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COMMENTARY

The Recognition of a Right to Statehood and Palestine

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ABSTRACT What is a recognition of a right to statehood and how it matters for Palestine and the conflict with Israel, and international relations more broadly? I argue that this recognition matters because it often informs international state-building and as a prelude to proper diplomatic state recognition. More specifically in this case, I show that the international community’s recognition that Palestinian self-determination must be satisfied through an independent state alongside Israel is clear and irrevocable and, despite the dubious results of international state-building, continues to be crucial for the resolution of this conflict.

Introduction

Whilst being diplomatically recognised as a state has been considered a signifier of statehood, less attention has been paid to the recognition of a right to (as opposed to presence of) statehood. Informed by the resurfacing of the issue of resolving the Israeli/Palestinian conflict, what follows is a missing analysis of what a recognition of a right to statehood is and how it matters for this conflict and Palestine, and international relations more broadly, as a basis for international state-building efforts and as a prelude to proper diplomatic state recognition. By doing so, we are able to better understand variations of recognition and their importance for international relations, particularly questions of self-determination in the context of conflict. With reference to the Palestinians in specific, I show that collectively, repeatedly and clearly the international community has asserted that their right to self-determination must be realised via an independent state, alongside Israel, and it is on this basis that major international efforts have sought to help the building of such a state. I also argue that this recognition of the right to statehood must be seen as irrevocable. Whereas, therefore, researchers and practitioners alike have pondered various options for settling the conflict, this long-standing, unwavering and deeply connected to Palestinian self-determination recognition of a right to statehood is of paramount importance for policy choices.

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What is the Recognition of a Right to Statehood?

Generally, the diplomatic recognition of states has been seen in rather black and white terms. There is extensive literature on how international actors, mostly states, recognise a state in more or less explicit ways (for a recent collection of works, see volume edited by Visoka et al., 2019). Studies of recognition have also looked at the opposite end of non-recognition, that is, the denial to recognise a claim to statehood (e.g. Caspersen, 2019; Pavković & Radan, 2011). This can be done explicitly by naming the unrecognised (e.g. AHG/Res.8(I) whereby the Organisation for African Unity asked ‘African States to take a vigorous stand against a Declaration of Independence of Southern Rhodesia’) or more implicitly by a statement of respect of the sovereignty and territorial integrity of a state that claims the same territory that the non-recognised claim (e.g. the 2022 UN General Assembly Resolution A/RES/ES-11/1 condemning Russia’s recognition of Donetsk and Lugansk republics shortly before Ukraine’s invasion). Consequently, there has been a lot of research on those who are not recognised, and even more so on those who manage to develop as de facto states despite a lack of de jure statehood in the form of recognition (e.g. Pegg, 1998; Kolsto, 2006; Caspersen, 2012; works edited by Ker-Lindsay & Berg, 2018; Florea, 2020).

And yet, the reality of international relations is more nuanced and complex, with a lot of variation between the extremes of diplomatic recognition and non-recognition. Throughout history, there have been statehood claims that were recognised by a few or more states but not all. For example, currently, Taiwan, South Ossetia and Abkhazia are recognised by a handful of states, and that was the case with the declarations of independence by Biafra in 1967 and East Timor in 1975, before the former was re-integrated to Nigeria and the latter secured proper recognition of its independence in 2002. Others are recognised by more: the Sahrawi Arab Democratic Republic (SADR) in Western Sahara is recognised by a large minority of UN members, Kosovo is recognised by around half of them, and Palestine by the majority of them. Aside from numbers, there exist also more qualitative differences, such as for example in terms of being recognised by major powers (Coggins, 2014). Finally, in cases like Taiwan, SADR or Kosovo, the number of recognitions has gone up and down over time, with some states withdrawing their original recognition (see also Visoka, 2024).

In addition to these degrees of recognition, there are also different types of recognition (see also Kyris, 2022). One type of recognition that has been important for international relations and which has not attracted the attention it deserves is the recognition of a right to, as opposed to presence of, statehood, what has been also termed ‘titular recognition’ (Geldenhuys, 2009). This is a type of recognition that has often been a prelude to the establishment of a state and its recognition. In a seminal study, Fabry (2010) touches upon the importance of this right when he documents that during decolonisation ‘the key to their foreign recognition was not their attainment of de facto statehood but rather prior international acceptance of their asserted right to (my emphasis) independence’ for people residing in colonial territories, along the lines of the uti possidetis principle. Indeed, the right to statehood became a basis for the process of decolonisation, which gave birth to the vast majority of new states as of recently.

