

Palestine and the UN: The Recognition Debate

Written by Kirthi Jayakumar

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KIRTHI JAYAKUMAR, AUG 17 2011

Palestine took the bull by the horns when the Arab Spring began. But instead of a quest for democracy spearheaded by a protesting populace, Palestine pursues the statist objective of being recognized as a state. Palestine has, for a while now, sought to become a member of the United Nations, and thereby officially being recognized as a state in the international community. What better time than in the thick of the revolutionary changes in the Arab World, for Palestine to push for its recognition with renewed vigour?

A state is not a state until it is recognized as such by its international counterparts. Thus, the birth and recognition of a state is a politico-legal decision left to the international community to make. It seems a logical conclusion that acquiring membership in a multilateral international organization, such as the UN, could catalyze the process of recognition by other states, since only a state can be a member of such an organization.

Palestinian leaders currently believe that the malady of not having been recognized by several members of the international community could be remedied by entering the United Nations. The precondition for membership in the UN is that the entity seeking membership needs to be a peace-loving state. However, admission depends on a recommendation by the Security Council, and a decision by the General Assembly to the effect that the state can be admitted as a member. Such technical conditions do not exclude Palestine *per se* from becoming a member. Instead, the harsh reality of international politics blocks Palestinian path to statehood.

What Palestine has been asking of the UN is for recognition as a state in the 1967 borders, with East Jerusalem as its capital, if Israel does not offer an acceptable settlement.[1] If Palestine is not successful in gaining recognition as a state, it has hinted that it will settle for the status of a non-member state, upgrading from its present state as an observer. This would only require a General Assembly approval, leading to Palestine enjoying all the rights of a non-voting member.[2]

So why should Palestine be admitted into the United Nations? Three reasons support the admission of Palestine to the UN. First and foremost because it is high time this is done, considering that there has been no dearth of rhetoric suggesting that Palestine has the right to self-determination, and that it does have the necessary attributes to qualify as a state. Secondly, because recognition is a *sine qua non*, an absolutely indispensable prerequisite for the Two-State Solution that would bring the 60-odd-year long conflict between Israel and Palestine to an end. Thirdly, because it is a wiser course of action to have Palestine as a member, so that the international community can bridle the state with international law and, if necessary, impose sanctions to keep it toeing the line of acceptable conduct.

Some 122 members of the international community already recognise Palestine as a state. It also enjoys membership in regional organizations such as the Arab League and the Organization of Islamic Cooperation. For this reason alone, if not for anything else, Palestine should be recognized. Its nearest neighbour is not so discouraging to the prospect of recognizing Palestine. Israeli Prime Minister Netanyahu noted in a public statement that Israel could well support a Palestinian state if the right conditions were ensured, although he raised concerns of a Palestinian state including Hamas within its fold.[3] After 1967, when the Green Line was drawn, several arguments were advanced trouncing the Palestinian claim to self-determination and statehood.[4] However, most UN members questioned the Israeli claim of having better title to the land as opposed to the native inhabitants, and even stressed the fact that Statehood was an inalienable right of the people of Palestine.[5] The International Court of Justice subsequently

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reaffirmed the right of the Palestinian people to self-determination, and the prohibition under international law against the acquisition of territory by war.[6] With all of these firmly in place, it is but a symbolic next step on part of the international community to announce its acceptance of Palestine's statehood, and to admit it into the United Nations.

The second reason, and most important of the lot, for Palestine's admission into the United Nations, is that it is a very integral part of arriving at the Two-State Solution, in a bid to arrive at a feasible settlement between Palestine and Israel. The status quo is in no one's interest, as only violence and death-tolls have been mounting. Instead of harping on about old fears, the international community should encourage both sides of the conflict to forge a compromise. And this cannot be done until Palestine is recognized by the international community, and is given a seat and a say at the highest table of international relations.

