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Necessary Trade-Offs or Two-Faced Hypocrisy: Normative Conflicts in EU Policies

Cover Page Footnote

I am very grateful to Nathalie Tocci, Menna Bizuneh, and participants of the 2022 Undergraduate Conference on the European Union for their helpful comments.

Necessary Trade-Offs or Two-Faced Hypocrisy: Normative Conflicts in EU Policies

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ABSTRACT

The European Union (EU) often tries to present itself as a normative leader in both human rights protection and climate change prevention. However, since emission reductions sometimes require investments in solar panels that are produced using forced labor, these two norms can conflict with each other. Based on two case studies of EU policies on Israel-Palestine and North Africa, this article shows how conflicts between different norms are nothing new to the EU. In its policies on Israel-Palestine, the EU has had to balance its historical responsibility to Israel with its commitment to international law. In its policies on North Africa, the EU has had to balance its push for good governance with respect for other countries' sovereignty. Drawing on the academic literature, EU policies, and statements by EU officials, this article therefore argues that normative conflicts are an essential part of what makes the EU a normative actor.

KEYWORDS

EU foreign policy, Israel-Palestine, normative conflicts, normative power, North Africa

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1. INTRODUCTION

In her 2021 State of the Union Address, the President of the European Commission Ursula von der Leyen proposed a European ban on products made by forced labor—most notably in response to severe human rights violations committed in the Chinese province Xinjiang. She said: “[h]uman rights are not for sale—at any price” (Von der Leyen, 2021). While this statement is remarkable by itself, it is even more remarkable in light of what she had said 20 minutes earlier in her speech: Europe would be the first major economy with a clear legislative path to achieve significant emission reductions by 2030. Von der Leyen presented the European Union (EU) as a normative leader in both human rights and climate change. However, there is one thing she did not say: emission reductions require investments in solar panels, most of which are produced using forced labor in Xinjiang (Funaiolo & Kurata, 2021). Without solar panels from Xinjiang, the EU will struggle to achieve its emission reduction targets. With solar panels from Xinjiang, the EU will be complicit in human rights violations.

This vignette illustrates how two of the EU’s normative aspirations, namely respect for human rights and environmental preservation, can sometimes come into conflict with each other. Based on two case studies of EU policies on Israel–Palestine and North Africa, this article shows how conflicts between different norms are nothing new to the EU. In its policies on Israel–Palestine, the EU has had to balance its historical responsibility to Israel with its commitment to international law. In its policies on North Africa, the EU has had to balance its push for good governance with respect for other countries’ sovereignty. Drawing on concepts developed by Manners (2002) and Diez (2013), this article therefore argues that these normative conflicts are an essential part of what makes the EU a normative actor. While critics often interpret the EU’s normative inconsistencies as a sign of hypocrisy, such inconsistencies are instead a sign of the kind of struggle that arises when one’s norms conflict with each other.

The article proceeds as follows. After briefly defining norms and presenting the concept of “normative power Europe” (Manners, 2002), it outlines the conceptual approach adopted in this article and introduces the idea of normative conflicts. The third section presents the normative conflicts within the EU’s policies on Israel–Palestine, while the fourth section does so for the EU’s policies on North Africa. The final part concludes and outlines potential policy implications.

2. FROM NORMATIVE POWER TO NORMATIVE CONFLICTS

The idea of normative conflicts is inherently linked to the concept of norms and the concept of “normative power Europe” (Manners, 2002). Norms are generally defined as rules or expectations that are socially enforced (Horne, 2018). Throughout its long history of over 70 years, the EU and its predecessors have developed a variety of norms. Some of them (e.g., peace, liberty, democracy, rule of law, human rights) are often called core norms and some of them (e.g., sustainable development, social solidarity, good governance, anti-discrimination) minor norms (Manners, 2002). Each norm is institutionalized through a multitude of different treaties, declarations, policies, and criteria. For instance, the EU developed its norms of peace and liberty due to its historical experiences related to World War II, codifying these two norms in treaties like the 1951 European Coal and Steel Treaty. It developed its norms of democracy, rule of law, and human rights during the Cold War competition between democracy and communism, codifying them, for instance, in the

1973 Copenhagen Declaration on European Identity. The norm of sustainable development has been important to the EU since the Rio Earth Summit in 1992 but has only recently become very prominent. Because of their long institutional history, most EU norms have become a crucial part of the European identity and cannot easily be changed or abandoned.

