

# Beyond the bid

## The PA's move towards statehood

Although the Palestinian Authority's application for full statehood to the UN General Assembly was celebrated vociferously in Gaza and the West Bank, little is expected to change. **Barak Seener** examines the strategy behind the bid and Israel's reaction.

### ► KEY POINTS

- The Palestinian Authority's UN bid for statehood marks a new stage in diplomatic efforts to counter Israel.
- Although greeted by jubilation in Gaza and the West Bank, the bid will make little difference to the situation on the ground, especially as the US has warned it will veto the application.
- The juxtaposition of the statehood bid with the release of kidnapped Israeli soldier Gilad Shalit illustrates the differing approaches of Hamas and Fatah, which will continue to undermine peace talks.

On 23 September, Palestinian Authority (PA) President Mahmoud Abbas formally presented the PA's application for full statehood to the UN General Assembly. This bid, which was greeted by celebrations in Gaza and the West Bank, followed months of speculation about whether Abbas would make the bid and how it might be received.

Abbas' move came despite last-ditch efforts by Israel and the United States to prevent the formal application, with the US warning that such action could serve to undermine the long-running peace process. However, with the bid now having entered a protracted evaluation process at the UN, the focus has shifted back to events on the ground. In particular, the 18 October release of Israeli Defence Forces (IDF) soldier Gilad Shalit – who had been held by Hamas since June 2006 – in exchange for Palestinian prisoners has drawn a clear line of comparison between the approaches of Hamas and Abbas' Fatah, and raised questions about which may prove more effective.

Underlying these different approaches is the long-term disjunction in terms of perception

of the aims of the various actors in the peace process. While the common understanding, and generally that of various Western interlocutors in the process, is that the conflict centres on territory and nationalism, this is only part of the issue. If it were simply about territory, the peace process might have been resolved decades ago. Instead, a complex web of ideology and identity, often even within the PA, continues to drive efforts at dialogue. It is these two separate currents within the negotiating process that have led to the dual-track approaches of Hamas and Fatah, and which will dictate the evolution of the peace process.

### Ideological backdrop

Despite the ongoing emphasis on the need for Israel and the PA to return to negotiations, the long history of such talks suggests that dialogue is less a means to resolve the conflict than a flawed attempt to manage it. At root, the aim of resolving the conflict founders on the incompatibility of issues of ideology and nationality, rather than territory, as illustrated by the long-standing issue of recognition.

It had been a long time coming when Israeli Prime Minister Binyamin Netanyahu recognised a potential Palestinian state in a June 2009 speech at Bar-Ilan University. In recognising a two-state solution, Netanyahu opened himself up to vehement criticism from within his own Likud party, as well as his right-wing and religious coalition partners. Conversely, Abbas has said to the international community, "Do not order us to recognise a Jewish state. We will not accept it." Netanyahu must also contend with coalition partners, some of whom are religious nationalists who refer to the Jewish legal prohibition on ceding any territory of the land of Israel.

The non-negotiable approach to the conflict is expressed in the Palestinian Liberation Organisation's phased approach of 1974, which

was to establish an "independent combatant national authority" over any territory that is "liberated" from Israeli rule through the "armed struggle" (seen by Israel and the international community as terrorism). (Article 2 of the constitution). Articles 4 and 8 respectively establish a sequence of destroying Israel using a Palestinian national territory as a springboard for operations leading the provocation to war that could attract the surrounding Arab states to attack Israel.

Negotiations have often contributed to the ongoing stalemate. The PA Minister for Jerusalem Affairs Feisal Hussein called the Oslo Accords, signed in 1993 and establishing a definitive framework for negotiation, a Trojan Horse. In an interview given to Egypt's *Al-Arabi* newspaper in 2001, Hussein said: "Had the US and Israel not [thought], before Oslo, that all that was left of the Palestinian national movement and the Pan-Arab movement was a wooden horse called Arafat or the PLO, they would never have opened their fortified gates and let it inside their walls... The Oslo Accords were a Trojan Horse; the strategic goal is the liberation of Palestine from the [Jordan] river to the [Mediterranean] sea." It is this approach that frames both Abbas' decision to bid for Palestinian statehood and Hamas' prisoner exchange agreement, although the two appear very different on the surface.

