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**AFTER THE PALESTINIAN AND ISRAELI ELECTIONS -
DOMESTIC DEVELOPMENTS AND FUTURE
RELATIONS**

A Report by *Roberto Aliboni* and *Nathalie Tocci*

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AFTER THE PALESTINIAN AND ISRAELI ELECTIONS - DOMESTIC DEVELOPMENTS AND FUTURE RELATIONS

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This Report is divided into three parts. The first part provides a summary of the policy recommendations to the European Union (EU) made by Israeli and Palestinian seminar participants. The second part provides an analysis by the Report's authors of the present dynamics in Israeli-Palestinian relations. The third part sets out the authors' own recommendations.

1. Recommendations of Israeli and Palestinian participants

The following set of recommendations came from the Israeli side and regard the policies the EU should adopt to manage the ongoing crises in the framework of Israeli-Palestinian relations and its international environment:

1. Do no harm. Recognize that Hamas' election victory is an unprecedented situation and that there are thus more questions than answers right now. We do not have the tools to assess where this can lead and how the situation is going to evolve. All this is a learning process.
2. Stick to principles, that is to the three criteria the EU has established for itself in dealing with Hamas. Don't deny them.
3. Corollary of 1 and 2: Use a mixture of carrot and stick (even experimentally, to see how Hamas reacts) to ensure a bare minimum to prevent crisis – the carrot being aid, the stick clear responses (e.g., to suicide bombings).
4. Support disengagement with sensible conditions since it is the only practical way to manage the conflict and avoid further deterioration. In doing so, keep your principles and your own set of constraints, such as dismantling outposts, insisting that the next phase should include East Jerusalem, etc., in terms of keeping options open.
5. Since Hamas will not go away and since Israelis and Palestinians cannot ignore one another, work to bring Israelis and Hamas together for informal talks on a private, track-two level.
6. Looking at the broader picture, it is worth investigating under the current conditions (no peace process in sight) the possibilities of reopening the Israeli-Syrian track. Syria has suggested negotiations in the past two or three years but these were turned down by Sharon and the US. This topic should be raised by the Europeans with Americans since Syria is the weak link in the Iranian framework and Olmert does not have the same reservations as Sharon had when dealing with Arab states. In addition, Hamas and others have their Headquarters in Syria.

From the Palestinian side, while two such recommendations were explicitly opposed:

1. Europe should avoid organizing track-two events, which are remembered as business-like relationships and seen negatively by the public as distracting from the official track and as dividing/weakening the participants from their constituency. To avoid these small baskets, an effort should be made to organise open conferences and seminars, locally, regionally and internationally.
2. It is too dangerous to avoid the core of the conflict by shifting the negotiations onto other tracks, i.e. Syria and Israel. It is worth considering the call for a serious committed comprehensive international conference inviting all partners concerned to address the two-state solution.

the following recommendations to the EU were set out:

3. Keep a close eye on the Palestinian national dialogue which is expected to lead to consensus on three issues:
 - a. The PLO is the sole legitimate representative of all the Palestinian People.
 - b. Renunciation of violence and limiting Palestinian resistance to the Occupied Palestinian Territories, excluding Israel.
 - c. Hamas endorsement of all PLO/PA agreements with some reservations (e.g. some previous agreements will not weaken consensus)
4. Europe should keep a visible, continuous presence in Palestine and not limit its support to humanitarian issues but consider seriously the other two aspects of budget and development. It is worthwhile that Europe start sending heads of universities and major businesspeople to visit Palestinian universities and private sector establishments and sign joint cooperation programs (e.g., exchange programs as well as investment and development plans).
5. Europe should not label the current Palestinian government as “ Hamas government” but should support the process of reshaping the government with national coalition members and towards a national agenda for the two-state solution. Any kind of dialogue with Hamas officials or supporters should not be isolated or separated from the rest of the house, but dialogue with all Palestinian factions, including Hamas, should be pursued in order not to legitimise any one party at the expense of the others.
6. Europe should speak openly about international law as the principle to be implemented in the current conflict: i.e., issues like the wall, settlements, Jerusalem, prisoners, Gaza crossings, airports, ports etc.
7. Since the unilateral Israeli Convergence Plan promoted by Olmert/Kadima will lead to more confrontation and blood in both societies, the EU should back negotiations with EU or Quartet guarantees for the implementation of the Road Map.
8. The Turkish model in terms of separation between the State and the Religion should be explored and some efforts made to bring the three major institutions in the region - the Arab League, the Organization of Islamic Conference, and the Gulf Cooperation Council - to contribute in some way to alleviating the current crisis.

