

Recognising Palestine: International Law as Chain and Sword

By [Dr. Binoy Kampmark](#)

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In-depth Report: [PALESTINE](#)

International law can be such a funny thing. It acts as a brake on stomping behaviour; but it also acts as an incentive for abuse, the scanty cover for atrocious crimes. Those usually scrupulous in picking up on the misbehaviour of other states tend to take quite a different position on the Palestinian-Israeli debate on statehood. The most obvious problem here is that the occupied and controlled are meant to be involved in a strained dialogue with the occupiers and controllers. This is domestic abuse by international means.

The devilish problem on this score is how international law – always the fabulous default point of reference – becomes a chain rather than a sword. The Israeli state is well acquainted with this dilemma, having breached various protocols and conventions in bagging, trying then hanging Adolf Eichmann. Death, in short, in the name of a higher law.

Prime Minister David Ben-Gurion's words on the subject still reek of natural law presumption, but they also suggest that international law, when required, needs to be broken or nudged. The theme is repeated in the context of the settlements, the expansions, and attempts to keep a Zionist programme alive. The biblical imperative becomes the legal justification.

Such breakages of the law create a dangerous situation, if you count anarchical violence as necessarily dangerous. But the involvement of both the United States and Israel as key mediators and judges as to how Palestinian statehood develops is tantamount to determining when an irritating child becomes a formed adult. It is a proposition on condescending parenting that is both ponderous and preposterous.

It is obvious that an appetite for unilateral recognition for Palestinian statehood is coming to the fore. European waters on the subject are stirring. The British Prime Minister, David Cameron, had to face the music of disagreement when his fellow colleagues of the House of Commons decided to give a vote of 274-12 urging the UK to “recognise the state of Palestine alongside the state of Israel.”[1]

Phyllis Bennis of the Institute for Policy Studies gave a decent summing up of the ramifications of such a vote. Not much change in office, maybe, but “a statement from the closest US ally and perhaps the most influential country in Europe on this question to say that it is not prepared to go along with the US position that only US-orchestrated diplomacy that is based on this nonsense about the two states coming together as if they were equals... rather than an occupier and occupied population.”

Sweden's newly formed centre-left government is also getting ready to unfurl the banners of recognition. On October 3, Prime Minister Stefan Lofven made the prosaic point that the

Palestinians have “legitimate demands for national sovereignty” and that, by virtue of that, Sweden would “recognise the State of Palestine” at some point.[2]

With little surprise, the commentariat on Palestinian non-statehood came up condemning the moves. A former spokeswoman for the Israel Defence Forces, Avital Leibovich, came up with the traditionally anaemic suggestion that, “A two-state solution can only be achieved through direct Israeli-Palestinian negotiations.”[3]

Efraim Halevy, former Mossad head, suggested that it was in “nobody’s interest”, which is tantamount to saying that it was not in Israel’s interest. In classic self-repudiation (we want Palestinian independence, but not an official recognition of statehood), Halevy would argue that such a move “will cause serious and maybe irreparable damage to [that] Palestinian dream.”[4] This is old news, and not particularly good news: Palestinian statehood (or childhood) is the lengthiest of umbilical cords, tied to the womb of Israeli discretion.

In some ways, the hard views of such individuals as Caroline B. Glick of *The Jerusalem Post* are far more revealing. There is no cant there – Palestinian statehood should simply never happen. Keep those rotters where they are – Israel’s existence is premised on Palestinian subjugation, though she prefers to slant it differently by suggesting that recognising “Palestine”, as he puts it, “ does not advance peace, it advances Israel’s ruin.”[5] Such an argument is striking for its historical echo at the establishment of the state of Israel. For it to exist, there had to be blood, dispossession and the ruin of other people.

Other commentators get troubled by what are perceived to be global implications of recognising the Palestinians, which is tantamount to suggesting servitude for the sake of avoiding history. Douglas Murray, writing for *The Spectator*, is verging on fantastic hyperbole with his assertions that Palestinian statehood will somehow be a building block in a Caliphate project.

True, some individuals connected with groupings such as Hamas see broader religious connotations – Murray picks up on a remark by Mahmoud al-Zahar in a 2010 speech as an example of seeing “Palestine in its entirety, the Arab nation in its entirety, the Islamic nation in its entirety, and the entire world.”[6] Murray chooses to see this as Palestinians getting on the train of jihadi revolution and running amok, taking control of Spain (or Andalusia) in a reverse Reconquista.

Such an interpretation, without evidence of plans, strategies and conceptual understanding, tend to make a mockery about Palestinians, and the plans for statehood. But Murray prefers to see that recognition of a Palestinian state would be “inevitably seen, by the peoples of the region, as an endorsement of these aspirations.” Such an interpretation, despite the savage advances of the Islamic State, and the enormous fault lines of disagreement and dissent that course through Islam.

There is something to be said about the problems presented by the moves towards recognition. The parameters of statehood, outlined by the Montevideo Convention of 1933, do stipulate the need for a set territory, population, government and capacity. A key problem here is how far the Hamas-Palestinian Authority can come to an agreement, but this is mere fiddlesticks when it comes to actual recognition. The right to statehood exists irrespective of contesting factions who might wish to challenge for the mantle of the ruling government. The constitution of a government is a classic smokescreen – either a state has

one or not, even if it be atrocious. One need only to look at the DPRK for confirmation on that.

The other point is that recognising Palestine is not going to unleash the dogs of war. It may well actually keep them in the pen. For one thing, the enemies of Israel have always gotten sustenance from the Palestinian cause. If statehood is recognised, the sting in the tail of that mission will be removed. There is even – and dare we hope – the prospect of a Palestinian state playing the role of peace broker before factions in Islam. Such optimism, it would seem, is something that dare not be named, or hoped for.

Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. Email: bkampmark@gmail.com

Notes

- [1] <http://www.aljazeera.com/news/europe/2014/10/british-mps-back-recognition-palestine--20141013214237623951.html>
- [2] <http://www.smh.com.au/world/israel-to-summon-swedish-envoy-over-palestine--recognition-20141006-10qoa0.html>
- [3] <http://www.nytimes.com/roomfordebate/2014/10/16/should-nations-recognize-a--palestinian-state/only-negotiations-can-lead-to-palestinian-statehood>
- [4] <http://www.nytimes.com/roomfordebate/2014/10/16/should-nations-recognize-a--palestinian-state/recognition-of-a-palestinian-state-is-in-nobodys-interest>
- [5] <http://www.nytimes.com/roomfordebate/2014/10/16/should-nations-recognize-a--palestinian-state/there-should-be-no-palestinian-state-23>
- [6] http://www.memritv.org/clip_transcript/en/2606.htm

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