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# The indefensibility of Europe in Gaza: How the EU failed the rules-based order

*Despite robust evidence of grave breaches of international law by Israel in Gaza and waves of protests in European public spaces, in the past two years, Brussels has largely continued business as usual with Tel Aviv. How can this be explained? Through a longue durée perspective, this chapter highlights, firstly, that Europeans have never acknowledged the impact of the European history of antisemitism and colonialism on Palestinians. Secondly, it points out that while Europeans, similar to Arabs, had independent agency in the 1970s and 1980s, in the 1990s both moved under the umbrella of the US-led Middle East Peace Process and diverged from their previous focus on international law. Even though the US, in 50 years of mediation, has never provided any peace, neither Europeans nor Arabs have succeeded at proposing an alternative vision to that of the US, as they are weak and divided.*

On the eve of the Trump-brokered fragile ceasefire in October 2025 – two years after Hamas’ 7 October attack in which it (and other groups) killed about 1,200 Israeli and foreign nationals – Israel has killed 67,173 Palestinians, of which 20,179 were children,<sup>1</sup> wiping out entire family lines and largely destroying Gaza’s millennial cultural, educational, medical and residential infrastructure. In January 2024, the International Court of Justice (ICJ) put the world on alert of a plausible genocide, issuing a protective order for Palestinians in Gaza under the Genocide Convention.<sup>2</sup> In July 2024, the Court asserted the unlawfulness of Israel’s continued presence in the Occupied Palestinian Territory.<sup>3</sup> In November 2024, the International Criminal Court (ICC) issued arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant, as well as

1 “Humanitarian situation update #329 Gaza Strip”. UN OCHA, 9 October 2025.

2 “Summary of the Order of 26 January 2024”. International Court of Justice, 2024.

3 “Advisory opinion: Legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem”. International Court of Justice 2024.

Hamas officials Yahya Sinwar, Mohammed Diab and Ismail Haniyeh, for war crimes and crimes against humanity.<sup>4</sup> Despite robust evidence of grave breaches of international law by Israel, as established by central institutions of the international rules-based order, the European Union (EU) appeared unmoved. While it has imposed an arms trade embargo on Russia, an import ban on goods from Crimea, individual sanctions on Russian politicians and cancelled the EU-Russia summit since 2014, in February 2025, EU representatives still met with Israel for the annual Association Agreement (AA) meeting. Only in September 2025, two years into the war, did the Commission propose a light version of the sanctions on Russia: the suspension of certain provisions of the AA; the temporary interruption of bilateral support to Israel; and sanctions against extremist ministers and settlers. An import ban on goods from the settlements or an arms trade ban has never been proposed, but the light version was still contested by powerful member states of the EU, such as Germany.

In light of this colossal failure to respond to daily livestreamed atrocity crimes for two entire years, Aime Cesaire's words from 1950 impose themselves when thinking about the EU today: "What is serious is that 'Europe' is morally, spiritually indefensible".<sup>5</sup> Clearly, in the eyes of a large part of the world, it is now the EU that appears morally indefensible: the EU defends international law for Ukrainians, but not for Palestinians.<sup>6</sup> But the malaise goes even deeper, as the EU's behaviour today is also indefensible with respect to its own citizens. The EU's failure to uphold international law in Gaza has not only undermined the EU's global standing;<sup>7</sup> it has also harmed the rules-based order in which the EU has a vested normative and strategic interest. Not only is international law the water in which the EU can swim, but it also protects EU citizens in the future. In international relation theory, this is known as the shadow of the future, where powerful states have interests to protect the rules-based order in the present, as war might hit them in the future. Surveys have evidenced that the majority of European citizens now also hold unfavourable views of Israel,<sup>8</sup> and public discontent with European policies in Israel/Palestine has been manifest in contentious politics such as large demonstrations and strikes. However, many European member states have not only ignored what their own citizens think, but some member states, such as Germany and France, are even willing to harm their own constitutional orders, as governmental actors intervene to shut down academic conferences, which problematises precisely their own role in this war. This harms academic freedom and sets a risky precedent in an environment where democracy is already backsliding. It appears that the entire post-World War order

4 Khan, K. A. A. (2024) "Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine". International Criminal Court, 20 May.

