Understanding Palestinian Diplomacy in 21st Century: Future, prospective and the role of the EU in fostering the Palestinian Statehood

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Statutory Declaration

I hereby declare that this thesis has been written by myself without any external unauthorised help, that it has been neither presented to any institution for evaluation nor previously published in its entirety or in parts. Any parts, words or ideas, of the thesis, however limited, and including tables, graphs, maps etc., which are quoted from or based on other sources, have been acknowledged as such without exception.

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Word Count: 16.396
Abstract

Palestinian diplomacy is considered as a unique and distinct case in the modern history which is different from states diplomacy. Palestinian diplomacy has started in the absence of sovereign Palestinian political entity and emerged from outside the Palestinian Territory and before the establishing the Palestinian National Authority. Despite the political and diplomatic developments of Palestine, and the fact that Palestine has been recognised in more than courtesy manner by virtue of the diplomatic interaction by other states, Palestine is still until now not recognised as a fully sovereign state.

The EU's position towards the direct recognition of Palestinian statehood has been articulated progressively over the decades. The EU has taken an active role in the Middle East peace process, through developing many diplomatic instruments and policies to support Palestinian state-building. However, EU is still relent and hesitant in its support for a Palestinian state and the EU Member States have been divided between themselves on the question of Palestinians state at the UN.

The incentive for the researcher of this study is to provide an overview of Palestinian diplomacy as well as to analyse EU’s policy towards fostering Palestinian state. The research therefore recalls that, to what extent is the EU policy towards Palestine aiding the establishment of a fully functioning, legally recognised Palestinian state?. Thus, the research argues that, the EU as a largest single donor to the Palestinian and a member of the Quartet, as well as with its new speaking powers at the UN can do immense effort regarding to the Palestinian bid at the UN and fostering the Palestinian statehood.

The study mainly uses typical academic approaches, such as descriptive, analytical and inductive approaches. The method of analyses encompasses primary and secondary sources of law that pertain to diplomacy. As well, interviews have been conducted with diplomats in order to in-depth analyses both the Palestinian and European perspectives which at the end would definitely enrich the research.
The study has concluded, inter alia, that the EU may gain more value and more important role towards the Middle East peace process by supporting the Palestinian State. Therefore, the EU shall succeed to find a common position between its member states in order to speak with one voice regarding to the Palestinian bid to the UN. However, in the event that the EU fails to reach a unified consensus on a Palestinian bid, the EU would show its internal split which ultimately undermine its credibility and confirming that the EU is not yet able to speak with one voice regarding to the Palestinian State.
Keywords
Palestinian Diplomacy
The Palestinian bid to the United Nations
Palestinian Statehood
The European Union
The United Nations Membership
The diplomatic recognition of states in status nascendi
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Dedication

I DEDICATE THIS WORK TO MY:

DEVOTED PARENTS
## List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>EU</td>
<td>The European Union</td>
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<td>PNA</td>
<td>The Palestinian National Authority</td>
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<td>PLO</td>
<td>Palestinian Liberation Organisations</td>
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<td>UN</td>
<td>The United Nations</td>
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<tr>
<td>SC</td>
<td>Security Council</td>
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<tr>
<td>GA</td>
<td>General Assembly</td>
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<tr>
<td>UNSC</td>
<td>Security Council of the United Nations</td>
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<td>UNGA</td>
<td>The United Nations General Assembly</td>
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<td>WB/GS</td>
<td>West Bank and Gaza Strip</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>MFA</td>
<td>Ministry of Foreign Affairs</td>
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<td>PLC</td>
<td>Palestinian Legislative Council</td>
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1 Introduction

Palestinian diplomacy is a unique and distinct case in the modern history which is different from other states diplomacy. Diplomacy has existed since the first human societies decided to communicate with each other in order to achieve certain goals,¹ and it has always been about communication and mediation between human beings.² In the history, the practice of traditional diplomacy was conducted by sovereign states in the field of politics,³ as well as was concerned with state crisis management⁴ and the transition from the state of war to the state of the peace.⁵

Palestinian diplomacy has started in the absence of sovereign Palestinian political entity, and it has emerged from outside of the Palestinian Territories. Palestinian diplomacy has carried out by the Palestinian Liberation Organisation (PLO) in order to achieve the Palestinian statehood. In the last decades, the PLO has begun its diplomatic relations with international community and has succeeded to garner the international support to the Palestinian cause.

Palestinians have been struggling for decades to join the global family of nations, standing in line and waiting for the international community to recognise their right to self-determination and their right to have a fully sovereign state. Diplomacy as a "method of political interaction at the international level and the techniques used to carry out political relations across international boundaries"⁶ has been shaped by the Palestinians over past decades who have included bilateral and multilateral dimensions in their diplomatic practices. In 2011, the Palestinian National Authority (PNA) decided to go to the United Nations (UN) in order to enhance its position for a full membership of the UN. Despite the fact that the Palestinian people and politicians realised that the UN bid was not going to lead to full membership in the UN, or to the Palestinian statehood, it was a tremendous

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diplomatic step for the Palestinians to enter mainstream international politics as a recognized sovereign state.\(^7\)

1.1 Research Problems

The international diplomatic recognition of states *in statu nascendi*\(^8\) could be the case of the international diplomatic recognition of the Palestinian state. Palestinian diplomacy is now facing a series of challenges in achieving Palestinian statehood and these challenges create increasing confusion for PNA. Bearing in mind that, the bilateral track of Palestinian diplomacy has failed to achieve a sovereign state through negotiation with Israel which leads the PNA to choose multilateral track by going to the UN. Many scenarios envisaged to get a sovereign and independent state at the UN. Firstly, the Palestinians could approach the Security Council of the United Nations (UNSC) in order to claim their right to self-determination once they assured of getting the nine votes that are needed from the Security Council members, and once they ensure that no veto will be used by any of the permanent members at the Security Council, in particular the United States of America.\(^9\) Secondly, even if the Palestinians do not win the Security Council, then they still have the possibility to go to the General Assembly which could give them access to the international judicial bodies of the United Nations such as the International Court of Justice (ICJ) and the International Criminal Court (ICC).

The European Union's (EU) position towards the question of the direct recognition of Palestinian statehood has been articulated progressively over the decades. The EU has taken an active role in the Middle East peace process between the Palestinians and Israelis, through developing many diplomatic instruments and policies in order to support Palestinian state-building. The EU is the largest single donor for the Palestinians, a member of the Quartet and nowadays the EU has more speaking power at the United Nations after the upgrading of its status in the United Nations General Assembly (UNGA).\(^10\) Having said this, however the

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\(^7\) A. Khalil, "Public Relations Campaign towards the Palestinian State no. 194 at the United Nations", paper for the course 'Public Relations', Bruges, College of Europe, March 27, 2012.

\(^8\) Its Latin term means something in the process of becoming, but which still hitherto has not received the legal recognition. See, S. Silverberg, "Diplomatic recognition of States *in statu nascendi*: The case of Palestine", *Tulsa Journal of Comparative and International Law*, vol. 6, no. 1, 1998, p. 21.

\(^9\) The United Nations Charter art. 4, para. 2 states that, "the admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council".

EU is still relent and hesitant in its support for a Palestinian state. The EU Member States have been divided between themselves on the question of Palestinians state at the UN,\textsuperscript{11} and they could not reach an accord to speak within one voice.

1.2 Research Questions

The research therefore focuses on two main issues: Firstly, on the nature of Palestinian diplomacy in 21st century and the main challenges that it faces. Secondly, on the role of the EU’s policy towards strengthening and fostering Palestinian state.

Therefore, the research address the main question: to what extent is the EU policy towards Palestine aiding the establishment of a fully functioning, legally recognised Palestinian state? In order to answer this question, the current research will look at:

- What is the nature of the Palestinian diplomacy, and what are its characteristics?
- What are the main challenges that face Palestinian Diplomacy in the 21st century in the negotiations and the constant battles to reassert its legitimacy?
- What is the role of the EU policy in fostering the Palestinian state?

The research recalls that, the density role of the EU and the distinctive diplomatic and economic instruments that have been used towards Palestinian state lead the EU to take on a greater diplomatic role in order to influence the potential solution of the conflict and recognize Palestinians right to have a sovereign state. Therefore, the research hypothesis is that, the multilateralism dimension will be more effective for the Palestinian diplomacy in order to gain their statehood than the bilateralism or unilateralism dimension.

