



Position Paper: Annexation of the West Bank – Ramifications for Human Rights

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Introduction

1. We are currently facing the possible advancement of a **plan to annex parts of the West Bank**. The precise plan for the proposed annexation and maps delineating it have not yet been determined. However, it can be stated with certainty that **any scope or type of annexation will definitely have ramifications for the human rights of the Palestinians in the Territories**.
2. This position paper presents a brief explanation of the law applying to the Territories, the obligations of the occupying state toward the occupied population, the ramifications of the annexation for the Palestinian residents, and other aspects.

Law Applying to the Territories in accordance with International Law

3. The Occupied Territories are subject to a military regime of occupation. This is a regime in which the military commander – the OC Central Command – is the supreme authority. The laws applying in the Territories include the laws that applied in the area prior to the occupation, with the addition of changes introduced by Israel over the years through orders of the military commander; these are supposed to be subject to the laws of occupation.
4. The laws of occupation form part of international humanitarian law, which relates to human rights during combat and conflict. These laws are intended to ensure, on the one hand, the maintenance of the temporary military regime, which is responsible for law and order in the occupied territory, and – on the other – the protection of the rights of the local Palestinian residents, who are referred to as “protected residents.”
5. Moreover, in accordance with the ruling of the International Court of Justice, international human rights law also applies in the Territories. This law relates to the rights of all persons, not only in times of combat or occupation. In accordance with international law, the State of Israel bears a particular obligation toward the local residents of the occupied territory and a special obligation to provide them with protections, including protection of their life, property, dignity, ways of life, faith, and family rights.

The Actual Conduct of the Occupation Regime

6. From the outset, Israel did not recognize the territories as occupied, and accordingly exempted itself of the requirement to maintain the laws of occupation. Israel later announced that, on an ex gratia basis, it would maintain the “humanitarian provisions” of the Fourth Geneva Convention concerning the protection of civilians. Over the years, the occupation regime in the territories has been characterized by a widening deviation from international law, from the laws of occupation, and from the protections of the Palestinian residents. Thus, for example, Israel established settlements and settled its citizens in the occupied area – something that is prohibited in accordance with international humanitarian law.
7. The most significant process that has occurred over the years is the creeping annexation of the territories, through the imposition of Israeli law on the settlements and their residents, both by means of military orders and through personal legislation by the Knesset. This process constitutes the de facto annexation of the territories. This annexation has created two separate, discriminatory, and distinct legal systems for two populations living in a single area, on an ethno-national basis. The Jewish/Israeli population enjoys ever greater rights, while international protections are removed from the Palestinian population and discriminatory arrangements and laws are entrenched. The process of creeping annexation takes place through a range of means, each of which is significant in its own right, and which jointly make annexation a clear fact that has dramatic ramifications for the human rights of all sides and for the political reality in the area.
8. In addition to establishing the settlement enterprise and imposing Israeli law on the Jewish residents of the settlements, Israel – as noted above – has acted to remove Palestinian residents from Area C, among other means by denying planning, refusing to issue building permits and demolishing large numbers of homes, preventing access to water and farmland (practices that are particularly prevalent in the Jordan Valley), and closing large areas to Palestinians as closed military zones. Israel is also acting to eliminate the Green Line by promoting initiatives that eliminate the distinction between Israel and the Occupied Territories, including transportation infrastructures, the establishment of a university and its subjugation to the Council for Higher Education, and so forth.

What’s New in the Occupation Policy?

9. In recent years, the method of de facto annexation has been deepened, as has the violation of the human rights of Palestinians, by a wide range of means, including direct legislation by the Knesset applying to the Occupied Territories. Recently, **the government has sought to promote a formal annexation of the territories**, or at least of the settlements: i.e. the full imposition of Israeli sovereignty and Israeli law. The Jordan Valley has become the first target for the annexation, perhaps because of erroneous perceptions

about this area, as detailed below, that Israel has worked to inculcate in the public consciousness; or perhaps because of the desire to surround the territories with areas under Israeli sovereignty.

The Option of Annexing the Jordan Valley

10. As noted, one of the key areas that has been mentioned as a target for annexation is the Jordan Valley area. This is occupied territory forming part of the West Bank. Indeed, the area accounts for around 30% of the total area of the West Bank and includes a significant proportion of Area C.
11. Despite this reality, a significant portion of the Jewish public in Israel does not regard the Jordan Valley as part of the occupied territories. A [survey](#) held several years ago found that a substantial majority of the Israeli public holds erroneous positions concerning the political and demographic reality in the Jordan Valley. For example, most of the respondents were not aware that the Jordan Valley is an occupied territory that is not under Israeli sovereignty. Most of the participants in the survey also believed that the Jewish population of the Jordan Valley was larger than the Palestinian population of the area, although in reality the opposite is the case. The survey also found that a majority of Israelis barely visit the Jordan Valley.
12. This situation may have changed as the result of the annexation campaign waged by the government and as a result of the Trump Plan.