Based on these observations, Manners (2002) described the EU as “normative power Europe.” According to him, factors like the EU’s historical context, its treaty-based legal nature, and its post-Westphalian order would actually give it the normative power to shape what is considered appropriate in international relations. For instance, the EU has successfully accelerated the international movement to abolish the death penalty—thereby exporting its core norm of respect for human rights to the rest of the world. Other scholars have found further evidence in support of this theory, showing how other EU policies—such as the enlargement policy—are normative in both their design and implementation (Tocci et al., 2008; Whitman, 2011). In this sense, the Union is much more of a normative power than other great international powers: it predominantly pursues normative goals through normative means to have a normative impact (Forsberg, 2011; Tocci, 2008). Importantly, it is not only the EU that sees itself as a normative actor but the Union’s partners also perceive the EU as having normative power—as long as the Union acts in accordance with its own values (Haukkala, 2008; Whitman, 2011).

However, the concept of “normative power Europe” has also attracted a lot of criticism—particularly from authors endorsing the realist school of international relations. According to them, the EU is not some sort of independent institution that acts according to its own values. Instead, the EU is a way for influential member states to achieve their economic and security-related objectives (Balfour, 2012; Hyde-Price, 2006; Olsen, 2000). In other words, the EU’s normative rhetoric is seen as a façade used to legitimate member states’ interest-driven policies. Many of these scholars frame the EU’s response to the so-called Arab Spring and its energy security policies as examples of this normative hypocrisy (Del Sarto, 2016; Tocci et al., 2008; Wood, 2009). In their view, the Union has repeatedly stated that it wants to promote respect for human rights and the rule of law in Russia, but has mostly abandoned these normative priorities in order to pursue its energy interests. Others point to the Israeli–Palestinian conflict, in which the EU has long advocated for a normative solution, but has simultaneously extended trade benefits to Israeli settlements that are illegal under international law (Tocci et al., 2008). Therefore, these scholars assert that the EU’s normative inconsistencies arise from a conflict between the Union’s norms and its interests. Yet, as will be seen, the empirical evidence presented subsequently does not support this realist explanation.

As an alternative explanation, this article introduces the concept of normative conflicts to show why the EU sometimes does not act in accordance with its own normative aspirations. The EU is based on a variety of different norms, which all influence its policies and policy aspirations. Yet, some of these norms may sometimes come into conflict with each other. For instance, the Union wants to promote “respect of environmental, human rights and labour standards” all at the same time (EC, 2021c, p. 12). In the case of solar panels that are produced using forced labor in Xinjiang, the objectives of respecting environmental and labor standards at the same time can conflict—particularly if one defines environmental standards in terms of emission reductions and labor standards in terms of respect for human rights. Approximately 50% of the globe’s supply of polysilicon, a type of silicon necessary for the production of solar products, comes from Xinjiang, where many solar energy companies

have been connected to human rights violations (Funaiolo & Kurata, 2021). A ban on silica-based products made in Xinjiang, as imposed by the United States (The White House, 2021) and proposed by von der Leyen, might undermine the EU's goal of 55% emission reductions by 2030. But allowing solar products made in Xinjiang into the EU would make the Union complicit in human rights violations. As seen by von der Leyen's State of the Union Address, the EU has decided in favor of human rights. Through so-called mandatory due diligence duty requirements, it wants to ensure that any products made by forced labor are prevented from entering EU value chains (EC, 2021b). Does that make the EU hypocritical about wanting to limit the climate crisis?

