The European Union's Role in the Palestinian Territory after the Oslo Accords: Stillborn State-building

Dimitris Bouris
University of Warwick

Abstract

The aim of this paper is to shed light on the debate about the European Union (EU)'s role as a state-builder in the case of the Palestinian Territory and in particular the extent to which EU policies and programmes in the area have been able to assist the process of state-building in Palestine in the aftermath of the 1993 Oslo Accords. By analysing the liberal peace and liberal democracy debate on the one hand and the EU's state-building and conflict resolution policies on the other hand, the paper aims to evaluate the distinctive role of the EU as a state-builder in the case of the Palestinian Territory. Moreover, by focusing on state-building initiatives such as police and security reform, institution-building, judicial reform, as well as support for the health and education sectors, the paper aims to answer the following questions: why have the EU's state-building strategies employed after the Oslo Accords in Palestine had so little impact? Can this tell us anything that we do not know about the high politics of the conflict? Does this represent a failure of the whole liberal peace-building model (or not)?

AFTER THE END OF THE SECOND WORLD WAR AND THE ESTABLISHMENT OF THE United Nations (UN), the whole international community committed itself to the attainment of peace and security both domestically and in inter-state relations. The pacific settlement of disputes was from the very beginning part of the UN Charter and, since then, peacekeeping has become synonymous with the UN itself.

The end of the Cold War in 1989 activated a complex and interesting mix of organisations (regional and international), as well as governments and non-governmental organisations (NGOs) which aimed to 'build peace' in war-torn countries. Peace-building soon became a 'must' and more than 20 peace-building missions were deployed from the Balkans to Central and South Asia and from the Caucasus to the Middle East and Africa. The common denominator of these missions was that they were all deployed to post-conflict societies with the aim of preventing the resumption of violence. One of the lessons learned from these

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missions was that they were paying little attention to constructing all these institutional foundations needed for functioning governments and economies. As a result, state-building occurred in order to complement peace-building efforts.

One of the hard lessons that the international community learnt after September 11 was that state weakness constituted a great strategic challenge. States characterised by poor governance and weak institutions widely known as 'fragile states', were the new challenge that the international community had to face. 'State building for peace' is now the new doctrine embraced by all the actors of the international community in order to tackle violence, war and underdevelopment.

The aim of this article is twofold. First, it is to synthesise the literatures on state-building and conflict resolution in order to demonstrate how state-building can be used as a conflict resolution tool. Second, it is to make a direct contribution to the EU and state-building literature by using the Occupied Palestinian Territory[1] as a case study. The problem with the existing state-building literature is that, in its majority, it deals with the UN's role in state-building and it also engages with post-conflict societies and dilemmas. To that end, the article will investigate the EU's distinctive role in state-building, as well as give an example of how state-building can be done in a society that is still in conflict.

This article is divided into five sections. In the first section, a general overview of the debate on the liberal peace, peace-building and state-building is provided in order to help the reader understand the evolution of the whole debate. The second section brings the EU into the debate on liberal peace as the EU has long been characterised as a 'Liberal Superpower'. An overview of the EU's tools for conflict resolution is also provided. The third section brings together the EU, conflict resolution and state-building in order to demonstrate how the last two should be combined and the fourth section examines how state-building could be used as a way of achieving peace in the Palestinian Territory. The last section offers an overview of the EU's role as a state-builder in the case of the Palestinian Territory by providing specific information on the state-building project in the Palestinian Territory by focusing on initiatives in the domains of police and security reform, institution-building, judicial reform, as well as support for the health and education sectors.

Liberal peace and state-building

The debate on peace dates back to Thucydides who supported the ideas that "peace is an armistice in a war that is continuously going on" and that "peace is established through war". The so-called 'liberal peace' could be traced back to the work of Kant and his *Perpetual Peace*. Kant came to set specific conditions on which peace could be attained between states. These include the adoption of democracy as a basis of government and the promotion of international trade which would form the basis of international co-operation and consequently the end of war (Richmond 2007: 27).

The UN played a significant role in the attainment of peace not only domestically but also in inter-state relations. Although peacekeeping was originally created by the UN in order to support the cessation of inter-state conflicts, since the end of the Cold War UN peacekeeping has evolved from purely military missions to 'integrated' missions, which have both military and civilian components. These missions now come to pursue a multi-disciplinary approach which also integrates peace-building (Leininger 2006: 470) using state-building and democracy promotion as its instruments to build peace. However, peace-

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[1] The term 'Occupied Palestinian Territory' (OPT) is the official term used by the EU and the UN (but not by the US and Israel) and it refers to East Jerusalem, the West Bank (with all its zones, A, B and C) and the Gaza Strip. It will be used interchangeably with the term Palestinian Territory (PT) in this article.

builders in the 1990s were trying to turn war-torn states into liberal democracies without questioning the success of this strategy or the mechanisms and methods in conducting this project (Paris 2004: 6). It was just assumed that a functioning state, a stable democracy and the conflict as such were interlinked. It seems that the Western liberal market democracy had triumphed over other types of democratic or non-democratic governance. As Sachs puts it, "[by] the mid-1990s almost the entire world had adopted the fundamental elements of a market economy, including private ownership at the core of the economy, a currency convertible for international trade (…) and market-based transactions for the bulk of the productive sectors of the economy" (Sachs 1999: 98). Consequently, governance soon became the key element and "its reform, construction, and restraint integral to this new version of peace" (Richmond 2007: 56).

The new liberal peace was also adopted by the Conference on Security and Cooperation in Europe (CSCE)[2] which declared that "the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe" (CSCE 1990: 2). The World Bank followed the 'chorus' and adopted the liberal agenda making its aid conditional on six key areas of liberalisation namely social and ethnic relations, governance and political institutions, human rights and security, economic structure and performance, environment and natural resources as well as other 'external factors' (World Bank 2005a: 7).