1.3 Research Aims and Objectives

The research aims to enlighten and provide an overview of some substantial issues and questions regarding Palestinian diplomacy, to the present day. The research intends to highlight Palestinian diplomacy in retrospect and prospect. Furthermore, the research is expected to expose the need for more effective diplomatic instruments in order to let the

\textsuperscript{11} Other example at the UNISCO where the EU failed to come to a common position and to speak with one voice regarding to the Palestinian membership to the UNISCO.
Palestinians achieve their statehood. Moreover, the research intends to shed light on the European Union's policy in fostering and strengthening the Palestinians in achieving their statehood.

1.4 The Research Methodology

The method that will be used for this research is primarily an analytical one; analyzing the academic writings on the nature of diplomacy will be used to analyse the main characteristic of Palestinian diplomacy. Then, the research will illustrate the main challenges that face the Palestinian diplomacy in 21st century. Moreover, explaining the EU's policy towards the Palestinian state.

The study combines typical academic approaches, such as descriptive, analytical and inductive approaches. The method of analysis encompasses primary and secondary sources of law that pertain to diplomacy. The first step consists in the collection of primary resources including resolutions and legislation, international agreements and court decisions. Secondary resources include books, articles, and the explanations of laws, documents and case law. Moreover, the research intends to conduct seven interviews with experts in the field of Palestinian and European diplomacy, such as diplomats of the delegation of Palestine to the European Union, Belgium and Luxembourg. As well, with official European Union diplomats in the European External Actions Service (EEAS), in order to in-depth analysis both the Palestinian and European perspectives which at the end would definitely enrich the research.
1.5 *Structure of the Study*

The study, which primarily presents the general scope of Palestinian diplomacy in retrospect and prospect and the role of the EU policy in fostering the Palestinian state; is structured as follow:

**Chapter One: Theoretical Framework of Palestinian Diplomacy**

Illustrating the theoretical framework of Palestinian diplomacy is the thrust of chapter one, which is divided into two sub-chapter.

*Sub-chapter one* reviews the literature of diplomacy by depicting the differences between the term diplomacy and foreign policy.

*Sub-chapter two* presents and reviews the historical impact of Palestinian diplomacy by analyzing the evolution and development of the Palestinian foreign policy in the last decades. Furthermore, this sub-chapter investigates the nature of the Palestinian diplomacy to give a preview and enlighten the knowledge about the main characteristics of Palestinian diplomacy through shedding the light on the literature of diplomacy.

**Chapter Two: Palestinian Diplomacy in 21st Century: Facts and Challenges**

Applying the literature of diplomacy considered in chapter one to the current Palestinian diplomacy is the thrust of chapter two, which is divided into two sub-chapters.

*Sub-chapter one* illustrates the search for Palestinian statehood by describing the diplomatic recognition of states in *status nascendi*, and then examines the diplomatic methods that might be used by the Palestinians in order to evaluate the effectiveness of bilateralism and multilateralism, as well as the role of the international bodies in securing the support for Palestinian statehood.

*Sub-chapter two* examines the Palestinian bid for a full membership at the United Nations and the main challenges that might face Palestinian diplomacy by analysing the legal and political ramifications and consequences of the UN bid.
**Chapter Three: The EU Diplomatic Instruments Towards the Palestinian State**

Analyzing the EU diplomatic instruments towards the Palestinian state is the trust of this chapter which is divided into three sub-chapters.

*Sub-chapter one* illustrates the role of the EU that plays in the Middle East peace process in order to check whether the EU’s instruments have provided any real opportunity for the EU to take a greater diplomatic role towards the Palestinian-Israeli conflict and towards fostering the Palestinian state.

*Sub-chapter two* exposes the EU’s policy in fostering the Palestinian state by assessing the EU’s credibility in promoting a democratic Palestinian state.

*Sub-chapter three* designates to analyse the EU’s position towards the Palestinian bid at the United Nations.
2 Theoretical Framework of Palestinian Diplomacy

The question of what diplomacy is inseparable from the question of what it is not. Therefore, rather than starting with a long and abstract discussion of what diplomacy is and what is not, this chapter aims at introducing the reader to diplomacy by using a literature framework on diplomacy. Sub-chapter 2.1 describes the literature review on diplomacy by illustrating the differences between diplomacy and foreign policy. Sub-chapter 2.2 briefly reviews the historical impact of Palestinian diplomacy over the last decades by depicting the evolution and development of Palestinian foreign policy. Then, describing the nature and the essence, as well as the functions of Palestinian diplomacy.

2.1 Literature Review on Diplomacy

2.1.1 Diplomacy and Foreign Policy

Diplomacy has existed within international theory and was used interchangeably with international relations. The term diplomacy has been used among early political scientists in different ways. On one hand, Realists used it in a way to describe the state's methods and strategies in sending and receiving information before conducting wars. On the other hand, Liberals used the term diplomacy in context of the negotiation between states. More recently, the Neoliberals used diplomacy in terms of its function and they considered diplomacy as to be synonymous with foreign policy. Nevertheless, the literature on diplomacy is limited and the conceptual term of diplomacy is rarely analyzed or explored, as well as, diplomacy has been considered as a "resistant to theory" throughout the last decades.

12 This sub-chapter is based on a paper written by the researcher which has been submitted to the College of Europe for the course 'Diplomacy today: Theory and Practice'. The paper titled by, "What is diplomacy", November 16, 2011.
13 Diplomacy has been interpreted as an aspect of international system, society or community. See, P. Sharp, Diplomatic Theory of International Relations, Cambridge University Press, United Kingdom, 2009, p. 113.
15 Cross, op. cit., p. 3.
16 Cross, op. cit., p. 13.
In general terms, the word diplomacy has been used in English literature, and its often used to conduct a state's foreign policy. However, it still suffers from misuse and confusion with other terms mainly foreign policy; which is policy formulated by government and not by diplomats. To extent that, the term diplomacy is different from the term foreign policy, where diplomacy is the process of negotiation between states, and foreign policy is the essence of the states relation with each other. It should be mentioned at this point that, the British diplomat -Peter Marshall- explained the difference between diplomacy and foreign policy by referring to that "foreign policy is about what to do and diplomacy is about how to do it'.

The research focuses on the study of diplomacy which is different from the study of foreign policy. Foreign policy is analyzed from the perspective of states as well as the other actors who are engaged in executing it. Diplomacy is rather the implementation of the state's foreign policy. Therefore, in the next sub-chapter, the research highlights the evolution and development of Palestinian foreign policy and then, analyses the essence of Palestinian diplomacy in terms of executing the Palestinian foreign policy.

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19 Gasparo Bragccia in 1626 defined diplomacy "Men began...almost in the first infancy of the world to exercise this office, trying to make peace and coalitions for war", Napoleon in 1805 said that "Diplomacy is the police in grand costume". See, C. Freeman, *The Diplomat's Dictionary*, United States Institute of Peace Press, the United States of America, 1997, p. 70. See also, A. Khalil, "What is diplomacy?", *op. cit.*, p. 3.

20 Roberts, *op. cit.*, p. 3.


2.2 The Historical Impact of Palestinian Diplomacy

2.2.1 The evolution and development of Palestinian foreign policy

The evolution of Palestinian foreign policy returns back to the establishment of the Palestinian Liberation Organisation (PLO) in 1964. The Palestinian foreign policy, since that time has been dedicated to achieve the Palestinian political identity and to get the recognition of the international community of the PLO. Therefore, in 1974 the Arab heads of state and government at Rabat Summit affirmed that the PLO is the sole legitimate representative of the Palestinian people. In addition, the turning point for the PLO was on 22 of November 1974, when the UN passed a Resolution 3236 (XXIX) which recognised the PLO as a representative of the Palestinian people, and recognised the right of the Palestinian people to self-determination and the national independence. Moreover, the UNGA granted the PLO as an 'observer status' at the UN and invited Yasser Arafat to deliver a speech before the UNGA in the same year, which was considered as a revolutionary change for Palestinian diplomacy.

Afterward, the PLO was able to shape its diplomatic effort worldwide by establishing more than 96 official delegations in order to gain the legitimacy of its program which aimed to create the independence Palestinian state. The PLO played a substantial role in executing the Palestinian foreign policy and in the construction of concrete basis of Palestinian diplomacy that gained the international recognition.

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28 A. Cassese, Self-Determination of Peoples, Cambridge University Press, the United Kingdom, 1995, p. 239.
32 Haj Aissa, op. cit., p. 16.
2.2.2 A foreign relation as an element of the Palestinian statehood

As noted before, the Palestinian foreign policy is concerned about creating a fully independent and sovereign Palestinian state. Therefore, one of the fundamental criteria of statehood under the international law is the capacity of states to enter into foreign relations with other states. Thus, the Montevideo Convention on the Rights and Duties of States in Article I states that, "The state as a person of international law should possess the following qualification: (a) a permanent population; (b) a defined territory; (c) a government; and (d) capacity to enter into relations with other states. Despite of the fact that the issue of recognising Palestine as a state under the international law was and still under the question, the issue of foreign relations has received a special treatment in each agreement that has been negotiated between the PLO and Israel. The PLO was eager to transfer the authority regarding to the foreign relations to the hand of the PNA in order to shape the nature of autonomous entity for PNA and its Ministry of Foreign Affairs.

