



dipam

DİPLOMATİK İLİŞKİLER ve POLİTİK ARAŞTIRMALAR MERKEZİ
CENTER for DIPLOMATIC AFFAIRS and POLITICAL STUDIES

ANALYSIS

Ata Cem KUZUCU

PALESTINE 194: EFFORT FOR FULL RECOGNITION OF THE STATE OF PALESTINE

April 2024 No: 31



PALESTINE 194: EFFORT FOR FULL RECOGNITION OF THE STATE OF PALESTINE “The Consequences of Palestine's Full Membership of the United Nations”

The nature of the discussions on the political situation of the Palestinian geography is among the major political deadlocks of the recent past. The fact that the problem has a long history has a great impact on it gaining this dominant position. So much so that the issues that occupy the international community today, such as border conflicts, recognition, or sovereignty, cover the recent past. Although the issues discussed on the geography of Palestine seem to be included in this recent past, the fact that the parties make religious references, when necessary, makes the Palestine issue as comprehensive as written history itself. As such, the geography of Palestine cannot be defined independently of debates and conflicts and continues to be the soft underbelly of the Middle East geography.

Using the term “breaking point” would be quite ordinary for a geography like the Middle East, where conflicts have frequently occurred throughout history, but when we look at what happened after October 7, 2023, Palestine-Israel relations have experienced a serious breaking point. Both the events of October 7 and the developments that followed show that the policies that Israel has been trying to implement on Palestine for years are invalid. In addition, countries that support Israel's policies, especially the United States, have faced reactions from their own citizens. Countries that, on the one hand, try to calm their people, but on the other hand, do not compromise on their political positions, are stuck in inconsistent and inconclusive discourses because of this rupture.

Since October 7, the international community has witnessed Israel's use of force in disregard of the generally accepted principles of the law of war under the veil of the right of self-defense. This excessive use of force, whose limits are uncertain, gradually makes the resolution of the Israeli-Palestinian conflict within the scope of the “two-state solution” no longer an option. For the two-state solution to still be an option, Palestine must resolve the situations that limit its sovereignty and the recognition issue. Based on this, the title of the study was deemed appropriate as the “Palestine 194” diplomatic campaign carried out by Palestine to become the 194th member of the United Nations and to achieve full recognition in the international community. In addition, in the study, the recognition problem will be discussed through the possible consequences of Palestine's application for

full membership to the United Nations. In addition, the study will touch upon the legal foundations of statehood and recognition, and the actions of the United Nations towards a just and peaceful solution to the Palestine problem will be included in a historical context.

A View of Palestine Through The Concept of Stateability and Recognition

The Westphalian order is based on an understanding that sees states as the sole actors of the international community. This order, in which states are the dominant actors, is entering a transformation process as non-state actors strengthen their presence. Today, although the existence and rise of non-state actors in the field of international relations and international law are the subject of various studies and discussions, states maintain their position

as the main actors of international relations. The fact that states are still valid actors is because statehood is of vital importance in the eyes of nations and societies. For this reason, the phenomenon of statehood is one of the main concepts that does not go out of fashion in the structure of international relations and international law (Crawford, 1997: 93).

The process of becoming a state naturally leads to the emergence of the concept of “recognition”. Recognition creates a situation where politics, on the one hand, and law, seek solutions on the other, but the two areas become increasingly intricate. Likewise, Kelsen mentions that there is no other issue that has created as much controversy in international law as recognition (Kelsen, 1941:605-617). Therefore, it seems possible for a state that steps into the international community to resolve the issue of recognition through the commonality of both politics and law. Ultimately, political recognition determines the relationship between the recognizing state and the recognized state. However, this diplomatic relationship established between two states does not make the recognized state a “state” based on international law. Whenever political recognition and legal recognition coexist, then the phenomenon of a full-fledged state emerges. (Macklem, 2008:177).

Another issue that makes the act of recognition difficult and causes debates is the scope of recognition. As a matter of fact, the state that performs the act of recognition is assumed to have accepted all the lands claimed by the recognized state. As a result, since merely recognizing governments or states will not be sufficient, the lands under the auspices of the said government or state will also be included in the scope of the act of

recognition. Apart from all these, the addressee of the act of recognition is a fact that creates as much controversy as the scope of recognition. The recognized party may be a liberation movement in a country, one of the parties to a civil war, or a temporary government established by another state (Malanczuk, 1997: 83).

