

POLICY NOTE ON THE QUARTET REPORT

July 2016

"If you say you want two states, either you do something now or it is gone. We do not have the safety net or a plan B." - Federica Mogherini, European Parliament, November 2015

CONTEXT

On July 1, the Middle East Quartet published its long-awaited report on the Israeli-Palestinian conflict. The report was an opportunity for the Quartet to provide a realistic and impartial assessment of the situation and to propose a meaningful way forward for the international community to support a peaceful solution.

Unfortunately, the report fails on both accounts. It makes an imbalanced analysis of the conflict and does not propose any international actions to counter the threats to the two-state solution that it describes. It only makes recommendations to the parties without any apparent intention to back them up with serious pressure. The report is substantively at odds with the EU's existing position, does not significantly improve on the current US position, and is a regression from the Roadmap adopted by the Quartet 13 years ago.

GENERAL IMBALANCES AND INADEQUACIES

1. **The report makes an imbalanced assessment of the situation.** For political reasons, the Quartet strove to create a seeming balance in what is a deeply asymmetric conflict situation in the context of a military occupation that has lasted for 49 years. The report contains many accurate and relevant points, in greater detail than in Quartet's usual statements. Yet, in order to construct an ostensible symmetry, the report presents a skewed and selective description of the reality. To "compensate" for the well-justified criticism of Israeli settlement policy in the West Bank, it expands criticism of the Palestinians in other areas and limits commensurate criticism of Israel (see examples in the next section). The Quartet is right to criticise both sides and not give the Palestinians a "free pass" despite having been under occupation for decades - but it is wrong to create false equivalency. This matters because anyone starting from and advancing an imbalanced assessment is not likely to help resolve the conflict but the opposite.
2. **The report does not mention "international law" a single time.** This is incompatible with the EU's emphasis on international law. The EU's Foreign Affairs Council (FAC) Conclusions on MEPP have repeatedly [stated](#) that compliance with international law, including accountability, is a "cornerstone for peace and security in the region". The international legal framework would have been a good basis for an objective and impartial assessment of the situation by the Quartet. Instead, the Quartet has once again totally insulated the Israeli-Palestinian conflict from the rule of law. Bringing in international law would have made it harder to establish a false symmetry between the parties.

3. **The report does not lay out any consequences for non-compliance.** The report details the trends eradicating the prospect for a peaceful two-state solution but not what the Quartet will do to counter them. It projects zero political will to apply pressure on the parties in case they choose to continue those trends. The message that this sends is that the international community will not do anything serious to ensure the report's recommendations are implemented. The Israeli government seems to have understood that message: only two days after the publication of the report calling on Israel to cease settlement construction and expansion, the government decided to jab the Quartet in the eye by advancing plans for [hundreds of new housing units in settlements](#) in the West Bank and East Jerusalem. If the Quartet now does nothing in response beyond the usual ineffective statements, it raises the question of what the point was of spending five months to produce and negotiate the report.

SPECIFIC IMBALANCES AND INADEQUACIES

The following are examples of specific imbalances and inadequacies in the report, structured according to its three main topics:

I. Violence and incitement

- The report calls on the Palestinian leaders to **condemn all acts of terrorism** but not on Israeli leaders to condemn the many cases of apparently [unjustified killings of Palestinians](#) by the Israeli army and to properly investigate them. Nor does it explicitly call on Israel to cease punitive house demolitions, enforced closures on whole districts, and the use of administrative detention.
- The report gives a lot of attention to Palestinian **incitement** and only acknowledges in the bottom paragraph of the relevant section that there is also significant incitement on the Israeli side (see the annex for examples). Despite this acknowledgement, the recommendations **only call on the Palestinian Authority, not on Israel, to act against incitement**. The whole incitement issue may be a dishonest distraction from real threats to the two-state solution; but once the Quartet has fallen for it, at least it should address it in a balanced manner.
- The report criticises Palestinians for **naming streets after terrorists** without mentioning that a number of streets in Israel are also [named after Jewish terrorists](#), commanders of the Irgun and the Stern Gang during the British Mandate era.
- The report ignores the fact that the Palestinians have repeatedly suggested to revive the US-led **Trilateral Commission on Incitement** that would examine incitement on both sides, a proposal [rejected](#) by Israel. If the Quartet was genuinely serious about curbing incitement it would recommend reactivating the commission or establishing another such mechanism. Given that the Quartet has not done so adds to the perception that it has only bought into the talking points of one side in order to construct an artificial balance.
- The report **de-contextualises Palestinian violence and incitement** by unlinking them from the occupation that has lasted for almost half a century. By doing so the Quartet has not only swallowed the Netanyahu government's talking points hook-line-and-sinker for the sake of false symmetry, but is also disregarding the assessment of a large and growing number of Israeli security officials, past and [present](#), who have directly linked Palestinian violence to the occupation and the resulting humiliation and despair.¹ The report furthermore does not

