

## The EU and the Middle East Peace Process: Re-engagement?<sup>1</sup>

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In the aftermath of the January 2007 Saudi Arabia-sponsored 'Mecca Agreement', the formation of a Palestinian National Unity Government raises the prospects of a European re-engagement with the Palestinian Authority. The EU's decision after the elections of January 2006 to boycott the Hamas government has had a number of negative effects. One of the most serious is that progress has been undone on Palestinian institutional reform, an area where European governments and the European Commission had begun to establish a useful and lead role. A unity government between Hamas and Fatah should be used as a platform from which to renew this reform-oriented focus of EU policies, still the policy area where Europe can best add value to the plethora of initiatives developed by other international actors. There are lessons to be learned in *how* Palestinian reform should be supported and in how 'low politics' EU instruments can be most effective if pursued as part of a broader European political engagement.

### Responding to a National Unity Government

Some European policy-makers have been minded to argue that sanctions have succeeded in moderating Hamas and obliging it to accept a unity government. It is probably more convincing to suggest that Fatah and Hamas recognised that they were simply fighting each other to a standstill and that neither could prevail entirely in a civil, armed conflict.

The EU argues it tried to get the best of two worlds: to use the boycott to pressure Hamas on the well-known three conditions (renunciation of violence, recognition of Israel, recognition of past agreements), while using funding through the EU-designed Temporary International Mechanism (TIM) to provide basic services to the Palestinian population. It is regularly pointed out that ironically EU aid has actually increased since Hamas' election. Commission aid increased from around 100 million euros in 2005 to nearly 200 million euros in 2006. The total EU spend in the Occupied Territories for 2006 was around \$800 million, up a quarter from 2005. Projects were wound down on ad hoc basis, rather than completely cut off when the boycott was imposed.

Arguably, however, the outcome has been the *worst* of both worlds. Despite increasing aid resources, the EU has lost much popularity and good will amongst Palestinians – invariably seen as the EU's comparative advantage in peace process diplomacy. Yet the TIM itself represents a drop in the ocean related to the scale of challenges facing the Occupied Territories and has not prevented a significant increase in poverty levels amongst Palestinians during the last year.

The TIM covers short term essentials, contributing towards health, fuel and social costs. It has coordinated Commission and member state donations well and in circumvention of normal intra-EU bureaucratic delays. Many now see it as a model to extend to other crisis situations. But its support is small scale. It has covered

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<sup>1</sup> This paper is based on oral evidence presented to the House of Lords European Union Committee Inquiry into the European Union and the Middle East Peace Process, 8 March 2007.

only a small part of medical needs and salaries. And this, of course, further reinforces people's dependence on Hamas for basic services, as the 'state' increasingly fails.

Reflecting these concerns, there has been exhaustive debate on extending the TIM's scope. Undoubtedly this is required. But the familiar issue of aid dependency must also not be overlooked. The provision of short term emergency relief must not – as so often happens in conflict situations – turn into a long term substitute for help on self-sustaining economic regeneration and diplomatic pressure to ensure that the Occupied Territories enjoy unfettered access to neighbouring, regional and international markets. One lesson from European support provided during the 1990s is that little benefit accrues from pouring in huge amounts of money if these simply help feed networks of nepotism and clientelism, and actually fan the flames of factional rivalries by being seen to be favouring one group over another.

This means that the EU should use the formation of a National Unity Government to look for ways of re-engaging. And one way to do this might be to get that government to agree to work with the EU on questions of institutional reform, identifying the latter as part of a broadened international funding mechanism. It is such reform projects that have been a casualty, first of the second intifadah and then of the 2006 boycott.

The creation of a new government should also help push the EU back towards a more balanced engagement on economic issues – still for many observers the area where the EU enjoys its most significant potential weight and influence. The EU has faltered badly in its proclaimed aim of supporting regional economic integration as a means of underpinning progress on the high politics of the peace process.