### Bidding for statehood

Abbas' presentation of the PA application for statehood was watched by millions around the world. However, now that the bid has been formally presented, it has become subject to the procedural process of the UN, which is likely to be long drawn out. The PA had loudly proclaimed its achievement in securing a potential two-thirds of votes in the 193-member UN General Assembly. However, the UN cannot recognise a country's statehood through a



**Palestinian Authority President Mahmoud Abbas, centre, attends an event to support the Palestinian bid for statehood in the West Bank city of Ramallah on 1 October.**

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General Assembly vote alone. Instead, the vote must first go to the UN Security Council, where nine of its 15 members must vote in favour for Palestine to become a full member state. Only if none of the five permanent Security Council members vetoed the application would the vote then go to the General Assembly for approval.

However, the chances of the PA's application reaching a General Assembly vote are slim. Not only could the Security Council take months or even years to vote on the application, but the US has already confirmed that it would veto the bid. An alternative approach would be for Abbas to gain support from the General Assembly's unaligned bloc that constitutes a majority of its membership. Abbas could push for a resolution to award the PA permanent observer status, as opposed to its current observer entity status. Subject to General Assembly approval, this could allow the PA to join specialised agencies, including the International Criminal Court (ICC). This would achieve one of the main aims behind the PA's bid for statehood: the ability to bring claims of war crimes or human rights abuses against Israel in the ICC.

### **Requirements for membership**

Regardless of the likelihood of a US veto, the putative state of Palestine might not even meet all the international legal requirements to qualify as a self-created state. For example,

the long-standing schism between Gaza and the West Bank may undermine the requirement for "a well-defined population". Jonathan Schanzer, the author of *Hamas Vs Fatah: The Struggle for Palestine* (2008), has noted that the difference between the West Bank and Gaza is the difference between two countries. He notes that Palestinian society has always been marked by tribalism, as well as strong regional differences that set apart hill dwellers from plainsmen, nomads from settled population, urbanites from villagers, and easterners from westerners.

The populations are also separated by their distinct economies. The different Palestinian regions and actors are often mistakenly conflated with one another, causing an April 2011 World Bank report to declare: "The (PA) faces challenges familiar to many an existing state and like these states, must navigate and reconcile varying stakeholders in both the West Bank and Gaza." It is the focus on the West Bank that caused the World Bank report to state: "The PA has continued to strengthen its institutions delivering public services and promoting reforms that many existing states struggle with." While the World Bank report echoes comments made in a 2010 survey, saying the PA was "well-positioned for the establishment of a state at any point in the near future", it does not extend this sentiment to Hamas-controlled Gaza. For

this reason, PA Prime Minister Salam Fayyad has officially opposed the UN bid because he is not interested in Gaza becoming part of a Palestinian state, as this would undermine the relatively more prosperous West Bank.

The unemployment rate in Gaza is double that of the West Bank, at 37.4% compared to 16.9%. The same is true for the poverty rate in the West Bank, having fallen from 23% in 2004 to 16% in 2009, while in Gaza it increased during the same period from 30% to 33%, with 71% of Gazans relying on some form of social assistance.

In addition, a longstanding challenge to the peace process with Israel is equally applicable to the creation of a Palestinian territory: how to define it. The borders of a Palestinian state would have to result from negotiations between the Palestinians and Israel. This is complicated by the conflicts between UN resolutions and subsequent statements and negotiating positions. For example, US President Barack Obama's speech in May 2011 calling for Israel to withdraw from the 1967 borders established after the Six-Day War did not follow directly on from UN Security Council Resolutions 242 and 338. Resolution 242 calls for the "withdrawal of Israeli armed forces from territories occupied in the recent conflict [1967]," which does not qualify for a withdrawal from 'all' the territories and set up the need for future



Palestinians hold a rally in support of the Palestinian bid for statehood in the West Bank city of Ramallah

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negotiations between Israel and its neighbouring states. Thus, then US president George W Bush's letter to then Israeli prime minister Ariel Sharon in April 2004, stated: "As part of a final peace settlement, Israel must have secure and recognised borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli population centres, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949."

Moreover, the ongoing tensions between Fatah in the West Bank and Hamas in Gaza have spawned governments that act as adversaries to one another, with separate ministries, courts and civil servants. This undermines another requirement, which is the existence of a government that is capable of entering treaties with other governments and discharging responsibility for its treaties.

The PA does not exercise control over the entire West Bank, let alone Gaza. Fatah's claims to be the legal and diplomatic representative of the Palestinian people currently exclude Hamas. Despite the two groups agreeing a reconciliation deal in May, paving the way for a new unity government, implementation of the agreement has been repeatedly delayed.

While elections across Gaza and the West Bank are scheduled for May 2012, under the agreement no firm timetable has yet been set. At the same time, the differing approaches demonstrated by Abbas' statehood bid and the Shalit prisoner exchange illustrate the broad divides remaining between the two parties.

