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EU Alarmed by Israel, Frustrated by Palestine

By: Nadia Hijab · June, 2015

Palestine is on hold. No diplomatic moves, such as the proposed French Security Council resolution, are expected to go ahead until after the United States seals an agreement with Iran. Yet there are still long-term trends at work. Attention has recently focused on the actual and potential impact of the Palestinian-led global movement for boycott, divestment, and sanctions (BDS) and Israel's increasingly strident response, particularly in the US. But the measures the European Union (EU) is taking regarding Israel also hold significant potential. The EU moves slowly, even excruciatingly so, but more than one EU official said in recent meetings with Al-Shabaka that the EU is on "a collision course with Israel that can't be stopped," even as they express growing frustration with the Palestinian leadership.

As regards Israel, the EU is at present developing guidelines to correctly label settlement products and is seeking to more consistently implement existing EU legislation with regard to Israeli activities beyond the Green line. EU officials recoil at the suggestion that what they are doing involves a boycott of Israel; rather, these are actions that must be taken to uphold European law. They insist that the more Palestinians and their allies confuse the EU's rule of law approach with BDS the more they weaken it. What they term a "legalistic" approach is more realistic, they claim, in part because it cannot be opposed by any EU member state.

Yet these steps appear modest to Palestinians who have been under occupation and siege and in exile for decades, and some EU member states and many non-

governmental organizations have been pushing the EU to take more forceful political measures in line with international law. And in fact not all measures by the EU and its members states are "legalistic". For example, the 2009 EU decision to freeze its upgrade of relations with Israel was a political one. In addition, the advisories against doing business with settlements issued by the majority of EU members states in the past two years draw primarily on international rather than EU's domestic law.

This shows that the Europeans can do more and indeed they know that soon they may need to take stronger action given that the present ultra-right Israeli government has made clear its rejection of the two-state solution. Moves such as Israeli building in the E1 area between the illegal settlement of Ma'ale Adumim and Jerusalem would be a game-changer, forcing them to take stronger action or have to admit that a two-state solution is no longer possible.

Palestine's accession to the International Criminal Court is also posing new challenges to the EU. Despite the fact that their policy is to promote universal membership of the Court, member states were ambivalent about Palestine joining the ICC. They could not publicly oppose it given their policy but they worry that it might end up being used as a political tool in negotiations.

They also note that ICC membership could bring unanticipated consequences that could challenge not just Palestine but also the EU. For example, although ICC prosecution of Israeli or Palestinians individuals is not yet "on the horizon", as Al-Shabaka Policy Member Valentina Azarova points out in an opinion piece on the domestic effects of transnational criminality, if the ICC were to raise concerns that Israeli military or political officials or private entities were involved in international crimes, then EU member states might find it necessary to restrict those officials' transfers of funds and travel.

EU officials argue that such bans were "easy" in the case of Russia because the EU

does not have the same kind of strong and structured agreements they have built up with Israel over the years. Nevertheless, ICC action – or an Israeli "game-changer" – could give a push to sanctions against Israeli individuals and entities, and perhaps even the state itself. Meanwhile, some satisfaction is expressed at Netanyahu's election because it helps to "clarify things." Such clarity has already pushed the Czech Republic, one of Israel's traditional stalwart defenders at the EU, to say their support cannot be taken for granted forever.

Beyond the occupied territories, the Europeans may also be forced to take action in response to Israel's increasingly flagrant violation of the rights of its Palestinian citizens. For Israel, this is business as usual. In mid-June, for example, the Knesset extended the "temporary" family reunification prevention bill for a 12th year, preventing Palestinians living in Israel "reunifying" with Palestinian spouses from the West Bank, Gaza, and four other countries. This is just one of the more than 50 discriminatory laws already meticulously documented by Adalah: The Legal Center for Arab Minority Rights in Israel, and members of the present Israeli government are keen to add others.