A key issue here is the way in which Israel's actions have fundamentally undermined the basic principles of EU trade agreements. Of course, many reports through the years have urged the EU to 'get tough with Israel'. And sceptics have always retorted that punitive action against Israel would be counter-productive for the EU's own influence, and that such measures would anyway not win the support of a number of member states, for well-known (often, historical) reasons. However, even those sympathetic to these latter arguments must accept that it has clearly not been good for the EU's influence, image and credibility for Israel to have been allowed to disregard the technical, trade facilitation provisions of the EU's own agreements. Even if a debate might be had on the EU's reluctance to take dramatic punitive actions against Israel on big political issues (incursions etc), it seems difficult to rebut the observation that its inability or unwillingness to take action against measures that undermine the whole viability and meaning of the EU's *own* instruments makes it look extremely weak.

At a technical level, Israel often seems to be making a mockery of the principles underlying the trade provisions to which Israel itself has signed up. The long-running dispute over trading conditions under EU Association Agreements demonstrates how well-intentioned European instruments can be sucked into the conflict and almost provide additional motive for intransigence and tension. The basic charges are that Israel first, insists on Palestinian exports to the EU going through Israeli intermediaries and second, labels goods from illegal settlements as 'made in Israel' and therefore eligible for preferences under the EU-Israeli Association Agreement.

While there has now been movement on the labelling issue, with the EU listing (settlement) postcodes that will be excluded from trade preferences, the economic domain is one where the EU should be seeking much more far-reaching advances

as the region enters a new post-Mecca political phase. Debate has been focused during the last year on the Hamas boycott; but, arguably more disappointing, at a deeper level is the fact that Palestinian trade with the EU has not taken off; the EU's Association Agreement with the PA has not helped move the Palestinian economy away from its vulnerable dependence on the Israeli economy; and the Association Agreement has not gained traction as a trade facilitating instrument. Much of this relates to the failure to garner the EU's economic clout, and its presence through the instruments of the EMP, successfully to ensure that Israel abide by the Agreement on Movement and Access.<sup>2</sup> This has essentially negated any positive impact of the various trilateral forums set up by the EU to foster transport, trade and infrastructure links between Israel, the Occupied Territories and the European Union. These are the areas where the EU could make a renewed effort, and give substance to its now familiar, but essentially hollow, assertions that it seeks to use its economic tools and presence to boost its political role in the peace process.

In so far as such questions touch on comparisons between EU policies towards Israel and those towards the PA, the importance of perceptions cannot be overlooked. And the widespread perception is of a clear double standard. With Israel the EU's argument is tantamount to, 'The best way to influence a third party to change behaviour we don't like is deep partnership' – a partnership that militates against firm action even where the 'partner' flouts the principles of that relationship. With the Palestinians since last year, the argument has rather been, 'The best way to change the behaviour of a third party is isolation'. Of course many will insist that the situations are not comparable. But this lack of consistency undeniably rebounds against the EU's credibility.

### Reviving Reform

EU support for Palestinian institutional reform had begun to make headway. The EU was using a skilful mix of funding, incentives and political conditionality. In doing so, it was walking a very thin line. On the one hand, it sought to nudge along Palestinian reform without detracting from the fact that a fully functioning democracy depended most essentially on the end of occupation. On the other hand, by the late 1990s it had become clear that unduly neglecting underlying reform was militating against the prospects for peace. The EU was criticised from both sides, variously for being either too critical towards or too indulgent of the Palestinian Authority political elite.

But this was certainly the area where the EU became lead funder and exerted no small influence. It deployed both MEDA and European Initiative for Democracy and Human Rights (EIDHR) funding, the latter a means of channelling aid in a way that did not require acquiescence from the Palestinian government. It was the area of policy where the EU did use political pressure and where coordination between different EU donors on the ground was said to be good.<sup>3</sup>

And it is the area that has most suffered since the January 2006 Palestinian elections. The TIM has certainly been a positive help, but might be likened to covering problems with a sticking plaster. Indeed, the TIM actually bypasses many of the good governance mechanisms (such as the single treasury account) that the EU had successfully pressed for. Under the TIM it is not clear who decides who gets

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<sup>2</sup> For more details on this, see House of Commons International Development Committee, *Development Assistance and the Occupied Palestinian Territories*, January 2007, pp. 20-21.