The new liberal peace gained momentum and it was closely linked to the debate on conflict prevention and conflict resolution. The democratic peace argument, a component of the liberal peace idea, which argues that democracies tend to safeguard peace in their interactions with each other, was inherently linked to political liberalism. Oliver Richmond, reflecting on peace, forms a conceptualisation of peace as governance, which is the most common form applied to peace-building, as well as state-building (Richmond 2007: 86). Peace as governance focuses on society and the building of institutions aiming at the construction of the liberal peace to which NGOs and agencies also contribute. As Richmond puts it, "the balance of power, hegemony, institutionalism and constitutionalism, and civil society converge in this version of peace in an era of governmentality, which is super-territorial, and multi-layered" (Richmond 2007: 211). Consequently, contemporary debates on peace and state-building have moved onto the construction of liberal types of governance as far as economic, political and social aspects are concerned. The driving force behind this is the belief that by fostering all these socio-economic and political structures peace will be strengthened and relapse into conflict will be averted.

The argument that peace-building should pay more attention to state-building goals has thus gained more and more prominence. Fukuyama, for example, focuses on the problem of weak governance and inadequate institutions at the national level. He argues that "weak or failing states commit human rights abuses, provoke humanitarian disasters, drive massive waves of immigration, and attack their neighbors" (Fukuyama 2005: 125). Moreover, he emphasises the importance of the institutional capabilities of a state, recognising that, in order for an institutional reform to take place, the most important factor is domestic demand.

The debate on the importance of building effective governmental institutions was also joined by Krasner, Chesterman and Paris on the basis of the argument that, in order for democracy to be constructed, a minimum of state structures would be required. Krasner argued that, in order to achieve peace, effective institutions had to be built (Krasner 2004: 90) while Chesterman, in the same line of argument, argued that more attention should have been paid to peace and institutions rather than to democracy (Chesterman 2004: 234). Finally,

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[2] In 1992, in Helsinki, the CSCE was turned into what we now know as the Organisation for Security and Cooperation in Europe, following a Summit Meeting in Paris in November 1990 where the Paris Chapter for a new Europe was adopted.

Paris proposed a new strategy named 'Institutionalisation before Liberalisation' which "begins from the premise that democratization and marketization are inherently tumultuous transformations that have the potential to undermine a fragile peace" (Paris 2004: 7). As evident, Paris emphasises the need for establishing effective domestic institutions first and foremost before introducing a state into the democratic and market-oriented reforms.

The majority of the literature on state-building concurs on some 'core' state functions that established institutions should be able to run, although there is not any 'one-fits-all' agreed model of state-building as "state-building *per definitionem* does not imply a specific determined form of government" (Leininger 2006: 472). These include the provision of security, the rule of law including an effective constitution building[3], as well as police and justice system, basic services and the ability to formulate and implement budget plans (Paris and Sisk 2009: 15). Fukuyama adds to these functions the enactment of laws, a minimum of bureaucracy, the control of corruption and the maintenance of a high level of transparency and accountability in these institutions (Fukuyama 2005: 12).

The next section will attempt to introduce the EU in all this debate about peace-building, liberal peace and state-building and demonstrate how the EU, as a 'liberal superpower', has come to adopt liberal principles and norms in its policies with a special reference to its conflict resolution policies.

The 'liberal superpower' argument and conflict resolution

Since its inception, the EU has rejected realism and has moved to adopt liberal principles and norms in its policies. Having acknowledged the value of peace, which constitutes its core, the EU tries to promote it with regard to its partners by pursuing a foreign policy that includes objectives such as the promotion of democracy, the rule of law, respect for human rights, and regional co-operation. To that end, the EU has moved beyond traditional meanings of foreign policy, conflict management and conflict prevention and now aspires to conflict resolution. But what are the instruments that the EU has at its disposal with reference to conflict resolution?

Hill (2001) argued that the EU can have a twofold role; not only can it offer a context conducive to the settlement of conflict through its framework of governance, but it can also generate incentives by using its policy instruments. In the same line of argument, Tocci argues that the EU can act both as a framework and as an actor (Tocci 2004). In the first case, the EU is seen as a model whose nature inspires the conflicting parties by its constitutional and policy options and thus "the EU can also serve as a general point of reference with regard to various governance practices and standards" (Noutcheva *et al.* 2004: 24). In the second dimension – the EU as a 'player' – the EU uses its incentives, sticks and carrots in order to provide a dynamic external involvement in the resolution of the conflict (Noutcheva *et al.* 2004: 24).

Analysts argue that the EU wields power by example, rather than by military might, and has become the world's most committed promoter of liberal rights (McCormick 2007). The distinctive element of the EU is not only that it is promoting these liberal norms across the world, but is itself founded upon them. Moreover, it is not just the universality of norms promoted but "the means through which they are spread or diffused" (Manners 2004: 5) that matter. As a result, the EU pursues its foreign policy and sets 'milieu' rather than

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[3] Constitutional building can provide a very important opportunity for the establishment of an institutional and governance framework and "opens the door to important societal dialogue" (Samuels 2009: 173).

'possession' goals.[4] All these norms have a common historical legacy and are currently included in the form of 'conditionality clauses'. The use of this conditionality correlates with the EU's belief that serious instability can result from their abuses (Youngs 2004c: 426). To that end, all liberal principles promoted by the EU "are generally acknowledged within the UN system to be universally applicable" (Manners 2008: 46).

