Letter from the UN: The Palestinian Bid for Membership

Graham Usher

The Palestinian Authority's application to become a full member state at the United Nations represents the latest stage in its "alternative peace strategy" born of the collapse of the U.S.-sponsored Oslo peace process. But—argues the author—the new strategy remains overly dependent on diplomacy and uncertain Palestinian allies like the European Union. If it is to achieve a balance of power for future negotiations more favorable to the Palestinians, however, it will need to be anchored in a greater national consensus at home and in the diaspora, and allied more closely to the emerging democratic forces in the region.

On 23 September, Palestinian Authority [PA] president Mahmud Abbas submitted a formal application for the PA to become a full member state of the United Nations. "This is a moment of truth," he told a packed General Assembly. "Our people are waiting to hear an answer from the world. Will it allow Israel to occupy us forever?"

The bid for full membership marks the climax of an apparently new PA policy born of the failure of the Oslo peace process. It remains unclear, however, whether the new policy is an end or a beginning.

The Obama administration has said it will veto the application on the Security Council. It may not need to. The PA currently has six "yes" votes out of a possible fifteen on the Council. It needs nine to force a vote. Without them, there will not be a vote at all. This is an outcome the United States will try to ensure, if only to reduce the regional perception of an American veto cast against Palestinian rights in defense of Israel's occupation.

Blocked at the Security Council, the PA could turn to the 193-member General Assembly to take a lesser action than full membership. It has enough votes there to approve an upgrade in its UN status from observer to a non-member observer state, which gives it important rights not presently available to it as an observer. Israel has threatened to retaliate for this alleged "violation" of the Oslo accords, warning, among other things, that it will bar the transfer of tax revenues that the PA needs to pay its 150,000 employees. The U.S. Congress has already imposed sanctions: since August it has frozen $192 million in U.S. aid as punishment for the PA going to the UN at all. The

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27-member European Union (EU) as a bloc is opposed to the PA's full membership bid and divided on the lesser upgrade.

Currently the only thing Abbas has in hand for his efforts at the UN is an anodyne statement from the so-called Middle East Quartet comprising the United States, the EU, the UN, and Russia. This calls on Israel and the PA to resume negotiations "within a month" and without "preconditions" with the aim of reaching a final agreement by the end of 2012. Israel has welcomed the statement. The PA said it contained "encouraging elements," but ruled out any return to talks unless they were accompanied by a full settlement freeze and explicitly based on the 1967 armistice lines as the future border of a Palestinian state. The Quartet statement mentions neither.

The statement, which was rushed out within three hours of Abbas's speech, was seen as a ploy to keep the bid dormant in the Council. "It buys time" for the Quartet to try to resume negotiations, said an EU diplomat. But it also sets a trap, at least for the PA. If Abbas were to endorse the Quartet timeline as it stands, he would undo much of the kudos he has won from his people for refusing to bend under threat of a U.S. veto. But if he were to reject it outright, he would risk alienating the EU, UN, and Russia—Quartet members he believes are crucial antidotes to Washington's pro-Israeli bias.

How Abbas ultimately responds to the statement will go some way in answering the question that has dogged the PA ever since it announced its plan to go to the UN: Is it simply a tactic aimed at strengthening the PA's hand for a return to Oslo-like bilateral negotiations? Or is it a genuinely new strategy that returns the Palestinian issue to the UN and international law on the basis of a unified national movement at home and the political opportunities made possible by the democratic Arab uprisings abroad?

BYE BYE OBAMA

A new PA policy became necessary after the Israeli government refused to renew a partial moratorium on settlement housing starts in September 2010, despite appeals by the Obama administration. It became urgent once it was clear that Obama himself would do nothing beyond managing the conflict until the 2012 presidential elections. Direct negotiations with Israel were pointless; according to a senior PA official, "In the talks with Mahmud Abbas in September (2010) the only thing [Israeli premier Benjamin] Netanyahu was interested in was Israel's security. When substance *was* addressed, he said there could be no Israeli withdrawal to the 1967 lines, no shared sovereignty in Jerusalem, and no Israeli withdrawal from the Jordan Valley."

