

Shifting Paradigms for Israel-Palestine: Why the EU Must Answer the Wake-Up Call Now

by Akram Ezzamouri and Miriam Zenobio

Three months ago, the most far-right government in the history of Israel was sworn in by the Knesset under the leadership of Benjamin Netanyahu. Notably, Itamar Ben-Gvir, the Kahanist leader of Jewish Power and former convict for racist incitement, has been appointed the head of the newly created Ministry of National Security.¹ Additionally, Bezalel Smotrich, leader of the settler-based Religious Zionism party, has been given major control over the administration of the occupied West Bank as the head of the Finance Ministry.²

The new government has spurred a nationwide mobilisation in Israel, as many criticise the proposed judicial

reform aimed at curtailing the Supreme Court's power to exercise judicial review of legislation, giving the government control over judicial appointments and granting the Knesset the power to override the Court's rulings. After weeks of protests – mainly attended by secular liberal Jewish Israelis³ – the reform has been put on hold as part of a coalition agreement which includes the establishment of a National Guard led by Itamar Ben-Gvir and tasked with handling "Arab unrest", thus anticipating even more state-sanctioned violence on Palestinians.⁴

In fact, the number of Palestinians killed in 2023 is already set to surpass last

¹ Ruth Margalit, "Itamar Ben-Gvir, Israel's Minister of Chaos", in *The New Yorker*, 27 February 2023, <https://www.newyorker.com/magazine/2023/02/27/itamar-ben-gvir-israels-minister-of-chaos>.

² Edo Konrad, "The Danger of Treating Smotrich as an Anomaly", in *+972 Magazine*, 9 March 2023, <https://www.972mag.com/?p=170662>.

³ Mohammed El-Kurd, "Israeli Protesters Say They're Defending Freedom. Palestinians Know Better", in *The Nation*, 30 March 2023, <https://www.thenation.com/?p=440950>; Marwan Bishara, "Israelis Need to See through the Biggest Lie of All", in *Al Jazeera*, 28 March 2023, <https://aje.io/thwxfo>.

⁴ "Israeli Cabinet Approves Ben-Gvir's 'National Guard' Plan", in *Al Jazeera*, 2 April 2023, <https://aje.io/f7k6ce>.

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year's data, with at least 95 deaths since January.⁵ This record in violence has been characterised by near-daily raids carried out by the Israeli military across the occupied West Bank, particularly in Jenin, Nablus and Jericho, aiming at curbing the resurgence of Palestinian armed resistance to the occupation.⁶ In the same time span, at least 16 Israelis have been killed.⁷

The EU's flawed approach to Israel-Palestine

Alarmed by the spike in violence and extremism in Israel and Palestine, the 27 EU member states issued a statement calling for de-escalation,⁸ and High Representative for Foreign Affairs and Security Policy (HRVP), Josep Borrell, recently advocated for "a renewed international effort to help both sides think through their options".⁹ However, his call for "honesty" in recognising the rising extremism both in Israel and Palestine fails to grapple with the structural violence and injustice,

making the right of Palestinians to self-determination and de-occupation of Palestinian territories subject to negotiation and compromise with Israel.

The EU has long been concerned with the Israel-Palestine issue, positioning itself as a mediator, engaging with the US-led "peace process", and developing a cohesive stance on the matter, namely supporting a separation between Israel and a future Palestinian state to be pursued through dialogue.¹⁰ While the EU consolidated this stance through economic, diplomatic and legal practices, the evolving reality on the ground demonstrated that its approach has been inadequate to effectively address the issue.¹¹ As the two-state solution becomes less attainable every day, the EU keeps reiterating its stagnant official position to hide internal fragmentation and lack of political will.¹²

⁵ Qassam Muaddi, "95 Palestinians Killed in Occupied West Bank by Israel since Beginning of 2023: Health Ministry", in *The New Arab*, 4 April 2023, <https://www.newarab.com/node/2754291>.

⁶ Anera, "A Timeline of Crises in Palestine", in *The Olive Press Blog*, 27 February 2023, <https://www.anera.org/?p=18270>.

⁷ Bethan McKernan and Sufian Taha, "Concern over Violence as Palestinians Prepare for Ramadan in Jerusalem", in *The Guardian*, 22 March 2023, <https://www.theguardian.com/p/ntevn>.

