

RECOGNISING PALESTINE, UNRECOGNISING SETTLEMENTS

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Achieving a two-state solution to the Israeli-Palestinian conflict through the creation of a fully sovereign Palestinian state has been a long-standing EU policy objective. Of all the territorial disputes outside Europe, it is without a doubt this conflict that has most preoccupied European decisions-makers. The EU's historical role as a political player in Israeli-Palestinian peacemaking has translated into a set of policy positions that have, at times, been a precursor to those adopted by the United States years later. The 1980 Venice Declaration acknowledged the rights of Palestinians to self-determination; while the 1999 Berlin Declaration constituted the EU's first explicit commitment to the creation of a Palestinian state. The US did not adopt such explicit positions until 1982 and 2002, respectively.

Europe's political commitment has been accompanied by a substantial financial contribution, including around €3 billion in aid for Palestinians between 2007 and 2013. Thanks to this, Palestinian institutions have been deemed by the IMF and World Bank to be "statehood ready". This is in addition to €788 million in contributions to UNRWA over the same period, making up 57 per cent of the organisation's regular budget. This has not only made the EU the largest donor to Palestinians, but also effectively relieved Israel of the financial burden of maintaining its occupation.

Alongside this, the EU has continuously sought to deepen cooperation with Israel, giving it unique access across a range of areas relating to free trade, tourism, hi-tech, security and education. As a result, Israel is amongst the non-European countries that have been the most integrated into the EU system. And with total

trade amounting to approximately €29 billion in 2013 thanks to a Free Trade Agreement (FTA), the EU has become Israel's foremost trading partner.

The unprecedented amounts of European political and financial capital invested in the furtherance of a two-state solution and the depth of its relations with both sides has given the EU a unique position in the promotion of peacemaking between Israelis and Palestinians. The US' re-assessment in 2015-2016 of its own efforts and its quiet encouragement for a stepped-up European role has further provided an important opening for the EU.

At present the main vector for European action are France's efforts to forge a renewed international mobilisation to safeguard the viability of a two-state solution and ultimately create the conditions for restarting meaningful negotiations, including through the convening of an international support group. But at a time of continued impasse and limitations in the peace process in its current configuration, many EU member states and their parliaments have increasingly come to view bilateral recognition of Palestine as an additional tool for unlocking diplomatic progress. This approach will gain increasing traction should France's international diplomacy reach an impasse.

While Sweden's decision to recognise the State of Palestine in October 2014 so far remains unmatched by other EU members, seven of them have seen their national parliaments vote to advance Palestinian recognition hand-in-hand with negotiations. Should France formally recognise Palestine – as it has pledged to do if its peace efforts fail – a number of other European states can be expected to join the recognition bandwagon. However, this track must be pursued in parallel to other efforts, most notably vis-à-vis the Palestinians, with a particular emphasis on intra-Palestinian reconciliation and popular representation.

Recognition can send a strong message to an increasingly annexationist Israel and a beleaguered Palestinian leadership. A vote in favour of Palestinian national aspirations would be an endorsement of President Abbas' commitment to diplomacy at a time in which he is increasingly squeezed on the domestic front, with over half of Palestinians believing that his Palestinian Authority has become a burden. Recognition would also reaffirm continued EU (and Palestinian) recognition of Israel's legitimacy and right-to-exist within its internationally recognised borders.

Recognition by itself, however, will do very little to advance on-the-ground sovereignty for Palestinians. Under current circumstances, advancing down the road of a virtual Palestinian state may actually end up benefitting Israel. While obtaining a symbolic

acknowledgement of Palestinian statehood can help keep alive the idea of a two-state solution, it does not necessarily bring it closer to fruition. Recognition with neither Palestinian sovereignty nor defined borders may actually reinforce a status quo that has allowed Israel to pursue its silent annexation of Palestinian territory – something that can only be sustained so long as the vision for two states remains alive (yet unreachable). Israeli support for a peace process based on direct negotiations with the Palestinians should therefore not be confused with a genuine intent to allow for the creation of a Palestinian state in any other form than a disconnected series of Bantustans. This will remain the case regardless of whether Isaac Herzog – the leader of Israel's Labour Party – joins Prime Minister Netanyahu's ruling coalition.

Palestinian recognition by itself cannot fundamentally challenge the cost/benefit calculations that underpin the Israeli public's support for the status quo. Ultimately an end to occupation and the creation of a sovereign Palestinian state can only be delivered by the Israeli public itself once it decides that moving in this direction is in its best interest. For now such a scenario remains distant, not least given the political enfranchisement of settler and pro-annexationist voices, many of whom hold influential positions in the Israeli government, combined with decreasing public support for two states based on internationally accepted parameters.