5 Cesaire, A. (2000) *Discourse on Colonialism* (New York: Monthly Review Press), p. 32.

6 Huber, D. V. (2025) "Organized hypocrisy and the logic of coloniality. Explaining the EU's divergent response to grave violations of international law in Russia/Ukraine and Israel/Palestine". *JCMS: Journal of Common Market Studies*, 5(63): 1638-1660. DOI: 10.1111/jcms.13737

7 Huber, D., A. Khakee, S. Aydin-Düzgit et al. (2025) "Forum: Global perspectives on democracy support in light of the wars in Gaza and Ukraine". *International Studies Perspectives*: ekaf003. DOI: 10.1093/isp/ekaf003

8 Silver, L. (2025) "Most people across 24 surveyed countries have negative views of Israel and Netanyahu". Pew Research Center, 3 June 3.

in Europe is beginning to look increasingly fragile. How did this become possible? This chapter attempts to dissect this question by shedding light on the current role the EU has played in Israel/Palestine from a longer-term perspective, to highlight both continuities and ruptures in the evolution of EU policies.

## After 1948: The lack of recognition

Following the 1948 war, when over 750,000 Palestinians were made refugees, Europeans no longer spoke of two states, as in the Partition Plan (Resolution 181).<sup>9</sup> In the 1950s and 60s, they referred to the 'Arab refugee issue', implicitly denying Palestinians both their national identity and their right to self-determination. At the same time, the role of the UK and France in the Middle East began to fade. Following Arab independence and the Suez crisis in particular, the US and the Soviet Union became the most powerful external powers, which initially sought to influence what they then called the Arab-Israeli conflict through the United Nations (UN).

Only a few months after the British-French-Israeli invasion of Egypt, the European Community was founded with the Rome Treaty in 1957. Peo Hansen and Stefan Johnson reminded us of the colonial heritage this act came with, as it took place during the Algerian War of Independence, with Algeria being initially associated with the European Community.<sup>10</sup> Western Europe has, however, never grappled with this colonial history.<sup>11</sup> On the contrary, while the whole world decolonised, Europe continues to live in a sort of colonial amnesia.<sup>12</sup> However, not only have Western Europeans never really addressed their colonial history, but the move of foreign policy from the European state level to the European Community level has also helped former colonial powers to gain a legitimate foothold in international politics again. The very concrete historical responsibilities that continue to sit at the member state level for the colonial period have become obscured. The European Community, and later the EU, projected an image of a civilian/normative power Europe onto the world, which has distanced itself from the European past without taking actual responsibility for it. Historical responsibility is instead relegated to a distant other. Europeans have slowly taken responsibility for antisemitism and the Holocaust, but the same has not happened for colonial crimes, and, in the case of Palestine, there is no recognition, to date, of the impact that this *European* history of antisemitism and colonialism has had on Palestinians. Germany, which perpetrated the Holocaust, has rebuilt and flourishes as the world's third-largest economy. Palestinians do not have their own state, but live under occupation and in poverty, without civil and political rights.

9 Kamel, L. (2022) "Framing the partition plan for Palestine". *The Cairo Review of Global Affairs*, 2022.

10 Hansen, P. and S. Jonsson (2015) *Eurafrica: The Untold History of European Integration and Colonialism* (London: Bloomsbury Academic).

11 Bhabha, G. K. (2022) "A decolonial project for Europe". *JCMS: Journal of Common Market Studies*, 2(60): 229-244. DOI: <https://doi.org/10.1111/jcms.13310>

12 Pace, M. and R. Rocca (2020) "Imperial pasts in the EU's approach to the Mediterranean". *Interventions*, 6(22): 671-685. DOI: 10.1080/1369801X.2020.1749702

## After 1967/73: The short-lived moment of independent European foreign policy

The European non-role in the Middle East became of increasing concern to Europeans in the wake of the 1967 and 1973 wars, which – from a European perspective – raised both security and economic concerns, particularly also due to the oil boycott. Thus, the European Political Cooperation (EPC) on foreign policy was formed in 1970, defining foreign policy primarily on one issue, namely, the Arab-Israeli conflict. The EPC evolved in a context in which in 1973 the US began to monopolise mediation away from the UN, while also introducing the land for peace principle. The latter represented a divergence from the previous US position, which was still centred on international law: during the Suez Crisis, Washington DC had insisted on de-occupation in line with international law. After 1973, however, the US began to demand peace agreements first. This was, notably, opposed to the UN General Assembly, which continued to insist on international law, and thus, on the inadmissibility of the acquisition of territory by force.