⁸ Council of the EU, *Israel/Palestine: Statement of the High Representative on Behalf of the European Union on the Latest Developments*, 8 March 2023, <https://europa.eu/!JKjmFd>.

⁹ Josep Borrell, "Honesty Can Advance the Middle East Peace Process", in *Project Syndicate*, 9 March 2023, <https://www.eeas.europa.eu/node/427062>.

¹⁰ Daniela Huber, "The EU, the Middle East and the Crisis of the 'International Liberal Order'", in *SEPAD Interventions*, 3 April 2023, <https://www.sepad.org.uk/announcement/the-eu-the-middle-east-and-the-crisis-of-the-international-liberal-order>; Daniela Huber, "Equal Rights as a Basis for Just Peace: a European Paradigm Shift for Israel/Palestine", in *IAI Commentaries*, No. 21|04 (January 2021), <https://www.iai.it/en/node/12653>.

¹¹ Federica Bicchi and Benedetta Voltolini, "The European Union and the Israeli-Palestinian Conflict: How Member States Came Together Only to Fall Apart Again", in Dimitris Bouris, Daniela Huber and Michelle Pace (eds), *Routledge Handbook of EU-Middle East Relations*, London, Routledge, 2021, p. 311-320.

¹² Sinem Akgül-Açıkmeşe et al., "Stalled by Division: EU Internal Contestation over the Israeli-Palestinian Conflict", in *JOINT Research Papers*, No. 19 (February 2023), <https://www.jointproject.eu/?p=1575>.

The 1993 and 1995 Oslo Accords cemented the notion that negotiations between Israelis and Palestinians are the sole means of achieving peace, thereby solidifying the perception of a conflict between two disputing equal parties. This dominant approach, imbued with coloniality and fully embraced by the EU both at the rhetorical and practical level, prioritises “negative peace” – meaning the cessation of direct physical violence – over the achievement of a just, long-lasting peace that addresses the underlying root causes of injustice. By failing to acknowledge the asymmetric power relations at stake, the EU has turned a blind eye to the settler-colonial nature of the Israeli regime and perpetuated a situation where a sustainable and just peace remains elusive. Ultimately, the reluctance to call a spade a spade, hiding behind the non-binding IHRA definition of antisemitism,¹³ condoned Israel’s attempt to achieve the maximum amount of Palestinian land with the minimum number of Palestinian people through displacement and crippling annexation disguised as maintenance of the status quo.

The European attitude not only undermines the EU’s ability to have any meaningful impact on the matter but also further undercuts its self-professed image as a leading advocate for human rights and international law.

¹³ Josep Borrell, “Answer Given by High Representative/Vice-President Borrell i Fontelles on Behalf of the European Commission”, in *European Parliament-Parliamentary Questions*, No. E-000932/2022(ASW) (20 January 2023), https://www.europarl.europa.eu/doceo/document/E-9-2022-000932-ASW_EN.html.

A struggle against settler colonialism

The language of dialogue, (negative) peace and normalisation used by the EU not only indicates a detachment from the reality on the ground but also highlights the EU’s failure to keep pace with the paradigm shift currently underway in the international legal discourse surrounding the Israel-Palestine issue.¹⁴

Numerous documents from the United Nations (UN) and non-governmental organisations are now challenging the long-held post-Oslo Accords discourse, thus signalling a partial return to the understandings and strategies in use before 1993.¹⁵ Although differing in scope and framework of analysis adopted, these documents include papers by the UN Economic and Social Commission for West Asia (ESCWA), by leading international human rights organisations such as Human Rights Watch, Amnesty International, B’tselem and Al-Haq, as well as reports by UN Special Rapporteurs Michael Lynk and Francesca Albanese and the Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel.¹⁶

¹⁴ Ihsan Adel and Hassan Ben Imran, “An International Paradigm Shift Recognising the Root Causes of Palestine’s Struggle? Reflection on the UN SR’s Report and Recent Developments in the Discourse on Palestine/Israel”, in *Law for Palestine*, 21 December 2022, <https://law4palestine.org/?p=28501>.