2.2.3 The nature of Palestinian foreign policy

The PLO entered into bilateral and multilateral diplomatic tracks during the last decades. In 1993, the PLO negotiated for the first time with Israel, and since signing the Oslo Accords in 1993, the new diplomatic and politic structures have been created and featured of the emerging Palestinian state, which extended to create the Palestinian National Authority (PNA) and to recognise the Palestinian right to self-determination. The PNA established the Ministry of Planning and International Cooperation which was responsible for development

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34 The researcher will not tackle the question of Palestine under the International Law. For that, see, D. Khairallah, "UN Membership for a Palestinian State: Legal and Political Ramifications", Working Paper, Arab Center for Research and Policy Studies, Doha, 2011, 1-25.
36 The Oslo Accords or Oslo Agreement has been signed in Washington DC on 13 September 1993. It has officially terminated the conflict between PLO and Israel and started to negotiate diplomatically the arrangement for establishment of Palestinian National Authority. Both parties signed the Declaration of Principles on Interim Self-Government Arrangement (DoP) which was the first agreement between Israel and the PLO. See, F. Bikerat and others, The Palestinian Business Law Guide, Birzeit University- Institute of Law, Palestine, 2009, p. 64.
and supervising of the PNA foreign relations. In 2003, the Ministry of Planning and International Cooperation has become the Ministry of Foreign Affairs (MFA), that undertakes all the duties of the country in the course of managing Palestinian's foreign relations, and negotiating on behalf of the PNA. Moreover, MFA carries on behalf of the PNA the methods and techniques of political interaction at the regional and international level. The MFA is responsible for organising of diplomatic and consular between the PNA and other states, as well as the international organisations. Moreover, MFA represents PNA in international conferences and international organisations.

The PNA has adopted the basic goals of its foreign policy in order to deal with all regional and international issues. Mainly, maintaining the independence of Palestinian political decision that reflects the will of Palestinian people. Respecting the principle of non-intervention in other countries internal affairs, as well as respecting the sovereignty of other countries. Also, the commitment to the United Nations Charter, International Law Rules and the Universal Declaration of Human Rights. Moreover, among the PNA foreign policy principles is maintaining and establishing a good relationships with all states on the basis of equality and mutual respect. Standing by the international legitimacy and supporting the good and just causes. Commitment to the peaceful existence and cooperation with all countries in order to achieve the comprehensive, just and lasting peace that based on justice and respect of rights. As well as, commitment to settling all regional and international crises via a peaceful ways, and to refuse all forms of use, or threat to use of force against its territory, without prejudice of its right to self-defence.

It should be mentioned at this point that, the PNA foreign policy towards the peace process, which is one of the most crucial issue, has been identified in a very clear way. Therefore, PNA affirms its request for the peace, hence on this basis the PLO entered into serious negotiations with Israel in order to reach the desired peace in accordance with the principles

43 Palestinian National Authority, the Ministry of Foreign Affairs, op. cit.
of the international law, which requires Israel's full withdrawal from all occupied Arab territories, including the occupied Syrian and Lebanese territories. As well as, enable the Palestinian people exercise their inalienable rights, particularly their rights to self-determination and the establishment of their independent state. In this framework, the PLO has identified its vision on peace through emphasising on: A complete Israeli withdrawal to the borders of 4th, June 1967, in referent to the United Nations Security Council Resolution No. 242 and the principle of land for peace. Termination, by Israeli, the occupying power, of the illegal annexation of the occupied city of Jerusalem, in referent to the UNSC RES. no. 478 of 1980, and a comprehensive withdrawal from the city in order to become fully under full and complete jurisdiction of the Palestinian state. Moreover, to dismantle settlement infrastructure in referent to the UNSC Res. no. 465 on 1980 and all relevant UN Resolutions. Stressing on the Rights of the Palestinian refugees in referent to the UNGA Resolution no. 194 which guaranteed their right to return to their homes and to compensation (the right of return). Finally, the recognition of the right of the Palestinian people to self-determination under the relevant UN Resolutions, especially the Security Council Resolution 1397, and to restore its complete sovereignty on its territory of the West Bank including Jerusalem and the Gaza Strip.

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2.2.4 The essence of Palestinian diplomacy

As mentioned before, Palestinian diplomacy is considered as an unique and distinct case in the modern history which is different from other states diplomacy. The practice of diplomacy is normally exercised by sovereign and independent state. Nicolson had defined the tradition diplomacy as the management of international relations between states by negotiation.\(^{50}\) However, Palestinian diplomacy has started in the absence of sovereign Palestinian political entity and it started before the establishing the Palestinian National Authority. Moreover, the PLO has begun the diplomatic relations with other states and with the international community from outside the Palestinian Territory and it succeeded to build a diplomatic relations with many states in order to garner the international support to the Palestinian cause.

In the diplomacy literature, one can clearly notice that the early uses of diplomacy was primarily concerned with the process of diplomacy, such as the negotiations between states to achieve their objectives. In this context, some scholars perceived diplomacy as an art of negotiation such as, Berridge who defined diplomacy as "an essentially political activity and well resourced and skilful, a major ingredient of power",\(^{51}\) and he argued that the most important function of diplomacy is negotiation.\(^{52}\) Other scholar such as Satow defined diplomacy in terms of "the application of intelligence and tact".\(^{53}\)

It should be stressed that, in the last century the term diplomacy has been expanded to cover not only the process of diplomacy, but also the actors of diplomacy who are negotiating on behalf of states. Having said this, Nicolson defined diplomacy as "the management of international relations by negotiation, the method by which these relations are adjusted by ambassadors and envoys; the business or art of the diplomatist".\(^{54}\) It's clear Nicolson's definition acknowledges the role of practitioners who determine the diplomatic process.\(^{55}\)

Drawing on these ideas, Sir Ernest Satow offered a seemingly complete definition of defined diplomacy as "the application of intelligence and tact to the conduct of relations between the

\(^{50}\) H. Nicolson, Diplomacy, Oxford University Press, United Kingdom, 1950, p.15.
\(^{52}\) ibid, p. 27.
\(^{53}\) Roberts, op. cit. p. 3.
\(^{54}\) Nicolson, op. cit., p.15.
\(^{55}\) Pigman, op. cit., p. 4.5.
government of independent states, extending sometimes also to their relations with vassal states, or, more briefly still, the conduct of business between states by peaceful means.”

However, Satow failed to take into account evolving trends and arguably in the twentieth-first century, a broader range of actors than state representatives can be engaged in diplomacy, through increasingly complex processes, such as multilateral institutions.

In the light of these developments, the essence of Palestinian diplomacy goes back to the emergence of the Palestinian Liberation Organisation, as one of the National Liberation Movements that sought to achieve the right of self-determination, which had an impact on the patterns of international and diplomatic relations with other states. The PLO engaged in the international system and sought for a peaceful solution for the conflict and claimed the right of self-determination of the Palestinian people. Diplomacy was a vital tool for the PLO to execute its foreign policy in addition to the armed struggle. The PLO combined the use of both diplomacy and armed struggle tools which helped to recognise the PLO as an effective and necessary actor in solving the conflict. Moreover, the PLO had recognised from the very begging the importance of getting involved in the international system and to develop relations with other states, which helped the PLO to adopt less radical approach and to turn away from the armed struggle to the use of more diplomatic strategies.

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56 Roberts, op. cit., p. 3.
57 Khalil, "What is diplomacy?", op. cit., p. 4.
59 H. Agha & others, Track-II Diplomacy: Lessons from the Middle East, the Belfer Centre for Science and International Affairs, Harvard, University, MIT Press, 2004, p. 10.
2.2.5 The functions of Palestinian diplomacy:

Diplomacy as a "method of political interaction at the international level and the techniques used to carry out political relations across international boundaries" ⁶⁰ involves many elements such as, communication, negotiation and representation between states or non-states actors.