Nor is achieving a peace agreement with the Palestinians still seen as the main priority for Israeli Jewish society, where half actually favour annexing Palestinian territory. Moreover, Israeli perceptions of the conflict and its causes are also shifting. According to a March 2016 Pew survey, a plurality of Israeli Jews believe that settlements help Israel's security, while another poll found that 71 per cent do not view Israel's control of the West Bank as "occupation". This has been accompanied by extensive efforts by successive Israeli governments (on both sides of the political spectrum) to render obsolete the 1967 Green Line – the future basis of a Palestinian state – and integrate Israeli settlements as fully as possible into Israel's socioeconomic fabric.

Quite simply, there is currently very little that would compel Israelis and their leaders to move away from what has been a largely comfortable status quo and towards an end to occupation. European attempts to coax Israel in this direction and moderate its behaviour through the thickening of bilateral relations have proved a clear failure by any standard. The EU's offer in December 2013, for instance, of a Special Privileged Partnership (SPP) promising unparalleled support for Israel in the event of a peace agreement has been met with deafening silence.

In fact, according to a May 2014 poll commissioned by ECFR, over half of Israeli Jews actually believe that only a combination of incentives and disincentives would be capable of convincing their government and Knesset members to accept a two-state solution. Should it one day wish to use it, the EU does have plenty of leverage at its disposal by virtue of its close relations with Israel. For instance, Europeans could couple Palestinian recognition with a fuller and more effective non-recognition of Israeli settlements. Far from re-inventing the wheel, the EU would be building on a number of steps it has taken over the last decade to differentiate between Israel and its settlements.

As a law-based community, the EU must adhere to its own legal obligations to ensure that settlement-linked entities in no way benefit from deepening EU-Israel ties. International law is designed to make permanent occupation unsustainable and disincentives illegal acts by an occupying power, such as annexing occupied land, or deriving any economic or financial benefit from the occupied territories. Third parties have a universal legal duty to ensure that their actions do not indirectly facilitate violations of international law by an occupying power or help prolong its occupation. They also have an obligation to ensure that their actions do not confer recognition of the occupying power's sovereignty over the occupied territory, while ensuring legal compliance by their own citizens and businesses.

These actions are essentially "self-reflexive", in that they require actors such as the EU to respect their own legal provisions. European normative power does, however, require Israel to choose to implement and enforce upon itself the limitations and conditions that are required to permit others to conduct dealings that Israelis value the most. The alternative would be for Israel to either end its occupation or risk a situation in which maintaining ties with the EU (and the broader international community) becomes increasingly fraught. Indeed, Israel has repeatedly accommodated the EU's territorial distinction, including in its Free Trade Agreement, in signing up to the EU's Horizon 2020 research and development programme, and by enacting its own differentiation within its domestic poultry and dairy production lines to meet EU import requirements.

This has, of course, not been without significant Israeli blowback, the most extreme example of which being its attack on the EU's guidelines on the correct labelling of Israeli settlement products through comparisons to anti-Semitism and the use of Nazi imagery. The forcefulness of Israeli reactions can in part be explained by the fact that the EU has repeatedly cut across a prime political objective pursued by Israeli right-wingers and "Greater Israel" advocates for whom international refusal to recognise

Israeli settlements as part of Israel is seen as a major stumbling block in their drive to advance the “normalisation” of the settlement movement as an integral part of Israeli society.

Now more than ever it is therefore important for the EU to ensure that its bilateral relations with Israel do not undermine European efforts to achieve a Palestinian state. This means continuing to uphold the saliency of the 1967 Green Line by unequivocally making the distinction between Israel and the territories it occupied in June 1967. Given domestic dynamics within Israel, such measures also carry a very strong political message of the EU’s continued commitment to the two-state solution and opposition to Israel’s settlement ideology. As the case of Horizon 2020 illustrates, confronting Israeli society with a moment in which it has to choose between pursuing the relations that it values with Europe or maintaining an ideological commitment to the settlement enterprise can in itself be a useful European contribution. If expanded to other areas of importance to Israelis, such an approach can demonstrate that Israeli actions in the occupied territories do incur a cost. Ultimately, this may perhaps even move Israeli society in the direction of the decisions that are necessary to reach a final status agreement with the Palestinians.

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