Although conditionality has been mainly linked to the so-called 'Copenhagen criteria'[5] and a country's candidacy for EU membership, it can also take other forms such as conditionality as trade, aid or incentives. As a result, conditionality can be economic as well as political. For example, by 2002, the EU offered nearly €1 billion to democracy and human rights categories of development assistance and the European Commission's Initiative for Democracy and Human Rights (EIDHR) "amounted to €100 million a year by the end of 1990s" (Youngs 2004b: 533). The promotion of human rights in particular hides broader agendas such as the neo-liberal which tends to spread market-oriented policies "subtly through non economic reforms, such as insistence on good governance and typical democratic institutions" (Balducci 2008: 26). It is true that the EU uses its economic leverage in order to bring about desirable change through carrots and sticks. In other words, it can use conditionality in order to push for internal change in the different states such as institutional reform, liberalisation of their economies (positive conditionality), as well as apply sanctions when the 'terms and conditions' of an agreement or partnership are not fulfilled (negative conditionality). As Michael Smith has noted, "the EU has the economic capacity to reward and to punish; it has the technical and administrative capacity to support and stabilise; and it has the capacity to negotiate in ways unknown to many of the other participants in the European order" (cited in Hill 2001: 329).

By linking conditionality and conflict resolution, there is a number of ways in which the EU could use its conditionality mechanism in order to influence the resolution of a conflict. Thus, by using conditionality, the EU can choose with whom it wants to 'play'. This means that it can directly or indirectly favor specific actors and, at the same time, 'punish' others who do not want to 'play its game'. Nevertheless, the use of conditionality can have both positive and negative effects. On the negative side, a good example which occurs from recent events in Gaza is that of the EU's relations with Hamas. While the EU chose to ban the Hamas-led government and legitimise its rival, Fatah, this proved to be a fatal mistake in the aftermath of the recent War in Gaza (27/12/2008 -17/1/2009). The effort to cut off the Hamas government, in order to weaken it politically and financially, did not prove to be successful and efforts, mainly from the US, to mount a 'soft coup' that would restore Fatah to power could be characterised as the decisive factors that led to this war (Crooke 2006). Some other factors that led to this war could also be added such as the rocket firing from Gaza to Israel despite Hamas' general observance of the unilateral truce, the six-month ceasefire which started in June 2008 and Israel's continued blockade, which was supposed to be lifted. Therefore, while the recent war in Gaza was aimed at 'teaching Hamas a lesson' (Crooke

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[4] The distinction between 'milieu' and 'possession' goals was first made by Wolfers who argued that "one can distinguish goals pertaining, respectively, to national possessions and to the shape of the environment in which the nation operates. I call the former 'possession goals' the latter 'milieu goals'. In directing its foreign policy toward the attainment of its possession goals, a nation is aiming at enhancement or the preservation of one or more of the things to which it attaches values (…) here a nation finds itself competing with others for a share in values of limited supply (…) milieu goals are of different character. Nations pursuing them are out not to defend or increase possessions they hold to the exclusion of others, but aim instead at shaping conditions beyond their national boundaries (…)" (Wolfers 1962: 73).

[5] The 'Copenhagen criteria' are political, economic and *acquis*-related. The political criteria are: stable institutions to guarantee democracy, the rule of law, human rights and respect for and protection of minorities. The economic criteria are: a functioning market economy and the capacity to cope with competitive pressure and market forces within the EU's internal market. Finally, the so-called '*acquis* criteria' are: the ability to take on all the obligations of membership, *i.e.* the entire body of EU law and policy known as the *'acquis communitaire'* and adherence to the aims of political, economic and monetary union (Council of the European Union 2003).

2009), this was not achieved as a January 2009 poll demonstrated that trust in Hamas had risen to 27.7 per cent from 16.6 per cent before the war (Jerusalem Media and Communication Center Poll 2009). As stated by Bar-Yaacov, "the rise in popularity of Hamas leaders in government and the decline and unpopularity of Fatah are an important direct outcome of this war" (quoted in House of Commons 2009: 18). Consequently, although the EU was and is still urged to engage with Hamas and include it in the process (House of Commons 2007; Brzezinski et al. 2009; O' Donnel 2008; Emerson et al 2009; The Times, 26 February 2009) it continues with the same one-way policy of no inclusion which undermines its conflict resolution, peace-building and state-building policies.

In addition to conditionality, the EU has other instruments in order to deal with conflict resolution. Tocci adds social learning and passive enforcement to the list of instruments (Tocci 2007: 15-18). Social learning has to do with the transformation of interests domestically as the actors voluntarily incorporate the norms that the EU promotes. Passive enforcement, on the other hand, relies on a clear set of rules in the EU contracts and promotes a mutually beneficial co-operation (without rewarding as is the case with conditionality).

The next section will try to demonstrate how these mechanisms and instruments of conflict resolution can be linked with the state-building policies in order for the EU to play a more cohesive role as far as the use of state-building as a conflict resolution tool is concerned.

The EU, conflict resolution and state-building

The EU's commitment to promoting democracy to third countries is reflecting its so-called *'acquis communitaire'* or *raison d'être* and its strong attachment to the Kantian thesis argument that democracies tend to safeguard peace in their interactions with each other. In other words, the European experience demonstrates that "stable and mature democracies are considered to be better suited to deal with ethnic and religious fragmentation than non-democracies" (Solingen and Ozyurt 2006: 62). As a result, EU policies strongly support "democratic institution-building as a conflict prevention/resolution instrument" (Youngs 2004a: 531).