9. Europe should carefully study the pros and cons of deploying NATO forces to function as peacekeepers in the West Bank, Gaza, and on the borders, as has repeatedly been suggested, and should be ready to participate in such an endeavour within the framework of its ESDP.
10. Europe should promote active diplomatic and political collaboration with the Arab countries and support their effort to make the parties agree on the Saudi Plan.
11. The Europeans should avoid espousing a crisis management approach to the extent that it may mean shelving conflict resolution and legitimising Israeli unilateralism.

2. An analysis of the present state of affairs in Israeli-Palestinian relations

2.1. Which crises to be managed?

There are two principal independent albeit inter-linked crises in the Israeli-Palestinian conflict. On the Israeli side, there is a crisis of unilateralism and disengagement from the peace process. The seeds of unilateralism were sown immediately after the 1967 war and the beginning of Israel's construction of settlements and infrastructure in the Occupied Territories (OTs). Yet the roots of the current crisis, which has taken the more precise form of disengagement, stem from the failure of the Camp David II summit and former PM Barak's rhetoric on the absence of a Palestinian partner for peace. This rhetoric has continued to date. In 2000-2004 it was directed at Yasser Arafat, given the late Chairman's ambiguity vis-à-vis the end of Palestinian violence and the suicide bombing campaign. In 2005 it shifted to Mahmoud Abbas given the new president's inability - despite his willingness - to curb Palestinian violence. It has now shifted to the new Hamas government given that - despite Hamas' restraint from terrorism since the February 2005 Cairo declaration - the movement refuses to permanently renounce violence and to condemn violent acts perpetrated by other Palestinian groups. Following this logic we understand why the rise of Hamas has strengthened rather than diminished Israel's commitment to unilateralism.

The by-product of unilateralism is that Israel no longer requires preconditions from the Palestinians. Neither does Israel demand a commitment to signed agreements as during the Oslo years, nor does it precondition its actions to an end of Palestinian violence as during the early years of the second *intifada* and the launch of the Road Map. Israel's unilateralism through disengagement (and now convergence) is based on the understanding that regardless of what Palestinians say or do, Israel as the stronger party will unilaterally proceed in pursuit of its interests.

The Palestinian crisis is one of internal fragmentation and polarization between Fatah and Hamas, which particularly in the Gaza Strip risks erupting into a full-blown civil war. It is a humanitarian, social and economic crisis, which risks seeing the poverty levels skyrocketing well over 70 per cent. The crisis, simmering since the eruption of the *intifada* and surfacing after the death of Arafat, has emerged in full force following the Palestinian parliamentary elections. The rise of Hamas to power and of the current crisis within Palestine has several causes and explanations. The cause of Hamas' victory is not a heightened commitment to political Islam amongst Palestinians, although the rise of Hamas cannot be detached from the rising appeal of Islamist movements

throughout the Middle East. Neither is the rise of Hamas the reflection of a Palestinian rejection of negotiations and of a two-state solution, although it certainly does reflect a deep disillusionment with the 'peace process' and the record of Fatah in handling relations with Israel. The rise of Hamas is principally attributed to a deep sense of frustration with the corruption, ill governance of the previous regime and its handling of the peace process, together with Hamas' reputation as a clean actor genuinely committed to service delivery, reform and good governance. Hence, it is hardly surprising that despite the attempted crippling of the Hamas government by Israel and by the international community, the appeal of Hamas amongst the Palestinian public since the elections has risen.

2.2. The vicious circle besieging the double crisis of disengagement

The two crises are clearly inter-linked. Hamas' rise to power, its international reputation as a terrorist organization and its disinterest in negotiating with Israel serve Israel's commitment to unilateralism and disengagement from the peace process. Israel's unilateralism in terms of disengagement, the refusal to negotiate with Abbas, as well as its policies in the OTs (military action, settlement construction, restrictions on movement etc) are key factors underlying Hamas' ascent to power. Israel's refusal to negotiate with the Palestinians suits Hamas' reluctance to engage in negotiations. Indeed the rise to power of both Kadima and Hamas can be viewed as the culmination of a double crisis of disengagement, which stands as hard evidence of the end of a peace process that was in practice long gone. The two crises are also likely to exacerbate. On the Israeli side, the new coalition government under Ehud Olmert is internally diverse and its leadership lacks the charisma of its predecessor. On the Palestinian side, the transition of power coupled with Israeli and international boycotts are generating political chaos and economic disarray.

2.3. How are the crises to be managed: the role of Europe

The crises are evident, interlocking and exacerbating, calling for an urgent crisis management involvement aimed at contributing to the creation of conditions necessary for a healthy peace process to take root. The failure to do so can be regarded as a third crisis, a crisis of the international community in its response to the conflict. In recent years, the international community, rather than engaging in crisis management directed at the restoration of a peace process, appears to have primarily engaged in short-term damage limitation whose effect has been that of accommodating or at times fuelling the crises unfolding on the ground.