<sup>3</sup> For a more detailed account of EU policies in the Occupied Territories up to January 2006, see Richard Youngs, *Europe and the Middle East: In the Shadow of September 11*, Lynne Rienner, 2006, chapter 5.

what, and diplomats complain of money draining into 'a black hole'. The MEDA-funded judicial reform programme was one illustrative governance reform casualty of the boycott.

Whatever the legitimate concerns over Hamas doctrine, the perception – across the Middle East – is that the boycott confirmed all the worst suspicions about Europeans being disingenuous in their commitment to support democratic norms. This is an obvious point, perhaps, and one that policy-makers are well aware of; but it is significant that in the 14 months since the elections the EU has done nothing significantly to mitigate this highly damaging impression.

The three conditions imposed on Hamas include nothing that relates to standards of democratic governance or issues of civil rights within the Occupied Territories themselves. The shortcomings of democratic governance and accountability are issues of considerable day to day concern for Palestinians, and at the root of much of the internal conflict within the Occupied Territories, which of course then feeds negatively into the peace process. Even if the three conditions imposed on Hamas are deemed necessary, it is important to try and press for their fulfilment in a way that does not completely choke off work and dialogue on democratic reform. Such reform is crucial for longer term peace prospects. The EU risks playing into the hands of those opposed to democratic reform by putting all the focus on these other (three) conditions. Concerns have arisen over the nepotism and clientelism governing the way in which Hamas distributes its social welfare benefits; but such 'governance' concerns have been eclipsed by the issue of the formal 'recognition' of Israel, which is actually far less potent as a day-to-day generator of societal tension.<sup>4</sup>

Many voices in the EU have indeed begun to talk of the desirability of renewing the institution-building agenda. The Governance Strategy Group, chaired by the Commission, has been reactivated. Proposals are being drawn up. Restarting security sector reform work is seen as especially important, with proposals to restart funding through COPPS (the Coordination Office for Palestinian Police Support).

If the EU follows the January 2007 European Council conclusions – accepting the sufficiency of Hamas 'respecting' existing agreements with Israel – there might indeed be scope for such an evolution in policy. There appears to be wider acceptance that the new government should be assessed on what it does, rather than Hamas being backed into a corner to accept select conditions in formal, rhetorical terms. The stock phrase of many European ministers and commissioners has indeed become: 'we will judge the government by its actions'.<sup>5</sup> It remains to be seen, however, if the more cautious member states will in practice be willing to move ground.

Amidst the current optimism, it is important to caution that the unity government should not in itself be seen as a panacea. Indeed, care must be taken that it does not lead to decisions based on deals between political elites, struck behind closed doors in a way that undermines responsiveness to the public. Other conflict situations show that over the long term such elite deals do not augur well for peace, if they make the general public feel excluded and bereft of measures to ensure democratic accountability.

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<sup>4</sup> International Crisis Group, *After Mecca: Engaging Hamas*, Middle East Report no. 62, 28 February 2007, p. 9

<sup>5</sup> See for example, Benita Ferrero-Waldner, Speech at the Hebrew University of Jerusalem, 27 February 2007, available at <http://europa.eu/rapid/press>.

Indeed, it might look curious to some that the EU has not applied even conditionality in relation to 'democracy' per se, but *is* now applying it in relation to a 'unity government' – which is not an essential part of the equation of democratic governance. European politicians routinely say that their distinctive approach is to support democracy without prescribing detailed forms of government, but here the EU is being about as prescriptive and 'interfering' as it is possible to be.

It is also important to consider carefully the *way* in which support for democratic reform is renewed. Many statements from ministers and diplomats equate 'supporting democracy' with 'supporting the president's office'. The United States has been more open and extreme in its declared preference for supporting president Abbas, with an aim of ousting Hamas. But European governments have themselves drifted towards preferential support for the president's office. Support has continued to go to this office, as an informal exemption from the European boycott; and current plans being drawn up present it as preferred interlocutor. In addition, European governments supported Abbas's call for new elections when this looked dubious from a constitutional point of view.

Support for president Abbas might seem instinctively reasonable, but must not be pursued at the expense of a broader reform agenda. The EU must not understand 'supporting reform' to mean favouring moderate figures seen as 'our allies'. The point is to support democratic *process*, not overtly give preference to those deemed 'helpful moderates'.