Facts and Figures about the Jordan Valley – Who Lives There?

13. The Jordan Valley is home to around 65,000 Palestinians (2016 figures, B'Tselem website). Palestinians have lived in the area since before the establishment of Israel, and since 1967 they have lived under an occupation that controls every aspect of their lives. Among other challenges, this population faces practices designed to impede their normal lives and prevent their natural and contiguous presence in the area. These practices include a lack of recognition of the villages in which they live; the declaration of large areas as military training zones; the temporary expulsion of residents from their homes for the purpose of holding military training on their land; military exercises inside the villages; house demolitions; and the constriction of grazing areas available to Bedouin shepherds due to the establishment of outposts that are routinely accompanied by military closure orders. This population also suffers from a lack of planning and basic infrastructures, including building permits and connection or access to water sources.
14. Some 11,000 settlers live in the Jordan Valley. The settlement kibbutzim in the area were established by the kibbutz movement. In recent years, outposts have also been established in the area by individual settlers who have brought with them the typical strategies that have been used in the territories to seize control of land.

Ramifications of the Annexation for Human Rights

15. If it goes ahead, the annexation will have dramatic ramifications for the human rights of the Palestinians who live in the annexed area:
- A. The meaning of annexation is that the Knesset, the Israeli Government, and the US Administration – none of which represent the Palestinian residents – place themselves in the role of the sovereign and the legislator, and in addition declare that this sovereignty is permanent.
 - B. The annexation of part of the West Bank will transform the occupation, which in accordance with international law is supposed to be a temporary state, into a permanent condition.
 - C. Annexation will impose Israeli law in full on the annexed area, without any commitment to respect the law that applied prior to the occupation, and while ignoring the restrictions established in international humanitarian law.
 - D. Annexation means that Israeli national-territorial interests – i.e. the security of the settlers and the expansion of the settlements – will shape policy in the annexed area. The obligations incumbent on the military commander in accordance with international law to protect the interests and rights of the Palestinian population will be sidelined to an even greater extent than at present.
 - E. Annexation will consolidate and deepen the reality of **two legal systems**, officially creating a regime of Apartheid, whereby within a single territory two completely different legal systems will apply. The imposition of Israeli law on the territories will attach the settlements and any additional annexed area to sovereign Israel, ensuring that the Jewish residents of the areas enjoy full rights. Conversely, the military occupation regime will continue to apply to the Palestinian residents outside the annexed area, as if nothing had changed. Entry to the annexed areas will require an entry permit to Israel: this will apply not only to the settlements, but also to roads and farmland.
 - F. **Danger of eviction, removal, and expulsion of the population** – the Palestinian communities that live in villages Israel chooses not to recognize will face the constant and serious threat of expulsion, since Israel will prefer to annex the land without the residents.
 - G. All the areas potentially earmarked for annexation include communities that Israel does not recognize; neither does Israel recognize their traditional way of life. The Jordan Valley includes numerous shepherding communities; the Southern Hebron Hills are home to numerous communities that already suffer repeated attempts to expel them from their homes. In the Ma'ale Adumim area there are unrecognized villages such as Khan al-Ahmar, while in Gush Etzion there is the community of

Khirbet Zakariyah. All these and other villages face a heightened risk of eviction and expulsion of the community. For many years, Israel has refrained from recognizing these villages and communities and has prevented any possibility of development and planning – in contrast to its policy concerning the settlements. The absence of recognition of a village means that its residents cannot be registered as such, and their registration will state that they live in an adjacent town or village. This registration may lead the authorities to define the residents of the communities as squatters, and if they remain in their homes they will become unlawful occupants, thereby increasing the risk that they will be expelled.

