
FRIENDS OF ISRAEL INITIATIVE

Mahmoud Abbas's Initiative
at the UN Security Council

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The United Nations Security Council turned down a draft resolution on December 30, 2014 that determined what should be the parameters of a future Palestinian state and then set a deadline as well for its establishment. The Palestinians needed a majority of nine states at the Security Council to adopt the resolution they proposed. However, the draft resolution was backed by only eight states, including Russia, China and France. It was opposed by the US and Australia, while five states abstained. Given the intense diplomacy prior to the vote, the decision of the Security Council appeared to be a high-profile defeat for the Palestinian mission to the UN.

Several questions stood out immediately about the vote. First, why was the adoption of this draft resolution so important for the Palestinian Authority leadership? Second, what was the political calculation among the European states, leading the UK to only abstain and not oppose outright the draft resolution. Even worse, why did France support it? Third, why didn't the Palestinians wait a few days until after January 1, 2015, when there would be a rotation of the non-permanent members of the Security Council and states known to be more critical of Israel would join.

For example, Australia would drop out and New Zealand would replace it. Among the Latin American states, Venezuela would come in instead of Argentina. Under such conditions, the draft resolution would certainly have passed. This raises a question about what Abbas is trying to achieve. What is exactly is Abbas' strategy?

Was this draft resolution really so important to the Palestinians?

Considering the long hours of negotiations undertaken by the US and the EU states, particularly France, with Palestinian representatives, one would think that the draft resolution was of extreme importance to Mahmoud Abbas, the president of the Palestinian Authority. In much Western commentary it was not uncommon to find those who asserted that the Palestinians were going

to the Security Council in order to establish their state. This same analytical error was frequently made in 2012, when the Palestinians upgraded the status of their UN observer mission in the General Assembly.

According to recent international precedents, like the cases of East Timor, Kosovo, and South Sudan, there is a clear sequence in the formation of new states: first, the national leadership declares independence, second the newly declared state is recognized bilaterally by other states, and then third, it applies to the UN for membership. The UN, according to international practice, does not create states (even in the case of Israel, the UN recommended the establishment of a Jewish state in 1947, but it was only formed when David Ben Gurion declared independence in 1948).

Abbas was cognizant of the limits of what the Security Council could actually do for him. In an important interview that he gave on November 30, 2014 to the Egyptian newspaper, *Akhbar al-Yawm*, he in fact stated that Israelis “claim that I am going to the Security Council in order to obtain a state, but all the Council does is give me a certificate; it doesn’t give me territory.”¹

The traditional Palestinian line of argument has been that Yasser Arafat already declared a state at the Palestine National Council meeting in Algiers on November 15, 1988---this was before the signing of the Oslo Accords in 1993 and there wasn’t any Palestinian governing authority in the West Bank and Gaza Strip at the time. The fact that the 1988 declaration did not legally change anything was proven when years later in 1999, the PLO leadership threatened to unilaterally declare a Palestinian state. If they asserted that they already had a state because of Arafat’s action in 1988, then how could they issue a threat to make such a declaration in 1999?

Professor James Crawford of Cambridge University, who advised the Palestinians in their 2004 case before the International Court of Justice on Israel’s security fence, succinctly put the question of the legal value of the 1988 declaration in the following way: “If a new unilateral declaration is thought to be necessary by some with the PLO, on what basis was that of 1988 insufficient?” The upshot of this history was that according to their own narrative, the Palestinians already established a state in 1988, despite all the legal flaws in that action, and hence they were not looking to a UN Security Council resolution to create a Palestinian state.²

The PLO leadership was in a legal bind of sorts. It was unwilling to admit that what happened in 1988 was just symbolic and had no legal significance.

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It was looking to take other steps in addition to establish a state without having to make a formal declaration. Undoubtedly the lawyers of the PA knew that Article XXXI of the 1995 Interim Agreement stated “Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the Permanent Status negotiations.”

By seeking to predetermine the outcome of those negotiations through international bodies, the Palestinian side can be seen to have violated their legal commitments under the Interim Agreement. But if Abbas went a step further and issued a declaration of independence he would unquestionably be in material breach of his Oslo commitments. Given these circumstances, how exactly the adoption of a new UN Security Council resolution helped him was unclear as Abbas himself admitted (see above).

So what did the draft resolution actually contain that made the struggle over its adoption so important for Abbas? Formally, the draft resolution still spoke about a “negotiated solution” to the Israeli-Palestinian conflict and did not propose a unilateralist alternative. But it prejudged the outcome of those negotiations by stating that borders would have to be based on lines of June 4, 1967. Though it allowed for “limited” land swaps, the territorial extent of the Palestinian state was set by the resolution.