### Timing the bid

Despite these ongoing divisions, the timing of the bid for statehood may have been driven by the fact that a reconciliation agreement was at last in place, if only on paper. In addition, the timing may also have been linked to the weakening role of the US in the Israeli-Palestinian peace process, especially as US attention returns to domestic affairs in the run-up to the 2012 presidential elections.

Overall, the policy approach of the Obama administration has been one of the drivers behind the application for statehood. This approach has been somewhat confused, with initial signs suggesting that Obama was willing to make concessions to the Palestinians in order to encourage them to return to negotiations. He did this by demanding that Israel return to the 1967 lines before negotiating and then by upgrading the status of the Palestinian mission to 'Delegation General', becoming effective from July 2010. This allowed the Palestinian national flag to be flown from its office, carrying symbolic weight. However, pressuring the Israelis to halt the building of settlements outside the frameworks of negotiations – a tactic designed to make the Palestinians more willing to come to the negotiating table – served to harden the Palestinian position. Abbas adopted the settlement freeze as a prerequisite for entering negotiations. This meant that when the US then reversed its position, Abbas was able to walk away from negotiations on the basis that preconditions had not been met. As a result, the UN bid was to some extent driven by the sense of US mismanagement of negotiations.

More broadly, lack of US credibility in the

region resulting from its somewhat uncertain regional approach during the Arab Spring and the ongoing Israeli-Palestinian backdrop led Abbas to internationalise the conflict by approaching the UN. Nabil Shaath, Deputy Prime Minister and Minister of Information said: "What was the role of the US in the 'Arab Spring'? In the three weeks of the Egyptian [revolution], Obama changed his position six times. He is constantly reacting to events rather than generating them. The US has no real presence."

Similarly, former Arab League Secretary General Amr Moussa and King Abdullah of Jordan have called on Europe to lead the peace process. It was this rather than the Arab Spring that led a unity deal to be discussed between Hamas and Fatah, as both groups realised that little impetus would be given to the process by the US. The agreement between Hamas and Fatah, alongside the Palestinian perception of weakening US influence in the Middle East, and the urgent need for Abbas to create some sort of legacy together form the backdrop to the UN bid.

Israel has asserted that Obama's speech calling for Israel to withdraw to the pre-1967 borders, and Abbas' UN bid both serve to contravene the Oslo Accords. It was the Oslo Accords that had heightened the US presence in the Israeli-Palestinian conflict. The US was assigned by the Oslo Accords to be the primary mediator, which is naturally undermined by bypassing negotiations and directly approaching the UN.

### Palestinian drivers

Abbas is due to retire in 2012 and so has carefully been considering his legacy. Having failed to advance core Palestinian interests through negotiations by rejecting Israel's peace offer in 2008 and losing elections to Hamas in Gaza in 2007, Abbas' UN bid represents a last effort to build a personal legacy. More broadly, the PA's legitimacy has been increasingly questioned as the Palestinian Legislative Council has not met since 2007. Abbas' legacy has been one of resistance, characterised by a series of protracted Israeli-Palestinian negotiations that have failed to lead anywhere.

Part of this has been attributable to Abbas, rather than the PA more generally. Both Yasser Arafat and his protégé Abbas rejected concessions that could have already granted the Palestinians full state membership in the UN. In 2000, at Camp David, then Israeli prime minister Ehud Barak offered Arafat a Palestinian state on the West Bank and Gaza and was willing to divide Jerusalem, but this was refused by Arafat. Similarly in 2001, Arafat rejected the proposals put forward at the Taba Summit, where the

Framework for Peace in the Middle East was introduced. In 2008, then Israeli prime minister Ehud Olmert offered the Palestinians the whole of the West Bank (with land swaps), Palestinian statehood and the division of Jerusalem, with the Muslim section to become the capital of the Palestinian state. Abbas rejected this too. The resistance approach was epitomised by Saeb Erekat, the chief of the PLO Steering and Monitoring Committee. He said: “At first, they told us that we would run hospitals and schools; later, they were willing to give us 66%; at Camp David, they reached 90%; and today they have reached 100%. Why then should we hurry, after all the injustice caused to us?”

In contrast to Abbas, Fayyad has not concerned himself with resistance, but primarily with institution building and technocratic reforms that would lead to a Palestinian state. In June, Fayyad voiced scepticism about the notion that UN recognition would make any practical contributions to his constructive state-building efforts, saying: “My answer to you is no. Unless Israel is part of that consensus, it will not, because to me it is about ending Israeli occupation.” On the contrary, Fayyad may fear that unrealistic expectations by the Palestinian people resulting from the UN bid could undermine the PA.