Palestine's statehood and recognition issue are also among the main issues subject to debate in the international community. It has become a chronic problem that the international community has been making joint efforts to solve for years, but at the point we have reached today, the war, or at least the conflicts, cannot be ended. The presence of the United Nations becomes very important in strengthening the legal basis of Palestine's efforts for statehood and recognition. As a matter of fact, the United Nations is aware that the Palestine issue is one of the most serious threats to peace in the Middle East. The international community, under the leadership of the United Nations, is also increasing its support for the acceptance that the innate and inalienable right of national self-determination to the Palestinian people must be secured to restore peace.

Apart from the existence of the United Nations, another legal basis for Palestine's statehood that needs to be taken into consideration and examined is the Montevideo Convention dated 26 December 1933. The Convention specifies the definition, rights, and duties of being a state. The most well-known of these is the first article, which is also known as the “statement of customary international law” by the international community, stating four criteria for statehood. According to this article, the state must have a “permanent population”, a “defined territory”, a “government” and “the

capacity to establish relations with other states” (Kreijen and Jennings, 2004:110). It is extremely clear that Palestine, in addition to being recognized politically, also complies with the above-mentioned criteria in a legal sense and thus has the fact of being a full-fledged state. As a matter of fact, John V. Whitbeck, who advised the Palestinian negotiation team during the negotiations with Israel, mentions that the only weak link in Palestine's claim to exist as a state is the lack of effective control over its population, but this problem is no longer limited to having effective legislative and executive bodies (Whitbeck, 1996). As a result, it should not be overlooked that Palestine's claims to statehood and recognition are at least as solid as Israel's claims, both on political and legal grounds.

United Nations and Palestine

The Palestine issue came before the United Nations as a problem shortly after the end of the Second World War. However, the Palestine issue gaining an international identity corresponds to the last period of the First World War. Events at the end of the war led the League of Nations to decide to place Palestine under the administration of Great Britain within the scope of the Mandate System adopted by the League. In fact, the mandate was seen as a phase that was expected to be temporary until Palestine achieved the status of a fully independent nation. However, the development of the mandate did not result in Palestine becoming an independent nation, on the contrary, it dragged the Palestinian people into a dead end where they did not have a say in determining their fate. As a matter of fact, the mandate administration did not consider the wishes of the Palestinian people, despite its requirements that “the wishes of these

communities should be a fundamental consideration in the selection of the mandate”. Ultimately, Great Britain, which could not find a solution to the conflicts that broke out under the mandate rule for a quarter of a century, was forced to submit the Palestine issue under the umbrella of the United Nations. Since then, the responsibility of bringing a peaceful and just solution to the Palestinian problem has become an issue that the United Nations has been working on (Israel-Gaza Crisis ,2024).

With the “Resolution No. 181” adopted in 1947, the United Nations General Assembly proposed dividing Palestine into two independent states, one Palestinian Arab and the other Jewish, and the internationalization of Jerusalem. However, the 1948 War occurred because of one of the two envisaged states becoming independent under the name of Israel. The war has led to the displacement or deportation of more than half of the Palestinian Arab population. With the “Decision No. 194” taken during the war, it was decided that “refugees who want to return to their homes and live in peace with their neighbors should be allowed to do so as soon as possible.” The basic legal basis of the Palestinians' claim to the right to return to their homes, which is an important point in peace negotiations even today, this decision constitutes (Khouri, FJ 1985:129-130). With Jordan and Egypt keeping the Palestinian lands under control, the conflict situation calmed down until the 1967 war. As a result of the Israeli occupation in 1967, the Palestinian people had to leave their homes for the second time. In the Council's “resolution 242”, the principles of a just and lasting peace were formulated, including Israel's withdrawal from the territories occupied in the conflict, a just solution to the refugee

problem, and the end of all claims or situations of aggression (Bennis, 1997:51).

The 1973 conflicts were followed by Security Council resolution 338, which called, among other things, for peace talks between the parties involved. In 1974, the General Assembly reaffirmed the inalienable rights of the Palestinian people to self-determination, national independence, sovereignty, and return. The following year, the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and granted the Palestine Liberation Organization “observer status” in the Assembly and at United Nations conferences. This decision of the United Nations is an extremely important move in terms of Palestine's international representation (History of the Question of Palestine, 2024).

By the 1980s, the nature of the conflict shifted from a large-scale regional Arab Israeli conflict to a more local Israeli-Palestinian conflict. The conflict reached its peak during the 1982 Lebanon War, when Israel intervened in the Lebanese Civil War to expel the Palestine Liberation Organization from Lebanon. In September 1983, the International Conference on the Palestine Question was convened, and various principles were adopted. The need to oppose Israeli settlements and Israeli actions aimed at changing the status of Jerusalem, the right of all states in the region to exist within secure and internationally recognized borders, and the achievement of the legitimate, inalienable rights of the Palestinian people were among the principles adopted by the conference (History of the Question of Palestine, 2024).