It also failed to mention that the Palestinian state needed to be demilitarized and could not enter into hostile military pacts with other states, like Iran. It suggested that security be handled by “a third party presence,” an idea about which Israel has opposed in the past, in the belief that Israel must defend itself by itself. According to the draft resolution, Jerusalem is essentially divided by being designated as a “shared capital” of both states. The resolution puts a 12 month deadline for negotiations and determines that the IDF will end its presence in the West Bank by the end of 2017. Finally, the draft resolution did not say word about the rights of the Jewish people to a nation-state of their own.

Despite its pro-Palestinian orientation, was this worth the fight for Abbas? As he himself pointed out, it did not give him territory, but rather a “certificate.” He stated in his Egyptian interview: “I will take the certificate and then go negotiate with them in order to realize it...” But was this his real goal? Did he want a negotiated solution requiring him to make compromises to Israel? There were European leaders who believed this was indeed his goal, but this requires further examination to determine whether Abbas was turning to

the UN to support his negotiating hand or as the first step in an alternative path to negotiations.

European Assumptions about the Security Council Draft Resolution

Formally, France and the UK still supported a negotiated solution to the Israeli-Palestinian conflict. They were not speaking about the international community imposing the terms of a solution. But their advocacy of parameters for a solution that were plainly closer to the Palestinian position meant that they were setting up a future negotiation in which they had already extracted Israeli concessions for the Palestinian side, leaving Abbas to complete the final steps. It was as though they were doing seven eighths of the work, leaving one eighth for the Palestinian negotiators. This nuanced mix of internationalizing the solution to the conflict with some room left for negotiations could be seen in the speeches delivered by the representatives of France and Britain at the UN Security Council.

In his explanation of vote after supporting the Palestinian draft resolution, François Delattre, Permanent Representative of France to the United Nations, stated:

“France is determined to help a method emerge that provides greater support for negotiations by the concerned international partners – i.e., the European Union, the Arab League and the permanent members of this Council – along with and in support of the major role played by Washington. This collective effort must be based on the indisputable foundation that only the Security Council can provide, in order for the negotiations to be credible. It is up to us to determine internationally recognized parameters to resolve the conflict, and negotiations that lead to the satisfaction of the various claims.”³

While the British abstained, the UK also supported the idea of internationally determined parameters for a solution to the Israeli-Palestinian conflict, with some space left for bilateral negotiations between the parties:

“We have long believed that direct negotiations towards a two-state solution need to be on the basis of clear, internationally agreed, parameters. I recall that in February 2011 I set out in this Chamber our view of what these should be in a joint United Kingdom, France, and Germany Explanation of Vote on

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a resolution on Settlements. We therefore welcome the idea of a Security Council resolution on the Middle East Peace Process which sets out these parameters.”⁴

This European policy was strongly opposed within the American political system. On December 17, 2014, two leader US senators, Lindsey O. Graham, from the Republican Party, and Charles E. Schumer, from the Democratic Party, wrote a letter to Secretary of State John Kerry stating “...there are multiple efforts in the United Nations Security Council to set parameters for final status negotiations, effectively imposing terms on our ally Israel in matters that are vital to its security and national interests.”

Though this was not stated in public, the underlying assumption of many European diplomats was that the stalemate in the negotiating process was the fault of Israel. Substantive concessions Israel offered since 2009 in order to restart negotiations had been forgotten: Prime Minister Netanyahu’s backing of a demilitarized Palestinian state at his Bar Ilan speech, his acceptance of a 10-month settlement freeze, his release of Palestinian prisoners. What made this assumption about Israeli recalcitrance particularly outlandish was experience of the US in early 2014 from Secretary of State John Kerry’s shuttle diplomacy. The US worked tirelessly on a “framework agreement” which would set the stage for renewed negotiations.⁵

The Kerry framework contained elements that would be difficult for both sides, but it left them the right to express their reservations about any clause that troubled them. Israel agreed to the framework agreement. On March 17, 2014, Abbas met with President Obama in the Oval Office but would not give his consent to the American-proposed framework. In short, Israel said yes and Abbas didn’t. When Abbas returned to the West Bank his own Palestinian Authority greeted him with rallies that thanked him for resisting US pressure.⁶

Many of these details came out from an interview given by the head Israeli negotiator, Tzipi Livni, to Roger Cohen of the *New York Times*. In Israel’s 2015 elections, Livni is now running against Netanyahu and had every reason to blame the Israeli prime minister for the failure of the peace talks. But Livni told the truth stating that while “Abbas remained evasive on the framework,” in contrast, “Netanyahu had indicated a willingness to proceed on the basis of it.”⁷

Another account of supporting the position that it was Abbas who refused to accept the Kerry framework may be found in Nathan Thrall, “Faith-Based Diplomacy.”⁸ European officials acted without trying to learn the lessons of Secretary Kerry’s diplomatic efforts. If Israel had indeed been the obstacle for diplomatic progress, then Europeans could make the argument that a more pro-Palestinian approach would put pressure on Israel and make the negotiations move forward.