The 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples by the UN General Assembly (Resolution 1514) is perhaps one of the most important collective expressions of the right to statehood for groups of people. It read:

2 G. Kyris
convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory

[…] All peoples have the right to self-determination (my emphasis)

[…] Immediate steps shall be taken, in Trust and Non- Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence (my emphasis) and freedom.

Getachew (2019) elaborates on the significance of the Manchester Fifth Pan-African Congress for how decolonisation was eventually treated by the UN, including this Declaration in specific, and indeed the conference proceedings have been found to have important articulations of the right to statehood. The congress delegates affirmed that ‘The peoples of the colonies must have the right to elect their own Governments, without restrictions from foreign Powers’ (Middleton, 1970) and that this must mean self-government (Høgsbjerg, 2015). To be clear, this recognition of a right to statehood was a normative basis for decolonisation, which was a process also guided by political, material or other considerations, such as pressures from liberation movements in the colonies or the US and Soviet Union administrations. Indeed, the recognition of states might be framed in normative terms but has always been rather political.

Later, there was a collective acknowledgement that self-determination might be satisfied through independent statehood, but also through arrangements that do not necessitate this. First, shortly after the declaration above, the UNGA voted in favour of Resolution 1541, which asserted that ‘a Non-Self-Governing Territory can be said to have reached a full measure of self-government by: (a) Emergence as a sovereign independent State; (b) Free association with an independent State; or (c) Integration with an independent State’ and, a decade after, the Declaration on Principles of International Law, Friendly Relations and Co-operation amongst States in Accordance with the Charter of the UN (UNGA Resolution 2625) provided that ‘the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people’. This has been reflected in international practice that allows a group of people to satisfy their self-determination right via the emergence of a new independent state for the group (so-called ‘external self-determination’, see also Seymour 2011), or through other arrangements, typically a degree of autonomy for the group within the confines of an existing state (‘internal self-determination’). In this context, the right to statehood differs from the right of self-determination in that the former provides for statehood as at least one of the options to satisfy self-determination demands, while the latter does not necessarily do that. Here, we must analytically break down the recognition of a right to statehood into two varieties: an exclusive recognition of a right to statehood, whereby independence is seen as the only option to satisfy self-determination demands (e.g. Palestine,
see later), and an optional recognition of a right to statehood, where independence is only one of the options to satisfy self-determination demands. An example of optional recognition of a right to statehood is the question of Western Sahara, where, for years, peace efforts have been on the basis of allowing people to choose between independence, and some form of association or integration with Morocco (see also edited works by Besenyő et al., 2023). Although these plans have not been implemented yet and there are signs that international support for the possibility of an independent state in the area is losing ground, East Timor did get its independence in a similar manner—I return to both of these issues below.

Important to note here, then, that the recognition of a right to statehood is not often beyond decolonisation examples and this also explains the presence of many so-called contested states, where, unlike decolonisation where independence was not opposed by the former colonial powers, independence efforts are opposed by the parent states and by others, also because of a range of considerations, e.g. security-related (e.g. Griffiths, 2017). In normative terms, some scholars and policy makers have argued that a right to statehood might be applicable in situations where statehood is seen as a remedy to injustices that a group suffers within a state—(see Buchanan, 2004 on the so-called ‘remedial secession’)—see for example, the debate on this issue during the 2010 ICJ opinion on the legality of Kosovo’s declaration of independence (Dugard, 2013). In spite of divisions within the international community on Kosovo, there is evidence that the right to statehood as an option has been collectively recognised, for example through UNSC Resolution 1244 or through the Ahtisaari Plan, which was proposed by the UN and supported by the EU (see also Kyris, 2021). As such, Kosovo joins Western Sahara and Palestine as the three contemporary cases of a recognition of a right to statehood, with Western Sahara being the only case in a strict context of decolonisation and Palestine, as we will see later, being more complex but still the clearest case of such a recognition nowadays.