This article argues that the answer to this question is 'no.' It argues that normative conflicts are an essential part of what makes the EU a normative actor. Non-normative actors can simply decide between two policy options based on which option has the greatest economic or security-related benefits. In contrast, the different EU institutions struggle over which policies to adopt and which side to take in normative dilemmas. In this sense, it is the struggle over norms that makes the EU a normative actor and that differentiates it from other international actors (Diez, 2013). During this normative struggle—until the EU finds a way to resolve the particular normative conflict—it is only natural for the Union to be normatively inconsistent. Throughout the next two sections, this article highlights the normative conflicts, normative struggles and normative inconsistencies that have arisen within the EU's policies on Israel–Palestine and North Africa during the past few decades. It thereby draws on and extends the concept of “normative power as hegemony” that has been proposed by Diez (2013). Importantly, the explanation of normative inconsistencies in EU policies based on normative conflicts is to be seen as an alternative to — not as a perfect substitute for—interest-based explanations. Like any other actor in international relations, the EU clearly also has interests, whether they relate to energy, security or economics. All this article tries to achieve is to show how the EU's normative inconsistencies can sometimes be explained by normative conflicts—not solely by the realist interest-based explanations.

3. NORMATIVE CONFLICTS IN ISRAEL–PALESTINE

The EU's policies on the Israeli–Palestinian conflict have faced a normative conflict between the EU's historical responsibility to Israel and the EU's commitment to international law. Due to Europe's history of anti-Semitism, the Union as a whole and some member states in particular have felt a strong moral obligation to the state of Israel. As a result, they have tried to avoid proposing and passing policies that might antagonize Israel—even if accommodating Israeli policies has sometimes required bending the EU's own norms and laws (Tocci et al., 2008). In contrast, other member states have tried to uphold the EU's commitment to international law and human rights by criticizing Israel's policies on Palestine. The resulting normative struggle has strained the Union for decades.

Interest-based explanations would expect that the EU only supports Israel without criticizing Israel's policies on Palestine. Economically, Israel is one of the Union's biggest trading partners in the Mediterranean region, with the total trade in goods between both sides amounting to about €31 billion in 2020 (EC, 2021a; Lazarou et al., 2013). In contrast, the EU's economic relations to Arab oil-producing countries, many of whom have close political ties to Palestine, have become less important since the EU has started decarbonizing. In this sense, the Union's economic interests would urge it to only support Israel. Politically, the EU generally values stability, which can most easily and most quickly be secured if Israel implements repressive security measures in Palestine (Lazarou et al., 2013; Tocci, 2009).

Only supporting Israel would also please the United States, the most important EU ally, which has historically been very supportive of Israel (Müller, 2011; Tocci, 2009). Therefore, if EU policies were only driven by the Union's economic and political interests, the EU would experience no normative struggle and would only support Israel.

However, there has been a normative struggle between the EU's historical responsibility to Israel and the EU's commitment to international law, which can be traced back all the way to 1980. That year, the European Community issued the so-called Venice Declaration, which spoke out in favor of Palestinian self-determination ("The Venice Declaration," 1980). Yet, the declaration did not include any language very critical of Israel because any such language would be immediately blocked by Germany, the country with the greatest moral obligation to Israel (Müller, 2011). In this sense, the Venice Declaration was a compromise between policies critical of and friendly to Israel. Nevertheless, the declaration was still furiously received by the Israeli government, which specifically compared the document to Hitler's *Mein Kampf* (Israeli Cabinet, 1980). To have the Union pass more Israel-friendly policies, Israel purposely invoked World War II memories, which only further fueled the EU's normative struggle. In the following years, Germany remained a crucial driver behind the EU's policy on Israel–Palestine. For instance, it was instrumental in granting Israel special relations with the EU through the Essen Declaration in 1994 and the Israeli Association Agreement in 1995 (Müller, 2011). Yet, under Germany's EU Presidency in 1999, the EU also issued the Berlin Declaration, which mentioned the Union's readiness to recognize Palestinian statehood for the first time. Again, the Israeli government responded by drawing specific parallels to the Holocaust (Netanyahu, 1999). Throughout this period, the EU was torn between the Israel-friendly policies that member states like Germany demanded and Palestine-friendly policies that the EU's commitment to international law and human rights demanded. This normative struggle continued after the turn of the centuries when the European Parliament demanded political sanctions against Israel because of Israeli military operations in Palestine in 2002, but Germany opposed any such sanctions (Müller, 2011). Similarly, member states like France and the UK strongly criticized Israel's disproportionate use of force during its war with Hamas in 2009, while member states like Germany and the Czech Republic defended Israel's military actions as legitimate acts of self-defense (Spiegel, 2008).