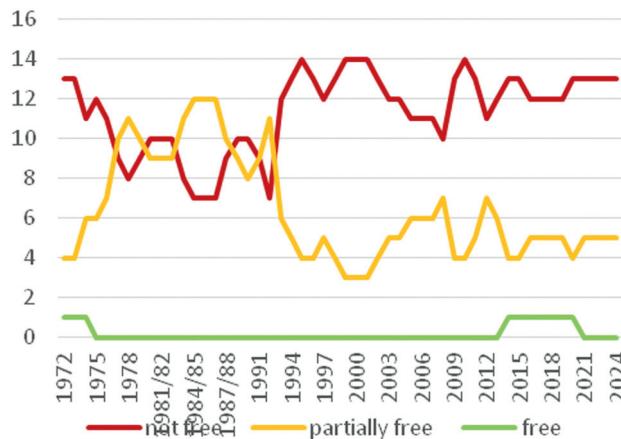
European foreign policy discourse now observed a sea change that could at least partially be explained by the pressure of the Arab League, which at the time acted united with regard to Europeans. In 1973, the European Community member states, for the first time, spoke of the legitimate rights of Palestinians – now acknowledged as a people – and the need to end the occupation in line with international law. Shortly afterwards, Europeans also mentioned a Palestinian homeland. Even stronger was the Venice Declaration in 1980, which evidenced European discomfort with the US-brokered Egyptian-Israeli peace treaty that excluded the Palestine question. The nine insisted on the UN as a guarantor, on the Palestinian right to self-determination, on including the Palestine Liberation Organization (PLO) in negotiations, on the need to end the occupation and on the illegality of the settlement. Europeans therefore acted largely opposed to the US position and in line with the position of the UN General Assembly on everything but Palestinian statehood. The UN General Assembly in the same year, 1980, also determined the Palestinian right to a state, which did not figure in the Venice Declaration.

## After 1990: The US (il)liberal moment

The Arab and European positions began to change significantly after the end of the Cold War and the onset of the US unipolar moment and of the so-called international ‘liberal order’. This order has, however, never led to liberty in the Arab world; indeed, freedom in the Arab world actually dropped significantly, as can be seen in Figure 1, where the number of non-free states rises and that of partially free states declines. This evidences a structural context in which Arab governments do not need consent from their populations for their policies, including on the peace process, which continues in its various formations from Oslo to today’s normalisation. Indeed, according to the Arab Barometer survey – as shown

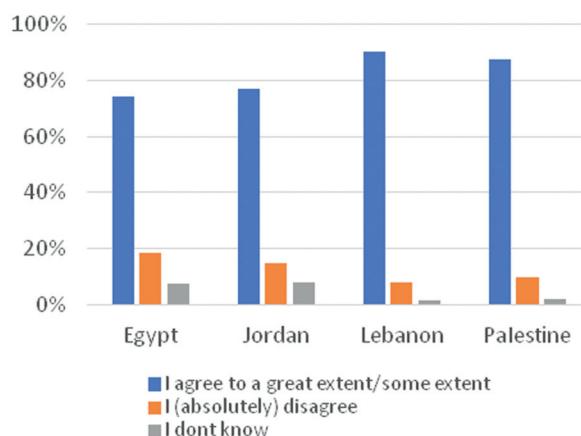
in Figure 2 – a large majority agreed with the statement that the “Arab-Israeli conflict is an obstacle to political reform in your country”.

Figure 1. The number of free or partially free states in the Arab world, 1972-2024.



Source: Freedom House 2024.

Figure 2. Public perception of whether the Arab-Israeli conflict is an obstacle to political reform in their country.



Source: Arab Barometer 2011.

