In Calling Israel's Occupation Unlawful, UK's Miliband Is in a Class by Himself

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In addition to publicly critiquing London's illogical new policy and warning other countries against adopting it, Washington should make clear to the leaders of Israel's next government that they must do their part to avoid the potentially disastrous repercussions of a concerted international campaign.

If American friends of Israel are gnashing teeth because once-fringe anti-Israel views are becoming mainstream, they should be relieved they don't live in Britain. There, anti-Israelism has become official policy, as the country's foreign secretary, Ed Miliband, has replaced sixty years of precedent with policies so extreme that not even stalwart Israel-critics like France, Spain, Ireland or Turkey have followed suit.

In early September, Miliband made headlines by condemning "ethnic cleansing" in the West Bank and promising to impose a ban on the import of goods produced in Israeli settlements. That latter idea was endorsed the same day by ten European Union countries and Canada. But scant attention was paid to the most important paragraph in Miliband's statement: "Now for a long time, the British government has rightly said settlements are illegal. But we have remained silent on the question of the legality of the occupation as a whole, which in 2024 the International Court of Justice concluded was unlawful. Today I announce that the official view of the British Government is that the occupation is unlawful."

That statement was not about Israeli behavior, such as a condemnation of settlement expansion, extremist violence, or land confiscation. Nor was it a plea for specific changes in Israeli policy that would quiet British criticism**.** Rather, this was a statement that there is nothing Israel can do to satisfy Britain's complaints because Israel's very presence in occupied territory is itself illegal.

Whether Miliband's approach was motivated by statesmanship or petty domestic politics, this was a major

diplomatic turning point. It effectively means Britain has renounced what was an historic British achievement—the UN Security Council resolution drafted by a British diplomat in the wake of the 1967 Six-Day War that defined the global consensus on the status of territories won by Israel in that conflict.

That resolution, number 242, called on Israel to withdraw "from territories" occupied in the 1967 war to achieve the "just and lasting peace" based on "secure and recognized borders" to which all states, including Israel, were entitled. It was well understood, and not disputed, that until peace was achieved, Israel could maintain a military occupation of territory it acquired during the war. Subsequent disputes over whether, in a final peace, Israel had to withdraw from all, most, or some of the territory never altered the fundamental point that its occupation was universally deemed legitimate, pending negotiation of that peace.

That consensus held for six decades. Then, in 2024, a divided International Court of Justice issued a stunning opinion that turned UNSC 242 on its head. It declared Israel's occupation "unlawful" and ordered Israel not only to leave the territories "as rapidly as possible" but also to pay Palestinians reparations for their pain and suffering. The idea that Israel might have legitimate security concerns in the territories—terrorism, for example—was rejected out of hand.

ICJ opinions are only advisory, and while many countries applauded this decision, none of consequence adopted it as policy. This is largely because its logic conflicts with the idea of a negotiated solution to the Israeli-Palestinian conflict—after all, if Israel is ordered to leave the territories it occupied in 1967, there is little left to negotiate other than the timetable of Israel's departure. Then, Miliband became foreign secretary and that opinion became the official position of one of America's closest allies, one with a permanent seat on the UN Security Council.

The potential implications are huge. The import ban itself, details of which are apparently still being worked out, is marginal, given that overall trade between Israel and the Palestinian territories is just one-quarter of 1 percent of overall British imports from Israel. But Miliband said Britain will also sanction companies and institutions that support settlements, which is a much bigger target set, and last week, he announced penalties on the first eight companies, all in construction or related fields like architecture.

Given that three of those sanctioned firms have significant operations in pre-1967 Israel, the Miliband sanctions broke a promise he made to differentiate between Israel and the territories and set a precedent that could eventually see sanctions extending to every corner of the Israeli economy that touches the settlements, from every Israeli mobile phone carrier to every Israeli bank. Sanctions on that scale will affect every Israeli as well as everyone who invests in, donates to or even visits Israel. And should other major countries follow Britain's lead, enforcement could shut down Israel's economy, prevent normal international travel for Israeli citizens, and turn Jerusalem—Israel's capital, part of which lies in territory Israel won from Jordan in 1967—into a no-go zone. In this environment, the vilification Israel has suffered for its Gaza policy will pale in comparison.

Preventing this disastrous outcome should be a U.S. policy priority, both for Israel's sake and America's. Countries who follow this path risk ensnaring both themselves and their companies in violations of U.S. federal and state anti-boycott laws, with potentially major consequences for bilateral trade. Moreover, tens of thousands of U.S. citizens who live in Israel risk getting caught in a campaign to pressure Israel to end its "unlawful" actions. This could also harm many of the 400,000–600,000 Americans who visit Israel each year, Jews and non-Jews alike.

So far, the Trump administration has been uncharacteristically subdued on this issue, saying little on the import ban and nothing at all on Miliband's labeling the occupation as unlawful. This should change. A White House statement critiquing the new policy and warning other countries from adopting it would be welcome. Privately, the administration should caution the British government against any measure that could harm U.S. citizens or companies or could affect normal life in Jerusalem, recognized by the United States as Israel's capital. And

Washington should press London on the logical disconnect between demanding Israel's unconditional withdrawal from the territories—which is what the ICJ called for—and promoting a negotiated peace between Israelis and Palestinians.

But acting alone, U.S. efforts to stop other countries from joining in Miliband's punitive approach to Israel are unlikely to succeed for long. That is why the Administration would be wise to urge Israel to help itself, which it could do by affirming the bargain it made with the world after the 1967 war—that it remains committed to negotiating "secure and recognized borders" to reach a "just and lasting peace." It is an understatement to note that numerous actions by Israel in recent years have called this commitment into question. The goal of this new approach would not be to convince world capitals of the rectitude of Israel's settlement policy but to reassure them that Israel is not bent on annexing the West Bank, and that settlement activity would not stand in the way of achieving a fair, equitable and final peace, if and when Palestinians forsake decades of rejecting Israel's legitimacy as a Jewish state.

The fact that many countries support Miliband's proposed import ban on settlement goods but have not endorsed his underlying policy offers Israel an opportunity to prevent the worst-case outcome. As Israel's closest ally, Washington is singularly placed to make clear to whoever leads the next Israeli government that it is unlikely to prevent the disastrous repercussions of a concerted campaign against Israel's "unlawful" occupation unless Israel does its part, too.

Robert Satloff is the Segal Executive Director at The Washington Institute and author of its recent study " ***The Miliband Thunderclap*** **(https://www.washingtoninstitute.org/policy-analysis/miliband-thunderclap-potential-implications-declaring-israels-occupation-unlawful)** *." This article was originally published on the* ***Times of Israel website*** **(https://blogs.timesofisrael.com/in-calling-israels-occupation-unlawful-uks-miliband-is-in-a-class-by-himself/)** *.* ❖

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