¹ See for example the "[Security Force](#)" report by Commanders for Israel's Security (CIS), May 2016, p. 14: "Without detracting from the responsibility of those who carry out and support Palestinian terror, the current wave of violence is, in large measure, the product of Israel's rule over more than two million Palestinians and their resulting humiliation, abject poverty, despair and the absence of hope for a better future."

mention that most Palestinian attacks on Israelis do not take place in Israel but in the occupied territory, according to UN OCHA figures.

- Under PM Netanyahu, the focus on Palestinian incitement has become a public relations tool for Israel to deflect attention from the occupation and settlement expansion. By presenting violence and incitement (primarily attributed to the Palestinians) as the first of the three trends undermining peace, the Quartet report gives a boost to Netanyahu's narrative and **risks hindering further international initiatives focusing specifically on settlements.**

II. Settlement expansion, land designations, and denial of Palestinian development

- The report **does not at all mention the separation barrier** routed through the occupied West Bank in violation of international law despite its [massive impact on Palestinian lives](#) and the threat it poses to a negotiated two-state solution by creating a major "fait accompli" on the ground.
- With regard to **settlement expansion**, the report says that "since mid-2014, there has been a marked slowdown in the advancement of plans and issuance of tenders for West Bank settlement units." This can give an incorrect impression; the report does not mention that the pace has picked up again since mid-2015.²
- The report makes a distinction between "**settlements deep in the West Bank**" and the rest, which could give the impression that those less deep in the West Bank are less dangerous for the two-state solution. In fact, the so-called "[settlement blocs](#)" are more likely to blow up any future negotiations than the settlements built in remote areas of the West Bank that would unquestionably become part of the territory of the Palestinian state. It is not clear where the Quartet is drawing the line between deep and not deep: are, for example, Ma'aleh Adumim and Ariel considered not deep in the West Bank (the latter lies approximately 20 kilometres from the pre-1967 Green Line)? By making this distinction, the Quartet risks [playing into efforts](#) to legitimise the "settlement blocs" and make the route of the separation barrier rather than the pre-1967 lines basis for further negotiations.
- The report does not address other key aspects of the West Bank situation, such as the **territorial fragmentation** of Palestinian communities into disconnected enclaves and the **dual legal regime** applying to Israeli settlers and the Palestinian population. While the report does not aim to cover everything, these seem like significant omissions in a report describing threats to the two-state solution and warning about an emerging one-state reality.

III. The Gaza Strip and Palestinian governance

- The report **heavily downplays Israel's closure on Gaza**, almost concealing the continued sweeping Israeli restrictions on movement of people and goods at the very bottom of a section on the dire humanitarian situation in Gaza.
- The report **does not address Israel's [policy of separation between Gaza and the West Bank](#)**, the main rationale for the ongoing restrictions and one of the key threats to the prospect of a contiguous Palestinian state.
- The report presents a **one-sided picture of violence between Gaza and Israel** and of threats to the 2014 ceasefire, focusing on the attacks by Palestinian militants and their tunnels while

² Since mid-2015, the Israeli authorities have advanced the following plans: [1065 units](#) in West Bank settlements in July 2015; [454 units](#) in Ramat Shlomo and Ramot in November; [891 units](#) in Gilo in December; expansion of [Gush Etzion bloc](#) in January 2016; [153 new apartments](#) in West Bank settlements in January; [253 units](#) in West Bank settlements in February 2016; [234 units](#) in West Bank settlements in March 2016; [over 200 units](#) in West Bank settlements, including a number in isolated outposts in April 2016; [88 units](#) in Ramat Shlomo in June 2016; [800 units](#) in Ma'aleh Adumim and East Jerusalem in July 2016.