Furthermore, in the Arab world, there was less focus on the pan-Arabism of the 1960s/70s or the Arab regionalism of the 1970s/80s, that is, less focus on Arab unity and more emphasis on state sovereignty; fearing the rise of Iran, most Arab Gulf states moved closer to the US, also militarily speaking. Europeans enlarged the EU, but in an enlarged

Union it is difficult to find consensus, so the move under the US umbrella of the “Middle East peace process” (MEPP) initially ensured coherence amongst Europeans.

US productive power in that moment was preponderant and evident in the MEPP, and in the way the Arab states and the EU have adapted to that, diverging from their own focus on international law, Palestinian rights, the UN and de-occupation. They all began to sign up to the idea that an occupied people needs to negotiate its rights with the occupying power, giving the latter, in reality, a veto over that. This was, for example, evident in the 2002 Arab peace plan: it began to speak of a just solution for Palestine refugees, while the 1980 Fahd plan insisted on the right of return, as enshrined in UN Resolution 194. Europeans, while they continued to insist on the illegality of the settlements, no longer insisted on de-occupation, in line with international law or on the role of the UN. Nowhere was this included in the paradigmatic 1999 Berlin and 2002 Seville declarations. Both spoke of a Palestinian state not as a right but as an option or objective to be achieved through negotiations. Furthermore, after the parliamentary elections in 2006, the EU followed the US’s no-contact policy with Hamas, which reinforced the division of the Palestinian political community. The EU could have set up the same condition for all actors, namely, to comply with international law, which would have strengthened the international rules-based order. But instead the EU requested the recognition of Israel by Hamas, while it has never requested that Israel recognise Palestine. Indeed, many European governments do not even recognise Palestine themselves.

## After 2011: The one-state reality

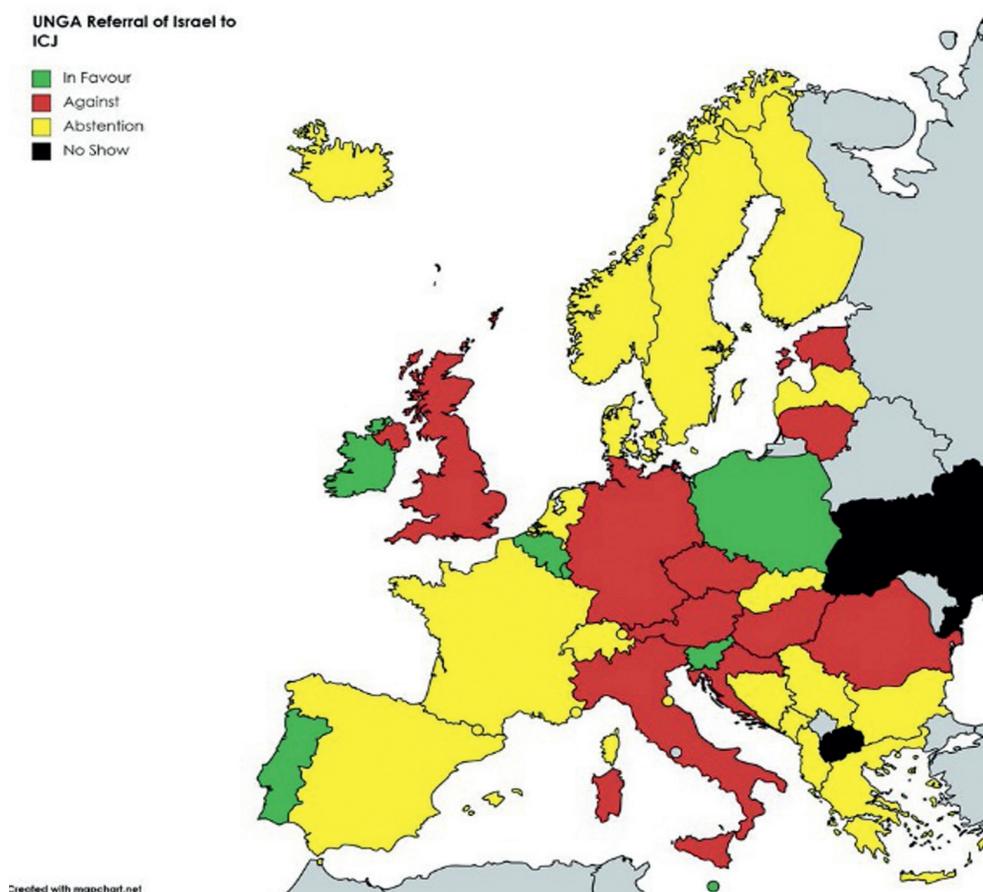
The world entered into a different structural constellation with the 2008 financial crisis, as multipolarity began to evolve. The Middle East changed enormously with the Arab uprisings, which occurred in a region where no multilateral security architecture had been built under US hegemony. The ‘peace process’ has in reality resulted in the entrenchment of a one-state reality, where Palestine figures only in urban enclaves. Tareq Baconi called this the Gazafication of Palestine.<sup>13</sup> Europeans acknowledge single human rights violations in this reality, but do not acknowledge the structure in which they occur systematically, and which leading international and local human rights organisations have described as a form of apartheid.<sup>14</sup> In other words, Europeans see the trees, but do not want to see the forest. Europeans also lose the compass of international law. In 2022, the UN General Assembly requested an advisory opinion from the ICJ on the legality of occupation in light of the Palestinian right to self-determination. While in 1980 the nine foreign ministers insisted on an end of the occupation and on the Palestinian right to self-determination – which is precisely what the Court was asked to look into – Europeans now are no longer united