But given the fact that it was Abbas who put up the obstacles in the peace process, a pro-Palestinian resolution in the Security Council would not incentivize the Palestinian leadership to go back to the peace table, but rather have the opposite effect: Abbas would recalibrate his strategy and depend more heavily on the international community to impose a peace settlement on Israel, without his side having to make any significant concessions. Under such conditions, Abbas would have no motivation to engage in any real negotiations with Israel. Ultimately, European policy was undermining the achievement of a negotiated solution to the conflict.

What Is Abbas’ Strategy?

Given the fact that Abbas could have waited a few days until after January 1, 2015 and obtained more cooperative non-permanent members in the UN Security Council, the question may be asked why he forced the vote already on December 30, 2014. The main difference between the two dates, is with a December vote, the Palestinian draft resolution could be defeated without a US veto, because Abbas could not garner the minimal 9 votes he needed to pass the draft resolution.

In contrast, a January vote would require a UN veto, which the Obama administration preferred not to have to back. This was a US-Palestinian confrontation through which Abbas could say to Obama that if the White House did not give him the support he demanded he could be uncooperative in international institutions. To adopt such a risky approach, Abbas had to be certain that the Obama administration would not take any punitive measures against him.

Abbas could have used the UN resolution to serve two possible strategies. UN resolutions usually do not stand in isolation, but rather serve as the basis for alter resolutions, each somewhat harsher than the one that preceded it. It could be that Abbas is thinking that these resolutions could ultimately

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produce a peace settlement, favorable to the Palestinians, that will be imposed on the State of Israel.

Alternatively, Abbas may decide to move more decisively down a unilateralist course, if the UN Security Council proves to be uncooperative. By signing international conventions and obtaining Security Council resolutions, Abbas is hoping that he can obtain a Palestinian state through the cumulative impact of all these actions. But by avoiding a negotiated settlement, and pursuing a unilateralist course, Abbas could draw himself increasingly into a more conflictual relationship with Washington.

There is a great deal of internal Palestinian politics in Abbas's anti-American posturing. After the 2014 Gaza War, Hamas emerged as a force that stood up to Israel for 50 days. Despite the disaster it created for the residents of the Gaza Strip, Hamas could say to the Palestinians that it was standing up for their rights. What was Abbas doing? To build his reputation before his people, he naturally turned to the arena where he had a built-in advantage over Hamas: the UN and international institutions.

Even more important than his tensions with Hamas, Abbas had a growing conflict with former Gaza security chief, Muhammad Dahlan, who was living in exile in the United Arab Emirates. Abbas and Dahlan had been engaged in a propaganda war. There were also growing tensions within the Fatah movement, which Abbas formally headed. In internal conversations, Abbas who will soon reach the age of 80, is known to have said that he just does not want to be called a "traitor" to the Palestinian cause.

By refusing to make any concessions to Israel in the peace process and by standing up to the US, Abbas is trying to re-establish his reputation as a Palestinian leader who is firm and will not sell out Palestinian interests. A leader following such an approach may indeed improve his domestic standing, but he is not a figure that the international community can assume will deliver a peace agreement.

Notes

1. <http://www.memri.org/report/en/o/o/o/o/o/o/8323.htm>
2. James. R. Crawford, *The Creation of States in International Law* (Oxford: Oxford University Press, 2006), p. 446.
3. <http://www.franceonu.org/france-at-the-united-nations/press-room/statements-at-open-meetings/security-council/article/30-december-2014-security-council>
4. <https://www.gov.uk/government/speeches/a-just-and-lasting-resolution-to-the-israeli-palestinian-conflict-is-long-overdue>
5. http://www.nytimes.com/2014/12/16/world/middleeast/palestinians-seek-un-vote-on-israeli-withdrawal-from-occupied-west-bank.html?_r=0
6. <http://www.gatestoneinstitute.org/4224/abbas-obama-no>
7. <http://www.nytimes.com/2014/12/24/opinion/roger-cohen-why-israeli-palestinian-peace-failed.html>
8. <https://medium.com/matter/americas-quest-for-israeli-palestinian-peace-db27f99ad9fo>

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