The West Bank PA leadership began to speak of an "alternative" policy to the Oslo framework of bilateral negotiations under exclusive U.S. tutelage in November 2010. It was time, PA officials in Ramallah said, to end the schism between Fatah's West Bank and Hamas's Gaza authorities. The PA was going to promote nonviolent mass action as a means to reclaim sovereignty in the

West Bank. Prime Minister Salam Fayyad's "state building agenda" would be accelerated so that the PA would be "ready" for sovereignty by the time the UN General Assembly met in September 2011. And there would be a diplomatic offensive at the UN to "recognize" Palestine as a state on the 1967 lines. In practice this meant the PA's applying for membership to the UN, since the world body cannot recognize states. Abbas also wanted the EU, UN, and Russia to "internationalize" ownership of the negotiations along with the U.S. And he insisted there could be no talks without a freeze and a clear reference to the 1967 lines.

Of the four steps that were to be taken under the "alternative" policy, the PA invested most in diplomacy, a decision that was to have mixed returns when September came.

In February 2011, the UN Arab group, acting at the PA's behest, had tabled a Security Council resolution condemning Israel's settlement policy. Although the draft had consciously lifted language from speeches by Obama and Secretary of State Hillary Clinton criticizing settlements, the United States had vetoed the resolution, invoking the mantra that the UN was not the right place to resolve "disputes" between the parties. Despite the veto, the settlement resolution was a dry run for the UN membership bid in September and was in many ways a success. It gave false hope.

The vetoed resolution, which had been sponsored by 123 member states and gained the votes of 14 of the Security Council's 15 members, exposed the chasm on the settlements issue that existed between the U.S. and Israel on one side, and the rest of the world on the other. More importantly, it triggered a demarche by three EU members on the Council. Britain, France, and Germany agreed that only bilateral negotiations could resolve the conflict, and broadly accepted that the U.S. had to remain the primary sponsor of the peace process. But they also agreed with the PA that the process could not be open-ended. Britain—backed by France and Germany—laid down four "parameters" that any negotiations would have to meet: borders based on the 1967 lines with mutually agreed land swaps; security arrangements that end any sign of occupation but "prevent the resurgence of terrorism"; a shared capital in Jerusalem; and a just solution to the refugee question.

Abbas accepted these parameters as bases for negotiations, implying that the UN bid could be waived. The demarche also prompted Obama to make what has been his only positive statement on the conflict in 2011. In an address on the Arab Spring at the State Department on 19 May he said: "The borders of Israel and Palestine should be based on the 1967 lines with mutually agreed (land) swaps, so that secure and recognized borders are established for both states." Under a furious backlash from the Israeli government, Republicans, and other domestic pro-Israel lobbies, Obama later hedged this "parameter" with so many conditions as to make it vacuous. But the Quartet issued a communiqué stating that the president's 19 May statement could serve as a basis for negotiations. Abbas did too, if accompanied by a settlement freeze.

But Abbas also warned that if negotiations did not resume along these lines, the PA would have "no choice" but to seek UN membership in September. Abbas seemed to think that the new European troika would be able to persuade the U.S. to abstain on a bid at the Security Council or else that the General Assembly could be marshaled to circumvent a U.S. veto. The first thought was fanciful; the second was wrong. UN rules make it clear that a state can acquire membership only on the *recommendation* of the Security Council, something the U.S. could veto.

