

**The Path Between the Trump Peace Plan and Applying Israeli Law to
Settlements**
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The plan of the US president Donald Trump for a political deal between Israel and the Palestinians, dubbed the “Deal of the Century,” includes two chapters: the first— economic—will be revealed in Bahrain in a workshop to be held at the end of June; the second—political—includes reference to the sensitive issues of the Israeli-Palestinian conflict, and its launch has been postponed apparently until after the elections and the establishment of a government in Israel in late 2019. The details leaked about the plan indicate that it takes into account the positions of the Israeli government and Israel’s security needs and also recognizes the reality that has evolved on the ground during the past fifty years. This is the reason that Palestinian officials have announced that they will not accept the plan. The US ambassador to Israel declared this week that “under certain circumstances [...] Israel has the right to retain some, but unlikely all, of the West Bank.” The ambassador’s remarks hint that if a right-wing government is elected in Israel, it will respond without precedence to another Palestinian rejection of the proposed arrangement by applying Israeli law over the areas of the settlements. The meaning of this move is annexation, and it is expected to cause a chain of the most negative consequences for Israel.

The Issue of Timing

The wait for US president Donald Trump’s plan for a political arrangement between Israel, the Palestinians, and the Arab world—dubbed the “Deal of the Century”—has continued many months, and over the past year, the Trump administration has postponed its presentation time and again. Prior to the most recent postponement (due to the April election in Israel), the Trump administration had intended to present the plan in two stages; the first, devoted to the economic component, is to take place at the Bahrain workshop in late June. Israel’s political spin into another election in 2019 after Prime Minister Benjamin Netanyahu failed to form a government has disrupted the White House’s timeline for presenting the plan’s political component.

Yet President Trump wants to keep his promises and present his plan, even if conditions are not ripe for it to be accepted, let alone implemented. He reckons the plan will remain relevant in his second presidential term and will serve as a point of reference for any

future diplomatic initiative between Israel and the Palestinians, as did its forebears—President Clinton’s parameters and President Bush’s letter to Prime Minister Ariel Sharon. In parallel, Trump is expected to support steps that Netanyahu will take to retain his role as prime minister of Israel. Yet these two goals also clash, given the expected difficulty of getting Netanyahu’s rightist supporters to support the plan (even if it is an unprecedentedly pro-Israel positions), which gives rise to a White House desire to avoid embarrassing Netanyahu by publishing the plan—a move liable to hurt his chances of re-election and heading a right-wing coalition. At this critical point in time, instead of offering the Palestinians concessions so that they might be persuaded, when all is said and done, not to reject the plan out of hand, and also responding to the appeals of the Arab countries that are the main partners to the process (primarily the quartet of Egypt, Jordan, Saudi Arabia, and United Arab Emirates) to improve the terms for the Palestinians, the American team finds itself under pressure to tilt the plan even further toward Israel’s benefit, in order to assist Netanyahu.

The most convenient way out for the White House would be to postpone the presentation of the plan’s political component, which deals with the most sensitive of issues—borders, security, the status of Jerusalem, settlements and a resolution of the Palestinian refugee problem—until after the Israeli election to be held on September 17, 2019. Although a senior administration official said the plan would be presented “at the right time,” that time is becoming increasingly distant. A new Israeli government will not be installed before October, so presenting the plan can be expected to be delayed at least through November, when the 2020 US presidential race begins.

Principles and Essence

President Trump’s adviser and son-in-law, Jared Kushner, announced that the Trump plan does not propose a two-state solution, because each side interprets this principle differently; thus the plan does not call for the creation of a Palestinian state. With that, the Trump administration is terminating dozens of years of consistent American policy supporting a two-state solution to the Israeli-Palestinian conflict. This is the reason that all the Palestinian factions have pledged in advance to reject the plan out of hand and deem it a blueprint for continuing the Israeli occupation through other means. Furthermore, the US ambassador to Israel, David Friedman, a member of the team drafting the plan, noted that it is meant to improve the lives of Palestinians although it may not necessarily lead swiftly to a permanent status agreement. It can be concluded that the current administration believes that improving the socio-economic situation of the Palestinian populace takes precedence over a full implementation of Palestinian national aspirations (a Palestinian state on the basis of the 1967 borders, whose capital is in East Jerusalem, with right of return for the refugees).