2.2.5.1 Communication:

Diplomacy is often defined in term of communication as a "regulated process of communication".⁶¹ Therefore, communication is the essence of Palestinian diplomacy which facilitates the communication between the Palestinian political leaders and representations with other actors⁶² through the transmission of messages by the diplomats.⁶³

Moreover, Palestinian diplomacy executes the Palestinian government's external policy by communicate the Palestinian issues to other governments or international organisations. Thus, the power of communication lies in the ability to achieve the objectives of Palestinian diplomacy through maintaining a good relationship with other states, as well as, involves also the ability to influence and modify the interests of other actors in the international community.⁶⁴

2.2.5.2 Negotiation:

Negotiation is also considered as one of the major functions of diplomacy, and diplomacy is frequently defined by scholars in terms of negotiations, such as Watson defined diplomacy as a negotiation between different political entities.⁶⁵

Negotiation is used by the Palestinian diplomats in order to conciliate divergent point of views between the Palestinian government and the Israeli government in order to find a

⁶³ Interview with the Deputy Chief of Palestinian Mission, Hadi Shibli, op. cit.
⁶⁴ ibid., See also, Pigman, op. cit., p. 7.
common interest in solving the conflict, as well as in order to conclude agreements between them. In the last decades, the Palestinian diplomats entered into many bilateral and multicultural negotiations with the Israel to resolve the conflict. Back to Madrid conference in 1991, a joint Jordanian-Palestinian delegation was formed to join a peace conference between Arab countries and Israel. The next step toward joining the PLO the diplomatic negotiation was through secret channel provided by Norwegians in the early 1993 which resulted to sign the Oslo Accords in the White House of the United States of America. Until recent days, the Palestinian diplomats are still negotiating with Israel in many bilateral and multilateral environments.

2.2.5.3 Representation:

Diplomacy has often involved the representation of one actor towards other actors in world politics. A diplomat normally represents one state in another state's territorial jurisdiction. The Palestinian diplomats represent Palestine in 96 counties and many other multilateral organisations. The diplomatic representation of Palestine in other countries ranging between embassy such as in most Arab, African and Asian countries, mission in Greece and Norway, general mission such as in Japan, permanent mission such as in Austria, general delegation such as in Belgium and Denmark.

66 Interview with the Deputy Chief of Palestinian Mission, Hadi Shibli, *op. cit.*
71 Cross defined diplomats as "a high-level government officials engaged in professional interaction as plenipotentiaries on the transnational level". See, Cross, *op. cit.*, p. 1.
72 Khalil, "What is diplomacy?", *op. cit.*, p. 6.
73 Interview with the Deputy Chief of Palestinian Mission, Hadi Shibli, *op. cit.* See also, Palestinian National Authority, the Ministry of Foreign Affairs, *op. cit.*
2.3 Conclusion

This chapter demonstrated the theoretical framework of Palestinian diplomacy by describing the literature review on diplomacy and illustrating the differences between the term diplomacy and foreign policy. Moreover, in view of the foregoing examination, the researcher highlighted the evolution of Palestinian foreign policy and analysed the essence of Palestinian diplomacy in terms of executing the Palestinian foreign policy.

Therefore, after reviewing the development and the essence of Palestinian diplomacy, and recognizing that diplomacy was a major tool of PLO in order to execute the Palestinian foreign policy, the purpose is to conclude by stating that the emergence of National Liberal Movements, such as PLO in the last decades formed a significant feature of the international system. The PLO was one of most prominent movements that involved in the international system and it has been succeeded to develop diplomatic relation with the international community.

Thus, the following chapter is designed to explain the main features of Palestinian diplomacy in 21st century and the main challenges that it faces by analysing the Palestinian diplomatic methods to the international bodies in order to achieve the Palestinian statehood.
3 Palestinian Diplomacy in 21st Century: Facts and Challenges

After highlighting in the previous chapter the theoretical framework and the historical impact of Palestinian diplomacy, the discussion in this chapter reviews Palestinian diplomacy in 21st century and the main challenges that it faces. Therefore, sub-chapter 3.1 illustrates the search of Palestinian statehood by describing the diplomatic recognition of states in \textit{status nascendi}. Then, reviews the Palestinian diplomatic methods to the international bodies and the role of these international bodies in securing general international support for Palestinian statehood. At the end, sub-chapter 3.2 recalls that the international bodies route is not an easy process and there are many challenges face the Palestinian diplomacy. Thus, this sub-chapter examines the Palestinian bid for a full membership at the United Nations.

3.1 The search for Palestinian Stathood by using new diplomatic methods to gain benefits of international law

3.1.1 The diplomatic recognition of states \textit{in status nascendi}

\textit{Brownlie} defines \textit{states in status nascendi} as "a political community with considerable viability, controlling a certain area of territory and having statehood as its objective, nay go through a period of travail before that objective has been achieved".\textsuperscript{74} Therefore, \textit{Silverberg} argued that, the emergence of Palestine as a non-state actor that emerged from the multilateral negotiations and the evolutionary nature of international politics have given credence to the \textit{de facto} acceptance of the change of the international political system.\textsuperscript{75} Moreover, he stresses the point that, the declaratory doctrine\textsuperscript{76} which emphasises the political nature of exercise the diplomatic recognition, extents to illustrate the relation between the PNA and other states and international organisations as an indicator of the PNA’s ability to engage into diplomatic relations with other states.\textsuperscript{77}

\textsuperscript{77} Silverberg, \textit{op. cit.}, p. 9, 17.
Despite the political and diplomatic developments of Palestine, and the fact that Palestine has been recognised in more than courtesy manner by virtue of the diplomatic interaction by other states and international organisations, Palestine is still until now not recognised as a fully sovereign state. Therefore, the next section highlights the Palestinian diplomatic methods that are using in order to achieve the Palestinian state.

3.1.2 The Palestinian diplomatic methods

The Palestinian National Authority at this moment recognised that, the legal landscape at the international level has changed and the bilateral negotiation in order to achieve the Palestinian statehood with Israel has failed. Therefore, the PNA acknowledged the fact that the state's status is subject to the regime of understanding where many actors involved in the process and the "recognition is not a final or definitive determination by a state actor".

Whereas, the international political organisations and other actors like non-governmental organisations and legal institutions such as, the United Nations Agencies, the International Court of Justice actually may help Palestinians in their strive for sovereign legitimacy.

It should be mentioned at this point that, Solane refers to three types of recognition: Firstly, the political recognition which is the formal acts by sovereign states towards another state that claim to statehood. Secondly, the legal recognition which is based on objective legal criteria. Thirdly, the civil recognition which is based on the force of popular moral opinion that expressed by different players and actors such as the civil society organisations, governmental and non-governmental organisations. In addition, Leonard stresses and confirms the role of global civil society where the range of non-state actors might be able to intervene in intrastate matters.

In this context, Palestinian diplomacy efforts to achieve Palestinian statehood has shifted to gain the civil recognition according to Solane typology of recognition, where the civil

78 ibid, p. 24.
80 Hammer, op. cit., p. 40.
81 Yoffie, , op. cit., p. 497.
83 Yoffie, , op. cit., p. 503.
society organisations and the international organisations such as the UN, may influence the sovereign states to recognise Palestine as a fully independent state. *Adam* stresses that, the Palestinian diplomatic efforts to the international bodies either international political organisations such as, the United Nations General Assembly (UNGA), the United Nations Security Council (UNSC), or international judicial organisations such as, International Court of Justice (ICJ) and International Criminal Court (ICC) could be the best way to achieve the recognition of the Palestinian state. *Adam* argues that, the PNA after the unilateral declaration of the Palestinian state in 1988, and after the collapse of all peace talk initiatives in the last two decades, realised that pushing for the recognition from individual states does have little effect. Instead, the PNA might use the multilateral declaration through the international bodies in order to advance and establish the Palestinian state.

Furthermore, *Adam* illustrates the point that, the Palestinian diplomatic efforts towards the statehood could be achieved via the conventional path and unconventional path. The conventional path to statehood runs through the United Nations (UNGA and UNSC), and the unconventional path runs through International Courts, in particularly the ICJ and ICC. Moreover, *Adam* stresses the role that the international bodies that might play in order to enhance the international legal sovereignty to Palestine. He based his argument on Krasner's typology of sovereignty. According to Krasner sovereignty has four different forms: the international legal sovereignty, Westphalian sovereignty, domestic sovereignty and interdependence sovereignty. Thus, the international legal sovereignty according to Krasner means "practices associated with mutual recognition, usually between territorial entities that have formal juridical independence".

