Introduction

Politics between the EU, on the one hand, and Israel and Palestine, on the other, are not played out in an anarchic space. They are embedded in and constantly have to relate to global societal dynamics that create ‘interlocking patterns of interdependence’ (Del Sarto, Chapter 1, this volume). This article addresses one of these broader dynamics affecting the Israel-Palestine-EU triangle, namely global normative borders/orders shaped by the legalisation and constitutionalisation of world politics. As widely documented in relevant literatures, the dynamics of this global legal order are shaped in particular by the increasing normative-legal relevance of individual and human rights (IHR) both in ‘hard’ and ‘soft’ law, including the status of IHR in violent conflicts (Forsythe, 2012; Gregg, 2012; Reus-Smit, 2001). As any other space in the world, Israel and Palestine are embedded in this global legal order. This chapter discusses how this global legal-normative order reconfigures the normative borders, power relations and interdependencies between Israel and Palestine, on the one hand, and the EU, on the other. Thus, the reconfiguration of global legal-normative orders, brought about by the growing relevance of IHR, is a key factor in understanding the evolving relationship between the EU and the parties in the region. This strongly underlines the ‘deep involvement’
(Del Sarto, Chapter 1, this volume) of the EU in its relations with both sides.

The chapter is divided into four sections. The following section gives an overview on the evolution of the global legal order, highlighting in particular a process of fragmented global constitutionalisation with IHR figuring as a contested focal point symbolising global normative integration. The second part argues that this development significantly affects the way the Israel-Palestine conflict is dealt with in world politics. The third part then discusses how the EU – a foreign-policy actor that bases its identity strongly on global law – has responded to these developments. Here it is argued that the EU’s perception of itself, as a political actor firmly anchored in global law – both in its domestic context and its external relations – strongly affects its approach to Israel and Palestine, both bilaterally and in relation to the conflict. The fourth section then concludes by assessing how these dynamics affect the normative borders, power relations and interdependencies between the EU, Israel and Palestine. A focus on IHR allows moving beyond traditional understandings of power. As highlighted by Del Sarto in the introduction, non-traditional means of power matter. And the joint embedding of the EU, Israel and Palestine into a global legal discourse centring around IHR not only points to the power of this discourse, but also to the legal-normative mechanisms that underpin the shared borderland dynamics and ‘interlocking patterns of interaction’ (ibid.) in this triangle.

The autonomy of global law: IHR reconsidered

In International Relations (IR) – and indeed research on transnational conflicts, such as in Israel-Palestine – it is rather uncommon to attribute ‘autonomous’ status to law. Thus, international law is most of the time understood to be secondary to political rationales, identities and interests. The English School, as one of the leading theories in IR engaging with international law from a historical-interpretative perspective, considers law a central element of global politics; yet it nevertheless defines law, first and foremost, as a political institution of international society (Buzan, 2004). This is also true for constructivist and rationalist approaches to global law. While it has become commonplace in IR, at least during the last decade, to attribute great significance to global law in an era characterised by global constitutionalism, law is primarily understood as a political phenomenon. Deitelhoff (2009: 33), for example, observes ‘a legalization process that reflects a profound institutional change in world politics’. She argues that a ‘reframing...away