The strategic objective of the Trump plan is much broader than the Israeli-Palestinian conflict. The administration is interested in coming up with a new Middle East configuration, in bringing together an Arab-American-Israeli coalition and, by so doing, shoring up the anti-Iranian and anti-jihadist alliance emerging between the Gulf states—mainly Saudi Arabia—and Israel, as well as rallying Arab countries into supporting the peace process. The administration is also interested in crafting conditions for bringing about an end to the Israeli occupation—or at least, to its negative image—in a manner that gives the Palestinians control over the decisive majority of the Palestinian population and territory in the West Bank and Gaza Strip. In addition, the plan is meant to redefine the parameters for an agreement so that they will be predicated on the reality that has evolved on the ground over the past fifty years and will be relevant for the present and for the future.

What's in the Plan?

It is not clear to what extent the plan has been finalized, and it would appear that the team of presidential advisers are still deliberating over a number of issues. With that being said, based on the statements and leaks, this can be expected:

- a. Despite the “evasion” from presenting an end-state of two states, the plan contains a proposal to create an **independent and distinct Palestinian entity on most (some 90 percent) of the territory of West Bank as well as in all of the Gaza Strip.**
- b. **No evacuation of settlements, including isolated ones, with the possibility that Israeli law will be applied to some or most of them**—in other words, they will be under Israeli sovereignty. If the intention is to apply Israeli sovereignty to the jurisdictional areas of the settlements, then that would entail Israel's annexing of more than 10 percent of the territory, including most of the unauthorized/illegal outposts (which Israel had promised previous American administrations it would evacuate). If the reference is to what is defined as the built and settled area of the settlements, then the scope is less than 5 percent of the territory. This situation raises a number of problems. For example, how would traffic routes be protected and settlements' routine daily life preserved? A more complex issue is what border regimen would exist between Israel and the proposed Palestinian entity? In this context, Kushner hinted at an open border that would allow almost unfettered movement in both directions.
- c. The administration accepts the core demand of Prime Minister Netanyahu for **freedom of action for Israeli security forces in all territory west of the River Jordan**, including within the Palestinian territory, in accordance with Israel's

- security needs, to prevent deterioration in the security situation further from its current state. Within this framework, it is possible that Israel would retain an indefinite security hold in the Jordan Valley.
- d. On the matter of Palestinian refugees, it seems there would **be no return of refugees to within Israel's borders**, but rather, a limited absorption of refugees within the boundaries of the Palestinian entity. The other refugees, in the decisive majority of cases, would be permanently rehabilitated where they currently are (a source of serious concern in Jordan and Lebanon).
 - e. **Jerusalem** would also be the capital of the Palestinian entity, although the geographical demarcation of the Palestinian capital is unclear: Would it include territory in East Jerusalem from the Jordanian period (the Old City, City of David, Mount of Olives, and Sheikh Jarrah neighborhood) or would its capital be merely few of Jerusalem's Arab neighborhoods? In the holy sites, arrangements for freedom of worship would be determined, which the sides are likely to resign themselves to, under the rubric of a (seemingly) preservation of the status quo. Jordan's role in the holy sites would not be rescinded.
 - f. A broad **economic plan** valued at some 65 billion over ten years—without clarity over who the donors would be. The aim is to use the economic framework for the construction the capacity of an independent and functioning Palestinian entity, and also as a “lure” to make the plan desirable mainly among the Palestinian public and to soften objections and move matters forward. Bahrain capital, Manama, will be hosting an economic workshop on June 25, where the Americans are expected to present the anticipated economic gains for the sides and the region if the plan is accepted and implemented. The Palestinians, for their part, announced that they will boycott the event; on the other side, Israeli businesspeople will participate, building an additional level of publicly strengthening ties between Israel and Sunni countries in the Gulf. The participating Arab countries, which Washington deems a coalition of countries that back the initiative and are willing to support the process economically, will take part. The Arab quartet will not grant Abbas a rejectionist umbrella against the plan. With that said, these countries are prepared to invest in the Palestinian issue and assist, but on condition that a consensual process takes place between the sides.

