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### In pursuit of a Palestinian State

## Providing a Voice

#### **BACKGROUND**

The Palestine Authority's (PA) quest for a state is based on steps taken during the 1970s by the Palestine Liberation Organisation (PLO) to adopt a program of a "two-state solution" by establishing an independent Palestinian state in the occupied West Bank and the Gaza Strip, with East Jerusalem as its capital to live in peace alongside Israel.

However, Israel's expansionist project into the Palestinian territory it occupies militarily – the 600,000+ Jewish immigrants, the illegal Israeli settlements, Jewish-only roads, the Apartheid Wall and more than 580 checkpoints - has been drastically changing reality on the ground. Attempts by the PA to restart peace negotiations with Israel over the last two years have been constantly thwarted by Israel's refusal to halt settlement building. Also, the US recently vetoed the UN Security Council resolution condemning the settlement enterprise.

To most observers, the two-state solution has become all but impossible. Israel keeps creating new facts on the ground that erodes and irretrievably fragments Palestinian territory. That is why the PA has decided to pursue an alternative strategy by seeking international recognition of a Palestinian state on the 1967 borders, including all of the West Bank, Gaza and East Jerusalem. It has flagged its intention to seek recognition at the UN General Assembly in September, although Palestinian President Mahmoud Abbas has said he prefers to establish a state through negotiations and would go back to the negotiating table if Israel brings to a halt its settlement building.

The recent unity deal between the Fatah-supported PA which administers the Israeli-occupied West Bank and Hamas which governs Gaza, has now given much more weight to the Palestinian bid for statehood. Without the support of Hamas, the PA's claim to represent the Palestinian people would ring hollow. However, there are many Palestinians and others who are sceptical that this declaration will do anything to improve the Palestinian situation, since the Palestinian right to self-determination is already enshrined in international law and supported by UN resolutions, and Israel has consistently ignored this.

#### **International support**

AS of 6 June 2011, some 112 countries have recognised an independent Palestinian state, including several eastern EU members as well as Brazil, China, India, Russia, South Africa, and the numbers are growing. The PA expects to have 135 recognitions by September, which will be more than two-thirds of the 192 UN member states.

The Arab League has also endorsed the Palestinian bid and will support it at the General Assembly meeting in September.

#### **US position**

The US has warned the Palestinian Authority against unilateral moves or what it regards as "efforts to delegitimize Israel", saying negotiations with Israel are the best way forward. It has already said it would veto a vote on Palestinian statehood at the UN Security Council.

This is contrary to President Obama's position last September when he said he expected the framework for an independent Palestinian state to be declared in one year and that he would "welcome a Palestinian state into the UN in September".

Although Obama's proposal has called for a demilitarised state based on the 1967 borders, he later clarified that to mean that the borders would only serve as general guidelines with land swaps to accommodate what under international law is regarded as land expropriation. This land theft has taken place as a result of the expanding Israeli settlements and has denied the Palestinians their right to security and self-defence.

On Jerusalem, Obama has legitimised the land Israel has stolen from the Palestinians through home evictions and house demolitions, and further, he denies the inalienable rights of the Palestinian refugees.

## Israel's position

Israeli Prime Minister Netanyahu has rejected the unity deal between Hamas and Fatah and the idea of a sovereign Palestinian state. He has disingenuously blamed the reconciliation for the failure of the peace talks rather than his own intransigence on Israel's settlement enterprise and has warned that: "Any unilateral action will undo the framework of past accords and lead to unilateral actions from Israel."

## NETANYAHU'S DEMANDS

- **recognition of Israel as a Jewish state;**
- **Israel's retention of its settlement blocs;**
- **a "united" Jerusalem under Israeli control;**
- **a demilitarized Palestinian state that has no control over its borders, land, resources or the movement of its people;**
- **a solution to the refugee problem "outside Israel";**
- **and no negotiations with a government that includes Hamas**

## Process for achieving UN membership

The UN charter says that new members are admitted by the General Assembly (GA) on the recommendation of the 15-nation Security Council (SC), where the United States, Britain, France, China and Russia are the 5 permanent members with veto powers.

The PA can take one of four routes in the UN.

1. It could seek full UN membership as a nation state, but is likely to face a US veto.
2. It could try and argue for the GA to bypass SC approval, but since there has never been an attempt to circumvent the SC on a membership issue, legal argument would have to be mounted with no guarantee of success.
3. It could ask the GA to invoke the "Uniting for Peace" resolution which allows the GA to consider collective action if the SC "fails to exercise its primary responsibility for the maintenance of international peace and security". An advisory ruling of the International Court of Justice (ICJ) says that a decision on membership must not involve political considerations and should only determine if a would-be member is peace-loving and meets the criteria for statehood.
4. It could seek admission as a **non-member observer** rather than its current status as an **observer "entity"**. This would require a two-third GA majority, but does not require SC agreement. Although not binding, Israel would then be seen by most countries as occupying a sovereign state and not, as Israel asserts, "disputed territory".

## The Hamas Factor

The recent unity deal between Hamas and Fatah has raised concerns about Hamas' inclusion in the political process since it has been labelled a terrorist organisation. However, Hamas has accepted the two-state solution and a ceasefire. It is part of the Palestinian political system and the pluralism of Palestinian society needs to be respected, the same way pluralism in Israeli society is accepted.

## PROSPECTS

It is very likely that the statehood bid will fail. General Assembly recognition without Security Council backing is unlikely to stop the ongoing colonisation and the concomitant eviction of Palestinians given Israel's defiance and the lack of political will to stop its breaches. Nor will it offer the Palestinian people any more legal protection than they already have under International Law. Real mechanisms are needed to pressure Israel to reconsider its policies towards the Palestinians and its denial of their right to establish a Palestinian state that would live in peace alongside Israel. That is why the global Boycott, Divestment and Sanctions (BDS) movement remains the only chance of putting pressure on Israel. Without the international will to implement a solution for the Israeli Palestinian conflict, there is a serious risk of prolonging the suffering of both people indefinitely.

## ADDITIONAL BACKGROUND INFORMATION

**On 15 November 1988 the Palestine National Council (PNC) meeting in Algiers proclaimed the Palestinian Declaration of Independence that created the independent state of Palestine: UNGA 43/177 acknowledged that proclamation. Today the State of Palestine is bilaterally recognized de jure by about 130 states. Palestine has de facto diplomatic recognition from most states of Europe. The International Court of Justice (ICJ) recognised the State of Palestine by inviting it to participate in the proceedings on Israel's apartheid wall in the West Bank. It has only been massive political pressure applied by the US government that has prevented European states from according de jure diplomatic recognition to Palestine, and today, it is the implicit threat of veto by the US at the UNSC preventing de jure UN membership. The votes are already in the UNGA to admit Palestine pursuant to its Uniting for Peace Resolution (1950)**

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