- H. **Damage to the right to property** – the owners of the annexed land are liable to lose their land, whether officially, through its definition as absentee land or through confiscation, or by way of denying access and establishing a regime of permits. The damage to the property right will also incur damage to livelihood.
- I. **Status of the Palestinians in the annexed area (residency permits)** – one option is that the territories (or part thereof) may be annexed to Israel along with their Palestinian residents, as was the case in East Jerusalem. An even worse option is that the Palestinians living in the area would receive temporary military permits. Such a permit regime would separate the annexed area from the West Bank, damage the fabric of life of the residents, and in its own right create difficulties concerning the protection of the human rights of the annexed Palestinian residents, including the violation of the right to self-determination and freedom of movement in their country. The annexation will disconnect annexed Palestinian families from their community and other relatives. The permits that could be issued would not grant permanent status, and the holders would be liable to lose their status in accordance with the policy of a government over which they have no influence.
- J. **Injurious permits regime (permits for access to farmland) – damage to access to land and the ability to farm and make a living** – the annexation is expected to include the confiscation and usurping of land from its legal owners. But even those whose land is annexed without an official process of confiscation will lose access to the land, or will be forced to obtain a permit in order to reach land that now de facto belongs to another country. The receipt of permits for access to farmland entails an exhausting and injurious bureaucratic process and causes serious and practical damage to the ability to access and farm land.
- K. Palestinians who live in the West Bank and whose land is situated in the area known as the “seam zone” have already learned about the meaning of such a permit regime, to their cost. The “seam zone” was created after Israel established the Separation Barrier. As a result, some Palestinians require residency permits in order to remain in their own homes after finding themselves on the “wrong” side of the Barrier, which in many cases runs between and even through homes. Many residents have lost the

ability to farm their land and make a living after their failed to meet the restrictive criteria for receiving permits (which determine who can access and farm the land, how many tools of what kind may be used, how many livestock may be brought into the area, and so forth). These criteria have become increasingly strict over the years. Access is also prevented due to the endless bureaucracy involved in obtaining or renewing a permit, since the permits are only valid for short periods.

- L. If a permit regime is imposed on the annexed areas, many additional Palestinians will suffer in all spheres of life, including the ability to maintain their bonds with their community, access their land, and make a living, as well as to maintain social and familial relationships in a situation where any travel in or out of the annexed area will require a permit.
- M. **Damage to freedom of movement** – the settlements already seriously damage the freedom of movement of Palestinians in the West Bank. Many main roads are off limits to Palestinians, whether by means of physical obstacles or under military orders. The settlements and the areas around them have also been declared military zones entry to which is forbidden to Palestinians. In all the annexation scenarios discussed to date, main and secondary roads will also be annexed. Even now many Palestinians are forced to use a network of bypass roads, comprising narrow and sometimes unpaved roads, in order to move from place to place. The annexation of roads to Israel will deny them access to additional roads, deepen discrimination and segregation on the roads, and lengthen and complicate journeys between different parts of the West Bank.
- N. Particularly serious damage can be expected in smaller villages, where the annexation of adjacent roads is liable to disconnect the village from the surrounding towns. This will lead to a sharp rise in the cost of transporting food and water and will impede the receipt of medical and educational services.
- O. The Allenby Bridge Crossing, which serves as the only crossing point for Palestinians between the West Bank and Jordan, is situated in the Jordan Valley. The annexation of the surrounding areas or of the roads leading to the facility will effectively disconnect the Palestinians from the outside world and make it harder for them to travel to Jordan for family visits, vacations, study, commerce, and so forth. Any such travel already necessitates a transit permit from the military commander. The need to cross the annexed area will add the need to obtain an entry permit to this area. Israel does not adopt a liberal approach to the granting of entry permits to its territory, and the impact of the annexation of the Allenby Bridge area is liable to seriously impede traffic to and from the West Bank.
- P. **Damage to basic welfare, health, and education services** – today, all civilian services – such as education, welfare, and health – are provided for the entire Palestinian population in the West Bank by the Palestinian Authority. This is also the situation in

Area C, despite the common misconception that civilian management of these areas is undertaken by Israel. The annexation of parts of this area will oblige Israel to provide these services to Palestinians in the annexed areas; alternatively, obtaining these services will require frequent crossings of the border. If the Palestinian population in the annexed area does not receive permanent status, and is only issued with residency permits, they will not be eligible to medical or national insurance. They will be forced to receive all these services from the Palestinian Authority, although they will not live under this authority.

- Q. These rights will also be damaged since teachers, social workers, and physicians who routinely visit remote communities will require special permits in order to continue to do so. The damage to freedom of movement on the roads will also lengthen routes to hospitals and schools for those in the annexed area and those elsewhere, thereby further damaging these basic rights.

The Problematic Nature of the Trump Plan

16. Ostensibly, annexation by agreement of the parties, as part of a peace agreement and while maintaining the human rights of all those living in the area, could be a legitimate course of action. In the current instance, however, what is on the table is a unilateral proposal to annex occupied Palestinian territories in the West Bank – with the approval of the US Administration, but not as part of an agreed arrangement between Israel and the Palestinians. Israel and the United States do not have the right to decide on their own, in a unilateral manner, to violate international law and human rights. They cannot change the status of various areas of land while completely ignoring the status of the Palestinians who live on this land and the fact that they are liable to be disconnected from their homeland. The proposal reinforces the existence of two separate legal systems in the West Bank and officially transforms the existing regime into an Apartheid regime.