If Abbas had believed that European pressure and/or the threat of a PA bid to the UN might force a new peace initiative from the Obama administration, he was mistaken. In fact, from May onward Washington's only operative policy with regard to the conflict has been to prevent its "internationalization" at the UN. This was partly due to a long-standing U.S. policy (laid down by Israel) that the UN is the wrong forum for addressing a bilateral "dispute" between Israel and the Palestinians, but the main reason was domestic politics: while Washington was well aware that a second UN veto against Palestinian rights would cause the U.S. real harm in the Arab world, especially at a time of democratic change, the enormous bipartisan opposition the UN bid faced in Congress trumped all other considerations.

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The rousing welcome Netanyahu received when he addressed a joint session of Congress in May, strongly criticizing the "indefensible" 1967 lines as a basis for negotiations along with other elements of the Obama "vision," showed the depth of Israel's support there: he received no fewer than three dozen standing ovations. More ominously, his reception also demonstrated the depth of congressional opposition to Obama's Mid-East policy overall, including his earlier calls for a settlement freeze. Democrat as well as Republican members viewed the Obama policies as hostile to Israel, a perception that might cost the president not only Jewish American votes in crucial swing states but also Jewish American donors for his reelection campaign. In Congress, opposition zeroed in on the PA's plans to go the UN, passing a resolution in July threatening to block the $500 million in yearly U.S. aid to the PA if membership was pursued.

Thus with regard to Israel, too, Obama's was an administration under siege. And it showed. The State Department canceled the April and May meetings of the Quartet, despite urgings from the EU and Russia that they were needed. When the Quartet finally did meet on 11 July, the U.S. submitted a draft statement for a return to negotiations so tilted in Israel's favor that many observers believed it had been drawn up in Jerusalem.

Although the U.S. statement referred to the 1967 lines as a basis for negotiations, it omitted all reference to agreed land swaps and said that "account must be taken" of the "new demographic realities" created since 1967 (a euphemism for settlement blocs built across the Green Line). It said "peace" would not come

via UN decisions, and that no country could be expected to negotiate with a "terrorist organization" sworn to its destruction (a reference to Fatah's 27 April reconciliation agreement with the Islamist Hamas movement). Negotiations, it said, should commence with borders and security, and other final status issues like Jerusalem and refugees should be deferred—an apparent nod to Israel's preference for a long-term interim agreement rather than a final one. There was no reference to a settlement freeze, even a partial one. And any final two-state solution would require the PA to recognize Israel as a Jewish state.

The statement was "so blatant and unbalanced" in favor of Israel (said an EU official) that the EU, the UN, and Russia were not able to sign it even as a basis for negotiations. The EU thus proposed as an alternative that the Quartet statement recognize "two states for two peoples" in line with the 1947 UN General Assembly resolution 181 which partitioned mandate Palestine into a Jewish and an Arab state. The U.S. refused. In the end, the meeting concluded without the Quartet issuing a statement at all.

But for many in the region and elsewhere, it was Obama's address to the General Assembly that marked the final U.S. capitulation to Israel. Last year—from the same podium—Obama had called on delegates to "reach for what's best within ourselves" because "if we do, when we come back here next year, we can have a new member of the UN, an independent, sovereign state of Palestine, living in peace with Israel." In this year's speech, it wasn't just that he rehearsed every Israeli argument against the PA's bid but that he adopted Israel's narrative on the conflict. "Let's be honest: Israel is surrounded by neighbors that have waged repeated wars against it." He made no mention of the occupation, the 1967 lines, expanding Jewish settlements, or the fact that, since 2002, those neighbors have offered Israel a full peace in return for a full withdrawal from occupied Arab land. According to a veteran Jewish American commentator, it was the most pro-Israeli speech ever made at the UN by a U.S. president. For PLO Executive Committee member Hanan Ashrawi, it's the reason "we are going to the UN."

BYE BYE EUROPE

Within the PA leadership there are broadly two camps behind the UN gambit. The dominant one—led by Abbas—looks to the UN not to bury the Oslo framework but to preserve it. By internationalizing the framework to include Quartet members like the EU, the UN, and Russia, the aim was not so much to exclude the U.S. but to dilute its lethal monopoly on the negotiations, at least until the 2012 presidential elections. And by insisting on applying for an upgrade in Palestine's UN status to that of a "state," the PA could demonstrate a rare streak of independence to a public increasingly unconvinced of its power to bring change.