Even today, the EU still struggles between its historical responsibility to Israel and its commitment to international law. This normative conflict can, for instance, be observed in the rhetoric of EU officials. After meeting with the Israeli Foreign Minister Yair Lapid in July 2021, the EU High Representative for Foreign Affairs and Security Policy Josep Borrell prefaced his remarks by saying: "You know that the European Union and Israel share deep political, historical and cultural ties." He went on to say: "I want to stress very clearly that Israel's security is non-negotiable. We stand firmly for Israel's security and condemn terrorism, but at the same time, we expect Israel to offer a political perspective to end the conflict" (Borrell, 2021a). These two statements perfectly capture the EU's normative struggle: Borrell cannot strongly condemn Israel because of "political, historical and cultural ties," but he still "expect[s]" Israel to try and solve its conflict with Palestine. Particularly the last part of his statement implies that Israel is not currently offering a perspective for ending the conflict—which can be understood as Borrell criticizing Israel for not being interested in solving the conflict. In this sense, Borrell is torn between the EU's historical responsibility to Israel and its commitment to norms like liberty and human rights, many of which

Israel violates by occupying Palestinian territory. Other official EU statements similarly try to strike a balance between calling for Palestinian sovereignty and respecting Israeli interests (European External Action Service, 2021).

The EU's normative struggle can also be observed by looking at its current policies on Israel–Palestine. In theory, the Union has a lot leverage vis-à-vis Israel that it could use to make Israel comply with international law. Economically, the EU is Israel's largest trading partner (Tocci, 2009). Politically, Israel receives funding through the European Neighborhood Instrument and is allowed to participate in programs like Erasmus and Horizon Europe (Lovatt, 2020). Therefore, the EU has a lot of room for economic or political sanctions. It could, for example, exclude those Israeli settlements that are built on occupied territories and that are illegal under international law from these benefits (Lovatt, 2020). However, due to the normative conflict described above, the Union has so far been hesitant to implement any of these measures (Dajani & Lovatt, 2017; Tocci, 2009). It has instead prioritized negotiations within the framework of the Oslo Accords—which imposes almost no constraints on unilateral actions by the Israeli government—over all alternative frameworks (Dajani & Lovatt, 2017). It has never seriously considered using ex post conditionality and suspending its association agreement with Israel (Harpaz, 2017). It has never even demanded compensation for the EU-sponsored projects that have been destroyed by Israel's military actions (Tocci, 2009). Taken together, the EU's policies have increasingly accommodated Israel's violations of international humanitarian law and widespread abuses of human rights—at the expense of betraying the EU's own norms and laws. Ever since the 1980s, the Union has clearly struggled between its historical responsibility to Israel and its commitment to international law. This protracted normative struggle has caused the EU to become normatively inconsistent, at times antagonizing Israel and at times acquiescing to international law and human rights violations. Given how this normative struggle has strained the EU for more than 40 years, it seems unlikely to end anytime soon.

