



Questioning unilateral recognition of a Palestinian state

Executive summary

Prime Minister Keir Starmer and Foreign Secretary David Lammy have recently announced the intention to recognise a State of Palestine at the United Nations General Assembly in September 2025, subject to a host of conditions none of which is relevant to the finding of legal statehood by international convention or UK law, and all of which are perversely geared, however unintentionally, to further conflict in the region rather than wind it down and bring the sides to a negotiated peace.

In this paper, we:

1

Assess the Montevideo standards for recognition, examining how the Palestinian Authority does or does not meet them. And consider both cases lacking international recognition (e.g. Taiwan, Northern Cyprus, Somaliland) and cases of newly recognised states by the UK (South Sudan, East Timor, Kosovo).

2

Demonstrate how premature recognition undermines peace efforts.

Recognition can pressure both Israelis and Palestinians into actions that make a peaceful settlement harder, not easier. Recognition will not create a Palestinian state nor advance the creation of one; rather, it will be the most significant diplomatic gain for the Palestinian cause in decades, universally understood as having been made possible by the October 7 massacre.

3

Analyse British policy on the two-state solution. If the two-state solution is indeed the desired goal, then policies must encourage conditions that make this outcome more likely and discourage those that make it less likely. Recognition at this stage, or interventions which halt the war before Hamas is defeated, protect and strengthen Hamas and are therefore counterproductive.

4

Highlight the diplomatic consequences. Recognition would take place in the context of already worsening UK–Israel relations and would further deteriorate ties between two countries that until recently considered themselves strategic partners.

Table of content

<u>Executive summary</u>	2
<u>The international legal basis for statehood</u>	4
<u>The Status of the Palestinian Authority</u>	5
<u>Recent British recognition of states</u>	7
<u>Desirability of a state versus recognition</u>	9
<u>Implementing policies to strengthen a future two-state reality</u>	10
<u>The Current Context: War and Diplomacy</u>	11
<u>The Unanswered Questions</u>	13

Cover page photo credit: Ein Hajla, in the Jordan Valley near the West Bank city of Jericho, on January 31, 2014. Photo by Hadas Parush/Flash90

The international legal basis for statehood

Normally, statehood is recognised when the four conditions of the Montevideo Convention on Rights and Duties of States are met, as spelled out in Article I of the Convention:

- a) permanent population,
- b) defined territory,
- c) government,
- d) capacity to enter into relations with other states.

Two things need to be pointed out about these conditions.

1

These definitions are often ambiguous and the standard for their being met is deliberately vague and often falls short of what might be considered a strict reading. A "permanent population" often involves a large measure of migration. A "defined territory" does not mean internationally established permanent borders established by treaty. Many recognised states lack these; examples include South Korea, India, and Israel.

2

A "government" doesn't necessarily have to be a fully centralised executive with equal reach over all territory, and it rarely even has met minimal standards of rule of law or popular sovereignty. And there are states whose ability to conduct their own foreign policies, notably Japan and the two postwar German republics, are severely curtailed, though they do achieve recognition as sovereign states.

The conditions are necessary, but not sufficient. They are a legal minimum, the decision to recognise a state is both a legal and political. A state might appear to meet all four legal conditions for recognition but still fail to be recognised as such because the country withholding recognition objects for its own policy reasons — or because of the need to maintain good diplomatic relations with a third country that objects.

Most states recognise other states as a matter of fact and not of controversy and in that sense, recognition is a legal statement, and not a normative one. It literally recognises a given situation without conceding that the situation is good, bad, or otherwise. It is not, for example, an endorsement of a state's policies or constitution that it is recognised by Britain.

Recognising a state is also political and symbolic rather than strictly legalistic.

Recognition is not always just a legal finding but a political decision, and recognition can be withheld even in cases where all four Montevideo conditions are met out of dissatisfaction with the regime established in a new state. This, however, is quite rare. Usually when recognition is withheld, it is for diplomatic reasons.

In the cases of Northern Cyprus, Abkhazia, South Ossetia, and Somaliland, Britain, together with other states, have preferred to withhold recognition out of consideration for third countries, whether that consideration was anger at the third country or fear of it or something else. The proposed Palestine recognition meanwhile would be the first time recognition is extended as a way of registering protest at the action of a third country.