In 1987, a mass uprising against Israel's ongoing occupation in the Occupied Palestinian Territories, an “intifada” as the Palestinian people call it, began. However, the methods used by Israeli forces have led to mass injuries and heavy loss of life among the Palestinian civilian population. The Palestinian National Council, which met in Algeria in 1988, declared the establishment of the State of Palestine. The Palestinian National Council also accepted the declaration of independence of the State of Palestine in Algeria. Although the United Nations does not officially recognize this state, the Palestine Liberation Organization's renaming of its observer status as Palestine observer has shown that it has achieved this recognition (History of the Question of Palestine, 2024).

The 1990s were the years when concrete evidence for the peace process was received like never before - and perhaps not in subsequent years. In 1991, a Peace Conference was convened in Madrid with the aim of reaching a peaceful solution through direct negotiations between Israel and the Arab States and between Israel and the Palestinians, based on the Security Council resolutions “242” in 1967 and “338” in 1973. A series of negotiations following the conference resulted in mutual recognition between the Government of Israel and the Palestine Liberation Organization, the representative of the Palestinian people, and the signing of the Declaration of Principles for Interim Self-Government Arrangements – also known as the Oslo Process – in 1993. Decisions were taken regarding the partial withdrawal of Israeli forces, elections to be held in Palestine, the release of some prisoners, and the establishment of a functioning administration in the areas under Palestinian self-government. In addition to all these, the participation of

the United Nations in the process was of vital importance both in terms of adding international legitimacy and in managing international aid (History of the Question of Palestine, 2024).

The atmosphere of peace gave way to conflict and violence in a short time, as before. The visit of then-Likud leader Ariel Sharon to the Haram al-Sharif in Jerusalem in 2000 was followed by the second intifada. Israel has begun building a separation wall on West Bank territory, despite it being declared illegal by the International Court of Justice. In 2002, the Security Council approved the “two-state solution”, which remains important even today for a just and lasting peace. An unofficial Geneva peace agreement was declared by prominent Israelis and Palestinians in 2003. In 2005, Israel withdrew its settlers and soldiers from the Gaza Strip, although it did not compromise its control over the seacoast and airspace. Palestinian legislative elections were held in 2006, but the conflict reached its peak in a short time. As a result of the rising conflict environment, the gains of the 1990s were reversed. Israel began to impose a blockade after Hamas came to power in Gaza in 2007. Increasing rocket fire and air strikes in late 2008 reached its peak with Israel's “Cast Lead” land operation in Gaza. The United Nations Security Council adopted “Resolution 1860” and stated that the Israel-Palestine problem could only be resolved through peaceful means and that a two-state solution was necessary. The United Nations also emphasized that the international community and parties “must urgently resume efforts towards a comprehensive peace based on a vision for Israel and Palestine to live side by side in peace, within secure and recognized borders, as two democratic countries.” In 2011, President Mahmoud Abbas

submitted Palestine's application for membership to the United Nations and On November 29, 2012, Palestine was granted “non-member observer state status” in the United Nations (History of the Question of Palestine, 2024).

When we look at the process spanning all these years, we see that the legitimacy of the Palestinian state has been approved by the United Nations for a long time. The efforts of the United Nations' international community towards a two-state solution, the idea of Palestine and Israel living side by side within safe and recognized borders, are clearly visible. The targeted global consensus has become one of the main goals of attempts to reach a just and lasting peace since the problem gained an international character.

Palestine 194: More Than a Symbol Gain

Palestine's effort to become the 194th member of the United Nations has again become the main agenda issue of the international community after 2011. As a result of the veto threat of the United States years ago, Palestine had to settle for a position far removed from political reality under the name of a non-member observer state instead of membership. It is very difficult to say that the situation is different today than it was then. Israel's rhetoric regarding Palestine as a threat to peace and the United States' statement that it will approve Palestine's membership in the United Nations after peace is established between Palestine and Israel show us that the situation has not changed for years. Apart from these, it would be useful to put aside the obstacles to Palestine's membership and look at how the process will take place and what it will bring.