What It Means

If these are indeed the elements of the Trump plan, then in every regard it takes into account the positions of the Israeli government and Israel's security needs and also

recognizes the reality that has been created in the conflict arena over the last five decades. This is the American position closest to Israeli positions in the framework of an agreement with the Palestinians. By getting into another election cycle, Netanyahu is liable to lose precious time and pass up an opportunity to craft a strategic reality that suits his worldview and to stabilize and shape the Israeli-Palestinian conflict, when he is backed up by unprecedented support and friendship from an American president.

The US ambassador to Israel, David Friedman, in a mid-June interview given to the *New York Times*, made clear that the plan will not be presented if the administration believes that doing so would be more harmful than useful. The ambassador further declared that “under certain circumstances, I think Israel has the right to retain some, but unlikely all, of the West Bank.” In an immediate response, an administration official made clear that there was no change to the US position on the settlements. The response of the PLO secretary-general, Saeb Erekat, was: “President Trump’s ambassador provides enough background in order for everyone not to attend the Manama meeting: Their vision is about annexation of occupied territory, a war crime under international law.”

The ambassador’s remarks hint at a possible scenario according to which the “Deal of the Century” could be on the table after all by the end of 2019, in coordination with the timetable for installing a new government in Israel and on the assumption that it will be a right-wing government headed by Netanyahu. As they have already announced, the Palestinians will reject the plan, while, in contrast, the Israeli government will accept it, but apparently with a number of reservations. The dramatic moment can be expected to happen if the Israeli government, possibly on the basis of understandings with the president of the United States, makes an unprecedented decision to respond to another Palestinian rejection of the proposed deal by applying Israeli law over settlement lands (all, or partially, inside the blocs and/or beyond them), with precedence for the settlements that the Trump plan envisages as part of Israel—and it is possible that this was what Friedman was hinting at.

Applying the law in the realm of infrastructure and land zoning is a euphemism for annexing the settlements. In effect, this would be an annexation of those territories, whether or not the move is formally designated as an annexation. The annexed territory takes on equal status, in every respect, to the territory of the State of Israel, (and as far as Israel is concerned, ceases to have the status of occupied territory). All powers in an area where Israeli law is applied are conferred to Israeli authorities and not to a regional military commander. Any entrance to a settlement would be an entrance to Israel.

And indeed, this move, even if it is presented as reconfirming an existing situation (after all, Israeli law already applies to the settlers as individuals, and now it would also apply

to the areas of the settlement themselves), would be interpreted as a violation of international law and would not change the status of the territory in terms of international jurisprudence, according to which the territory would continue to be considered occupied and thereby its Palestinian residents would continue to be accorded rights to protections as residents of occupied territory. Such a step would be a violation of the interim agreement that forbids unilateral changes to the status of the territory and is liable to cause the existing arrangements concerning security, the economy, and civil affairs between Israel and the Palestinian Authority to be revoked. The greater the size of the land annexed, with the connotation of blocking the creation a Palestinian state, the more we can expect Palestinian resistance to grow, even to the point in which the Palestinian Authority would “return the keys” to Israel and be dismantled, with Israel regaining responsibility for some 2.5 million Palestinian residents, with everything that entails in terms of security and the economy. It is thus reasonable to expect that if annexation is implemented, it will be on a limited scale, in order to allow all of the involved parties—Israel, the United States, the Arab quartet, and even the Palestinian Authority—to contain the occurrence.

Applying Israeli law to all settlement lands may look like a tempting option, but this move could be expected to undermine stability in the West Bank, which has been kept under control for the last fifteen years, and to bring about an eruption of violence and even inflict grave harm to Israel’s international and regional standing and its peaceful relations with Egypt and Jordan, which will find it hard to deal with domestic criticism of Israel’s unilateral move of annexation. Given an inability to implement the Trump plan, and in lieu of unilateral annexation, it would be advisable to consider the practical alternative planned at the Institute for National Security Studies, based on penetrating and thorough research—a framework for political, territorial and demographic separation from the Palestinians while preserving and improving the performance of and coordination with the Palestinian Authority. Under current circumstances, and especially given problems inherent to other courses of action, it would be possible to embark on implementing steps laid out in the framework.