**How Does the Recognition of a Right to Statehood Matter?**

Having conceptualised the recognition of a right to statehood, sketching out its potential theoretical significance will allow us to later discuss how the recognition of this right is important for Palestine and the conflict with Israel today. Whilst conceptualising the recognition of a right to statehood as one type of recognition is important for capturing better the varieties of state recognition, what seems crucial in more theoretical terms is to treat this type of recognition not in isolation but in linear relation to the two other types. In this way, we are allowed to see recognition of a right to statehood as a degree of recognition much greater than the non-recognition of statehood but lesser than the recognition of statehood. But even more important for our following discussion of the Palestinian case is the relationship between the recognition of the right to statehood and the actual recognition of statehood. History tells us that the exclusive recognition of a right to statehood, i.e. independence being considered as the only option to satisfy self-determination demands, has worked as a kind of promise that the recogniser, often the international community at large or in part via the UN or other international bodies, gives to eventually accept an independent state. In this way, the collective recognition of a right to statehood through the UN Declaration on Colonial Peoples must be seen as an effort to provide a framework for the process of decolonisation and the emergence of new independent states. Not only that, but this is a promise that, generally, has not been taken away.\(^3\)
Finally, it is important to note the relationship between the recognition of a right to statehood and the more internal dimensions of statehood, that is the ability to effectively rule a territory and a population. First, during decolonisation the exclusive right to statehood has become the basis of the recognition of states even in situation where the rule of territory and a population was not effective (Rać, 2002). Secondly, in more recent times, the international community has sought to help the realisation of this exclusive right to statehood through international state-building. The UN’s role in East Timor after the 1999 referendum is a good example of this. The 5 May 1999 peace agreement provided for a referendum on autonomy within Indonesia versus independence on the basis of the three UNGA resolutions that we saw having been crucial for the recognition of a right to statehood for people in former colonies (1514, 1541 and 2625) and also recalled ‘the relevant resolutions and decisions adopted by the Security Council and the General Assembly on the question of East Timor’, most of which reaffirmed the right to self-determination and independence for the East Timorese. When people eventually supported independence in the referendum, the UN Transitional Administration in East Timor (UNTAET) was established to begin a process of international state-building (see also Lemay-Hebert, 2011) as provided in the peace agreement. East Timor’s independence in 2002 was marked by the transfer of responsibility from the UNTAET to Xanana Gusmão as the newly-elected President of East Timor.

To be clear, instances of recognition of a right to statehood and state-building in recent times are few and far in between but, still, there are important lessons to be drawn from their study, even if they might apply to a relatively small population of cases. In particular, evidence suggests that international state-building projects in contested territories follow an exclusive recognition of a right to statehood, like in East Timor (see above), Palestine (see below), but also lighter state-building activity in Eritrea in the post-war period and leading up to the 1993 independence referendum. Such international involvements have also worked as periods during which those seeking statehood are seen as ‘earning their sovereignty’ (e.g. Williams and Pecci, 2004) towards an eventual graduation to recognised statehood through the state-building reforms. There are also cases where an optional recognition of a right to statehood has been linked to institution-building that ended up being effective state-building: In South Sudan and in Kosovo the international community supported institution-building rather than state-building, pending a referendum on independence and a settlement of the conflict with Serbia respectively. In both cases, however, the institutions built eventually became those of a state, because of the voters’ support for South Sudan’s independence in the 2011 referendum or the sequence of events that culminated in the 2008 declaration of the Republic of Kosovo.

To summarise then: the recognition of a right to statehood is an assertion, usually expressed more collectively (see also Geldenhuys, 2009) via texts of an international body, that a group of people has the right to self-determination that can (optional recognition of a right to statehood) or must (exclusive recognition) be expressed through the establishment of a state. It can be seen as somewhere in between the extremes of non-recognition and state recognition and often a prelude to the latter, also through the means of international state-building activities. All of these are not simply issues of theoretical nature but have real and important implications for the practice of international relations today. One such instance that is of great significance for self-determination, international relations and security, including recently, is that of the Israeli/Palestinian conflict, and
specifically a two-state solution to the conflict and an independent Palestinian state. The following section elaborates on this.

**The Palestinian Right to Statehood**

A recognition of a right to statehood for the people of Palestine by the international community at large can be traced back to the League of Nations times, it has been collectively safeguarded via the UN since 1947 and reconfirmed ever since. Dajani (1997, p. 16) argues that the indigenous inhabitants of Palestine received implicit international recognition as a people entitled to statehood […] apparent from the terms of the League of Nations Covenant, which granted provisional recognition of the independent nationhood of the communities designated as ‘A’ Mandates. While the terms of the Mandate for Palestine departed significantly from this conception of the Palestinian Arabs, defining Palestine in primarily territorial terms, UNGA Resolution 181 and the Partition Plan affirmed that the Palestinian Arabs were entitled to a State of their own. (see also Arsanjani, 1982)