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84 Adam used the term international bodies broadly to include the UNGA, UNSC as well as, ICJ and ICC. See, Yoffie, *op. cit.*, p. 499.
89 Yoffie, *op. cit.*, p. 504.
91 Yoffie, *op. cit.*, p. 503.
3.2 *Palestinian bid for a Statehood at the United Nations*

3.2.1 The role of the United Nations in securing the Palestinian Statehood

There are many classical theories over recognition of new entities and states in international law, in particular the main two theories of recognition. The declaratory theory which concerns with the formal acceptance with existing facts, and the constitutive theory which concerns with the act of recognition that leads to create states.\(^{92}\)

General speaking, recognition is "a procedure whereby the governments of existing states responding to certain changes in the world community".\(^{93}\) Therefore, recognition is an act that other state grants and it is one of the statehood requirements, and the statehood is required for a membership in the UN. However, the UN as an international legal entity is not entitled to recognise any state. It is an organisation of 193 independent states that may either admit or deny any membership of potential states.\(^{94}\) By saying that, one should not ignore the crucial role of the UN in securing the statehood for any state.

To extent that, the PNA leaders and representatives expressed their intention to go to the UN in order to submit a unilateral declaration of independence on September of 2011, along the 1967 borders. In addition, the Palestinian bid has extended to submit more applications to other international organisations and acceding to international treaties such as, the Geneva Conventions and International Covenants on Civil and Political Rights.\(^{95}\)

3.2.2 The membership at the UN: scenarios and challenges

Article 4 of the UN Charter provides that the membership in the UN “is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations”. The same

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article also provides that "the admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council". 96

Therefore, the Palestinian path to a full membership at the UN might take different scenarios:

1. The Palestinian might seek for a full membership at the UNSC. In this case, the Palestinian application for a full membership requires the affirmative vote of nine of the fifteen members of the council and none of the five permanent members 97 uses its veto. 98 Therefore, the main threat for the Palestinian is that the United States veto, specially the American administration has announced for many times its determination to veto the Palestinian application at the SC. 99 Moreover, the USA president Mr. Obama declared that, the UN is not the appropriate venue for addressing the issue of Palestinian statehood and the Palestinian bid will not create an independent Palestinian state. 100

In this scenario, it has been suggested that the UNGA can act despite the negative recommendation from the SC. The UNGA can use the 'Uniting for Peace' power based on its Resolution 377. 101 This framework allows the UNGA to take action to address threats to international peace and security, when any of the five members at the UNSC

96 The United Nations Charter, Chapter II: Membership, Article 4.
97 The five permanent members at the UNSA are the United States, France, the United Kingdom, China, Russian Federation.
uses its veto in order to block any action. However, it is highly doubtful that the question of non-admission of Palestine by the SC either would be seen as a ground to use 'Uniting for Peace' power, nor it would be defined as a 'threat to international peace and security'. To that extent, it unlikely that the Unity for Peace power can be applied.

2. The Palestinian might go to the UNGA to adopt a non-binding resolution that call on the international community to recognise Palestine as a state on the border on 4 June of 1967, and reaffirm its commitment to the UN Resolution 181, which also known by the UN Partition Plan of 1947. In this case, countries have no authority to block a resolution, and thus the Palestinians need a two-thirds majority of the UNGA members which means 129 out of 193 countries in order to pass the resolution. It should be mentioned at this point that, the UNGA resolution is an advisory in nature without carrying any legal standing, which means the Palestinians would gain only a symbolic political victory which would serve to highlight the international community commitment to the notion of two states and the creation of independent Palestinian state.

3. In case that the USA uses the veto to block the Palestinian application at the SC, the Palestinian might seek to upgrade the Palestinian observer status to that of non-member state at the UN which requires the approval of two-thirds of the UNGA,

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103 Al-Haq, op. cit., p. 5.
107 There are 133 countries that confirmed their willing to recognise the State of Palestine at the UNGA.
109 It has mentioned before the UNGA granted the PLO an observer status in 1974.
110 This status is based on practice and there is no provision for it in the UN Charter. Vatican is a non-member observer state at the UN which means no right to vote. The same case of Switzerland before it became a UN member state in 2002.
and there is no need for the SC approval. The non-member state status is an important adjustment that would provide further political leverage for Palestine, and would be interpreted as an implicit recognition of Palestinian statehood by the UN. As well as, could bring many advantages to the Palestinians such as, signing certain international agreements like, the Rome Statute of the International Criminal Court which allows the Palestinian to request international investigations against Israeli’s violation of the human rights and humanitarian law in the Palestinian territory.

3.2.3 Legal and political ramifications of the Palestinian bid to the UN: Postive and Negative

In legal terms, the Palestinian bid to a full membership at the UN would be failed if the USA uses its veto. However, certain indirect legal impacts could flow from the Palestinian bid to other international organisations and treaties which would enhance the Palestinian’s international personality. In addition, the Palestinians would have further possibilities to adjudicate claims against Israeli’s violation of human rights and the possibility to call the international community to put an end to Israel's occupation. Moreover, the accession to the international organisations and treaties provides access to new international fora including the UN human rights bodies, World Bank and International Monetary Fund (IMF), as well as, provides access to the ICC.

111 Some scholars argued that the simple majority vote is sufficient for granting an observer status based on Article 18(2) of the UN Charter which deals with important questions and the admission of new member is included in this article. See, Khairallah, op. cit., p. 18.
112 Alcaro, op. cit., p. 5.
113 Al-Haq, op. cit, p. 6.
114 Charbonneau, op. cit.
115 ICC Prosecutor Luis Moreno-Ocampo said that "as soon as the General Assembly establishes that Palestine is an observer state, then we can proceed". See, E. Lederer, AP Interview: Ocampo Discuss Palestinians on ICC, available on line at http://abcnews.go.com/US/wireStory/ap-interview-ocampo-discusses-palestinians-icc-16074579#.T4cEpauya8A, accessed on April 6, 212. In 2009, the PNA requested membership in ICC but has been refused by the virtue of the fact that, it’s not a recognised as a state.
116 Alcaro, op. cit., p. 5.
117 ibid, p. 6.
119 Khairallah, , op. cit, p. 23.
In political terms, the approval of the UNGA on upgrading the Palestinian status would have an implication on Palestine's position in the international legal system and assert the Palestinian sovereignty on the border 1967, which lead to bring Palestine "onto the footing of equal formality with other states". In addition, these moves could considerably advance the Palestinian's position in negotiation with Israel. It should be mentioned that, a political paradigm shift of the conflict would be expected, this shift would be seen as a shift from a bilateral and zero-sum situation between the Palestinians and Israel into multilateral situation where actors are the same but diversified.

It should be borne in mind that, despite of these legal and political implications, there are potential negative implications related to the Palestinians refugees who are living outside Palestine. According to some scholars such as Professor Guy Goodwin-Gill sees that the recognition of the state of Palestine at the UN might have problems "affecting the right of the Palestinian people to self-determination and the manner by which that right can or may be exercised, due account being taken of the will of the people". He based his argument on a constitutional problem of replacement the PLO by the State of Palestine, where Palestinians refugees are represented by the PLO and they are constitute more than half of the Palestinian people. In case of replacement the PLO by the State of Palestine in the UN this would lead to disenfranchised the right of the Palestinian refugees and they might lose their representation in the UN. In addition, he argues the question of the capacity of the state of Palestine to take on the role and responsibilities of the PLO in the UN as well as the question of popular representation. He concludes by saying that, the Palestinian bid to the

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121 ibid, p. 3.
122 Al-Haq, op. cit, p. 8.
123 Alcaro, op. cit., p. 6.
124 Al-Haq, op. cit, p. 8.
UN is at risk of prejudice and fragmentation of the Palestinian people and would undermine the legal and political position of the PLO.\textsuperscript{129}

Moreover, in this context, some legal experts like Francis Boyle\textsuperscript{130} criticises the argument of Guy Goodwin-Gill by saying that, the PLO still exists and it will not lose its status even if the UN recognised Palestine as a state.\textsuperscript{131} In addition, John Quigley argued that, the Palestinian bid to the UN will improve the refugees standing and the refugees will in fact be in a much stronger situation.\textsuperscript{132}

\textsuperscript{129} Goodwin-Gill, \textit{op. cit.} p. 6.

\textsuperscript{130} Francis Boyle is a professor of international law at the University of Illinois. He was a legal advisor to the PLO and he played a role in writing the Palestinian Declaration of Independence of 15 November 1988.


3.3 Conclusion

In view of the foregoing examination and investigation of Palestinian diplomacy in the current century, the researcher elaborated that diplomatic recognition of states in *status nascendi* could be the case of Palestine and the evolutionary nature of international politics has helped the emerging of Palestine as a non-state actor. Moreover, the researcher's opinion is that, the Palestinian diplomatic methods towards the multilateral environment which includes the international bodies could be more effective way to achieve the recognition of Palestinian state, especially after constant failing of bilateral negotiations with the Israeli side.