¹⁵ Noura Erakat, Darryl Li and John Reynolds, “Race, Palestine, and International Law”, in *AJIL Unbound*, No. 117 (March 2023), p. 77-81, <https://doi.org/10.1017/aju.2023.9>.

¹⁶ Iain Scobbie, *Colonialism under International Law, and Economic Aspects of Israeli Colonialism*



Despite their differences, many of these reports share a number of trailblazing shifts of discourse. Among them figures the re-contextualisation of the current situation in Israel-Palestine within a wider historical analysis that moves the goalposts from 1967 to pre-1948, echoing the Palestinian concept

in the OPT, presented at the conference "Occupation, Colonialism, Apartheid? A Re-Assessment of Israel's Practices in the OPT under International Law", Ramallah, 16 August 2009, https://www.alhaq.org/cached_uploads/download/alhaq_files/images/stories/PDF/IainScobbie.pdf; ESCWA, *ESCWA Launches Report on Israeli Practices towards the Palestinian People and the Question of Apartheid*, 15 March 2017, <https://www.unescwa.org/node/21500>; Tariq Dana and Ali Jarbawi, "A Century of Settler Colonialism in Palestine: Zionism's Entangled Project", in *Brown Journal of World Affairs*, Vol. 24, No. 1 (Fall/Winter 2017), p. 197-219, <https://bjwa.brown.edu/?p=182>; Al-Haq et al., *Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports*, 10 November 2019, <https://www.alhaq.org/advocacy/16183.html>; B'Tselem, *A Regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This Is Apartheid*, 12 January 2021, <https://www.btselem.org/node/213260>; Susan Power, "The Legal Architecture of Apartheid", in *Al-Haq Publications*, 12 April 2021, <https://www.alhaq.org/advocacy/18181.html>; Human Rights Watch, *A Threshold Crossed. Israeli Authorities and the Crimes of Apartheid and Persecution*, April 2021, <https://www.hrw.org/node/378469>; Amnesty International, *Israel's Apartheid against Palestinians. Cruel System of Domination and Crime against Humanity*, February 2022, <https://www.amnesty.org/en/?p=147189>; UN Office of the High Commissioner for Human Rights (OHCHR), *Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 (A/HRC/49/87)*, 12 August 2022, <https://undocs.org/en/A/HRC/49/87>; OHCHR, *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel (A/77/328)*, 14 September 2022, <https://undocs.org/en/A/77/328>; OHCHR, *Situation of Human Rights in the Palestinian Territories Occupied since 1967 (A/77/356)*, 21 September 2022, <https://undocs.org/A/77/356>.

of "ongoing Nakba".

By bringing the focus back to the historical root causes of the "Question of Palestine", it becomes clear that describing the situation as a mere conflict is inadequate. This has prompted a reconceptualisation of the current situation as one defined by settler colonialism, racial discrimination and apartheid. Long before it was adopted by UN agencies and leading international human rights organisations, Palestinian authors Fayez Sayegh and Edward Said, among others, have been describing Zionism as a settler-colonial project, defined as a process of colonisation in which the colonising population seeks to replace the indigenous one through various means such as displacement, dispossession and forced migration.¹⁷

In other words, this change in discourse is shedding new light on the structural, systemic and asymmetric nature of the Israeli regime of crippling domination over Palestinians, which goes well beyond a mere land dispute between two parties. In turn, the paradigm shift elicits a move beyond "peace negotiations" and instead focuses on decolonisation, justice and self-determination. Rather than maintaining the status quo for the benefit of the colonial power and to the detriment of the colonised, it acknowledges the need to address the root causes, to redress systemic injustices and, in the full spirit of international law, does not

¹⁷ Areej Sabbagh-Khoury, "'But If I Don't Steal It, Someone Else Is Gonna Steal It' – Israeli Settler-Colonial Accumulation by Dispossession", in *Middle East Report*, No. 302 (Spring 2022), <https://merip.org/?p=159119>.

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compromise the Palestinians' right to self-determination, to return and to resist.

