

DISCUSSION PAPER

Formalising Apartheid:
Israel's Proposed Annexation of the West Bank

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Introduction

Benjamin Netanyahu began his fifth term in office as the longest-serving Prime Minister this year after three inconclusive elections. His most widely debated election pledge has been the annexation of the illegal Israeli settlements in the occupied West Bank. While July 1st was supposed to be the beginning of the process, the date has passed without any action. Several reasons have been identified as being behind the delay, such as the caveats raised by Netanyahu's coalition partner Benny Gantz, the lack of full-fledged support from the White House, mounting international reaction and the growing domestic opposition.

Since then, debates have revolved around when, how and if the annexation will happen. The announcement of the normalisation deal between the United Arab Emirates and Israel has, at least for now, seemingly cleared this ambiguity. While Netanyahu stated that Israel only temporarily suspended the annexation in return for the agreement with the UAE, he said plans are still on the table and that he would never give up on Israelis right to the land (Aljazeera, 2020).

For many Palestinians who have felt a sense of abandonment by Arab states, formal annexation means an end to their remaining hopes for self-determination and the establishment of an independent state. While there are arguments that the move would finally bury the two-state solution, which envisages an independent Palestinian state alongside Israel on pre-1967 borders with a shared capital of Jerusalem, calls are growing to create one democratic state with equal rights for both Palestinians and Israelis.

Amid these discussions, this paper first examines the reactions of both the international and regional actors to the proposed annexation. It then proceeds with looking at Netanyahu's political standing and developments inside Israel. Finally, it reflects on how the move would alter the situation for Palestinians. The paper argues that the proposed annexation has changed the dynamics for all the sides. Not only we have seen an overwhelming reaction from various states which are considering punitive measures such as sanctions to hold Israel accountable, but inside the country, it has led to debates on the merits of formal annexation. It has also prompted the Palestinian leadership to shift policies as to how to face this irremediable threat if it is indeed materialised.

An end to Israel's perpetual impunity?



U.S. President Donald Trump meets Prime Minister of Israel Benjamin Netanyahu at the White House on January 27, 2020. (Kobi Gideon / GPO / Handout - Anadolu Agency)

Since its creation in 1948, Israel has violated international law countless times without any concrete consequences. For example, following Israel's occupation of Palestinian lands after the 1967 Arab-Israeli War, more than 200 Israeli settlements were built scattered across the West Bank and East Jerusalem (B'tselem, 2017). Over five decades, this Israeli policy oversaw the displacement of thousands of Palestinians, theft of their lands, exploitation of their natural resources, restriction of their freedom of movement and perpetration of violence against them by the settlers (Amnesty International 2019, 31-34).

Under international law, these settlements are considered illegal. While Article 49 of the Fourth Geneva Convention states that "the Occupying Power shall not deport or transfer parts of its civilian population into the territory it occupies", several United Nations Security Council (UNSC) Resolutions (446, 465, 2334) have called on Israel to dismantle all existing settlements

and to cease further settlement activities, reiterating that they have no legal validity. However, in the absence of any solid deterrents such as sanctions, Israel continues to carry on breaching these resolutions.

In the face of formal annexation, are we likely to see a different reaction from the international community that could compel Israel to rethink? Speaking to TRT World Research Centre, human rights lawyer and visiting fellow at Carnegie Middle East Zaha Hassan stated that "an official annexation may be a step too far for the international community. It isn't about Palestine and Palestinians anymore; it is about the rules-based international order and whether human rights and the rule of law has any meaning". Hassan also added that "there is no way for Israel to hide behind the possibility of a two-state solution once there is de jure annexation and the international community will be forced out of its comfort zone which has been to merely call for a return to the negotiating table" saying that "annexation and apartheid demand an international response".

On the international level, United Nations (UN) Secretary-General Antonio Guterres stated that "annexation would constitute a most serious violation of international law, grievously harm the prospect of a two-state solution and undercut the possibilities of a renewal of negotiations" urging Israel to abandon its plans (UN News, 2020a). In a similar line, UN High Commissioner for Human Rights Michelle Bachelet reiterated that annexation is illegal regardless of the scope of it whether it is a symbolic area or the entire 30 per cent of the West Bank (UN News, 2020b).