Neither side should remain rooted in their side of the dispute, but must agree to look through the other side of the glass to gain perspective. The counter-argument from the United States and Israel that Palestine has yet to reach a compromise agreement with Israel should not disqualify the latter from attaining membership. It is untenable to claim that recognizing Palestine would be a setback for Israel. If anything, Palestine's statehood would only prove to be useful in moving towards a feasible two-state solution. If peace must be restored to the region, it is only fitting that the two states accept the other's presence on the international map, and work towards settling their differences. Recognition will revive the peace process

Thirdly, Palestine needs to be recognized and admitted into the United Nations, if the international community wishes to hold Palestine accountable for violations of international law, and to safeguard its rights to question the violations of international law by other states. On the domestic front, Palestine has been the breeding ground for fratricidal conflict between Hamas and Fatah. Palestine cannot be expected to conform to the norms laid down by human rights conventions passed by the UN, unless it is bound by these conventions. But it cannot be bound by these conventions if the UN does not recognize it as a state. On the international front, the Israel-Palestine conflict is as old as the hills, and one that cannot be solved with recourse to international law, unless Palestine is also recognized as a state. This is particularly so because the state is the key subject of international law. Non-recognition of Palestine as a state and as a member of the United Nations also precludes it from approaching the International Court of Justice to arbitrate the conflict between Israel and Palestine.

While there is reason enough for Palestine to be admitted into the UN, there is no dearth of opposition to that same goal. The US for its part is trying – without success so far – to bring both sides back to the negotiating table, the only place where it believes that the decades-long conflict can be resolved. Washington has warned in no uncertain terms that it will veto any decision by the Security Council to grant Palestine statehood.[7] The opposing viewpoint of Palestine's core allies, the key players in the Arab World, suggests that Palestine shall stop at nothing to achieve its goal to be recognized internationally as a State. [8] For its part, Palestine has agreed to go back to the negotiating table if the United States has a feasible solution to offer. However, should the United States veto the recognition, in response, the PLO officials have reportedly stated that they would lobby for activating UN Security Council Resolution 377,[9] commonly known as the "Uniting for Peace" Resolution.[10]

Palestine now only requires a two-thirds majority in the General Assembly, or 129 votes, to be admitted as the 194th member of the United Nations. While it is completely acceptable that negotiations are the best, if not only way of settling the long-standing differences between Israel and Palestine, it is equally important to understand that negotiations cannot substitute recognition. If anything, recognition would prove to be exceedingly useful in bringing the negotiation process to fruition. Because both parties would be in an equal starting position, they would be more likely to find a sustainable negotiated solution. The 63-year long conflict between Israel and Palestine has shed enough blood. It is high time that the international community worked to support the peaceful future of two sovereign states.

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[1] Bronner, Ethan. "In Israel, Time For Peace Offer May Run Out". New York Times. (2 April 2011)

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[2] See instances in the past: Germany, Switzerland, North and South Korea were granted non-voting membership in the past, until they became members. As of today, the Holy See is the only non-permanent observer state.

[3] See <http://www.haaretz.com/news/diplomacy-defense/netanyahu-israel-willing-to-cede-parts-of-our-homeland-for-true-peace-1.362130>

[4] Yehuda Z. Blum, *The Missing Reversioner: Reflections on the Status of Judea and Samaria*, 3 *ISR. L. REV.* 279, 289–90 (1968); Eugene V. Rostow, “Palestinian Self-Determination”: Possible Futures for the Unallocated Territories of the Palestine Mandate, 5 *YALE J. WORLD PUB. ORD.* 147 (1980)

[5] Committee on the Exercise of the Inalienable Rights of the Palestinian People, <http://unispal.un.org/unispal.nsf/com.htm>

[6] Advisory Opinion of 9 July 2004, [2004] ICJ Rep. 136.

[7] See Harriet Sherwood, *Palestine: the flags are already waving but will a declaration of statehood help?* <http://www.guardian.co.uk/world/2011/jul/16/palestine-authority-state-ramallah-un>, 16th July, 2011

[8] See http://articles.cnn.com/2011-05-29/world/qatar.arab.peace.initiative_1_palestinian-state-israel-palestinian-arab-peace-initiative?_s=PM:WORLD

[9] <http://www.un.org/depts/dhl/landmark/pdf/ares377e.pdf>

[10] Introduced by the US in 1950 during the Korean War, and created an emergency special session if the Security Council was dead-locked in times of a threat of peace and security. The resolution has been invoked ten times, but never for questioned UN membership thus far.

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Kirthi Jayakumar is a Commissioning Editor for e-IR. She graduated with a Bachelor’s degree from the School of Excellence, Chennai. She currently also volunteers with the United Nations, and works with Femina and Rainmaker as a writer.