There is even something counter-intuitive in the current approach. Until last year, for a decade EU aid had gone to a small Fatah clique that had wasted these resources and created an increasingly corrupt and opaque set of political institutions. And that was a large part of why Hamas won the elections in 2006. Now the EU appears to be changing its funding patterns deliberately to engineer a continuation of financial flows to that same clique. This risks simply recentralising power and reverses the EU's support for a more parliamentary style of governance in the early 2000s. Fatah needs to be pressed to democratise, not given unconditional and preferential support by external actors.<sup>6</sup>

Such shortcomings have been concentrated in the EU's two missions in the Occupied Territories. The Gaza police mission, COPPS is widely praised as being more focused on strengthening civilian democratic control and on creating a single police force – while the US has authorised military support for the Presidential Guard. To a large extent this is the case. But COPPS' reform elements have, in practice, themselves been limited. Most funding has gone to providing anti-riot equipment and other materiel. Most Palestinians see COPPS as a programme helping to quash Hamas rather than supporting a security sector reform that would give the latter a stake in security provision. And in practice several EU donors have also increasingly focused on bolstering the Presidential Guard under seemingly anodyne programmes of 'capacity-building'. Again, this represents a 180° turn around from 2003-2004 when the EU had started focusing on bringing security forces under the control of the prime minister's office. This makes the European approach to security reform look as if it is governed by short term expediency rather than a well thought out approach to enhancing democratic accountability over security forces. Moreover, both COPPS and the EU's second operation – the Rafa Border Assistance Mission, or EUBAM – have been rendered inoperable during the last year. In both cases, the lesson is that self-standing security missions are

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<sup>6</sup> Muriel Asseburg, *EU policies towards the Palestinian government – neither state building nor democratisation*, mimeo, February 2007.

left vulnerable if they are not backed up at the political level or linked in with the carrots and sticks of overarching EU frameworks.<sup>7</sup>

The examples of other conflicts suggest that outside powers get into problems precisely when it is perceived that their talk of supporting democracy reduces to 'supporting our kind of democrats'. The more one-sided the EU is in this respect the more it will drive Hamas into the arms of Iran. Problems have arisen precisely because Hamas feels excluded from having a genuine stake in governing despite having won the elections; the EU must take care not simply to compound this imbalance. If it releases funds to support state-building just through those ministries under Fatah control, this will produce a lop-sided model of democracy assistance and once again send the wrong signals to both Fatah and Hamas.

### Political leverage

The broader challenge still facing the EU, beyond these immediate decisions over funding, is the familiar one of trying to leverage its on-the-ground, 'low-politics' presence for greater influence over the high diplomacy of the peace process.

Of course, the EU can claim much credit for influencing international debate by stating its support for a two state solution as far back as the 1980 Venice Declaration and then in the 1999 Berlin Declaration. It probably is true that EU policy was one factor that pushed the US gradually towards acceptance of a two state solution.

Also, the EU can gain credit for having realised early on that it would not be enough to reach a formal peace agreement at the political level, but that such an agreement would need to be underpinned by cooperation between civil societies, economic integration and cultural links, as a means of making peace sustainable. This was the essential philosophy that underlay the creation of the Euro-Mediterranean Partnership (EMP).

When the EMP was created in 1995 the model was that the EU could play the lead role in fostering cooperation, interaction and integration between Israel, Palestinians and all neighbouring countries. It sought to this by setting up a rich and dense framework of cooperation across many policy areas (trade, industry, energy, culture, social policy, education and many others). This low politics, technocratic approach would give greater solidity to progress made at the level of high politics.

The experience of the last decade clearly reveals the limits of such an approach. These quintessentially EU instruments require improvements in overarching political conditions to work in an effective way. They have not themselves helped create those favourable political conditions – as the kind of thinking originally expounded.

The EU initially funded a raft of cross-border projects and supported cooperation between Palestinians and Israeli civil society organisations, especially on human rights monitoring. But most such initiatives had in de facto terms ceased functioning well before Hamas won the 2006 elections. Again, while most attention over the last year has centred on the decision not to deal with Hamas, in some senses at a deeper level the EU's approach was already faltering.