Several European states have also been vocal in their opposition towards annexation despite the absence of consensus. Belgium has been a leading country in this regard and has asked the European Commission to consider several countermeasures such as halting the European Union's (EU) trade agreement with Israel and putting a ban on the imports coming from settlements (Reuters, 2020). Given that the EU is Israel's biggest trading partner if these sanctions are implemented they would certainly create significant economic pressure on Israel. However, unilateral steps seem to be unlikely as states such as Hungary continue to veto EU resolutions against Israel due to their close political alliance (Magid, 2020).

Other key states, such as the United Kingdom (UK) and Germany, have warned against annexation. Yet, these countries seem to see the Palestinian plight as a secondary issue, largely focusing their concerns on Israel's international standing and security. For example, in a recent article written for Israeli newspaper Yedioth Ahronoth, UK Prime Minister Boris Johnson has both reiterated his support for Israel and expressed his pride in the "UK's contribution to the birth of Israel with the 1917 Balfour Declaration" (Johnson, 2020). While Johnson stated that "the UK will not recognise any changes to the 1967 lines, except those agreed between both parties", he repeatedly emphasised that the move would jeopardise Israel's interests (Ibid.). Similarly, in his latest visit to Israel, Germany's Foreign Minister Heiko Maas stated that Germany is not eager to boycott the country but that they have "serious and honest worries, as a very special friend of Israel, about the possible consequences of such a move" (Ahren, 2020a).

Israel is very well aware that no matter how bold the warnings are if they are not followed by punitive measures, it can easily continue to ignore the largely empty international condemnation. However, in an interview with TRT World Research Centre, Palestinian human rights lawyer Diana Buttu argued that annexation has created a new momentum. "A taboo has been broken". She said that "for the first time in history, we are talking about countries holding Israel accountable and that is something that we have never heard in 53 years. We are hearing states say that they might impose sanctions, they are going to push for accountability. This is a different language than what we have heard in the past". Acknowledging that the change "is not fast enough for anybody who lives in Palestine, for the people who are suffering", she emphasized "the fact that the world is beginning to see Israel through Palestinian eyes is saying something and that is important".

Annexation has been met with a rhetorical disapprobation from Arab states, yet as expected, unaccompanied by any serious steps to push back this illegal land grab. Several Arab countries, particularly the Gulf states, have long abandoned their support for the Palestinian cause in exchange for either overt or covert normalisation with Israel, which they perceive both as a partner in various fields from security to trade and as an ally to counter Iranian expansionism in the region. Initial relations between Israel and the Gulf states date back to the early 1990s. The first step in this regard was taken after the 1993 Oslo Accords when the Gulf countries stopped boycotting companies engaged in business with Israel. This was followed by the opening of Israeli trade offices in both Oman and Qatar (Ulrichsen 2018, 81). While trade relations have continued to develop between Is-

rael and the Gulf states, the Arab uprisings represented a turning point, which resulted in the formation of new ties, particularly in terms of security. The notion of 'common threats', identified namely as Iran and the Islamists, in a changing political landscape have brought Saudi and Emirati leaders, in particular, closer with their Israeli counterparts (Ibid., 79). Albeit discreet, relations have been persistently developing over the last decade and the recent UAE-Israel deal is only the most notable in this regard. By formalising their relations with Israel, it seems that the UAE not only wants to maintain the US support but also to continue with its foreign policy endeavours supporting anti-democratic movements across the region be it in Egypt, Tunisia, Libya and elsewhere in a bid to counter the influence of Turkey and Qatar.

Even ahead of the deal the reactions of UAE officials towards annexation have stood out. In an unprecedented move appealing directly to Israelis, the UAE's Ambassador to the United States (US) Yousef Otaiba warned Israel that annexation would reverse its improving ties with the Arab countries in an article he penned for Yedioth Ahronoth (Halbfinger and Hubbart, 2020). Taking the issue to a further level, UAE's Minister of State for Foreign Affairs, Anwar Gargash argued for "decoupling the political from non-political" and called for greater cooperation despite the disagreements (Ahren, 2020b), indicating that let alone ending the occupation even if Israel goes forth to annex the West Bank, the business could very well continue as usual. That being said, putting the suspension of annexation as a precondition for the deal, the UAE seems to have tried to save face and to counter the criticism, particularly especially in the domestic domain, to claim that they actually side with Palestinians.