More importantly, it would be a recognition of a state that does not in any form actually exist. The intention of the Government is to recognise the institutions of the Palestinian Authority as the governing institutions of a State of Palestine.

The Status of the Palestinian Authority

The Palestinian Authority is the self-governing authority established by the Oslo Accords in 1994 to govern territories vacated by Israel in the West Bank and Gaza Strip and to negotiate with Israel a final status peace agreement that would end the Israeli-Palestinian conflict. This was envision to happened within five years of its establishment. within five years of its establishment.

Beginning about six years after the Palestinian Authority was established, several attempts were made, but no final status agreement was ever reached. In all the most advanced rounds of negotiations regarding a final status agreement (2000-2001, 2007-2008, 2013-2014), all sides were in agreement that the final status would include a sovereign Palestinian state, but no agreement was ever concluded and no state established.

The Accords stipulate that in the absence of an agreed final status, the interim agreements are still in effect and legally binding on all sides. In the 1990's those interim arrangements had about 18% of the West Bank under the full control of the Palestinian Authority covering all of five major West Bank cities and most of Hebron. These regions are known as Areas A. An additional 22% of the West Bank is under the civil control of the Palestinian Authority with security responsibility still in the remit of the IDF. These regions are known as Areas B. The remaining 60% of the West Bank, Area C is under full Israeli administration., It includes all Israeli settlements and the entire border with Jordan.



The interim accords provided Palestinian Authority control over large areas of the West Bank and Gaza, with about 80% of the Gaza Strip under Palestinian control and 20% under Israeli control, including settlements and the border with Egypt. An agreement signed in 2005 following Israel's complete withdrawal from the Gaza Strip expanded the interim powers of the PA over the entire Strip and instituted a complex multinational supervision arrangement over the Gaza-Egypt border — the first international border ever under Palestinian control.

Since 2007, the Palestinian Authority has not governed Gaza. The Europeans manning the border with Egypt fled their posts in 2007 when Hamas took over the Strip, and since then and until now the Palestinian Authority has exercised no governing power over the Gaza Strip at all. Instead, for nearly two decades, it has governed the roughly 40% of the West Bank where it has some form of civil control, and an alternative government of Hamas, an internationally proscribed terrorist organisation, has governed the Gaza Strip.

In no conceivable way does this amount to a state by the Montevideo standards.

Ironically, the only portion of it that comes arguably close to meeting the standard is the Hamas-run Gaza Strip, where the jihadist group managed, after the coup it effected in 2007, to establish itself as the sole governing authority over a defined territory, a permanent population, and it raised an army of some two dozen brigades



© Map courtesy of Koret Communications LTD

with an arsenal of tens of thousands of rockets and missiles. This regime engaged diplomatic partners and rivals in a complex deception operation before launching an invasion of its neighbour on October 7, 2023, in which it briefly occupied a number of villages and towns, killed more than one thousand people, and kidnapped hundreds.

The proposed British recognition of a State of Palestine ignores all of this. It would recognise the Palestinian Authority as the government of the Gaza Strip, which it has not governed in even a partial way in 18 years. It would recognise the Authority as a sovereign state government in the West Bank too, where it only has civil and police powers in 18% of the territory. The entire legal basis for recognising the Palestinian Authority as a governing authority in either territory flows from the Oslo Accords, which Britain would now be insisting should be violated.

This move thus flies in the face of all diplomatic and legal precedent. It would make no legal sense even if it had no deleterious consequences for British national security, about which more below. It also flies in the face of all diplomatic and legal precedent. This is best illustrated by comparing it with other times Britain has chosen to recognise statehood in the twenty-first century, to which we now turn.

Recent British recognition of states

In this century, Britain has extended recognition to states only three times: East Timor in 2002, Kosovo in 2008, and South Sudan in 2011. The comparison with what the current Government is proposing to do is instructive. In all three cases, the states being recognised were established following long and violent struggles. All three cases involved wars and heavy international involvement. In all three cases, recognition was extended after the establishment of a state that met all four Montevideo conditions. Statehood followed complicated and contentious diplomacy, as well as periods of transitional governments with varying levels of international involvement and international consensus.