4. NORMATIVE CONFLICTS IN NORTH AFRICA

The EU's policies on its neighboring countries in North Africa have faced a normative conflict between its commitment to good governance and its commitment to respect other countries' sovereignty. Which of these two norms the Union prioritizes has varied over time. Interest-based explanations would expect that the EU consistently prioritizes its economic interests and regional stability over both good governance and countries' sovereignty. Economically, the Union would profit from partnership agreements that focus on free trade while mainly disregarding development aid (Fioramonti, 2013). This way, it would get access to the North African markets without bearing the burdens associated with economic development. Politically, the EU values stability, just like it does in the Israeli–Palestinian conflict. While it could try to achieve stability by promoting liberal democracy and good governance, it can more easily and more quickly do so by concluding bilateral agreements with North African leaders (Okyay and Zaragoza-Cristiani, 2016; Olsen, 2000). Therefore, from a realist perspective, the EU has no reason to struggle between good governance and other countries' sovereignty in its North Africa policies. Yet, it has struggled for decades.

In 1995, the EU and twelve countries in the Southern Mediterranean agreed to the so-called Barcelona Declaration, which started the European Mediterranean Partnership. In the declaration, the partners agreed to “develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system” (“The

Barcelona Declaration 1995,” p. 2). Since most countries in the Southern Mediterranean were not democratically governed at that time, this statement reflects how the EU tried to promote democracy and good governance in North Africa. Instead of forcing its Mediterranean partners to adopt a democratic system of governance, the EU tried to employ non-coercive means to make them become democratic states. The Union expected that its own democratic norms would naturally flow from Europe to North Africa once both regions started a process of increased integration and cooperation (Pace, 2007). In this sense, the EU tried to square the circle of respecting other countries’ sovereignty while at the same time promoting good governance. On the one hand, it recognized the sovereignty of each of its Mediterranean partners, who were highly encouraged, but not required, to adopt a democratic system of governance. On the other hand, it expected that its own norms would indeed make its Mediterranean partners adopt a democratic system of governance.

The EU’s attempts to solve its normative conflict between promoting good governance and respecting other countries’ sovereignty did not succeed. Instead, its attempts only produced normative inconsistencies. For the most part, this policy failure occurred because the Union overprioritized its commitment to promoting good governance. Ever since 1995, the EU had a very specific idea of what kind of political outcome it wished to see in North Africa: namely, a European-style liberal democracy (Pace et al., 2009). Yet, the norms associated with a European-style liberal democracy usually threatened the hold on power of African governments, many of which had not come to power through democratic elections (Pace, 2007). Instead of being patient and allowing the authoritarian regimes in North Africa to complete the process of democratization in their own time, the EU often pressured these regimes to undertake democratic reforms quickly. As a result, discontented segments of North African societies joined the EU in demanding quick political and economic reforms—a process that made the political elites in these countries fear for their political survival and made them reverse the process of democratization (Pace, 2007).

The EU’s overemphasis on democracy-promotion is also well-illustrated by its previous policies toward Morocco. For a long time, the Union tried to engage the Moroccan regime in a variety of reform processes, which were hoped to make the regime turn more democratic (Cavatorta, 2009). To support the anticipated process of democratization and to reward the regime for its supposedly democratic efforts, the EU even provided financial assistance to Morocco. At the same time, it also tried to foster civil society activism in the country. Building on the experiences it had in Eastern Europe, the Union believed civil society activism to be necessary for a country’s democratization because an active civil society could demand democratic reforms from below (Cavatorta, 2009). In this sense, the EU pulled out all the stops to promote democratization in Morocco. However, it did not consider that these two efforts might counteract each other. The Union fueled the frustrations of Moroccan citizens about their undemocratic government while at the same time financially supporting the government that was the very source of citizens’ frustration (Pace, 2007). Therefore, the Union’s attempt to promote democratic governance in Morocco was not only destined to fail but also produced normative inconsistencies (Cavatorta, 2009). Similarly, by excessively promoting good governance and democracy, most of the EU’s previous policies on its neighboring countries in North Africa produced normative inconsistencies.