In this context, Jordan seems to be the only Arab country that has been consistent its opposition to the move. In May, King Abdullah warned Israel that annexation could result in a "massive conflict" and stated that they are "considering all options" including abrogation of the 1994 Wadi Araba Peace Treaty (Middle East Eye, 2020). Other possible scenarios on the table include maximalist steps, such as cutting security cooperation and suspending the natural gas deal, or a more limited thaw in ties, such as downgrading diplomatic relations and withdrawing the Jordanian Ambassador (Riedel, 2020). That being said, the stakes are high for the King as he needs to balance between the domestic pressure from citizens of Palestinian descent, which make up almost half of the population in the country while trying not to upset relations with the US, which significantly assists Jordan both economically and militarily (Salacanin, 2020).

The most crucial actor in this equation is the US. While this latest saga in the Palestinian tragedy has unfolded in the context of US President Donald Trump's Middle East Peace Plan, which recognises illegal settlements built on the West Bank, Washington did not seem have decisively given the green light to the annexation as there have been differences of opinion among presidential advisors ahead of the normalisation deal. On the one hand, David Friedman, the US ambassador to Israel has supported annexation more than the peace plan and held meetings with Netanyahu and Gantz to bridge the gap between them to go forth with the plan (Staff, 2020). On the other hand, Jared Kushner, Trump's son in law who is considered to be the lead architect of the peace plan, has wanted to utilise the prospects of annexation as leverage to bring the Palestinian leadership to the table (Halbfinger and Crowley, 2020). With the UAE-Israel deal, both parties seem to have got what they wanted, and while Friedman stated that annexation is not abandoned (Doubek, 2020), Kushner gained further room to push the Palestinians to accept his peace deal.

As US elections near, annexation does not seem to provide a particular advantage to Trump in this regard as Christian Evangelicals and right-wing Jewish Americans are already rallying behind him (Walles, 2020). Moreover, while the normalisation deal has been presented as a major diplomatic achievement hailed as a success by Trump, given that the President already has a lot to deal with in front of him as the coronavirus break being out of control, economic prospects look grim, and nationwide anti-racism demonstrations continuing, backing Israeli annexation with little or no benefit seems to be the least of his concerns at the moment.



Thousands of people stage a protest against Israeli Prime Minister Benjamin Netanyahu, demanding his resignation over corruption charges and his failure to combat the coronavirus (Covid-19) pandemic in Tel Aviv, Israel on August 23, 2020. (Mostafa Alkharouf - Anadolu Agency)

Netanyahu: Annexation as a means for survival?

Over the past few weeks, Israel has been rocked by massive demonstrations as thousands of protestors from various backgrounds have taken to the streets across the country, demanding Netanyahu's resignation over corruption charges and the mishandling of the coronavirus crisis (Swift, 2020). While Netanyahu has dismissed the rallies as a political plot instigated by his opponents, he also stated that some media outlets portray the demonstrations as more significant than they are in reality (Holmes, 2020). However, regardless of how Netanyahu perceives it, these are the largest demonstrations that the country has seen in the last decade since the 2011 protests calling for social justice and lower costs of living, which also happened under his rule.

As hundreds of new cases are being reported, the government seems to have lost control of the second coronavirus wave (Shamir, 2020). The country's economy is struggling, and the unemployment rate is soaring high with almost one-fifth of the labour force out of work (Horovitz, 2020). In this grim atmosphere, recent polls show that Netanyahu's popularity is declining with around 60 per cent of the Israelis express their dissatisfaction with his performance in managing the pandemic (Sokol, 2020). This stands in stark contrast with a survey conducted in April in which 70 per cent of respondents were supportive of Netanyahu's coronavirus policies (Ibid.), at a time when he was applauded for the success of his government's preventive measures in halting the spread of the virus. Facing increasing

pressure, debates are growing whether Netanyahu will call for early elections (Caspit, 2020a). In this scenario, even though the interest of Israelis regarding annexation seems to have faded considering the dire circumstances facing the country, Netanyahu could still use the move as an important leverage to appeal not only his base but also to pro-settler and right-wing voters.

Speaking to TRT World Research Centre, Dr. Alon Liel, former Director-General of the Ministry of Foreign Affairs and an academic at Tel Aviv University, said that there are several reasons as to why Netanyahu is keen on annexation. Pointing out that in the absence of elections Netanyahu still has over a year in the premiership until his replacement by Gantz, Dr. Liel stated that "he knows that the annexation has to happen during his term because Gantz and other components of the coalition are not really believing in the annexation. He also has a corruption trial in the background and he wants to deviate attention from it". Dr. Liel added that the window of opportunity might close "because if Trump loses the next elections, Democrats will not support the annexation. Therefore, he is in a hurry to do it before the beginning of November, the American elections".