In the cases of East Timor and South Sudan, new states were established by agreement of the warring parties. In both of those cases, a referendum was followed by a transitional period. Britain did not recognise either state during armed hostilities or before agreements were signed. In fact, Britain did not recognise either state even after agreements were signed, but rather three years and six years, respectively, afterward when, following the implementation of agreements, the new states actually came into being.

In the case of Kosovo, there was no mutual agreement. Whereas Indonesia and Sudan

both formally relinquished claims on the territory that became East Timor and South Sudan, respectively, after years of resistance, Serbia did not accept Kosovar independence, nor did Serbia's allies, most notably Russia and Russian-backed regimes. But here too, Britain did not recognise Kosovo as a state during the war it fought with Serbia in 1998-1999, even though Britain was a party to that war during NATO's intervention in 1999. In fact, not only did Britain not recognise an independent Kosovo while the RAF was actively engaging Serbia in support of Kosovars, but it did not even hold statehood for Kosovo as a public goal.

Statehood for Kosovo ultimately took nearly a decade to achieve. When it finally happened in 2008, Britain was among the first countries to grant it recognition. It was a much less straightforward situation than East Timor six years prior or South Sudan three years later. Kosovo's independence was rejected by Serbia, the state it was seceding from, and was opposed by a large number of other states, including Russia, China, and most of the states of the Global South.

Recognition of Kosovo is internationally controversial. Today, roughly half the world's countries recognise Kosovo — Israel among them. But Kosovo is not a member of the United Nations and, as long as Russia opposes Kosovar statehood, it is unlikely to become one. South Africa, Brazil, India, and China all refuse to recognise Kosovo. Even in the EU and in NATO there is no consensus on the issue, with Spain, Greece, and Romania among the countries that do not recognise Kosovo.

These states were only recognised once they actually existed. There are many other notable differences between the three cases — a UN force played a significant role in both East Timor and Kosovo, but not in South Sudan — but what unites all three is the existence of an actual state preceding the recognition of it. Nor were the decisions to recognise those three states free of controversy or careful diplomatic manoeuvring. The Kosovo decision raised anew all the unresolved questions of NATO's intervention a decade earlier in the wars that attended the breakup of Yugoslavia, and was strongly opposed not just by crucial superpowers but also by many of Britain's closest allies in Europe.

But fundamentally each case of recognition was about recognising something that existed in the real world, not staking a claim for what might be desired at a future date. The goal of each of these three cases was to reward a new country that had struggled for its freedom with all the benefits of full diplomatic ties with the UK, not to punish a third country.

Examples of Britain withholding recognition for political reasons



Northern Cyprus : Britain does not recognise Northern Cyprus as a state not because of its failure to meet the Montevideo standards (it is only clearly deficient on the fourth), but because it objects to the idea of partitioning Cyprus to begin with.



Abkhazia and South Ossetia: Recognition is withheld from Abkhazia and South Ossetia so as not to ratify Russian interference in Georgia. They, too, are arguably deficient on the Montevideo conditions, but not in a way that is radically different from other newly independent states born in war or secession that were recognised.



Somaliland: While Somaliland would appear to meet all four conditions in a much less ambiguous way, it too is not recognised as a state by Britain or anyone else, largely to fears in the African Union of setting a precedent that could encourage further state secessions and war.



Taiwan: Officially the Republic of China, Taiwan even more clearly meets the Montevideo criteria, but Britain does not recognise Taiwanese statehood out of fear that this would destroy its relations with the People's Republic of China.

Desirability of a state versus recognition

When challenged on the legal and diplomatic problems exacerbated or even created by the recognition decision, defenders invariably resort to making the case for a Palestinian state as a goal for resolving the Arab-Israeli conflict.

The two-state solution is a worthy goal, but the worthiness of it is entirely separate to the question of recognising now a state that doesn't actually exist.

The argument about whether a Palestinian state is a desirable outcome that British policy should be oriented toward is separate from the argument about whether one exists now and should be accorded the status of one as far as British diplomacy and law are concerned.

Indeed, recognition on its own does not conjure a state into being established. It may, on the contrary, delay or even prevent one. It will pressure both the Israelis and Palestinians into the very actions that make a peaceful settlement harder, not easier.