Therefore, the EU's approach to state-building is based on the assumption that the building of effective and credible institutions and the providing of financial help for infrastructural development will be translated into the establishment of a capable state. Democratic institution-building is thus considered the best way to achieve conflict resolution imperatives. The EU focuses its approach on the structural causes of conflicts trying to bring change in the long-term causes of conflict, such as existential threats due to the absence of security, poverty as well as the struggle for natural resources. The European Security Strategy (ESS) stresses that "none of the new threats is purely military, nor can any be tackled by purely military means" (European Council 2003: 7). The ESS clearly explains that one of the main objectives of the EU is crisis resolution and state reconstruction arguing that "[the] European Union and Member States have intervened to help deal with regional conflicts and to put failed states back on their feet, including in the Balkans, Afghanistan and the DRC" (European Council 2003: 6).

Through the years the EU's role as a state-builder across the world has been increased. The EU's strong belief that "the reinforcement of the rule of law and respect for human rights is an indispensable element in peacebuilding" (European Commission 2005b) has been translated into a wide range of missions all over the world. With this purpose, the EU has taken initiatives in the domains of peacekeeping operations, peace processes, peace negotiations and reconciliation efforts; security sector reform, civilian administration and

good governance; democratisation, strengthening of the rule of law, justice reform, ensuring respect for human rights and institution-building (European Commission 2006: 3).

The EU shares the international community's belief that the primary objective for the success of a state is the security sector. In contrast with other factors that are equally important, security is not something that can be built gradually, but has to be present at the beginning of a new state. Security seems to be the '*alpha* and *omega*' in the state-building process as, in its absence, political, economic and cultural 'building' would be impossible. Moreover, the security sector is considered to be an action which supports structures "which will tend to strengthen and solidify peace in order to avoid a relapse to conflict" (Boutros-Ghali 1992). This is the reason for which the EU has deployed so many security forces across the world as an element of state-building, from the Western Balkans to Africa and from the South Caucasus to the Middle East and Asia[6]. In addition to that, the EU has also been a strong supporter of judiciary reform across the world, providing support in elements such as improving the efficiency of the court system and judicial administration, training to judicial personnel and ensuring judicial integrity and independence.

State-building as a way of achieving peace in the Palestinian Territory

Over the decades the EU has engaged not only with the Mediterranean and the Middle East in general, but with the whole Israeli-Palestinian conflict in particular. During this time, the EU gradually formed its final policy towards its partners. While the EU has always recognised Israel's right to exist, the greatest clarity to the Palestinian question came in 1980 with the Venice Declaration which supported the Palestinian right to "self-determination" (European Council 1980). Although the Venice Declaration, which formed the basis of the two-state solution, did not find international consensus until 2002 when US President George Bush spelled out his vision of "two states, living side by side, in peace and security" (Bush 2002), it can be characterised as an important factor that affected and shaped the international consensus as far as the way of "thinking of, and dealing with, the Palestinian problem" (Soetendorp 2002: 285).

In 1993, the EU supported the Oslo Accords which were the first direct agreement between Israel and representatives of the Palestinians. In 1995, the EU came on stage with a promising institutional and multilateral framework: the 'Euro-Mediterranean Partnership' or, as it is also called, the 'Barcelona Process'. The 1995 Barcelona Declaration was structured on the basis of the three-basket/pillar[7] model introduced by the Helsinki Process (HP)[8]: political and security; economic and financial; and socio-cultural (Xenakis 2000; Youngs 2001: 55; Xenakis and Chryssochoou 2001: 74-94; Pace 2006; Panebianco 2003). In 1999, the European Council in Berlin set the foundations for the acceptance of a two-state solution, but this time on the basis of the 1967 borders. More specifically in the Berlin Declaration, it was stated that "the EU is convinced that the creation of a democratic, viable and peaceful sovereign Palestinian state (…) would be the best guarantee of Israel's security" (European Council 1999). This state should be democratic, independent, sovereign, peaceful and viable (Tocci 2005: 3).

Although state-building was and is still considered to be the best way of achieving peace in the Palestinian Territory, this objective has yet to materialise. This was the logic behind the Oslo process: that if reconstruction and socio-economic development were to be promoted and the establishment of the Palestinian Authority (PA) was followed by the ability of

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[6] For details about all these operation see http://www.consilium.europa.eu/showPage.aspx?id=268&lang=en
[7] These pillars are interlinked and the 'follow-up' mechanism guaranteed the evolutionary 'continuity', converting the EMP into a permanent mechanism of multilevel and regional cooperation.
[8] For the comparison between these two policies, see Xenakis 2004.

Palestinians to organise and manage their own political, economic and social affairs, then an independent Palestinian state, living peacefully side by side with Israel, could be established. As Le More puts it, "building Palestinian institutions was viewed by most within the international community as a first step towards the establishment of an independent Palestinian state" (Le More 2005a: 27). Indeed, from the beginning of the 21st century, there has been a consensus that the establishment of a Palestinian state constitutes the best way of achieving peace in the Middle East. More recently, US President Obama in a keynote speech in Cairo argued that "the only resolution is for the aspirations of both sides to be met through two states, where Israelis and Palestinians each live in peace and security [and] Israelis must acknowledge that just as Israel's right to exist cannot be denied, neither can Palestine's" (Obama 2009: 9). This came to be complemented by the former EU Foreign Policy High Representative, Javier Solana, who spoke out about the possibility of the UN Security Council establishing and recognising a Palestinian state by a certain deadline, even if Israel refuses to do so. More specifically, he argued that

> [after] a fixed deadline, a UN Security Council resolution should proclaim the adoption of the two-state solution. This should include all the parameters of borders, refugees, Jerusalem and security arrangements. It would accept the Palestinian state as a full member of the UN, and set a calendar for implementation. It would mandate the resolution of other remaining territorial disputes and legitimise the end of claims (Solana 2009: 4).