only mentioning in passing that “at least four civilians in Gaza have been killed in Israeli airstrikes since the 2014 ceasefire”. In fact, according to the UN OCHA, 30 civilians in Gaza have been killed and over 1,500 injured only since the beginning of 2015 by Israeli live fire, air strikes, and tank shells. Over the same period, Israel has conducted over 90 military incursions to Gaza and there have been on average fifteen incidents per week in which Israeli forces have opened fire towards Palestinians.³

- With regard to Palestinian reconciliation, **the return to the 2006 Quartet principles is unhelpful and pushes Palestinian unity further away**. Before the report came out, the Quartet had seemed to have quietly dropped its widely criticised principles and replaced them with the PLO principles, which would allow for more flexibility for a potential Fatah-Hamas government of national unity. It is worth reminding that no such conditions have been applied to the Israeli side.

FURTHER CONSIDERATIONS

The report is at odds with EU's existing position. In a number of the above listed points (absence of international law, no mention of the Separation Barrier, downplaying of the Gaza blockade, one-sided emphasis on Palestinian incitement), the report departs from the EU's position. That position, as articulated in FAC Conclusions on MEPP, is, relatively speaking, more consistent and balanced. This raises the question whether the EU could have asserted its stance more adamantly during the Quartet negotiations. Importantly, the EU made clear in its [Declaration](#) on the Quartet report of 8 July that it sticks to its existing position and that the Quartet report does not supersede it. Yet, if the Quartet report now becomes the central basis for further diplomacy, it may still effectively undermine the EU's position. The EU's [statement at the UN Security Council](#) on 12 July is a mix between the EU's and Quartet's positions.

The report does not substantially improve on the existing US position. If the aim of the report was to elicit a stronger or more balanced position from the US government in the context of the Quartet, it did not succeed. There is certainly more detail than the US has publicly stated so far, but little substantive improvement, except perhaps on the so-called Area C and the “denial of Palestinian development”. On the other hand, the report does not even uphold the pre-1967 lines as a basis for negotiations despite this being a public US position since President Obama's speech at AIPAC in 2011. The report does not affirm, as some had hoped, the illegality of settlements under international law, which would have been a meaningful step forward for the US (or a return to the pre-Reagan position). The criticism of settlements in the report is not new for the US and its “cushioning” in the report by putting it behind (primarily Palestinian) incitement and violence seems like a regression rather than progress, certainly compared to the early years of Obama's presidency. Overall, rather than improving the imbalanced US position, the Quartet gives it a stamp of international legitimacy.

The report's recommendations endorsed by the EU are also imbalanced. In its Declaration, the EU welcomed the report but only endorsed the recommendations, namely “as a contribution to creating the conditions for the two-state solution”. While this is more prudent than endorsing the whole report, the recommendations themselves are not free of the above-described imbalance. This concerns, for example, the recommendations on incitement and terrorism and on reunifying Gaza and the West Bank, which deviate from the EU's position. In the course of any practical follow-up on the recommendations, the EU should insist on their rebalancing.

³ Source: UN OCHA weekly, monthly and annual reports. The 2012 ceasefire to which Israel and Hamas implicitly returned in 2014 commits Israel to stop all hostilities, “including incursions and targeting of individuals”.

CONCLUSION

Over the past months, the EU has promoted the forthcoming Quartet report as a significant contribution to the Middle East Peace Process. The result is a paper that promotes an imbalanced narrative and contains a wish-list of recommendations without any teeth. Given the power balance in the Quartet and domestic political realities in the US, it could be argued that a report of this kind was the only way to get a unified Quartet stance. However, the question is how such a report actually helps the peace efforts and what it brings for the EU's objectives.

The EU has had most meaningful influence on the MEPP when it has broken new ground independently of the US. This was the case, for example, of the Venice Declaration of 1980, which recognised the Palestinian right to self-determination and called for the involvement of the PLO in peace negotiations years before the US followed.

The EU should avoid uncritically embracing the Quartet report as a basis for further diplomacy. It should only invest time and energy into the follow-up on the recommendations if the Quartet is prepared to jointly apply serious pressure on the parties to implement them. If that is not the case, the EU should make Quartet diplomacy a less central priority. Instead it should promote a factually balanced approach to the conflict based on international law, while developing its own concrete actions to protect the viability of the two-state solution. These actions should include, inter alia, further EU measures to entrench the delineation between Israel and the territories it has occupied since 1967, as a way to counteract the de facto annexation proceeding on the ground. The Quartet's failure to chart a meaningful way forward makes this only more important.