The second camp believes that Oslo is over. It recognizes that negotiations will be necessary at some point, but says the PA's priority now should be to build national institutions on the ground and acquire the status of a state at

the UN. Even a partial upgrade to a nonmember observer state may allow the PA to join bodies like the International Criminal Court [ICC], it says. The PA could then prosecute Israel for grave breaches of the Geneva Convention, including the illegal transfer of settlers into occupied Palestinian territory. Membership in the ICC would thus be a form of deterrence that has been missing from the so-far tried and failed policies of negotiations and/or armed resistance.

The Arab League deferred to the PA's independent decision. At its 12 September foreign ministers' meeting in Cairo, it gave Abbas carte blanche to go for membership at the Security Council or for an upgrade at the General Assembly. But, as Arab and EU diplomatic sources confirmed, the quiet preference of many Arab states, especially in the Gulf, was that the PA not defy the U.S. at the Security Council for fear of the incendiary impact a U.S. veto might have "on the Arab street." On 9 September, Riad Mansour—head of the Palestine UN Observer Mission—implied that while the Palestinians had the right to go for full membership, "political reality" (the fact of a U.S. veto) could mean the PA might decide to take the slower "local" train to statehood via the General Assembly. This was reported to be Abbas's preference.

What changed his mind? On 7 September U.S. envoys Dennis Ross and David Hale arrived in Ramallah in a final attempt to head off a "train-wreck" at the UN. According to PA officials, both men behaved like "gangsters," threatening that *any* move at the UN would incur Israeli and U.S. reprisals. They offered no inducement. Weary of a U.S. policy of "all sticks and no carrots," Abbas turned to Catherine Ashton, EU foreign relations chief and its envoy to the Quartet. If the PA were to seek the status of nonmember observer state at the General Assembly, he asked, how would the twenty-seven-member EU vote? Ashton replied that while individual EU states may vote positively, the position of the EU as a bloc was to support a return to negotiations—like the U.S. Threatened by Washington, abandoned by Brussels, and left alone by Cairo, Abbas made a choice as bold for him as it was uncharacteristic. "We are going to the UN to request our legitimate right, obtaining full membership for Palestine in this organization," he said on 16 September in a televised address to his people.

For most Palestinians it was clear then that Abbas's choice was irreversible, since to back down would have meant political suicide domestically. Still, that is what some "allies" wanted him to do. For the Europeans especially, the choice of Abbas going for full membership at the Security Council was "catastrophic": it would compel the U.S., against the backdrop of a region in revolt, to cast a veto in defense of Israel and against Palestinian self-determination.

When Abbas arrived at the UN on 19 September, the Quartet tried one more time to dissuade him from exercising his "legitimate right" to apply to the UN. But its four members were no more united in New York than they had been in Washington in July. One of the reasons that the Quartet statement eventually released on 23 September was so bereft of substance was the

U.S. refusal of any reference either to the 1967 lines or a freeze. At one point, it looked as if the Quartet might break up over the issue, with the U.S. heading one way, Russia the other, and the EU split down the middle. In the end, the EU and Russia caved, mainly to keep the Quartet intact as an entity. The only substance in the Quartet's statement was a reference that "progress" should be made on "territory and security" within six months—a gesture to the interim solution foreshadowed by the rejected U.S. draft in July.