The international community's response to Israel's unilateralism has essentially been one of acquiescence. In its rhetoric, the EU in particular has often reiterated its commitment to support disengagement conditionally, where the conditions are tailored to redirecting disengagement to the Roadmap and thus to a negotiated peace process. While laudable in approach, this has not been followed through in practice. Israel's non-compliance with these informal EU conditions has not been met by any EU response in action.

When it comes to the Palestinians, the risks entailed by the crisis in the international response are even more serious. The Palestinians appear to be on the verge of a civil

war. The international response to the election of Hamas has exacerbated the Palestinian crisis rather than diffused it. At the same time, the Quartet and the EU in particular have put themselves in a bind which is difficult to escape. On the one hand, they have set three conditions which are general, all encompassing and which have not been met (nor are likely to be met) by the Hamas government. Walking away from these principles would not only mean losing face, but it would also damage, perhaps irreparably, the credibility and image of the international community and the EU vis-à-vis the conflict parties. On the other hand, sticking to conditions risks exacerbating the humanitarian crisis, fuelling political fragmentation, opening the space for involvement by other international actors (e.g., al-Qaeda) and contributing to the collapse of the PA. Disengaging from Palestine also means failing to understand that Hamas is now a mainstream force to be reckoned with, a force that will not disappear through an international boycott but which may well be strengthened by it. It is also a failure to understand that Hamas is an internally diverse movement, comprising both ideological 'total spoilers' as well as more moderate and pragmatic 'limited spoilers'.

Aware of these contrasting arguments and logics, the EU has taken a largely inconsistent position. Prior to the elections, High Representative Solana threatened to withhold assistance in the event of a Hamas victory. Following the elections and prior to the formation of the new Palestinian government, the Commission disbursed a *tranche* of humanitarian and budgetary assistance. In April 2006, in view of Hamas' non-compliance with the Quartet's conditions, the EU decided to suspend budgetary assistance to the Authority. Finally, in view of the pending humanitarian, political and economic disaster in the OTs, the EU tilted towards a resumption of assistance channelled through the President's office, a policy which essentially reverses the 2000-2005 commitment to empower the Cabinet over the presidency.

One possible way out of the bind could be that of specifying in far greater detail both substantially and temporally the Quartet's conditions to the Hamas government.

- (a) The condition on ending violence is clear and the requirement to fulfil it in the short-term is grounded on international law (the Geneva Conventions), on the constitutive laws of the PA (renouncing the use of violent resistance) and Community law (in view of Hamas' inclusion on the EU's terrorist list). The question at stake is rather how to monitor both that Hamas does not carry out acts of violence itself, and that it acts to prevent attacks carried out by others (to the extent it is capable of doing so).
- (b) The condition to recognize previous agreements requires further specification. Does the Quartet call Hamas to recognize the legitimacy of those agreements or does it call to accept their substance? Given that in the (unlikely) event of renewed peace process, negotiations would be carried out between the PLO Chairman Abbas and Israel, while the former requirement makes legal and political sense, the latter does not.
- (c) Finally, if the condition to recognize Israel means recognizing Israel's 'right to exist', this is a question which verges on the philosophical and certainly does not appear to be a necessary short-term precondition for a peace process. The de facto recognition of Israel instead does seem to be a far more valid long-term condition in so far as it is part and parcel of Hamas' acceptance of a two-state solution.

3. Recommendations by the Report's authors

In sum, further to the previously-reported recommendations by the seminar's participants, what – in a broader perspective – this Report is recommending is:

1. Manage the crisis of double disengagement in Israeli-Palestinian relations as a means of re-creating the conditions for a peace process rather than replace it with a conflict resolution approach.
2. Do not acquiesce in Israel's unilateralism, even if the EU is in no position to stop it. While laudable in approach, attempts to remould Israeli policies into a negotiated process (such as the Road Map) have failed so far and have simply served to legitimise existing Israeli unilateralist expansionary policies.
3. Concentrate efforts on reconstructing a viable political process in Palestinian politics without interfering inappropriately with it. Interfering, i.e., empowering one set of actors (Fatah) over another (Hamas), simply exacerbates the existing chaos and fragmentation.
4. In the short run, engage in regular dialogue with the all parties concerned, including Hamas.
5. Specify more clearly and consistently conditions for political and economic support (irrespective of dialogue which should take place regardless):
 - a. Find ways and means, while keeping in touch with the new Palestinian government, to monitor that Hamas does not carry out acts of violence itself, and that it acts to prevent attacks carried out by others;
 - b. Make sure that Hamas recognizes the legitimacy (not necessarily the substance) of previous international agreements in the long term, provided these are implemented by both parties in future;
 - c. Avoid any debate about Israel's 'right to exist' and be careful about the emergence of any *de facto* conditions for recognition.