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ANNEX: EXAMPLES OF ISRAELI INCITEMENT

The quotes below by Israeli politicians and religious leaders illustrate the fact that incitement exists on both sides in Israel/Palestine. Despite acknowledging this, the Quartet report gives much greater attention to Palestinian incitement and only calls on the Palestinian Authority, not on Israel, to act against incitement.

Israeli politicians:

Avigdor Liebermann (then Minister of Foreign Affairs and leader of Yisrael Beiteinu)

"Those who are against us, there's nothing to be done – we need to pick up an axe and cut off his head." (On Israeli Arabs who are disloyal to the State of Israel - [Mar 2015](#))

Ayelet Shaked (then member of the Knesset, now Minister of Justice)

"Behind every terrorist stand dozens of men and women, without whom he could not engage in terrorism... They are all enemy combatants, and their blood shall be on all their heads...They should go, as should the physical homes in which they raised the snakes. Otherwise, more little snakes will be raised there." ([Jul 2014](#))

"This is a war between two people. Who is the enemy? The Palestinian people." ([Jul 2014](#))

Yisrael Katz (Minister of Intelligence and Transportation, Likud)

Katz said that Israel should engage in "targeted civil eliminations" of BDS leaders with the help of Israeli intelligence, intentionally using language that plays on the Hebrew term for "targeted assassinations." ([Mar 2016](#))

Naftali Bennett (then Minister of Economy and head of the Jewish Home)

"I've killed many Arabs in my life, and there's no problem with that" ([Jul 2013](#))

Eli Ben-Dahan (then Knesset member for the Jewish home, now Deputy Minister of Defence)

"[Palestinians] are beasts, they are not human." ([Aug 2013](#))

Bezalel Smotrich (member of the Knesset for the Jewish Home)

"The murder in Duma, with all its severity, is not an incident of terrorism. Period. Whoever calls it terrorism is deviating from the truth, causing mortal and unjustified harm to human and civil rights." ([Dec 2015](#))

Yair Lapid (Knesset member and chairman of Yesh Atid)

“My principle says maximum Jews on maximum land with maximum security and with minimum Palestinians.” ([Jan 2016](#))

Amir Ohana (member of the Knesset for Likud)

“We must declare war on terrorism. Three steps must immediately be taken. Eliminating the inciters” is the first step. “Those people [the inciters] must be killed.” ([Jul 2016](#))

Rabbi Ovadia Yosef (founder and leader of Shas political party until his death in May 2013)

In a sermon he expressed the wish that “all the nasty people who hate Israel, like Abu Mazen (Abbas), vanish from our world... May God strike them down with the plague along with all the nasty Palestinians who persecute Israel.” ([Aug 2010](#))

Israeli religious leaders:

Rabbi Yitzhak Yosef (Sephardi Chief Rabbi of Israel, son of Shas founder Rabbi Ovadia Yosef)

“According to Jewish law, it’s forbidden for a non-Jew to live in the Land of Israel – unless he has accepted the seven Noachide laws. If he’s not willing to accept one of them, [which is] not to commit suicide, if he’s not willing to accept this, you send him to Saudi Arabia. [...] If our hands were strong, if we had governing power, then non-Jews shouldn’t live in the Land of Israel.” ([Mar 2016](#))

Rabbi Shmuel Eliyahu (Chief Rabbi of the city of Safed)

“The Israeli army has to stop arresting Palestinians, but, it must execute them and leave no one alive. [...] We must not allow a Palestinian to survive after he was arrested. If you leave him alive, there is a fear that he will be released and kill other people. [...] We must eradicate this evil from within our midst.” ([Jan 2016](#))

Rabbi Dov Lior (Chief Rabbi of the settlements in Hebron and Kiryat Arba, heads the "Council of Rabbis of Judea and Samaria")

“In a time of war, the attacked nation is permitted to punish the enemy population with whatever measures it deems proper, like blocking supplies or electricity. It may bomb the entire area based on the judgment of the war minister and not wantonly put soldiers at risk. [...] The defense minister may even order the destruction of Gaza so that the south should no longer suffer.” ([Jul 2014](#))