There are several reasons in support of the argument that, in the case of the Palestinian Territory, state-building can be considered the best way of achieving peace. Firstly, the establishment of a Palestinian state would address Palestinian aspirations of "dignity, opportunity and a state of their own" (Solana 2009: 4). Secondly, a possible Palestinian state able to take responsibility for law and order, as well as offer security (both inside and outside), is what also constitutes Israel's strategic interest. As recently announced by Israeli President Shimon Peres, "Israel has decided to make peace on the basis of two states - an Israeli state and a Palestinian state" (Haaretz, 5 September 2009).

The EU and state-building in the Palestinian Territory

Over the years, the EU has adopted a comprehensive state-building policy toward its Palestinian partners, which includes support for: a) the establishment of modern and democratic police forces, b) comprehensive institution-building and good governance, c) the sustainable growth of the Palestinian economy, d) the areas of customs and trade, e) sustainable PA finances and f) emergency and humanitarian purposes (Solana and Ferrero-Waldner 2007: 2). It is clearly evident, that the EU is behind every aspect of Palestinian state-building and has supported numerous projects, making Palestine the first country in the world that has received so much assistance from the EU (Stetter 2003: 159).

In the wake of the 1993 Oslo accords, the EU provided "over half the funding that supported the setting up of the Palestinian Authority quasi-state institutions" (Youngs 2006: 146). In the words of an EC official, "since the Madrid Conference, we had started to organise ourselves to deal with Palestinian nation-building (...) We thought that one of the most important things would be to set up the institutional framework which would help Palestinian self-determination as supported in the European 1980 Venice Declaration" (quoted in Le More 2008: 89). From 1997, the EU has helped the PA to cover its budget deficits, pay public sector salaries and centralise the fiscal revenues in order to help the establishment of structures for macroeconomic policymaking (Le More 2008). Between 1994-1998, 40 per cent of European money was channelled to the construction, infrastructure and the natural resources management sector, while other areas of financing included support to higher

education and to institution-building[9] (Le More 2008: 88). While the EU has supported every aspect of Palestinian state-building such as the economy, institution-building, the judicial system, environmental policies, agriculture, health, education, civil society, democracy and human rights, it still remains a secondary player in the high politics of the conflict and these programmes have had very limited impact.

Despite the EU's effort after 1999 to adopt a more political role with regard to the Israeli-Palestinian conflict – by emphasising the need for the creation of a Palestinian state based on the 1967 borders, the halt of the settlement construction, which was perceived as an attempt towards the establishment of irreversible facts on the ground by Israel and the denouncement of the 'Wall' or 'Barrier' as illegal[10] -, its high level leverage has remained limited. After the October 2002 Road Map, the EU did not take advantage of pursuing new initiatives on its own, but rather focused on trying to reengage the US administration. When this happened, a gap between their policies emerged. On the one hand, the Bush administration wanted to focus on the institutional reform prior to the final settlement negotiations, which Paris called 'institutionalization before Liberalization'. On the other hand, the EU was in favour of the view that "the creation of a Palestinian state must occur together with reform of the PA into a full nation-state democracy" (Youngs 2006: 152).

Although different approaches have always existed between the US administration and the EU, it is true that, when it comes to Middle East peacemaking, the US is the dominant political actor. As Le More sharply puts it, "[the] US decides, the World Bank leads, the EU pays and the UN feeds" (Le More 2005b: 995). Consequently, although the EU has managed to acquire a distinctive role in the peace process mainly through its financial support for Palestinian state-building and its participation in the Quartet, its ability to influence the process diplomatically has been limited. Nevertheless, this does not mean that the EU is an inconsiderable actor. While the fact that, until the 1980s, the EU was an unacceptable mediator to Israel and the US excluded any possible EU interference in the process (Soetendorp 2002: 285), the EU is now considered to be one of the main players in the Israeli-Palestinian conflict.

Despite the EU's acceptance of American predominance in the conflict, the EU has managed to exploit its economic leverage and increase its financial contributions. Indeed, it could be argued that, without its contribution, the PA would probably have collapsed by now. This gradually made the EU demand and acquire a larger share in the peace process and when Israel tried to downplay its greater role in Middle East peace-making, the EU's Foreign Policy High Representative Javier Solana, bluntly declared that the EU will be involved "whether Israel likes it or not" (quoted in Del Sarto 2007: 69). But what are the initiatives on the ground taken by the EU in order to assist the process of state-building in the Palestinian Territory?

As mentioned above, the security sector has attracted special EU attention because of the fact that "rapid Palestinian economic revival is essential (...) but it will only come true if there is a drastic improvement in the security environment" (World Bank 2005: b). Recognising the importance of an efficient security sector, the EU has deployed two missions in the Palestinian Territory. The first is a police mission named EUPOL COPPS, which aims to support the Palestinian Authority in establishing effective policing arrangements. The mission was established upon request from the PA which needed support in taking

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[9] It is estimated that between 1994 and 1998 the total amount of money provided by the EU for assistance to Palestine was €440million (Stetter 2003: 162).
[10] It is commonly known as 'Wall'. Its name is very controversial. On the one hand, Israelis call it separation, security or anti-terrorist fence, while Palestinians call it "Apartheid Wall". The BBC calls it barrier (BBC 2006), while the International Court of Justice proposed the term 'wall' (International Court of Justice 2004), which was also adopted by the United Nations (United Nations 2005).

responsibility for law and order and, in particular, in improving its capacity in civil police and law enforcement (European Union Council Secretariat 2009b). To that end, the Ministry of Interior in Palestine argued that "a professionally trained and self sufficient Palestinian Civil Police is the corner stone of law and order leading to a secure and independent Palestinian state" (Palestinian Ministry of Interior 2008: 1). While the mission had a three-year mandate and started its operation in 2006, it was extended in 2008 until 31 December 2010 because of its success. Its main tasks are threefold: to assist the Palestinian Civil Police mentoring and advising it, to co-ordinate and facilitate EU Member States' financial assistance to the Palestinian Civil Police and to give advice on politically related Criminal Justice elements (European Council 2005b). It should also be mentioned that EUPOL COPPS is acting in close co-operation with all the EU's institutional building programmes. As a result, "EUPOL COPPS is an expression of the EU's continued readiness to support the Palestinian Authority in complying with its Roadmap obligations, in particular with regard to 'security' and 'institution building'" (European Council 2005b).