Furthermore, this chapter illustrated the Palestinian bid to a full membership at the United Nations and the role that these international bodies could play in supporting the Palestinian state. It should be born in mind that, the international bodies route is not always an easy way and there are many challenges and scenarios that face Palestinian diplomacy which lead for positive and negative legal and political ramifications.

To sum up, the Palestinian bid to the UN will not absolve the Palestinians of the need to negotiate with Israeli side, however, the Palestinian bid for a full membership at the UN would improve the negotiation leverage with Israel.

The following chapter is designed to examine the European Union diplomatic instruments towards the Palestinian state by analysing and assessing the EU's policy in fostering the Palestinian state as well as the EU's position towards the Palestinian bid at the UN.
4 The EU Diplomatic Instruments Towards the Palestinian State

After highlighting in the previous chapter Palestinian diplomacy in 21st century and the main challenges that it faces, as well as the effectiveness of multilateralism by going to the international bodies in order to achieve the Palestinian statehood, the discussion in this chapter reviews the European Union diplomatic instruments towards the Palestinian state. Therefore, sub-chapter 4.1 intends to illustrate the EU's policy and instruments towards the Palestinian state in the past and present. Then, sub-chapter 4.2 intends to assess the EU’s policy in fostering a democratic Palestinian state. Moreover, sub-chapter 4.3 designates to analyse the EU’s position towards the Palestinian bid at the UN.

4.1 What is the role of the EU’s policy in fostering the Palestinian State?

The European Union (EU) as one of the largest economic and political actor in the world has a leverage in maintaining the stability and security in the Middle East, as well as in fostering the Palestinian State.

The EU has always been strong supporter of the Palestinian state-building through its involvement in the peace process. In the last decades, the EU has deployed various policies and instruments; particularly diplomatic and economic tools in order to advance the creation of a Palestinian State.\textsuperscript{133} The EU’s policy towards promoting and supporting the Palestinian State had to some extent positive impacts on the Palestinian institutions-building, however, the EU assistance in fostering the Palestinian State reveals serious shortcomings and inconsistencies. The EU has not been sufficient to overcome the substantial impediments to the realisation of a viable Palestinian State.\textsuperscript{134}


4.1.1 The EU’s policy and instruments towards the Palestinian State: Past and Present

Collectively, the EU has defined its goals towards the Palestinian over the last four decades. Since the 1970s, the EU member states have affirmed their support for the legitimate rights of the Palestinian people and acknowledge their right to self-determination in the Venice Declaration.\(^{135}\) Moreover, since the signing of the Oslo Agreement in 1993, the EU has become increasingly vocal about a two-state solution and the future democratic, independent and viable Palestinian State\(^{136}\) on the basis of the 1967 borders that has been adopted by the United Nation Security Council Resolutions 242 and 338.\(^{137}\) The Palestinian state has viewed by the EU as desirable per se as well as an instrument to maintain the peace in the Middle East.\(^{138}\)

The EU has always used various diplomatic instruments, as well as bilateral aid and trade policies in order to facilitate the creation of Palestinian state.\(^{139}\) The main platform is the Barcelona Process\(^{140}\) which is known as well by the Euro-Mediterranean Partnership (EMP) that launched in 1995 and revamped in 2008\(^{141}\) into the Union for the Mediterranean (UFM).\(^{142}\) The EMP has focused primarily on three dimensions: Firstly, the political and

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\(^{136}\) Council of the European Union, Council Conclusion on the Middle East Peace Process, 8 December, 2009, Brussels.


\(^{138}\) Interview with official EU diplomats, European External Action Service (EEAS), Brussels, May 2, 3, 2012.


security dialogue which aimed at creating a common area of peace and stability. Secondly, the economic and financial partnership which aimed at creating a free-trade area in order to promote shared economic prosperity. Thirdly, the social, cultural and human partnership which aimed at promoting understanding between cultures and people.

In the field of trade, the EU has supported the Palestinian state-building and development through its trade policy. In 1997, the European Community signed the Euro-Mediterranean Interim Association Agreement on trade and cooperation (IAA) with the Palestinian Liberation Organization (PLO), which aimed to provide a sustainable framework for cooperation and development of relations between the EU and Palestinian Territories in terms of trade liberalisation and establishment of political dialogue. It is interesting to note that, despite of the fact that the Palestinians were -and still are- struggling to achieve their sovereignty and their state, the EU has dealt with the Palestine as a state, due to the fact that the EU concluded the IAA on the evident assumption that the PLO is the sole representative of the Palestinian people.

In the light of this trade agreement, the Palestinians have gained political and economical benefits, especially when the EU sough to ensure "the emergence of an economically viable Palestinian state", also due to the fact that, the EU is the largest international donor to the

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Palestinians,\textsuperscript{150} contributing around €500 million each year from the EU's budget in order to supporting the Palestinian state.\textsuperscript{151}

In addition, the EU-PA European Neighbourhood Policy (ENP) has been adopted in 2005,\textsuperscript{152} which underpinned by an Action Plan in order to establish mutual commitments for "a future Palestinian State, going beyond co-operation, to involve a significant measure of economic integration and deepening of political cooperation".\textsuperscript{153} The EU-PA relationship is part of the EU’s response to the PNA political and economic reform agenda which included reforms for the Palestinian legislation, norms and standards to maintain democracy, accountability and transparency in the Palestinian Territories.\textsuperscript{154}

4.1.2 The deployment of the EU diplomatic instruments towards the Palestinian State

Diplomatically, the EU goals on Palestinian State have been pursued through various diplomatic instruments. Since 2001, the EU has participated in the Middle East Quartet's\textsuperscript{155} work and the EU developed bilateral diplomatic channels through the EU High Representative, the EU Special Representative to the Middle East Peace Process\textsuperscript{156} and the


\textsuperscript{155}The Middle East Quartet which has been established in Madrid in 2002 is considered as the most high-profile body coordinating international efforts in order to achieve peace in the Middle East. The Quartet consists of the United Nations, the United States, the European Union and Russia Federation. See, R. Hollis, "The basic stakes and strategy of the EU and Member States", in E. Aymat (ed), European Involvement in the Arab-Israeli Conflict, Chailiot Paper 124, Paris, European Union Institute for security Studies, 2010, p. 32.

member states individual initiatives. Under the Quartet umbrella, the EU did try to play a significant role with other actors in achieving and promoting the peace in the Middle East.

In 2003, the EU has played a leading role in developing the Quartet Roadmap for peace which intended to achieve the Palestinian statehood through focusing more on the security reform and ending the violence in order to reach a fair and lasting peace in the Middle East.

It should be mentioned that, in 2007 the EU is also directly engaged and supported the Palestinian and Development Plan (PRDP) which has been implemented by the Palestinian Prime Minister Fayyad to maintain the security reform, as well as which "aimed at paving the way for de facto creating the Palestinian State". The PRDP is a national plan that detailed strategy for institution development in order to achieve sustainable economic growth and independence, as well as maintaining equality and social justice for Palestinians.

Moreover, in 2005 the EU undertaken security missions in the Palestinian Territories, such as the EUPOL COPPS, which intended to strengthen the civil police and providing

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163 Bertrand-Sanz, op. cit, p. 45.

164 Interview with official EU diplomats, op. cit.


training measures, advice and equipment\textsuperscript{166} in order to improve the security situation and to keep law and order in the Palestinian Territories.\textsuperscript{167} Furthermore, the EU also deployed a monitoring mission on the border between Gaza-Egypt, the \textit{EU BAM Rafah}, to facilitate access for Palestinians to and from Gaza.\textsuperscript{168}

In 2008 the EU launched the Berlin Conference in supporting of Palestinian civil security and the role of rule. The Berlin Conference aimed at supporting the "international efforts to improve Palestinian capacity building in the area of civil security and the rule of law with civil police and criminal justice as a main focus"\textsuperscript{169} where these areas are "an essential and indispensable foundation for a viable state".\textsuperscript{170} In this context, the EU has supported the judicial sector reform by launching rule of laws programs, such as, \textit{Seyada} program which intended to strengthen the judicial system in the Palestinian Territories by providing training to judges and public prosecutors.\textsuperscript{171}

\textsuperscript{167} Hollis, \textit{op. cit}, p. 33.
\textsuperscript{168} Interview with official EU diplomats, \textit{op. cit}.
\textsuperscript{171} Empowering the Palestinian Judicial System, \texttt{http://epj.ps/en/}. See also, ENPI, Second phase of Seyada Palestinian justice project to address key challenges. Available online at \texttt{http://www.enpi-info.eu/mainmed.php?id_type=1&id=18508}, accessed on April 17, 2012. See also, Khalil, "To what extent does the European Union promote democracy effectively in the Palestinian Territories?", \textit{op. cit}, p. 5.
4.2 The assessment of the EU’s policy towards the Palestinian State

In retrospect, it is clear that the EU's involvement in supporting and building a Palestinian State either by providing financial and economic support, or supporting the Palestinian institutional building were ineffectiveness and have not achieved the main objectives of creating the Palestinian State and maintaining the stability in the region, in spite of the leverage the EU had.\textsuperscript{172} Moreover, the impact of the European financial and economic support has not had the intended result due to the fact that the PNA is still dependence on foreign financing.\textsuperscript{173} Therefore, this sub-chapter intends to assess the EU's credibility in promoting a democratic Palestinian state.