In contrast, the EU’s most recent policies on North Africa have prioritized countries’ sovereignty over the EU’s commitment to good governance. The 2016 EU Global Strategy describes how the Union would “invest in African peace and development as an investment

in [its] own security and prosperity” (EU HR/VP 2016, p.36), with no mention of promoting rule of law or democracy. This paradigmatic change in the EU’s policy on North Africa can be attributed to the policy failures of previous decades (as described above) as well as to the geopolitical situation in 2016, the year after the so-called refugee crisis hit Europe. At that time, the EU mostly abandoned its efforts to promote democracy in North Africa for the sake of preventing more migrants from entering the Union (Okyay & Zaragoza-Cristiani, 2016). While this securitization of migration is certainly still ongoing, the EU has most recently refocused on its efforts to promote democracy in North Africa, but mainly with the goal of preventing migration and with a stronger recognition of countries’ sovereignty than in previous decades. In this sense, a recent communication by the European Commission recognizes that “African states, supported by regional and continental organisations, bear the main responsibility to act, as they are the foremost guarantors of their own security” (EC, 2020, p.10). The EU is “willing to markedly step up its support to Africa” but only in “close cooperation with EU Member States, the African Union, African regional organisations, the UN and other key partners” (EC, 2020, p.12). In other words, the EU wants to promote democracy and good governance in North Africa only to the extent that democratization is actually preferred and pursued by national governments. As expressed by Borrell in October 2021: “We as the EU are putting our strength behind ‘African solutions to African problems’” (Borrell, 2021b).

Taken together, the EU’s policies on North Africa have been characterized by a normative struggle at least since the 1990s. While the Union had initially prioritized its commitment to good governance over its commitment to respect other countries’ sovereignty, it has recently reversed this prioritization—most notably in response to the so-called refugee crisis of 2015. It is unclear whether this prioritization will change again any time soon, perhaps due to changes in the geopolitical situation. But it is almost certain that the EU’s normative struggle between promoting good governance in North Africa and respecting the sovereignty of North African nations will continue.

5. CONCLUSION

Whether it concerns policies on North Africa, policies on Israel–Palestine, or a potential ban on solar panels from Xinjiang, the EU has been facing different normative conflicts for decades. In its policies on North Africa, the Union had initially prioritized its commitment to good governance over its commitment to respect other countries’ sovereignty, but has recently reversed this prioritization. In its policies on Israel–Palestine, the EU has increasingly been abandoning its commitment to international law and human rights for the sake of its historical responsibility to support the state of Israel. In both cases, the EU has struggled to resolve its normative conflict for decades, at times giving more priority to some of its norms than to others. Quite naturally, the Union has therefore sometimes been normatively inconsistent. But contrary to what is often asserted by critics, these normative inconsistencies are no sign of hypocrisy. Instead, they are a manifestation of the EU’s normative struggles—a sign that the EU actually is normative actor. These findings have important policy implications.

Whenever EU officials are criticized for being hypocritical, for not adhering to certain fundamental norms, they should ask themselves whether their normative inconsistency arises from a normative conflict. Perhaps they have had to make a trade-off between two of the EU’s most fundamental norms. If this is the case, the EU officials should more openly acknowledge their normative conflict and describe why certain trade-offs were necessary.

While critics may disagree with the particular prioritization of norms that the EU decided on, they will at least understand that a prioritization of norms was necessary in the first place. In this sense, more openly acknowledging the EU's normative conflicts would likely increase the public's understanding of EU policies and refute the charge of hypocrisy. Similarly to how Manners' concept of "normative power Europe" has encouraged the EU to talk about itself as a normative leader in international relations, this concept of normative conflicts should encourage the EU to talk more openly about the normative trade-offs that are required of a normative power. Being normative is hard—in international relations just like in real life.

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