The Israeli government will feel pressured to react with its own unilateral moves.

Except unlike the recognition, which changes nothing, an Israeli reaction could very well make “facts on the ground.” The Israelis could accelerate construction in controversial building projects, like the E1 area northeast of Jerusalem, and they could endeavour to annex parts of the West Bank, as almost happened in 2020 before the normalisation

accords concluded with the UAE and Bahrain were announced.

For the Palestinians, the results will be even worse. No Palestinian leaders will seriously consider making the kind of concessions now that would have resulted in a Palestinian state 25 years ago, when they see global actors handing out the fruits of peace — without them needing to make peace. Even though the recognition will not create a state and will not advance the creation of one, it will be the most significant diplomatic gain of the Palestinian cause in decades, and it will be universally understood as having been made possible by the October 7 massacre. Far from delegitimising Hamas, this will almost guarantee that in the event the two regimes of Gaza and the West Bank are ever reunited into one, it will be Hamas or whatever successor organisation takes on the mantle of jihadist rejection that either wins an election or manages to take power by force.

Implementing policies to strengthen a future two-state reality

The alternatives to a two-state solution are not particularly attractive, and it is reasonable that British policy regarding the conflict is centred around advancing the two-state solution — or at a minimum preserving the conditions that make it possible.

If a two-state solution is the goal of British policy, then every effort should be made at encouraging the conditions that make this goal more likely and discouraging the conditions that make it less likely.

The discussion around this normally focuses on only one topic, Israeli settlement in the West Bank. Settling more Israelis in places that in a negotiated settlement would almost certainly fall under Palestinian sovereignty does indeed complicate the process, and it is understandable that Britain might take steps against this.

Less understandable, though, is the international community's posture when settlements are dismantled, as happened in 2005 when Israel took down all 21 settlements in Gaza and four in the northern West Bank. Israel's complete withdrawal from the Gaza Strip, above and beyond anything required in the Oslo Accords, should have been met by a recognition that the Israeli presence in Gaza was indeed over. Instead, over the first four years after that withdrawal, activists in the NGO community pushed for a new, never before used definition of occupation so that it could be claimed that Israel was still the legal occupier of Gaza and therefore bore all the legal responsibilities of an occupying power. By 2009, this was the consensus position, never contested by governments in the West that should have known better.

If settlements harm the prospects of the two-state solution by extending Israeli claims into Palestinian Territories, the ethos of a “right of return” for Palestinians into Israeli territory does too.

Empirically, it has been even more detrimental to reaching a peace agreement on two states, as when push came to shove at Camp David, Taba, Annapolis, and elsewhere, Israel has always been willing to withdraw from nearly all of the settlements in exchange for peace while the Palestinians have always balked at reaching a deal that didn't include a “right of return,” something which would spell the end of a Jewish state.

No British government would fund an organisation dedicated to Israeli settlement activity in the West Bank, yet this Government insists on transferring ever increasing sums to UNRWA, the agency that more than any other promotes and nurtures the myth of a right of return and insists on its centrality in Palestinian politics and Palestinian educational institutions. (More on UNRWA in [‘The Problem with UNRWA’](#) by BICOM.)

If the two-state solution is desired goal, then any policies which protect or strengthen Hamas are counterproductive. Interventions which aim to stop the war before Hamas is defeated do just that, however, as does the announcement of a major concession to Palestinian demands as a result of the war Hamas launched on October 7.

This is because recognition, or a commitment to extend recognition at some future date, will impact the sides in the conflict, just as it will impact the internal political dynamics on each side of the conflict.

The Current Context: War and Diplomacy

Recognition is not only a legal issue, of course, but also a political issue. It is a policy shift taken in a context — both domestic and international. Britain stands ready not just to recognise a state, but to recognise a state at a point in time after years of not recognising that one existed there. The temporal context is as meaningful for our analysis as the legal issues. This context includes:

1

The war in Gaza, which began on October 7, 2023 with the attack by Hamas terrorists and others from Gaza on Israel. This war is not fought only in Gaza and Israel. It has spilled into a low-level insurgency in the West Bank. It has involved, at various times over the last two years, Lebanon, Syria, Iran, and Yemen. When it came time to intercept Iranian missiles headed toward Israel, it even directly involved British forces.