With the Quartet stalemated, French president Nicolas Sarkozy on 21 September came up with a compromise. He accepted the timeline of a year to end the conflict. But he called for a more "collective" stewardship of peace process that would include the EU, the five permanent members of the Security Council (the U.S., Britain, France, Russia, and China), as well as Egypt and Jordan. "We must stop believing that a single country (i.e., the U.S.), even the largest, or a small group of countries can resolve so complex a problem," he said. He also supported the PA acquiring the status of a nonmember observer state. But the proviso would be for the PA to drop its bid for full membership (since "who doubts that a [U.S.] veto at the Security Council will engender a cycle of violence in the Middle East?"). Nor, under the Sarkozy plan, would the PA be allowed to use its new status as a nonmember observer state "to undertake actions incompatible with the continuation of negotiations"—that is, use the ICC to prosecute Israel for alleged war crimes in the occupied territories. Nor was it clear whether Sarkozy's proposal had the support of the EU as a whole. Unsurprisingly, Abbas said no. (Later, a European diplomat confirmed that the initiative had in fact been a solo effort "uncoordinated" with the EU.) Sarkozy then threw his weight behind the Quartet statement issued after Abbas's speech.

That is where things are at present. Having gone to the Security Council, the PA is trapped there. It can neither accept the Quartet statement as it stands nor reject it outright, an inertia that lays bare the basic weakness at the heart of the new PA policy. Both camps in the PA leadership—whether pro-Oslo or post-Oslo—rely on Western powers to further their diplomacy. Both had assumed that they could split the EU and others in the Quartet from the U.S. They also assumed they could somehow use this "isolation" to "pressure" the U.S. into forcing concessions from Israel. In fact, it is currently the PA that is isolated, with a U.S.-EU front united around two goals: to spare the U.S. the shame of casting a veto, and to discourage Palestine from becoming a nonmember observer state at the General Assembly. This last is out of fear that a combination of Israeli retaliation and congressional penalties could mean the end of the PA, the end of the PA's U.S.-tutored "security coordination" with Israel, and, with both, the end of the *containment* of the Palestinians in the West Bank. "We know the U.S. and Europeans are moving not because they're worried about us," said a PA official. "They're worried the PA will collapse and that Israel will have to foot the bill for the occupation. They're worried about Israel."

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The only leverage the PA may have to resist this Western alliance is either through mobilizing a united national movement in the occupied territories and beyond that is actively behind the UN bid, or through harnessing to its cause the immense political potential released through the democratic uprisings in the region. So far, the PA has neglected both.

HELLO REGION?

Abbas received a rousing welcome when he returned home from New York. Polls in the occupied territories show large majorities in favor of the UN bid. But the mass rallies in Ramallah were still largely stage-managed affairs, swelled by the PA's decision to close schools and other government institutions and by Fatah's bussing in supporters. In occupied East Jerusalem, among Palestinian citizens in Israel, and among Palestinian refugees in the diaspora, however, the gatherings in favor of the bid were minuscule. In Hamas-ruled Gaza, there were no rallies at all, partly because of raids by Hamas police on any public venue (including cafes and restaurants) airing Abbas's speech. But the lack of public zeal in Gaza cannot be blamed solely on repression; there, as elsewhere, apathy had as much to do with the PA's failure to ground the UN bid in a genuine national consensus.

For many Palestinians, especially in Gaza, the most significant event of 2011 was not Abbas's speech to the General Assembly, inspiring though it was. It was the reconciliation accord between Fatah and Hamas in April. Not only did this promise to end the threat of a factional war between rival Palestinian authorities in Gaza and the West Bank; it opened the way to new PA elections in the occupied territories and held out the hope of a democratically reconstituted PLO thereafter. But no sooner had the ink dried on the accord than Abbas held it hostage to the bid, presumably from fear that reconciliation with Hamas would undermine Western support at the UN.

It was a wholly destructive move. Hamas, whose initial attitude to the UN bid had been agnostic, now deemed it hostile, a cover to enable the PA to avoid implementing key confidence-building steps such as releasing Hamas prisoners from PA jails. It also meant that Hamas came to see any mobilization in Gaza behind the bid as a subversive threat rather than the expression of an agreed national policy. It didn't have to be this way: one of the few things Hamas and Fatah agree on is a sovereign Palestinian state on 1967 lines. And while Hamas may have had little faith that the UN bid would go anywhere, it had no principled reason to oppose it.

