a Palestinian unilateral declaration of statehood. Most observers agree that a course that results in a General Assembly resolution in favour of Palestinian statehood under the 'Uniting for Peace' mechanism would set such a problematic precedent as to be opposed even by a majority of countries sympathetic to the Palestinian cause. Yet even a more limited unilateral success at achieving UN endorsement of positions that the Palestinians have failed to achieve in bilateral negotiations with the principal other party to their conflict would have the potential to create a highly problematic precedent in the UN system. The Palestinians have enjoyed a significant number of unusual diplomatic benefits as observers at the UN, including a standing mechanism that allows them to forgo some of the procedural hurdles usually entailed in seeking recourse to the General Assembly. Yet, the world is not short of stateless people and movements with significant grievances and long histories of conflict, and it is not hard to imagine the impact on global governance and the UN system should Palestinian success in achieving their aims through unilateral means sanctioned by the UN inspire others to seek a similar path. This would have a significant impact on the UN system, which hitherto admitted new states only once their primary conflicts had been resolved bilaterally, such as for example in the case of East Timor and Indonesia.

The implications for international diplomacy and the UN system of a unilateral Palestinian declaration of statehood are not to be discounted. The commitment to bilateralism that the EU has entered into is beyond dispute and will inevitably become a point of contention should individual member states abandon it. Yet, successful precedent-setting unilateral Palestinian action would be a potential problem for the UN system as a whole, indicating to other movements and peoples seeking statehood that the apparently unassailable dynamics of proper sequencing and obligatory prerequisites may be cut short by recourse to the UN General Assembly.

3. Practical Consequences of Palestinian Unilateral Actions

Whilst the potential negative impact of the unilateral Palestinian gambit on the Peace Process and progress towards a final settlement has been noted above in the context of the attempted internationalisation of the conflict, the immediate practical considerations give even more cause for concern. The Palestinian unilateral gambit not only jeopardises hard won practical Palestinian gains but also creates the potential for violence in the region – and ultimately has the potential to jeopardise the position of the Palestinian National Authority (PA) itself.

3.1. Exacerbating the Palestinian Financial Crisis

When understood in the context of the popular uprisings that have swept the Arab World in the course of this year, it is possible to see how the pressure on the Palestinian leadership to produce practical gains for its population has led to the halting attempts at reconciliation between Hamas – a terrorist organisation which governs the Gaza strip - and President Abbas' Fatah party in the West Bank. The fact aside that such a unity government incorporating an unreformed Hamas would be unacceptable – and disinterested – as a partner to peace, it appears in any case that attempts at reconciliation between the two warring Palestinian factions are faltering. The rationale behind the reconciliation attempt was arguably a reaction to the Arab Spring - with a view to the formation of a transitional unity government in advance of elections next year. The faltering of the latest attempt at Palestinian unity is perhaps best evidenced by the struggle over Salam

Fayyad's position as Prime Minister. De facto remaining in place for now, Fayyad is attempting to tackle the serious financial crisis the PA is facing, which threatens to derail hard won gains in economic and institutional improvement with which he is credited. At fault, not least, is the failure of Arab donor countries to deliver over \$300 million in pledged assistance.

Given these serious political and financial difficulties, it is difficult to detect a coherent strategy behind President Abbas' unilateral gambit. Not only is Hamas opposed to seeking recourse at the UN, complicating efforts at consolidating national unity, but the PA is also laying itself open to a significant – potentially existential – deepening of the financial crisis. Over a million Palestinians – both in the West Bank, but also public employees in Gaza – are dependent on the PA for their salaries, yet the current financial crisis has left the PA struggling acutely to fulfil its commitments. With the US being the biggest and most reliable single state donor to the Palestinian Authority, donating over \$500 million annually, seeking a unilateral declaration of statehood in defiance of US demands to abide by bilateral commitments is a serious risk. Lest the Palestinians doubted if the possibility were real, the US Congress passed a resolution last month by an overwhelming majority urging President Obama to suspend aid to the Palestinians should they proceed with the unilateral gambit.

If the US was to suspend aid to a Palestinian Authority already in dire financial straits, the consequences would be severe not only in terms of jeopardising hard won economic gains but in all likelihood plunging the PA into an unprecedented political crisis with the potential for widespread social unrest.

3.2. The Potential for Violence

One of the gravest concerns about the Palestinian unilateral attempt to gain recognition as a state at the UN is the serious potential for violence such an initiative entails. President Abbas and a host of other Palestinian leaders including Marwan Barghouti have called for mass protests to accompany the initiative in September. Whilst the Palestinian leadership has been emphasising that such demonstrations should be peaceful, the volatile nature of the dynamic on the ground poses a significant danger of escalation. Israeli policymakers have made clear they are gravely concerned at the potential for violence such demonstrations entail and the Israeli Army has purchased millions of dollars worth of non-lethal weaponry such as tear gas and special

water cannons in preparation for the mass protests, as well as instigating an extensive training programme to ensure army units are equipped with the skills to defend Israeli territory whilst minimising harm to protesters. Such initiatives give clear indication that Israeli military planners consider the Palestinian UN initiative to entail a significant risk of sparking a violent confrontation. The fallout from any such confrontation is unpredictable, but it will inevitably do immense damage to efforts to reach a peace agreement between moderates on both sides.

Nor are the immediate protests accompanying the Palestinian initiative the only potential spark for violence. President Abbas' unilateral initiative has unleashed a dynamic of expectations that will be a challenge to contain. Even in the unlikely scenario that the September gambit results in the recognition of Palestinian statehood, the mismanagement of expectations on the ground also entails the potential for violence once it becomes clear that the strategy of seeking unilateral diplomatic gains through the UN fails to translate into tangible gains on the ground. Moreover, such mismanagement of expectations has left President Abbas's more moderate faction of the Palestinian leadership open to attack from hardliners, not least Hamas, potentially jeopardising the entire negotiation paradigm. In the wake of a potential UN gambit's failure to alter conditions on the ground for ordinary Palestinians, Hamas and other hardliners will be able to claim that the diplomatic track has failed to deliver results and as a result attempt to legitimate violence as an alternative to Abbas' gesture diplomacy.

4. Policy Considerations

The Palestinians' unilateral initiative to seek recognition of their statehood at the UN General Assembly in September, whatever form a resolution ultimately takes, is a significant challenge to the Peace Process between Israel and the Palestinians that uproots the explicitly agreed principle of a resolution to the conflict on the basis of bilateral final status negotiations to settle all claims between the parties. It carries grave political risks, not least the potential for an escalation in violence on the ground, as well as posing a very real threat to Palestinian economic development. Since EU member states are committed explicitly to the bilateral principle entailed in the Oslo Accords and since their votes will likely play the pivotal part in legitimising any resolution in the UN General Assembly, it is incumbent upon EU leaders to join the US in seeking to avert such a move and persuade the Palestinian

leadership to return to bilateral negotiations, the only path with a chance of success. EU leaders should vote against any unilateral declaration of Palestinian statehood whilst making clear that they support the creation of a Palestinian state through direct bilateral negotiations between Israel and the Palestinians. EU leaders should also call on the Palestinian leadership to de-escalate the steps it is taking in building public expectations – a step which may require a set of incentives that are deliverable on the ground – so as to avert what is fast becoming a dangerous situation in the region.

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