4.2.1 The EU's credibility in promoting a democratic Palestinian State

General speaking, the EU has always been supportive of a future democratic, independent and viable Palestinian state,\textsuperscript{174} through using many diplomatic and economic instruments. However, the EU’s credibility in promoting democracy is declined in the Palestinian case.\textsuperscript{175} The EU used double standards,\textsuperscript{176} where the EU's interest is maintaining security and stability in the Middle East in a short-term comes before a long-term promoting democracy.\textsuperscript{177}

In 2006, the EU showed its inconsistency in supporting democracy in Palestine\textsuperscript{178} when it refused to recognise the victory of Hamas in the Palestinian legislative elections, in spite of the fact that the elections have been declared as a fair, free and transparent by the EU.\textsuperscript{179} The

\textsuperscript{172} O. Eran, Z. Magen & S. Stein, "The Superpowers and the Middle East: Walking a Fine Line", Institute for National Security Studies (INSS), Israel, 2011, p. 34.
\textsuperscript{173} M. Asseburg, "From declarations to implementation? The three dimensions of European policy towards the conflict", in M. Ortega (ed.), \textit{The European Union and the crisis in the Middle East}, Institute for Security Studies, Chaillot Papers, no. 62, 2003, 11, 15.
\textsuperscript{174} Council of the European Union, Council Conclusion on the Middle East Peace Process, 8 December, 2009, Brussels.
\textsuperscript{175} D. Huber, "Is the EU losing credibility in Palestine?", FRIDE, A European Think Tank for Global Action, Working Paper, No. 50, 2011, p. 3.
\textsuperscript{176} K. Khatib, "How Promotion of Political Reform by the European Union is Perceived in the Arab World: The Cases of Lebanon and the Palestinian Territories", International Institute for Democracy and Electoral Assistance (IDEA), Stockholm, 2009, p. 4
\textsuperscript{177} EU Election Observation Mission West Bank and Gaza 2006, Statement of Preliminary Conclusions and Findings, 26 January 2006. Available online
EU refusal to recognise the results of 2006 legislative elections has seen by the Palestinian as a big mistake that has been done by the EU which proved the EU’s failure as a democratic actor in Palestine.\textsuperscript{180}

It should be mentioned at this point that after 2006 legislative elections, the political divisions between the West Bank (WB) which is ruled by the Palestinian National Authority and Gaza Strip (GS) which is ruled by Hamas has led to create two separate political entities which affected the creation of one democratic state.\textsuperscript{181}

In overall terms, the democratic standards are in regression in Palestine\textsuperscript{182} and many restrictions have been imposed on the democratic rights.\textsuperscript{183} Complaints of torture committed by the PNA security services increased and many cases of arbitrary detention of \textit{Hamas} members in the West Bank are occurred by the PNA.\textsuperscript{184} Human rights violations are still exist in Palestine and in particularly in concerning to death penalty.\textsuperscript{185} Moreover, Palestinian president and the parliament terms of ruling have been expired and no elections have been taken place.\textsuperscript{186} As well as, many administrative legislations have been adopted in the last 5 years without legislative oversight due to the fact that, the Palestinian Legislative Council (PLC) has not been convened because many of the PLC \textit{Hamas} members are prisoners in Israeli prisons.\textsuperscript{187}

\textsuperscript{180} Khatib, \textit{op. cit}, p. 12.
\textsuperscript{181} Khalil, "To what extent does the European Union promote democracy effectively in the Palestinian Territories?, \textit{op. cit}, p. 4.
\textsuperscript{182} Interview with official EU diplomats, \textit{op. cit}.
\textsuperscript{186} R. Youngs and H. Michou, \textit{op. cit}, p. 2.
4.3 The European Union’s position towards the Palestinian bid to the United Nations:

In general terms, the EU commitment to the multilateralism is one of the most defining principle of the EU’s external policy. The EU has always sought to strengthen its voice in the UN in order to fulfil its potential as a global actor, due to the fact that, the EU member states make up one seventh of the UN’s total membership which could lead to carry an important role within the UN. In case of the EU member states could reach an agreement between themselves and act coherently in order to speak with one voice.

On 3 May 2011, the UN General Assembly (UNGA) adopted a resolution on the participation of the European Union in the work of the United Nations. Therefore, the EU enjoys a full participation status at the UNGA which enables the EU to promote its position in the UN.

While the EU has succeeded to upgrade its status at the UNGA, yet too often, the EU is still reluctant to play an active role regarding to the UN membership request by the PNA. Therefore, this section primarily focuses on presenting the EU status at the UNGA. Then, the section analyses the EU’s position over recognition of a Palestinian State at the UN.

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188 This sub-chapter is based on a paper written by the researcher which has been submitted to the College of Europe, Bruges for the course ‘EU’s External Representation’. The paper titled by, "Testing the EU’s Member States Coordination after Upgraded the EU Status at the UNGA: The case of the Palestinian bid for a full membership in the United Nations”, February 17, 2012.


193 The EU with this status at the UNGA will be equated with the Palestinian Liberation organisation and Vatican.

4.3.1 The EU status at the UN:

The Treaty of Lisbon in Article 47 explicitly states that: "The Union shall have legal personality".\textsuperscript{195} The EU single legal personality extends to enhance the EU's visibility toward effective multilateralism\textsuperscript{196} as a global actor.\textsuperscript{197} Thus, the EU might accede to any international organisations or agreements.\textsuperscript{198}

Since 1974,\textsuperscript{199} the EU had enjoyed an observer status at the UNGA\textsuperscript{200} which gave the EU less political weight by the fact that, the EU was allowed to attend only formal meetings and it had the possibility to intervene at the end of all interventions by states. As well, the EU observer status did not extent to permit the right to vote or to propose amendments by the EU.\textsuperscript{201}

\textsuperscript{195} Consolidated Version fn the treaty on European Union, Title VI, Article 47. As well, the Lisbon Treaty provides the EU with legal commitments towards multilateralism and the UN. Article 3(5) TEU mentions that "In its relations with the wider world, the Union... shall contribute to the development of international law, including respect for the principles of the United Nations Charter", and Article 21TEU states that: 1. “The Union’s action on the international scene shall be guided by... and respect for the principles of the United Nations Charter and international law... it shall promote multilateral solutions to common problems, in particular in the framework of the United Nations”. 2. “The Union shall... preserve peace, prevent conflicts and strengthen international security, in accordance with the principles of the United Nations Charter….”.


\textsuperscript{197} J. Wouters, S. Bijlmakers and K. Meuwissen, op. cit, P. 4.


\textsuperscript{201} Ibid., p. 14-15.
Currently, as mentioned before, the EU enjoys the full participation or enhanced observer status at the UNGA which gave to EU more rights to make proposals and amendments, as well as, the EU can serve as a rapporteur or chair the meeting without any restrictions on the time or on the length of the interventions. However, the enhanced status did not permit the EU to exercise the right to vote.

4.3.2 The EU position over recognition of a Palestinian State at the UN:

Although, the EU has succeeded to act cohesively regarding UN different matters, the EU still faces difficulties in coordination between its member states; in particularly when individual member states have different national interests. What is not known at this moment is how the EU will succeed to manage a common position between its member states regarding to the Palestinian request to a full membership at the UN.