But the PA's UN gambit didn't antagonize just Hamas. It alarmed large segments of the Palestinian people. In August a legal opinion, commissioned by independent Palestinians in the diaspora, was submitted to the PA by international law expert, Guy Goodwin-Gill. It argued that the replacement of the PLO by a "State of Palestine" at the UN could weaken the former's status as the sole legitimate representative of the Palestinian people, with possibly fatal

repercussions for the refugee right of return. The opinion, which had been translated into Arabic and widely disseminated in both languages inside and outside Palestine, created panic among refugees, with activists and academics demanding "clarity" from the PA leadership. Ramallah scrambled: Abbas was forced to attach a covering letter to the UN membership application that reaffirmed the PLO as the Palestinians' sole legitimate representative, and to specify in an amendment that the application was made "consistent with the rights of the Palestine refugees."

Yet the fracas was not really about Palestine's UN status or whether becoming even an observer state would harm Palestinian rights. Most legal arguments suggest it would not: it may even strengthen them. What the debate exhibited rather was the enormous distrust felt by Palestinians—mainly but not only in the diaspora—toward an unelected, unaccountable West Bank PA-PLO leadership that takes potentially seismic national decisions in their name. PA officials have spent much of the year traveling the globe to recruit the more than 126 countries they say now recognize a Palestinian state. They might well have done better to hold polls and consultations on the bid among Palestinian refugees. More than anything else, this crisis of faith between the leaders and the led has demonstrated the imperative of reconstituting the PLO on a democratic basis.

The other hole in the new PA policy was its failure to accommodate the new dynamics in the region unleashed by the Arab uprisings. In New York—save for a solitary sentence in his forty-five-minute speech—Abbas ignored the "Arab Spring." The new Tunisian delegates were passed over in deference to meetings with U.S. and European leaders. And when Turkish prime minister Recep Tayyip Erdogan addressed the General Assembly, not a single Palestinian delegate was present to hear him.

Together with the popular forces that toppled dictators in Tunisia, Egypt, and Libya, Erdogan is the regional leader who has most insisted that Palestinian independence be the cornerstone of any new democratic regional order. Used strategically (e.g., by making the Palestinian narrative of self-determination an integral part of the Arab's democratic narrative for freedom), these potential allies could have been marshaled by the PA as far more powerful counterweights to forces ranged against it at the UN than the vaguely dissident elements of the Quartet. For the first time there may soon be elected governments in Arab countries as pivotal as Egypt ready to tie their future relations with the U.S. and Israel to ending the occupation, including through sanctions. It is that link between the Arab-Israeli conflict and the Arab democratic revolutions that most alarms America, Israel, and Europe; it is a link the PA must leverage if it is to turn its bid into a new balance of power.

It is a leverage that Abbas has so far abjured. Since submitting the bid, he has been trying to bring the number of "yes" votes needed to force the Security Council to consider the Palestinian application to the requisite nine, and to that end has made trips to Colombia and Portugal. He has also

addressed the European parliament in Strasbourg. Nor is this focus surprising. By temperament he prefers diplomacy to revolutionary change, autocracy to accountability. His defiance of American power at the UN may have been his finest hour in the eyes of his people, but it also marked the terminus of an Oslo model of insulated bilateralism that he had embraced for eighteen years. This is why in New York he cut a tragic figure as much as a heroic one. "I am not happy with anyone, not the Americans or the Arabs," he told a friend. "And I don't know what to do when I return."

Another PA official was even blunter about the lack of a Palestinian strategy. Asked what comes after September, he replied, "October."

Palestinians watch Pres. Mahmud Abbas's speech to the United Nations televised live at Clocktower Square in Ramallah, 23 September 2011. (Adam Abel)