The second civil mission under the European Union's Security and Defence Policy is the European Union Border Assistance Mission, Rafah (EUBAM Rafah), which was established after Israel's decision to withdraw from the Gaza Strip. On 15 November 2005, Israel and the Palestinian Authority signed an 'Agreement on Movement and Access'. Six days later, the Council of the EU welcomed the agreement and decided to undertake the third party role (after US unwillingness to do so). This means that the EU, together with Egypt, Israel and the PA, would be responsible for monitoring the Rafah border crossing point. EUBAM Rafah started operating on 30 November 2005 and it sought to reconcile Israel's security concerns with both the Palestinian demands for an autonomous border management and the need for Gaza's economic recovery, which requires open borders (Del Sarto 2007: 71). The mission initially had a one-year mandate, which has been extended until now (European Council 2005a). Its main aims were to assist the PA to build capacity-training on border management and customs, to evaluate and access the PA's application of the procedures, to contribute to confidence building between the parties, to contribute to the building of institutional capacity in the PA to ensure effective border control and to contribute to the liaison between the Palestinian, Israeli and Egyptian authorities in all aspects of border management at Rafah. Although supervising the Rafah border crossing is "neither a high-profile nor a particularly glorious task (...) the EU mission is nonetheless politically relevant" (Del Sarto 2007: 71) and it has significance for EU-Israeli relations. The mission had some success until the Hamas' takeover of Gaza on 13 June 2007[11]. Since then, EUBAM Rafah has declared a temporary suspension of operations at the Rafah Crossing Point because Israel blocked access to the EU observers following the abduction of Corporal Gilad Shalit by Palestinian militants (Sayigh 2007: 11), but it remains in the region with the operational capacity to deploy at short notice (European Union Council Secretariat 2009a).

As far as judicial institutions are concerned, these have been weak in the case of the Palestinian Territory, not only in quality, but also in infrastructure. It should not be neglected that Arafat had often ignored the Palestinian Legislative Council and tended to make his own laws using presidential decrees. In this environment, the EU had only some success in helping the establishment of a more transparent judicial system. In 2002, the PA adopted the Basic Law[12], which had existed for years even though Arafat had preferred to keep it in his drawer. Under much international pressure, he was pressed to sign it although "he seems to have unilaterally modified a few clauses" (Brynen 2008: 231). The Basic Law allowed for a

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[11] From June 2006 until June 2007, the crossing was open 23.5 percent of the time which, albeit not efficient, is still something important in order to help the free movement (Jerusalem Post, 6 February 2009). According to statistics, during the 18 months that the EUBAM was present, a total of 443.975 passengers crossed through the Rafah Crossing Point (European Union Council Secretariat 2009a).

[12] The Basic Law is a temporary constitution for the Palestinian Authority until the establishment of an independent state.

Prime Ministerial post to which some of the Presidential powers were transferred. But in practice, Arafat did everything he could in order to limit the powers of Mahmoud Abbas who was nominated as a prime minister in April 2003 (Youngs 2006: 152). A law for the independence of the judiciary was also passed although it was shortly followed by amendments that diminished its effective independence (Tocci 2005: 16).

The EU supported the need for developing a strong and independent judiciary by the 'Empowerment of the Judicial System' programme which "addresses the most urgent needs of the judiciary through institutional support, development of a permanent professional training system, refurbishment of courts and the provision of equipment" (European Commission Technical Assistance Office for the West Bank and Gaza Strip 2007). The institutional support component, known as the 'Seyada Project' is the basis of the project, as it supports the establishment and functioning of higher judicial institutions (European Commission Technical Assistance Office for the West Bank and Gaza Strip 2007). Moreover, the programme supports the establishment of a comprehensive database of Palestinian court judgements. The training of judges and the refurbishment of courts were also supported by the EU (Tocci 2007: 102) through the 'Euromed Justice Programme', which enabled regional co-operation between Europe and its Mediterranean partners.

The EU's contribution to state-building in the Palestinian Territory is not limited here. The EU has undertaken numerous projects to develop and enhance Palestinian health and educational institutions. In the domain of health, the EU has funded the establishment of the European Gaza hospital, which has become a reference point within the Palestinian healthcare system. Through close coordination with the Ministry of Health and through a Hospital Management and Planning Support Programme, the EU has provided hospitals with training and technical assistance. Six East Jerusalem hospitals have also received direct assistance via an emergency support programme in order to help, restore and sustain their viability. Last but not least, the European Commission Humanitarian Office has also funded, directly or indirectly, through NGO's and the United Nations Relief and Works Agency (UNRWA), the delivery of health services to vulnerable populations, such as refugees, people with disabilities, children and old people.