Indeed, the UN partition plan for Palestine provided for a Palestinian and an Israeli state and the territories that each should control. Since then, the UNGA has steadily repeated its recognition of a right to Palestinian statehood over the territories specified in the plan. For example, in 1974, the UNGA re-introduced the question of Palestine with Resolution 3236 that reaffirmed ‘the inalienable rights of the Palestinian people in Palestine, including: (a) The right to self-determination without external interference; (b) The right to national independence and sovereignty’. Before, we discussed that the right to statehood has been recognised for former colonies, or more rarely and controversially as a remedy for injustices suffered by a group. Both of these have being seen to apply to Palestine; whilst the UN has not treated Palestine within typical decolonisation frameworks, some see the territories as conforming to the UN Charter’s definition of non-self-governing territories (Dajani, 1997, p. 21) and that Israel’s occupation also confirms Palestinians are people with a right to self-determination (see also Sakran, 2020). Indeed, UNGA texts, as early as 1977, condemned ‘all Governments which do not recognize the right to self-determination and independence of all peoples still under colonial and foreign domination and alien subjugation, notably the peoples of Africa and the Palestinian people’ (UNGA Resolution 381/17). Similarly, the UNGA ‘acknowledged the proclamation of the State of Palestine by the Palestine National Council on 15 November 1988’ and further linked the issue of self-determination via independence and Israel’s occupation by affirming ‘the need to enable the Palestinian people to exercise their sovereignty over their territory occupied since 1967’ (Resolution 43/177). Collective recognition of a right to statehood for the Palestinians has also come from various corners of the world. In 1975, for example, the Organisation for African Unity reaffirmed that just and permanent peace in Palestine and the Middle East can only be attained on the basis of complete Israeli withdrawal from all the occupied Arab territories and the exercise by the Palestinians of their full national rights to sovereignty, national independence and self-determination. (AHG/Res. 76 (XII))
while in 1986 the Association of Southeast Asian Nations (ASEAN) Foreign Ministers reiterated their full support for the legitimate struggle of the Palestinian people to exercise their inalienable rights, including the right to self-determination, independence and sovereign statehood (ASEAN, 1986), repeating numerous similar statements the years before.

The collective recognition of the Palestinians’ right to statehood expressed by the UNGA is so adamant that since 2012 it has bestowed observer state (my emphasis) status to Palestine, a status that has been seen as reserved for ‘states in the making’ (Crawford, 2006, p. 109). The upgrade to observer state happened shortly after an application for UN membership failed because it did not get enough support from the UN Security Council (UNSC), including the US who vowed to exercise its veto power as one of the five permanent members. In April 2024, the US vetoed again the application of Palestine to UN membership and shortly after the UNGA voted to call on the UNSC to admit Palestine. In this context, we can note the politicised and hierarchical nature of the UNSC position towards Palestinian statehood, owning not least to opposition to Palestine’s UN membership from specific countries, particularly the US (see also Imseis, 2021), and, oppositely, Palestine’s participation as an observer state in the UNGA, where decisions are taken by majority and no member has a veto, as perhaps a more appropriate expression of the collective view of UN members—indeed, academics have used the observer state status to classify Palestine as a recognised state (Relitz, 2019; Imseis, 2021). And, even though the numerous UNGA we have mentioned earlier are not legally binding, legally binding ones of the UNSC have also recognised a right to statehood for the Palestinians. For example, in its latest resolution at the time of writing (2720), the UNSC reiterated ‘its unwavering commitment to the vision of the two-State solution where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders, consistent with international law and relevant UN resolutions’.

This support of a two-state solution and statehood for Palestinians as the only way to end the conflict with Israel means that the recognition of the right to statehood for the Palestinians is very clearly of the exclusive variety discussed earlier. Recently, for example, amidst Israeli PM Netanyahu’s rhetoric against Palestinian sovereignty, a Joint statement by the African Union Commission and the General Secretariat of the League of Arab States on the Grave Situation in Gaza stressed that ‘a political solution based on the two-State vision is the only way to guarantee peace and security for all peoples and States in the region’ (African Union, 2024). Similarly, The EU’s High Representative Josep Borrell has many times iterated the two-state solution as the only way forward (e.g. El Pais, 2024).