The decision of the United Nations Security Council regarding membership constitutes the first and most important of the key stages for Palestine. Nine out of fifteen members of the Security Council must vote positively for Palestine. However, it is essential that none of the five of China, France, Russia, Great Britain, and the United States use the veto decision. This will pave the way for the second stage, that is, the parliamentary vote. Passing the second stage for Palestine will be easier than the first stage because a two-thirds majority in the parliament will be sufficient for membership for Palestine, which is currently recognized by 139 members (About Un Membership, 2024).

The situation in which the United States somehow does not use the veto threat and Palestine comes under the umbrella of the United Nations as the 194th member will have visible and invisible effects. First, Palestine becoming a fully recognized state will be an achievement that will set an example for various problems in the international community that have become inextricable. Solving a problem that is discursively as old as the history of religions and almost a century old, in the presence of the international community, will put the United Nations in an undeniable position in today's age of international organizations. Moreover, membership in the United Nations will be an important symbol of optimism and unity for the Palestinian people in this disproportionate war environment and will strengthen their national identity. For Israel, it may allow it to increase international pressure and take steps towards the long-delayed peace.

Apart from the impact it will create in an intellectual sense, the biggest concrete gain for Palestine will be its official

recognition as a sovereign state, as well as increasing its legitimacy and access to important international institutions and resources. Additionally, as a member of the United Nations, Palestine will be able to participate in more international agreements by strengthening its legal and political position. Palestine, which will have the right to vote in the United Nations General Assembly, will also be able to become a part of the non-permanent members of the United Nations Security Council. Moreover, a Palestine that has gained full membership will have the opportunity to seek justice before the International Court of Justice without leaving it to other countries.

As a result, we see again and again today that there is no winning side in the war. Those who take October 7, 2023, as their milestone are making the mistake of thinking that they can still resolve the war by acting with a narrow perspective on solving problems that span many years. As a matter of fact, expecting those who create and exaggerate the problem to contribute to its solution will cause those seeking peace to make a similar mistake. Therefore, instead of waiting for peace from the forces that created the problem, countries that stand out with their peace-loving attitudes, first under the umbrella of the United Nations and then the European Union, need to take the lead in peace and demonstrate the peace that the State of Palestine and its people deserve in a fair and concrete way. Living in a just and peaceful international order on the right side of history should be the goal of the entire international community in the eyes of Palestine.

Bibliography

About UN Membership. (2024). (Online) <https://www.un.org/en/about-us/about-un-membership#:~:text=If%20the%20Council%20recommends%20admission,resolution%20for%20admission%20is%20adopted.>

Bennis, P. (1997). The United Nations and Palestine: partition and its aftermath. *Arab Studies Quarterly*, 47-76.

Crawford, J. (1976). The criteria for statehood in international law. *British Yearbook of International Law*, 48(1), 93-182.

History of the Question of Palestine. (2024). (Online) <https://www.un.org/unispal/history2/>

Israel-Gaza Crisis. (2024). (Online) <https://www.un.org/en/situation-in-occupied-palestine-and-israel/history>

Kelsen, H. (1941). Recognition in International Law. *American Journal of International Law*, 35(4), 605-617.

Khouri, F. J. (1985). *The Arab Israeli Dilemma*. Syracuse University Press.

Kreijen, G., & Jennings, R. Y. (2004). State failure, sovereignty and effectiveness: legal lessons from the decolonization of sub-Saharan Africa. In *State Failure, Sovereignty and Effectiveness*. Brill Nijhoff.

Macklem, P. (2008). Indigenous Recognition in International Law: Theoretical Observations. *Michigan Journal of International Law*, 30(1), 177-210.

Malanczuk, P. (1997). *Akehurst's Modern Introduction to International Law*. New York: Routledge

Whitbeck, J. (1996). The Palestinian State Exists. *Palestine-Israel Journal*, 3(2), 56.



DİPLOMATİK İLİŞKİLER ve POLİTİK ARAŞTIRMALAR MERKEZİ
CENTER for DIPLOMATIC AFFAIRS and POLITICAL STUDIES

+90 216 310 30 40

info@dipam.org

+90 216 310 30 50

www.dipam.org

Merdivenköy Mah. Nur Sok. Business İstanbul
A Blok Kat:12 No:115, Kadıköy/İstanbul

ABOUT THE AUTHOR

Ata Cem KUZUCU, graduated from Istanbul University, Department of Business Administration in 2021. Also in 2021, he graduated from Anadolu University, Department of History within the scope of the second university. In 2022, he started his master's degree at Istanbul University, Department of European Union. He is currently continuing his master's degree in the same department and is in his thesis period. Kuzucu's main areas of interest and research include Political History, European History and Political Systems. Kuzucu continues his internship in the field of International Organizations at DİPAM.