As have been mentioned before, the EU over the last decades has been engaged in the Middle East peace process in order to find a solution to the conflict, as well as to support the Palestinian state-building. However, the EU diplomacy is struggling when it comes to international high politics matter. To extent that, the full EU backing for the Palestinian bid at the UN is difficult and challenging for its member states. The EU's 27 member states are divided into different clusters in terms of their voting stance on the declaration of a Palestinian state at the UN. The first group includes countries that support the Palestinian state bid at the UN, mainly Spain, Sweden, Belgium, Cyprus, Greece, Ireland, Portugal and

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204 Interview with official EU diplomats, op. cit.
205 Khalil, "Testing the EU’s Member States Coordination after Upgraded the EU Status at the UNGA: The case of the Palestinian bid for a full membership in the United Nations", op. cit, p. 4.
207 Interview with official EU diplomats, op. cit.
Luxembourg. The second group includes countries that oppose the Palestinian bid at the UN, headed by Germany and other countries, such as Italy, the Netherland, the Czech Republic and Bulgaria. The third group includes countries are still hesitant in determining their voting stance to the Palestinian bid at the UN, headed by France and the United Kingdom. 209 In the light of the division between the EU member states on the question of Palestinian bid at the UN, the EU’s member states have realised that they should act unanimously on this key foreign policy matter. 210 Therefore, the EU’s High Representative for Foreign Affairs and Security Policy, Baroness Catherine Ashton has sought to convince the PNA to change their stance at the UN, 211 in order to allow the EU to act as a bloc 212 and to avoid any contradiction to the USA position which is against the Palestinian bid to the UN. 213

209 Makovsky, op. cit. p. 6. See also, Isma‘i, op. cit, p. 30.
210 Makovsky, op. cit p. 6.
212 R. Alcaro and A. Dessì, op. cit., p.3.
213 Interview with official EU diplomats, op. cit. See also, International Crisis Group, "Curb Your Enthusiasm: Israel And Palestine After The UN, International Crisis Group: Working to Prevent Conflict worldwide", Middle East Report, no. 112, 2011, p. 32. See also, Khalil, "Testing the EU’s Member States Coordination after Upgraded the EU Status at the UNGA: The case of the Palestinian bid for a full membership in the United Nations", op. cit, p. 6.
4.4 Conclusion

In view of the foregoing examination of the EU’s policy and instruments towards the Palestinian state, this chapter examined the role of the EU in fostering the Palestinian state, as well as analysed the EU’s position towards the Palestinian bid to the UN.

In the light of this examination, the researcher recalls that, the Palestinian bid for a statehood at the UN is considered as a potential Pandora’s box for the EU’s member states. Therefore, the researcher suggests that, the EU as a largest single donor to the Palestinian and a member of the Quartet, as well as with its new speaking powers at the UN can do immense effort regarding to the Palestinian bid at the UN. The EU can draw the support to the Palestinian State not only through its 27 member states, but also the EU can gain the support of other countries that often vote alongside with the EU. Bearing in mind that, the EU member states are spreading into different separate regional groups which can be very effective as it expands the EU’s influence over other states in the UN.

To sum up, the researcher proposes that the EU may gain more value and more important role towards the Middle East peace process by supporting the Palestinian State. Thus, the EU should speak with one voice and avoid any division between its member states. In addition, the EU’s member states should not repeat the UNISCO scenario on the Palestinian request for a membership; where the EU failed to come to a common position between its member state. Eleven of the EU’ member states voted in favour of the Palestinian membership at the UNISCO, eleven member states abstained and five member states voted against.

214 Makovsky, op. cit., p.11.
216 Such as, Australia, New Zealand and Turkey.
217 Makovsky, op. cit., p. 8.
221 Austria, Belgium, Cyprus, Finland, France, Greece, Ireland, Luxembourq, Malta, Slovenia, Spain.
222 Bulgaria, Denmark, Estonia, Hungary, Italy, Latvia, Poland, Portugal, Romania, Slovakia, UK.
223 Czech Republic, Germany, Lithuania, the Netherlands, Sweden.
Otherwise, the EU may show its internal split which ultimately undermine its credibility and confirming that the EU is not yet able to speak with one voice regarding to the Palestinian State.\footnote{Khalil, “Testing the EU’s Member States Coordination after Upgraded the EU Status at the UNGA: The case of the Palestinian bid for a full membership in the United Nations”, \textit{op. cit.}, p. 7.}
5 Conclusion

The research descriptively and analytically reviewed Palestinian diplomacy in 21st century and the role of the European Union in fostering the Palestinian statehood. The research therefore intended to answer the main question which referred, to what extent is the EU policy towards Palestine aiding the establishment of a fully functioning, legally recognised Palestinian state?. Moreover, the research aimed at providing an overview on Palestinian diplomacy by analysing its characteristics and the main challenges that it faces as well as the EU’s policy towards the Palestinian state. In an attempt to achieve the aim above, the introduction of this study raised a set of questions to be addressed throughout the chapters of the study. The study consequently has been divided into three chapters to answer these questions consequentially and coherently.

The first chapter demonstrated the theoretical framework of Palestinian diplomacy by describing the literature review on diplomacy and illustrating the differences between the term diplomacy and foreign policy. Then, the chapter reviewed the historical impact of Palestinian diplomacy over the last decades by depicting the evolution and development of Palestinian foreign policy. Moreover, the study has focused on Palestinian diplomacy in terms of executing and implementing the Palestinian foreign policy.

This chapter found that Palestinian diplomacy is considered as an unique and distinct case in the modern history which is different from states diplomacy. Palestinian diplomacy has started in the absence of sovereign Palestinian political entity and it started before the establishing the Palestinian National Authority. Moreover, the PLO has begun the diplomatic relations with other states and with the international community from outside the Palestinian Territory and it has succeeded to build a diplomatic relations with many states in order to garner the international support to the Palestinian cause.

The second chapter illustrated the new diplomatic methods that might be used by Palestinians in order to achieve the Palestinian statehood and to gain benefits of international law. This chapter extended to examine the diplomatic recognition of states in status nascendi which could be the case of Palestine. The chapter found that the emergence of Palestine as a non-state actor which emerged from the multilateral negotiations, and the evolutionary
nature of international politics have given credence to the *de facto* acceptance of the change of the international political system.

The second chapter also shaded light on the main features of Palestinian diplomacy in 21st century and the main challenges that it faces by analysing the Palestinian diplomatic methods to the international bodies in order to achieve the Palestinian statehood. The PNA has shifted its diplomatic efforts to more multilateral environment through the international bodies in order to advance and establish the Palestinian state; especially after the collapse of all bilateral peace talk initiatives in the last two decades. Consequently, the researcher suggests that shifting Palestinian diplomacy to the multilateral environment which includes conventional path that runs through the United Nations (UNGA and UNSC) and unconventional path that runs through International Courts, in particularly the ICJ and ICC, could be more effective way to achieve the recognition of Palestinian state, instead of pushing for the recognition from individual states which does have little effect.

This chapter also explored the Palestinian bid to a full membership at the UN and the role that these international bodies could play in supporting the Palestinian state. Taking into account that, the international bodies route is not always an easy way and there are many challenges and scenarios that face Palestinian diplomacy which may lead for positive and negative legal and political ramifications.

Accordingly, it is suggested that the Palestinian bid to the UN will not absolve the Palestinians of the need to negotiate with the Israeli side, however, the Palestinian bid for a full membership at the UN would improve the negotiation leverage with Israel.

The third chapter dealt with the European Union's diplomatic instruments towards the Palestinian state by analysing and assessing the EU's policy in fostering the Palestinian state as well as the EU's position towards the Palestinian bid at the UN.

This chapter recalled that, the EU as one of the largest economic and political actor in the world has a leverage in maintaining the stability and security in the Middle East, as well as in fostering the Palestinian State. The EU has always been strong supporter of the Palestinian state-building through its involvement in the peace process. In the last decades, the EU has deployed various policies and instruments; particularly diplomatic and economic tools in
order to advance the creation of a Palestinian State. However, it is clear that the EU's involvement in supporting and building a Palestinian State either by providing financial and economic support, or supporting the Palestinian institutional building were ineffectiveness and have not achieved the main objectives of creating a fully functioning, legally recognised Palestinian state, in spite of the leverage the EU had.

The third chapter has also revealed that the Palestinian bid for a statehood at the UN is considered as a potential Pandora's box for the EU's member states. Therefore, what is not known at this moment is how the EU will succeed to manage a common position between its member states regarding to the Palestinian request to a full membership at the UN.

Therefore, the researcher indicated that the EU as a largest single donor to the Palestinian and a member of the Quartet, as well as with its new speaking powers at the UN can do immense effort regarding to the Palestinian bid at the UN. The EU can draw the support to the Palestinian State not only through its 27 member states, but also the EU can gain the support of other countries that often vote alongside with the EU.

To sum up, the researcher proposes that the EU may gain more value and more important role towards the Middle East peace process by supporting the Palestinian State. Thus, the EU shall succeed to find a common position and avoid any division between its member states in order to speak with one voice. In addition, the EU's member states should not repeat the UNISCO scenario on the Palestinian request for a membership; where the EU failed to come to a common position between its member state. Otherwise, EU may show its internal split which ultimately undermine its credibility and confirming that the EU is not yet able to speak with one voice regarding to the Palestinian State.
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