This fear has been realised, as the US Congress in early October suspended USD200 million in aid disbursements to the PA. This could serve to undermine Abbas, since the withdrawal of the aid funding on which many Palestinians rely could increase domestic discontent with his government and policy. For this reason, the American Task Force on Palestine (ATFP), which is perceived to be allied with Fayyad, has refused to endorse the Palestinian bid at the UN. This prompted Maen Rashid Areikat, ambassador of the Palestinian Mission to the US, to formally sever ties with the ATFP.

### Future prospects

It is unlikely that Abbas ever thought that a bid for Palestinian statehood would be successful. At the very least, it is a symbolic gesture that won support among Abbas’ core constituency and demonstrated the depth of UN General Assembly support for the bid. In addition, a majority vote in the General Assembly in favour of Palestinian statehood, although non-binding owing to the US veto, would be a powerful tool for the PA in arguing that the veto is non-democratic. At best, it may result in the PA being upgraded to permanent observer status or in another way becoming eligible for UN groups such as the ICC, as seen by the decision in early

November to allow the putative state to become a member of UNESCO.

In this regard, Abbas stated in May that “Palestine’s admission to the UN would pave the way for the internationalisation 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 UN, human rights treaty bodies and the International Court of Justice.” The Palestinian Maan News Agency reported that, contained within the documents the PLO had prepared for UN application, there was an annex for a Palestinian application for a seat on international legal tribunals at The Hague, the Netherlands, after being recognised as a state.

For this reason, the Palestinians have sought to submerge the ICC in the Israeli-Palestinian conflict by applying to the ICC prosecutor to accept the ICC’s jurisdiction despite the fact that it is limited to sovereign states. The ICC is factoring in that if it accepts the Palestinian application for the ICC’s jurisdiction to extend to Gaza and the West Bank, it may hurt the ICC’s relations with established countries by encouraging separatist movements around the world to follow suit.

Moreover, once the initial jubilation about the statehood bid has died down, Abbas could find that the application has backfired by raising unrealistic expectations. Disappointment with either a prolonged evaluation process or an outright veto could both increase dissatisfaction with Abbas’ leadership and undermine faith in the use of negotiation and international processes to achieve statehood. This could lead to a surge in support for Hamas or other militant groups, as Palestinians start to feel that violence offers more prospects for success than negotiation. This viewpoint may be reinforced by the Shalit prisoner exchange, under which 1,027 Palestinian prisoners were released from Israel.

There is a risk that a lack of progress in the statehood process and the peace process with Israel could lead Palestinians to view Shalit-type operations as more successful. As such, the rift between Abbas and Fayyad is partly due to the latter’s fears that his accomplishments in building institutions in the West Bank could be reversed by increased violence that would emanate from the West Bank owing to frustrations that the UN bid had not brought tangible dividends. In particular, the release of the prisoners may increase the likelihood of violence, with 110 returning to the West Bank, 14 to East Jerusalem and 131 to the Gaza Strip. This has caused Hamas to say its ranks would be refilled in the West Bank and East Jerusalem.

Israel is likely to respond by erecting

checkpoints that will in turn take its toll on the Palestinian economy. During the prisoner release, Israel’s security services chief, General Yoram Cohen, commented that past experience showed that 60% of people released had returned to “terrorist” activities. Israel could also respond by conducting a similar military strategy to ‘Operation Cast Lead’, a three-week IDF operation in the Gaza Strip that began at the end of 2008, bringing with it deteriorating conditions for the Palestinians and strengthened support for the statehood bid among those countries that criticise Israel’s stance.

Hamas’ masterstroke was its demand that half of the released prisoners be non-Hamas supporters. This will make Hamas politically more popular in the West Bank and could enable Hamas to eclipse Fatah. In October, Mahmoud al-Zahar, a top Hamas official, said: “Some time ago, Abbas offered to free Shalit in exchange for the removal of the Gaza blockade, without setting free even one prisoner. Of course, we rejected that idea.” Hamas’ resistance has offered tangible results that Fatah has failed to achieve after decades of negotiations with Israel.

The bid for Palestinian statehood looks set to have little impact on the ground, with the main outcomes being a hardening of positions on the part of both Israel and the PA. At the same time, the bid may even undermine support for the PA as the process becomes perceived to have failed in its objectives, boosting support for more militant tactics. Indeed, of the initiatives by Hamas and Fatah in September and October, Hamas’ prisoner exchange may come to be seen by Palestinians as the more successful, underlining that the rivalry between the two groups will continue to dominate Palestinian politics in the absence of a statehood agreement. ■

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