2

The war has presented the UK government with a number of international and domestic challenges. It has drained its attention and complicated its international partnerships at a moment when Britain is embarking on a massive rearmament programme in light of perceived superpower threats. It has sparked principled disagreements among normally like-minded north Atlantic countries aligned with Britain. It has disrupted at least one major shipping route that is vital for international trade. And it has unleashed intense passions in domestic British politics, leading to a grave disinhibition in antisemitic speech and acts on the street and in a variety of august institutions.

3

Official British discomfort with Israel's war effort has gradually but continuously escalated throughout the last year. A series of steps, some symbolic, others less so, have been announced against Israel. Ministers in the Israeli government have been sanctioned; export licences on some weapons have been suspended; negotiations on a free trade agreement with Israel have been called off. The UK has also publicly committed money to UNRWA, the aid agency that since 1949 has maintained "refugee" status for most of Gaza's population, in contravention of any internationally accepted principle, and which provided many of the welfare services sustaining the Hamas regime over the last two decades.

4

While British officials routinely speak of Israel's right to defend itself, this is never expressed as a wish for an Israeli victory in the war Hamas launched against it – quite unlike the public pronouncements on Ukraine. On the contrary, British policy has for most of 2025 been explicitly geared to ending the war in Gaza even without a victory over Hamas – and even without a hostage release. The measures taken by the Starmer Government have been taken to weaken and disrupt the Israeli war effort, without any parallel measures being taken against two allied countries that harbour leading Hamas terrorists, namely Turkey and Qatar.

The announcement of recognition for a Palestinian state was thus not a response to a new development in Palestinian self-governance or a new breakthrough in Israeli-Palestinian diplomacy. It was meant as a public rebuke of Israel – an expression of anger with an Israeli war effort that the British Government now openly opposes. The conditionality of the planned recognition was doubly odd. Rather than conditioning statehood on the Palestinians meeting the Montevideo conditions, the announcement conditioned the recognition on Israeli actions. Both Starmer and (then) Foreign Secretary Lammy announced that recognition would go forward unless Israel agreed to a ceasefire with Hamas.

But because a ceasefire agreement takes two sides, the incentive structure set up was particularly perverse and particularly cruel to the remaining hostages still held by Hamas. If a ceasefire were reached, Lammy and Starmer seemed to be saying, then the recognition might not go forward. But if Hamas continued to refuse to release hostages no matter what political ransom Israeli might offer, Britain would hold Israel solely responsible and extend to the Palestinians the greatest diplomatic gift imaginable. And it would do so in a manner that would leave Hamas plausibly claiming credit for it, and leave the Palestinian leadership and public believing, with good reason, that October 7 was a successful and worthwhile endeavour for their cause.

The Unanswered Questions

Any final decision on recognising a Palestinian state needs to follow a process that answers four pressing questions.

1

Does a Palestinian state currently exist? This question precedes any of the political considerations. It is the question to be asked before any of the questions about the diplomatic or strategic or political benefits and demerits of recognition are considered. If there is no Palestinian state, recognition does nothing except devalue itself.

2

Should there be a Palestinian state? It is a consensus position in the UK foreign policy establishment that a Palestinian state is a desirable outcome or, at a bare minimum, the least bad option that is realistically available. It is an answer to the legitimate desire for self-determination of the Palestinian people. It saves Israel, a project Britain is morally and historically invested in, from a future that is either not Jewish, not democratic — or not either. It has been the basis of nearly every credible peace plan over the last century of Arab-Jewish conflict in the region. At the same time, it appears a distant prospect today, and other proposals are occasionally floated, though most are even less appealing, both to the parties to the conflict and to the international community. These include formalising the split between Gaza and the West Bank into separate entities, or, conversely, a one-state solution for Israelis and Palestinians to live together. Other ideas include confederation with Jordan, or reuniting both territories with the countries that occupied them before 1967, Jordan in the West Bank and Egypt in Gaza. In the absence of any momentum for the other alternatives, a Palestinian state next to a Jewish state remains a default position and *faute de mieux* a reasonable long-term goal.