On the education front, the EU has also taken initiatives which have not only helped the process of state-building in the Palestinian Territory, but which have also changed people's lives. By providing €20 million, the EU helped the building of 30 new primary and secondary schools on both the West Bank and Gaza, benefiting nearly 20,000 students who were in overcrowded schools (European Commission Technical Assistance Office for the West Bank and Gaza Strip 2007). The EU also provided €4.3 million for the creation of a vocational training centre in the southern West Bank. Through its Emergency Service Support Programme (ESSP) between 2003 and 2005, the EU helped to cover both operating costs and staff salaries of higher education institutions. Moreover, between 2006 and 2007, through the EU's Temporary International Mechanism (TIM)[13], allowances were given to the teaching staff.

In 2005, during the London Meeting on supporting the PA, the donors reaffirmed their strong commitment to help the Palestinians in strengthening their democratic institutions, including

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[13] TIM was established after Hamas' election so as to permit the EU to continue its economic support towards the Palestinian Territory, by by-passing the Hamas-led government and channeling money directly to people and projects. TIM has three "windows": mechanism window I includes an Emergency Services Support Programme funded by the World Bank and its amount is €10 million for health supplies; window II (€40 million) is for the Interim Emergency Relief Contribution (IERC) of the European Commission which is being reinforced to ensure uninterrupted supply of essential utilities such as fuel, particularly to the power station in Gaza; window III (€40 million) aims at the payment of social allowances for those who provide health services in hospitals and clinics. For more details, see European Union 2006.

elections, public sector and civil service reform, judiciary, Basic Law/ Constitution and civil society (Conclusions of the London Meeting on Palestinian Reform 2005: 4). In the same year, the EU and the PA signed an Action Plan in which they agreed among others on the "establishment of an independent, impartial and fully functioning judiciary in line with international standards and strengthen[ing] the separation of powers" (European Commission 2005a). Moreover, in December 2007, at the Paris Donors' Conference, €440 million was made available and more recently, at the International Conference for the support of the reconstruction in Gaza in Sharm El Sheikh, the EU pledged €436 million, which were channelled for humanitarian assistance, as well as for the continuation of the institution building projects.

Although the Palestinian Territory has received "the highest sustained rate of per capita disbursements to an aid recipient in the world since the Second World War" (World Bank 2004: 64), which was supposed to "make the West Bank and Gaza an 'easier' case of statebuilding" (Brynen 2008: 217), neither peace nor a state has been 'built' until now. There are several reasons for this. Firstly, the legacies of neo-patrimonial politics that Yasser Arafat's leadership promoted had a direct effect on the infringement of democracy, institutionalisation and the rule of law. Secondly, Israel's continuing military occupation should be mentioned as an important factor, if not the most important, in the failure of the establishment of a Palestinian state. Israel's military occupation, restrictions on Palestinian mobility, continued withholding of tax transfers, closures and the destruction of important infrastructure in the first and second *intifada*, as well as in the recent war in Gaza, have reversed the process of state-building.

Thirdly, the international community in general and the EU in particular should also be blamed. Donors and their lack of clear priorities and cohesion in their policies, as well as the overlooking of institutional weaknesses and corruption in the hopes of progress towards peace, played a catalytic role in the undermining of the state-building project.[14] While the Quartet for the Middle East promised in September 2005 to "support sustainable growth of the Palestinian economy and to strengthen the overall capacities of the PA to assume its responsibilities through an aggressive pursuit of state-building and democratic reform efforts" (Quartet 2005: 2), both the state-building project and democratic reforms have been undermined since then. In 2007, when Abbas formed an emergency government and called for early elections, the Quartet remained silent over the invalid interpretations of the Basic Law (Sayigh 2007: 24).

The EU in particular has also played a significant role in the failure of state-building in the Palestinian Territory as it has never really used its strongest tool for conflict resolution: conditionality. The EU, eager to see the peace process continue, did not hesitate to support the establishment of a strong leadership under Yasser Arafat in the hope that he was the only one capable of delivering security and peace. However, the results were not those expected. The PA was thus encouraged to adopt more authoritarian and repressive tactics and its unconditional support to Arafat had, as a result, neo-patrimonial policies and corruption through large-scale public sector hiring (Le More 2005b: 992). Moreover, although the EU remains Israel's largest trading partner, it has never done anything more than make declarations and statements in order to challenge Israel's policies towards the Palestinian Territory. Consequently, the EU has been left to watch the destruction of EU-financed "administrative and security installations, and civilian infrastructure" (Asseburg and Perthes 2009: 2) through the years without applying any sanctions to Israel and without even being able to speak with one voice. While Belgium and Spain seemed in favour of sanctions against Israel, Germany, Britain and the Netherlands considered such measures

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[14] For a detailed assessment of the effectiveness of the donors' strategies and international aid, see Keating *et al.* 2005 and Le More 2008.

counterproductive (Soetendorp 2002: 292). The 'one-voice problem' was also witnessed during last year's war in Gaza; on the one hand, Sarkozy was emerging as a 'hero' who was trying to broker a ceasefire and on the other hand, the official EU Czech Presidency was stating that Israel's war in Gaza was 'defensive and not offensive' (Haaretz, 4 January 2009).

Finally, another problem occurs from Hamas' inclusion in the EU's list of terrorist organisations. In January 2006, Hamas won a fair and free election process and since then the international community has tried to limit and undermine its influence. In contrast to their will, Hamas remains a relevant player in the 'game' and the sooner the international community and the EU include it in the process, the sooner conflict resolution and peace in the Palestinian Territory may be witnessed. At the moment, not only is the state-building project undermined by the recent war in Gaza as it has reversed the dynamics but all the economic help will again be channelled for humanitarian and reconstruction purposes, rather than building the institutions and the necessary infrastructure for a future Palestinian state. To this end, although an effort had started towards shifting "from emergency assistance to sustainable Palestinian development in the West Bank, Gaza and East Jerusalem" (Palestinian National Authority 2008: 17) through PEGASE, this aim once more collapsed after the recent events in Gaza and Israel's assault between 27 December 2008 and 17 January 2009.