13 Baconi, T. (2020) “Gaza and the one-state reality”. *Journal of Palestine Studies*, 1(50): 77-90. DOI: 10.1080/0377919X.2020.1842002

14 “Israel’s apartheid against Palestinians: A cruel system of domination and a crime against humanity”. Amnesty International, 1 February 2022.

and some EU member states think it is better to prevent the Court from inquiring into the violations of Palestinian rights in the first place (see Figure 3).

Figure 3. Votes of European states on UN General Assembly Resolution 77/247, 2022.



Source: UN Resolution ES-10/L.31.

Finally, weak and divided, both the Europeans and the Arabs failed to propose an alternative vision to the US for a just peace in Israel/Palestine. The Saudi-French New York Declaration in September 2025 insists that Gaza is an integral part of a Palestinian state, that the Palestinian Authority (which enjoys no legitimacy amongst Palestinians) should govern Gaza, underlines the indispensable role of the United Nations Relief and Works Agency (UNRWA), proposes a UN stabilisation mission and – in the context of the realisation of a sovereign Palestinian state – suggests the building of a regional security architecture. Only one month later was this proposal sidelined by the Trump plan, which separates Gaza from the West Bank, including East Jerusalem; sets up an external governing body – the

“Board of Peace” chaired by Donald Trump and Tony Blair – reminiscent of League of Nations trusteeships; prioritises Trump’s economic development plan, sidelining UNRWA; and proposes a US-led temporary International Stabilization Force, rather than a UN-led one.<sup>15</sup> A regional security architecture is not envisaged either: Trump continues to invest in a US-orchestrated normalisation deal to deter Iran, which has been a long-standing US policy in the region, rather than thinking about regional security multilaterally as proposed in the New York Declaration. The European and Arab members of the Security Council – Algeria, Denmark, France, Greece, Slovenia and the UK – have voted for the UN Security Council Resolution, which welcomed “the historic Trump Declaration”; Russia and China abstained.

After 50 years of blatant US failure to mediate peace in Israel/Palestine and the region at large, it must be clear to everyone that this newest form of US peace-making will not lead to peace. As long as European and Arab partners do not promote a just solution – centred on international law, ending Israel’s unlawful presence in the Occupied Palestinian Territory, protecting Palestinians from grave violations of international human rights and humanitarian law, realising the right of self-determination of both peoples, and pushing for a regionally led security architecture rather than US hegemony in the Middle East – no one will be at peace. The question of Palestine is a world-order problem.<sup>16</sup> The EU and the Arab states can either continue to fail in the eyes of the world and their own citizens and remain submissive to President Trump, or they can resume the important normative roles they had in the 1970s/80s and invest in world-order-making. It is not a question of might in international affairs, but of political will to play an independent diplomatic role or not.

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15 “Resolution 2803”. UNSC, 2025.

16 Daniele, L. (2025) “Infanticide in the name of proportionality: Gaza as a world order problem”. *George-town Journal of International Affairs*, 26 September.