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<sup>7</sup> For more details on the two European missions, see CITpax, *EU Civil Missions in the Palestinian Territories: Frustrated Reform and Suspended Security*, Middle East Special Report No. 1, Summer 2006.

Far from the EMP having fostered better links at a social, economic and cultural level, it has either stood passively aside while these connections have deteriorated or even been drawn in as a source of new tension. Now, of course, day to day links are increasingly hampered by curfews, a labyrinth of checkpoints, the barrier, the delinking of the two economies and the separate road systems set up by Israel. All these measures are profoundly inimical to the principles underlying the EMP.

This situation demonstrates the need for a more political engagement. It is not that the EMP in itself was badly designed. Indeed, it is still at these low-politics levels where the EU operates best. But these can be effective only as part of a more political engagement, directed at final settlement negotiations. Of course, it is often pointed out that the Roadmap was a European (German and Danish) creation. And that at least for a brief window Tony Blair expended his 'Iraq capital' on pushing the Bush administration to re-engage on the Middle East peace process. But in general, the EU has been too willing to accept that its role is limited to being an on-the-ground presence. The problem is that the more it digs itself in to being the actor that plays this role, the more its influence appears disconnected from the political level.

The disconnect between the political-diplomatic level and on-the-ground presence is a problem generic to the Common Foreign and Security Policy (CFSP). But most practitioners admit it is especially marked in relation to Middle East peace process. The long-running charge from EU high representative Javier Solana is that continuity is disrupted by the rotating six month presidency, which undercuts clarity and the ability to build-up mutual trust. Competitive national diplomacy does not help. Bilateral visits and plans launched from different member states (including recently from Madrid) are not coordinated at EU level. All this leaves a sense of confusion in the Middle East. CFSP was designed to ensure that the EU whole was greater than the sum of its parts. In fact, it has been the other way around. Individual initiatives are forwarded but do not gel together: the whole ends up very much *less* than the sum of its parts.

It is in trying to leverage more macro-level political influence that the European Neighbourhood Policy could prove useful. ENP marks a turn towards bilateral dealings with individual partners. In a sense it reflects the failure of the Barcelona design. It could be said in this sense that the collapse of the Middle East peace process has influenced EU policy more than EU policy has influenced the peace process. The ENP could prove beneficial, to the extent that it allows the EU to modulate its inducements and pressure in a more agile way in relation to both Israel and Palestinians, on a bilateral basis.

If the EU does re-engage with the National Unity Government, full implementation of the Action Plan already signed with the Palestinian Authority could act as a valuable incentive for Palestinian political elites. Certainly the European Neighbourhood Partnership Instrument (ENPI) and the successor EIDHR promise more flexible funding procedures, which in turn would lend weight to the European voice.

Perhaps even more pertinent is the question of whether the ENP can finally offer incentives attractive enough to give the EU influence over Israel. On this, the jury is still out. Since the Neighbourhood Action Plan was finalised with Israel at the end of 2004, talks have proceeded pursuant to incorporating Israel into a wide range of EU programmes – covering energy, economic competitiveness, education, transport links, judicial cooperation, research, the environment, culture and many others. There is a lot talk of offering Israel the option of joining CFSP positions, extending a creative use of variable geometry in the EU's external relations. EU officials insist

that all this represents a step change in policy towards Israel and that the latter has begun to engage more positively, for example within an EU-Israel human rights dialogue. At the same time, EU aid to Israel is negligible (the latter is eligible only for a limited amount of regional funding), and European carrots pale alongside the direct military assistance provided by the United States. Moreover, there has been no talk so far of making Israel's participation in EU programmes conditional on its willingness to engage in final settlement talks.

Of course, the EU cannot achieve significant advances on its own at the political level. But it could at least begin to put forward ideas – as it did with the Roadmap – of how to retain the valuable aspects of the Roadmap but complement the latter's sequential approach with a broaching of final settlement issues. In sum, the EU needs to use the potential of this new juncture both to return to the previously strong aspects of its presence in the Occupied Territories; and to harness its new instruments to correct the long-standing weaknesses of its low politics strategies.

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