While this might be Netanyahu's "unique one-off opportunity" (Halbfinger, 2019) to cement his legacy as the leader who formally brought large swathes of West Bank territory under Israeli sovereignty, not all Israelis are on board with him for various reasons. First of all, according to Dr. Liel "Jewish support for the annexation has declined because of the coronavirus. They think annexation will cost billions of dollars and say that they do not have the money to do it going through an economic crisis". Moreover, some settler leaders object to the annexation on the grounds that it paves the way for the realisation of a Palestinian state in line with Trump's plan as well as ending prospects of building further settlements in the West Bank (Staff and Magid, 2020). Military officials have also spoken out, warning that the annexation could prompt a new round of violence in the Palestinian territories (Fulbright, 2020). Underlining a common concern, Dr. Liel said that "the majority of the Israelis are worried about a fierce international reaction". After all, under the status quo, Israel already continues to expand its illegal settlements while facing no more than the usual condemnations, however, the move not only risks Israel's favourable international standing, which has been boosted after its agreement with the UAE but could also lead to International Criminal Court investigations and potential diplomatic and economic sanctions.

That being said, despite the potential downsides, Netanyahu could still gamble on the fact that even though there is an overwhelming reaction from the international community, with the backing of the White House, once the annexation becomes a fait accompli it may effectively be accepted as has been the case in other previous instances such as with the Golan Heights and Jerusalem. He could as well see the current circumstances as being a ripe opportunity to go forth with the move since the world is busy struggling with its own problems due to the pandemic and the economic recession that came along with it. Furthermore, as Netanyahu bluntly put it by saying that Arab states "cannot be held hostage by Palestinians. They have their own interests to develop peace with Israel" (Blitzer, 2020), he could count on the fact that unravelling the plan once again is not going to have any effect on Israel's growing relations in the region. Ultimately, Netanyahu's willingness to take all these risks relates to his calculations on how annexation could contribute to ensuring his political survival in the face of multiple crises from corruption trials to protests.



Israeli security forces stand guard as Palestinian demonstrators protest at Asera Al-Shamalyeh village against illegal Jewish settlements in the West Bank and the Jordan Valley, in Nablus, West Bank on July 10, 2020. (Nedal Eshtayah - Anadolu Agency)

Palestine: Annexation as a game changer?

In late May, as a response to Netanyahu's annexation drive, Palestinian President Mahmoud Abbas declared that the Palestinian Authority would no longer be bound by any of the agreements with Israel and the US including security coordination. While Abbas has been making similar statements for years, for the first time he has actually followed through as he did not seem to have much of a choice to pull out the only card in his hands that could be used as leverage. Currently, there are no direct contacts between the Palestinian leadership and Israel, security coordination has been halted and tax revenues collected by Israel on behalf of the Palestinian Authority have also been rejected (Caspit, 2020b). However, rather than pressuring Israel to shoulder responsibility as an occupier, this decision has left ordinary Palestinians in a difficult situation in the absence of concrete plans to set up alternative mechanisms ensuring the continuation of governance, which is on every level connected to some sort of coordination with Israel in line with the structures established following the 1993 Oslo Accords.

Commenting on the situation, Diana Buttu said that "everything in the occupied Palestinian territories is tied into the issue of security as oftentimes it has to do with civilian things". Buttu gave various examples in this regard from Palestinian merchants who need security permits from Israel to run their businesses in importing and exporting goods to Palestinian patients who require authorisation from Israelis to get treatments since certain medical equipment is not allowed in the West Bank hospitals citing security reasons. Thus, while Buttu said that "coordination with Israel impacts the day-to-day life of every single Palestinian", answering whether the termination of agreements is sustainable she argued that "unless an alternative is created or there is pressure that is placed on Israel to change this whole model of security coordination, we are going to go back".