EU officials admit this is a growing worry because such blatant discrimination chips away at their belief in their "shared values" with Israel as well as their own self-image as a body of law. In addition to tracking developments within Israel themselves, they hear directly from the Palestinian citizens of Israel. The director of Mossawa (equality) was recently on a tour to key capitals and sent a follow up letter to foreign ministers and ambassadors. "This will be a growing element in our policy dialogue," according to an EU official, although it remains to be seen what action they would or could take to address issues that are normally in the sovereign purview of the relevant state in the absence of an actual emergency.

As alarmed as they are by Israel's international law and human rights violations, EU officials and Members of the European Parliament (MEPs) are also frustrated by the Palestinian leadership's actions, or, more appropriately, inaction. What is

the Palestinian strategy, they wonder? All they can see is a leadership that incoherently juggles between negotiations, civil disobedience, international organizations, and institution building without a clear game plan – a leadership that's waiting for others to do it for them.

EU officials and parliamentarians also ask why the Palestinians don't have more professional communications. They hear from Israel all the time – often to the extent of over-kill – but the Palestinians have yet to be better organized against their very effective adversary.

And what is happening with Palestinian reconciliation, they query? They no longer feel they have a coherent partner, which weakens their stand vis-à-vis Israel. Moreover, there is increasing impatience with the way the Ramallah-based Palestinian Authority (PA) is dealing with Gaza and its pressing need for reconstruction, and a sense that they have "forgotten" 40% of their constituency. At the same time they recognize the threat the PA faces in terms of the US and Israel cutting or freezing funds if it builds up relations with Hamas, and that this needs to be addressed through guarantees from Europe and the Arab states. There is also increasing aid fatigue although no change is as yet on the cards in this respect. Meanwhile, even as EU officials expressed these frustrations, Hamas and Israel were reportedly drawing closer to a long-term truce agreement, while the PA was reportedly planning to unilaterally dissolve the unity government established in April 2014.

There is much more that Palestine could do to push for stronger EU measures against Israel's illegal colonization enterprise. For instance, Palestine could push further on the EU's inconsistency regarding Russia's actions in Crimea and Israel's actions in the occupied territories. At the very least, Israelis living in the territories should not be able to travel to or hold moneys in Europe. There are some harbingers in this regard, including, for example, revisions to bilateral social security agreements.

There is also scope for further collaboration with MEPs active on this issue. In a mid-June response to a European MEP's written question about double standards in the actions the EU has taken vis-à-vis Crimea versus the occupied territories, the European External Action Service gave recent examples of additional measures it had taken regarding products from Israeli settlements, including the withdrawal of import authorizations for organic products from Israeli settlements in the West Bank.

Palestine should take steps at both the level of the EU and that of member states to push for stronger measures, given that each set of actors has a tendency to hide behind the other as an excuse for slow or no action. If, for example, the EU is slow to ban entry of violent Israeli settlers these cases can be raised in member states, which are in a position to take their own decisions and to maintain lists of persona non grata. After all, Israel has lists of European country citizens to whom it does not allow entry.

Meanwhile, Palestine stays on hold, with the French draft Security Council resolution appearing to be the only move on the horizon. Although the EU does not have a position as regards the French resolution, there is said to be a European consensus that a new framework is needed for Palestinian-Israeli negotiations, one that specifically speaks of a sovereign Palestinian state on the 1967 borders. However, the US Administration has reportedly told EU officials that the US would veto even a "weak" resolution.

A US veto of a weak Security Council resolution would come as a relief to Palestinian rights advocates alarmed at the potential for further erosion of the rights of Palestinian refugees by making these contingent on Israeli agreement, as well as those of the Palestinian citizens of Israel by defining Israel as a "Jewish state". In the meantime, Palestinian civil society and the solidarity movement will have to continue to lead the quest for rights within the means available to them – as well as pushing for the establishment of an effective Palestinian leadership.

Al-Shabaka: The Palestinian Policy Network, is an independent, non-profit organization. Al-Shabaka convenes a multidisciplinary, global network of Palestinian analysts to produce critical policy analysis and collectively imagine a new policymaking paradigm for Palestine and Palestinians worldwide.

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