The emperor has no clothes

Therefore, merely attributing the current resurgence in violence to the new extremist government would be a narrow perspective upon closer examination. What the international paradigm shift suggests is that, contrary to mainstream reports and the EU's declared understanding, Netanyahu's new hard-line government is not an anomaly nor the result of an "illiberal" or "undemocratic" drift. Rather, it is another coherent step in the settler-colonial project that has been cultivated by successive Israeli governments across the political spectrum over the decades.

However, a key difference in the present situation lies in the amplified levels of overt publicity, normalisation and formalisation, which leave no room for turning a blind eye. Current developments in Israel and occupied Palestine show that there has never been a more urgent moment than the present one for the EU to heed the wake-up call for a paradigm shift and finally prioritise de-occupation, justice, equality, accountability and Palestinian self-determination, over a limited vision of (negative) peace.

Last call for the EU

Against this backdrop, the EU is timidly, and only rhetorically, making clear that some redlines have been crossed. Yet, believing that the EU's routine expressions of concern

and condemnation following racist remarks made by Israeli officials towards Palestinians represent a course correction is overly optimistic.¹⁸

If the EU is really serious about restoring a political horizon in Israel and Palestine, it should first back off from its attempts to appease Israel with empty and watered-down rhetoric and stop sidelining the Palestinian quest for justice. Borrowing the expression used by HRVP Borrell, being "honest" about Israel-Palestine requires acknowledging the asymmetry of power between the two sides. Merely calling for de-escalation and using linguistic gymnastics to avoid acknowledging the steep injustice of Israel's settler-colonial project has brought about no change. In addition to coming to terms with the failure of its previous approach, an effective EU relaunch of a peace initiative can only stem from a reconsideration of the reality on the ground.

Simply re-proposing a "package of security, economic, and political support [...] if the parties were to reach a peace agreement"¹⁹ is doomed to failure as now more than ever it is clear that, as long as Israel keeps pursuing its settler-colonial aims with impunity, there will never be any Israeli interest in advancing a just and fair peace and establishing a Palestinian state,

¹⁸ "EU Top Diplomat Borrell Urges Israel to Disavow Minister's Comments on Palestinians", in *Reuters*, 20 March 2023, <https://www.reuters.com/world/middle-east/eu-top-diplomat-borrell-urges-israel-disavow-ministers-comments-palestinians-2023-03-20>.

¹⁹ Josep Borrell, "Honesty Can Advance the Middle East Peace Process", cit.

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regardless of the government's political leaning and no matter how much the EU is willing to invest. Additionally, Palestinians are no longer willing to compromise their right to self-determination for the "sake of peace" as it has become apparent that such compromises would entail capitulating to Israel's gradual annexation and bring no benefit to the dire situation they live in.²⁰

Against this backdrop and with the International Court of Justice advisory opinion on the (il)legality of Israeli occupation requested by the UN General Assembly on the horizon,²¹ the current European differentiation policy toward Israel-Palestine, as currently designed and fragmentarily implemented by member states, is not enough. The EU has the power to do more: instead of using trade and research funding programmes as a bargaining tool to bring Israelis to the negotiating table, it should first and foremost leverage its position to hold Israel accountable and ensure that it fully complies with international law prioritising the

legitimate aspirations and rights of the Palestinian people. Only by doing so can the EU hope to achieve a lasting solution that promotes (positive) peace, (human) security and justice not only for Palestinians, but for Israelis too.²²

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²⁰ Palestine Liberation Organisation, *The First Anti-Apartheid Palestinian National Conference Call. Towards a Global Front to Dismantle Israel's Regime of Settler-Colonialism and Apartheid*, 11 January 2023, <http://www.plo.ps/en/article/211>; Amira Howeidy, "Interview: Palestine's Transitional Moment", in *Ahram Online*, 30 March 2023, <https://english.ahram.org.eg/News/492622.aspx>.

²¹ International Court of Justice, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Case-186), <https://www.icj-cij.org/case/186>; Ata Hindi, "The United Nations General Assembly Request to the International Court of Justice for an Advisory Opinion: (Some) Reflections", in *Opinio Juris*, 20 January 2023, <http://opiniojuris.org/?p=45135>.

²² Muhammad Shehada, "How Israel's Mass Protests to Protect Their Democracy Look to Us Palestinians", in *Newsweek*, 28 March 2023, <https://www.newsweek.com/opinion-1790944>.

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