This leads to the question of whether annexation is really a game-changer on the ground for Palestinians. Speaking to TRT World Research Centre, human rights activist and co-founder of the Boycott, Divestment and Sanctions Movement (BDS) Omar Barghouti said "Israel's regime of occupation, settler-colonialism and apartheid has been for decades de facto annexed occupied Palestinian land. In the case of Jerusalem, in particular, it has applied de jure annexation to it". He noted that "by announcing its plans for formal annexation of more parts of the occupied Palestinian territory, Israel is crystallising a 21st-century apartheid regime which is a crime against humanity that warrants lawful and targeted sanctions in response". Similarly, Zaha Hassan argued that "a formal, or de jure annexation institutionalises and systemises racial supremacy".

Annexation will formalise Palestinians' entrapment in Bantustan like enclaves that are cut from one another and surrounded by Israel. Netanyahu has made it clear that Palestinians living in these areas will not be given Israeli citizenship but they will continue to remain as

nationals of a future Palestinian entity (Haaretz, 2020). On the contrary, settlers are already treated as Israeli citizens enjoying the same set of rights such as voting in elections, having health insurances and guaranteed protection by the Israeli police and soldiers (Shulman, 2020). In other words, with annexation, Palestinians and Israelis would be residents of the same territory under the jurisdiction of Israel but Palestinians would be deprived of any rights whatsoever.

It is widely argued that in permanently reshaping the contours of the borders by illegally grabbing the land allocated for a future Palestinian state, annexation is also going be the final deathblow to the moribund two-state solution. Speaking to TRT World Research Centre, Israeli journalist Gideon Levy challenged this narrative and stated that "the two-state solution is not dead because it was never born. We have to strive for one state with equal democratic rights for everyone. One state has been the reality for so long". Annexation shatters this fictitious assumption that Israel's half a century-long occupation is temporary. The situation on the ground is already irreversible with the number of illegal settlements increasing every day as Palestinians are being continuously dehumanised and uprooted from their lands to make way for the settlers. Therefore, instead of engaging with delusions trying cling on a hypothetical two-state solution, the only way forward seems to be accepting the reality and start working for an inclusive democratic state in which Palestinians and Jews live in equality.

That being said, no one knows how Palestinians are going to react if annexation takes place. Being left alone, a sense that has only been exacerbated by the UAE-Israel deal, having nothing to lose and thus rightly frustrated that there is no peace process or political solution in sight, Palestinians could resort to violence. They could also march in massive peaceful demonstrations, a new intifada could be sparked, campaigns could be launched or we can see a mixture of these different and other reactions combined. In this regard, Barghouti affirms that "it is hard to predict what Palestinians may do if Israel announces more de jure annexation", adding that "only effective Palestinian popular resistance, coupled with strong advocacy and BDS campaigns worldwide can compel Israel to recognise the inalienable rights of the indigenous people of Palestine, including the right of our refugees to return to the lands from which they have been ethnically cleansed". Amid various presumptions, Buttu points out that one thing is certain that no matter what happens "Palestinians will stay firm and resist demanding their rights".

Conclusion

Netanyahu faces serious challenges on multiple fronts, particularly as Israel is going through a precarious situation with a second wave of coronavirus that seems to be getting worse each passing day a battered economy showing no signs of recovery, as well as ongoing protests against his rule. Amid these growing problems, Netanyahu could call for new elections. According to the polls, if an election takes places, Netanyahu's primary challenger will be Naftali Bennett, another right-wing politician (Mualem, 2020). In this political atmosphere, for Netanyahu, annexation holds the potential to rally the support of the right-wing vote. Thus, even though the potential drawbacks are significant, from possible international reactions to security ramifications, for Netanyahu, going forward with annexation could prove alluring considering the advantage the move could provide him domestically.

On the other hand, annexation has been a wake-up call for the international community, which has long hidden behind condemnations but has not taken any concrete actions against Israeli violations. While there has been an overwhelming reaction from various states calling Israel to pull back its annexation plans and warning that there would be consequences if it proceeds, they may turn out to be nothing more than empty theatrics.

Certainly, Palestinians do not have the power to stop the annexation on their own. However, the prospects of annexation accompanied by the recent Israel-UAE deal have shifted the dynamics on the ground and triggered the necessity of a viable response from the Palestinian leadership. It seems that, so far, ending all agreements with Israel and the US, including security coordination, has so far done more harm to ordinary Palestinians in the absence of a well-thoughout alternative strategy. That being said, the current situation could still be the chance for the dysfunctional, divided Palestinian leadership to come together to find alternative ways to challenge the Israeli occupation.

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