3

Why isn't there a Palestinian state? Or, more pointedly, why, if there is a consensus around a two-state solution and the need for the establishment of a Palestinian state and even a rough agreement about its borders, why has this never come to be? This cannot be answered without a serious and critical look at consistent Palestinian rejectionism over partition spanning almost 80 years. *(See more on the next page.)*

4

If a Palestinian state does not exist, and if it is the goal of British foreign policy that it should exist, what can be done to help bring it into existence?

a

Anything that rewards unilateral actions that sabotage a two-state solution should not be encouraged or incentivised by outside powers, including Britain.

b

Anything that delays the normalisation of Israel in the Arab Middle East, and therefore makes the kind of peace agreement that would lead to the establishment of a Palestinian state less likely, should be avoided by the British policy.

c

Aid money that helps develop Palestine is money well spent; aid money that fuels more conflict by nurturing irredentist claims, for example that Palestinians born in Palestinian Territory and living under a Palestinian government are somehow refugees from Palestine, is not.

d

Anything that disincentivises Israeli territorial compromise — for example by inventing legal claims that evacuated territory is occupied or that Israeli responses to attacks on Israelis carried out from evacuated territory is illegitimate or some form of war crime (or even worse) — should be avoided.

e

Any move that can only be interpreted inside Palestinian politics — as well as in the Arab world at large — as a reward for murderous terrorism and mass abduction — will not bring peace, will not lead to two-state negotiations, and will not lead to the establishment of a Palestinian state. In such a circumstance, recognition is worse than empty gesture. It forestalls the very thing it seeks to advance.

Why isn't there a Palestinian state?

When the British mandate came to end nearly 80 years ago, the UN proposed a partition that would create two states, one Arab and one Jewish. The Jews accepted the partition and established their state on the last day of the Mandate; the Arabs rejected the partition and launched a war, which they lost. At war's end, both the West Bank and Gaza were held by Arab armies, but then too no Palestinian state was established. After Israel conquered those territories in 1967, there were years of backdoor and superpower-sponsored negotiations under the rubric of "land for peace," but these never led to a Palestinian state either. They did lead to an end to occupation of territory wherever there was a neighbouring state willing to make peace with Israel.

The big diplomatic breakthrough of the 1990s came with the Oslo Accords, where for the first time direct talks were held between Israel and the PLO. These led to Palestinian self-rule in the West Bank and Gaza — and an elected Palestinian government from the territories to continue peace talks. It did not lead to peace, however. The Palestinian leadership, with little or no protest from the Palestinian public or, for that matter, from publics and elites anywhere in the Arab World, rejected offers of statehood predicated on a full reconciliation with Israel at final status talks at Camp David in 2000 and at Taba in 2001. And again in peace talks in 2007 and 2008, and again, though this is less well known, in peace talks mediated by Secretary of State John Kerry in 2014.

Each rejection in isolation can be understood perhaps as a tactical error. Perhaps the Palestinians at Camp David thought they could get a better deal by holding out a bit, starting a limited war, seeing Israel diplomatically isolated, and coming back to the negotiating table in a stronger relative position. But this is not how leaders or publics understood it at the time, and it cannot explain the pattern. The Palestinian cause has never held statehood as an ultimate goal or the absence of statehood as the ultimate grievance. The ultimate grievance was the existence of a Jewish state in the heart of the Arab middle east, and the ultimate goal has been the reversal of what is almost universally felt in pro-Palestinian circles inside and outside the middle east to be the cosmic sin of Israel's establishment in 1948.

Therefore any recognition of a Palestinian state must be complimented by an equal re- endorsement of Israel as the legitimate state of the Jewish people.



Britain Israel
Communications
& Research Centre

Our Mission

BICOM aims to increase understanding of Israel in the UK.

About

BICOM has been providing timely and accurate news, analysis and briefings on Israel and the Middle East since 2002.

Our role is to explain Israel's security challenges, its complex history and its quest for peace. BICOM focuses on regional security, Israel and the Palestinians, domestic Israeli politics and the UK's unique relationship with Israel.

For more information please contact:

Richard Pater at richardp@bicom.org.uk