Conclusion

The facts on the ground are that the EU did not manage to bring either peace or resolution of the conflict in the Israeli-Palestinian case, nor did it manage to play a decisive role and 'build' a successful Palestinian state. Is the fact that the Israeli-Palestinian conflict is still ongoing a failure of the whole liberal moment and a triumph of realism? Or is it just a failure of the EU to successfully link its instruments with concrete policies and become a player instead of a payer?

The answer to this question is difficult. Firstly, it could be argued that the main weakness is that state-building cannot be pursued in the absence of a state and that a peace agreement would have more relevance than the state-building project itself. This is partly true; a peace agreement would definitely be of significance but in its absence the international community and the EU cannot stay passive. Also, Israel is supposed to be in favour of a Palestinian state if Palestinian functions can safeguard security. However, security is not something that can be built immediately after a possible peace agreement. It should already exist in order for a viable state to take form and shape. Finally, it should be noted that until now there have been several peace agreements, but none of them seems to have brought an end to the Israeli-Palestinian conflict, nor to have established a Palestinian state. Thus, while for example, the Roadmap envisioned specific steps to be taken by both the PA and Israel which would be followed by the establishment of a transitional "independent Palestinian state with provisional borders and attributes of sovereignty" (Quartet 2003: 5) by December 2003 and a final agreement and full statehood by the end of 2005, a Palestinian state has yet to be established. The same is true with the Annapolis Conference which envisioned a Palestinian state by the beginning of 2009; the results are evident.

Consequently, it is strongly argued that the best way to achieve conflict resolution in the case of the Palestinian situation is the state-building project. This argument is strengthened by the recent Fayyad plan which aims at 'building' a Palestinian state by 2011. According to this plan,

the program, which sets out our national goals and government policies, centers around the objective of building strong state institutions capable of providing, equitably and effectively, for the needs of our citizens, despite the occupation (...) for our part, we have to dedicate ourselves to the task of state-building (…) (Palestinian National Authority 2009: 3).

The international community seems to agree with the idea that "if you build it, the state will come" (Guardian, 4 September 2009). If this is to be linked with the recent Solana talk in London and his argument that "after a fixed deadline, a UN Security Council resolution should proclaim the adoption of the two-state solution", then the argument put forward by this article gains more support.

Secondly, although the EU, as the strongest supporter of liberal values, tried to link its state-building policies with its conflict resolution ones, it did not manage to 'build' peace or a state in the Palestinian Territory. Moreover, the EU was not successful at linking on-the-ground initiatives to the political level. Consequently, "the policy-making disconnect between the democracy and conflict resolution agendas has impacted upon the distribution and profile of EU political aid" (Youngs 2004: 533). Instead of taking advantage of the fact that it is behind every single aspect of the Palestinian state-building in order to use this strength at the high politics level, the EU has only been ready to write cheques rather than use 'force'. To put it in the words of former Commissioner Chris Patten, "before Europe does the easy bit and writes more cheques, we should at least ask ourselves what exactly we are buying with our money. It would be a real breakthrough if the answer was peace" (Patten 2009). This does not mean that there is a specific liberal peacebuilding and state-building model with boxes to check that the EU did not follow. The article rather argues that the EU has been inspired by liberal values, but there is a great variety of state-building concepts despite a general consensus on some core functions that a state should be able to run.

Also, the EU has systematically failed to apply the principle of conditionality in this case. The outcome was a passive role for the EU in cases where it should have taken serious decisions even at a declaratory level. One of the several examples that could be used is that, until now, the EU has done nothing to challenge the construction of Israeli settlements which both in the past and now proved to be one of the biggest stalemates in the peace process. Nor has it done anything as far as Jerusalem, borders, refugees and Palestinian suicide attacks and rockets are concerned. What about using its conditionality and replying to all these incidents through economic sanctions?

Moreover, in the EU, there have been many examples of gaps between rhetoric and reality. To that end, while the EU is supposed to promote the norm of democracy which relies on the principle of free and transparent elections, at the same time we are witnessing the EU freezing its direct aid because of the election of a 'wrong' government. Except for these, Israel has a very big portion in the failure of the Palestinian reform as it has continuously bombed essential Palestinian infrastructure, and with its restriction of movement policies has prohibited Palestinian economic development. As a result, although the international community in general and the EU in particular are trying to move from humanitarian aid to state-building, this cannot be done because, as is the case, European taxpayers are paying for the Palestinian reconstruction, while at the same time American taxpayers are paying for its destruction. If this cycle of construction-reconstruction does not end, then the prospect of building a successful Palestinian state will constantly diminish.

Finally, the Palestinian internal political system has to be blamed for the failure of reform as well. The unwillingness of the two leading political forces, Fatah and Hamas, to cooperate for the sake of their citizens and be consistent in their negotiations for the resolution of the Israeli-Palestinian problem has a direct impact on the failure of the EU policies.

To sum up, although the EU is by far the largest supporter of governance projects which focus on institution-building, it links them more with social, rather than political, activities. This has, as a consequence, much more attention being paid to immediate imperatives of conflict resolution, rather than issues of institution building. The EU has the capacity of state building and is capable of doing so, but should start being more consistent in the implementation of its rhetorical promises and recognise the importance of better coordination in its policies of state-building as conflict resolution. If the argument that "if you build it, the state will come" has some relevance, then the EU should immediately and aggressively help the Fayyad government to make the recent blueprint plan a reality. Of course, for its success "whether we like it or not, Hamas has to be part of the solution" (Solana 2009: 4).

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