This exclusive right to statehood has been the basis of both international state-building activities and the diplomatic recognition of Palestine as a state, both linked to the two-state solution of the conflict with Israel. First, Palestine has been a typical example of the relationship between the recognition of a right to statehood and ‘earned sovereignty’ state-building endeavours mentioned earlier. For example, the 2003 Roadmap for Peace provided for the drafting a Palestinian constitution, elections, the creation of borders and attributes of sovereignty, the reform of civil institutions and security structures, all with the ‘active support of the Quartet [i.e. the EU, Russia, the UN and the US] and the broader international community in establishing an independent, viable, state’. Notwithstanding extensive criticism of the international state-building endeavours (e.g. Mustafa, 2015; Yezid, 2007), these activities confirm that those supporting them see the solution to the conflict as going through a functioning and recognised state of Palestine. For example, the EU’s support to Palestine acknowledges that ‘sustainable development in
Palestine hinges on achieving a two-state solution based on the agreed international parameters [...] that meets Israeli and Palestinian security needs and Palestinian aspirations for statehood and sovereignty, ends the occupation that began in 1967’. Interestingly, Sweden justified its 2014 decision to recognise Palestine also on the assessment that international state-building had helped the emergence of a state in Palestine (Eriksson, 2018), not too dissimilarly to how East Timor’s graduation to statehood was framed. Second, the exclusive recognition of a right to statehood has informed the proper diplomatic recognition of Palestine, such as the 2024 UNGA resolution that called for Palestine’s UN membership. Also, the decision of a few states to recognise Palestine during 2024, including Ireland, Norway and Spain that join the minority of European states that recognise, was also framed on the basis of the right to statehood and a two-state solution. Upon the recognition of Palestine by Barbados, Foreign Minister Kerrie Symmonds noted (Brathwaite, 2024): ‘how can we say we want a two-state solution if we do not recognise Palestine as a state?’

**Conclusion**

The recognition of a right to statehood is the acknowledgement from international actors, often collectively and at large via bodies like the UN, that the self-determination of a group of people can or must be met through independent statehood. It is a type of recognition different to non-recognition and to recognition and can be seen as a prelude to the latter. This is because it offers a normative framework for states and international organisations to support independence, also through international state-building activities that they themselves contribute to the recognition of statehood. But the move from international actors recognising a right to statehood for a group to helping this group with realising this right has historically been contingent on a number of factors. More research is welcome to explore the relationship between a recognition of the right to statehood, international state-building and other factors, like security considerations (e.g. Richards and Smith, 2015), or great power support (e.g. Coggins, 2014) that have been found to affect recognition policies. In East Timor but also Palestine, for example, the move from recognising a right to statehood to doing something about it through state-building missions was completed only after agreements between the conflicting parties (1999 Peace agreement and Oslo Accords respectively). This highlights the politicised nature of recognition and state-building processes, and the need for compromise solutions in conflict-affected areas. But such solutions must be in line with commitments that the international community has made that a group may or must attain statehood, like in Western Sahara or Palestine respectively. Considering that, as we saw, such commitments to right to statehood have been honoured during processes like decolonisation, which accounts for the vast majority of new states as of recently, or for Israel, the realisation of a Palestinian state also becomes a question of fairness and equality in international relations. As discussions about the resolution of the Israeli/Palestinian conflict have come to the fore again and as Palestinians continue favouring a two-state solution, as evident in renewed efforts at UN membership or opinion polls (Arab Barometer, 2024), any possible settlement formulas5 must honour the clear and unwavering commitment of the international community that Palestinians self-determination must be met through sovereign statehood.
Disclosure Statement

No potential conflict of interest was reported by the author(s).

Notes

1. Important to note here that there is a vivid debate on whether recognition is constitutive or simply declarative of statehood—see, for example, Grant (2009).
2. For an interesting and in many respects still relevant conversation between different models to resolve the conflict see the 2016 *Ethnopolitics* Special Issue ‘The Israeli-Palestinian Conflict: Reflections on the Politics of Stalemate’, 15 (4).
3. A rare example of this promise being abandoned by international players could be that of Western Sahara, where, recently, international stakeholders seem to be entertaining the resolution of the conflict with Morocco via autonomy and excluding self-determination via independence for the people Western Sahara as stipulated in earlier UN resolutions (e.g. UNGA Resolution 2983, 2003 Baker Peace Plan). But the situation is developing, complex, and more time is needed to confidently reflect on this change.
4. For the various UN organs that have dealt with the question of Palestine see for example UN (2008) and Crivelente (2020).
5. For a discussion of a set of less conventional formulas through which such a right might be satisfied see Dajani (2016).

Notes on Contributor

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