

Special Publication, June 14, 2020

Annexation of the West Bank: Where Does it Lead?

Insights from a conference held at the Institute for National Security Studies (INSS)

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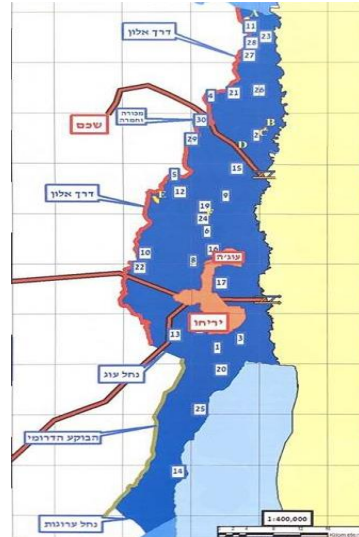
The “application of sovereignty” is a euphemism for the unilateral annexation of parts of the West Bank. This move would thoroughly upset the current state of affairs and change the rules of the game in the Israeli-Palestinian arena. Prime Minister Benjamin Netanyahu believes that Israel is now presented with what is perhaps a one-time opportunity to change the reality in the conflict arena: “Until today, Israel has always been the one that had to concede, to give, to freeze, and to withdraw...Now President Trump has said that it is not Israel that needs to concede, but rather the Palestinians.” Media coverage and the public debate in Israel have focused on the immediate implications of annexation, but there has been no discussion regarding the long term. In the event that the Palestinian Authority does not survive the repercussions of the annexation, which are likely to include widespread popular unrest, the move could prompt an end to its role and its dismantlement. If this occurs, Israel will find itself responsible for 2.7 million Palestinians in the territories – a problematic development that would affect the democratic and demographic character of the State of Israel and spell a slide into a reality of one state. A conference held at the Institute for National Security Studies (INSS) focused on the positive and negative consequences of annexation.

The Geographic Dimension

Thus far, there has been no public presentation of the planned annexation map. Annexation will follow one of three approaches: (1) the annexation of the Jordan Valley in its broad sense, which constitutes 22 percent of the West Bank; (2) an approach that adopts President Donald Trump’s plan and calls for the annexation of half of Area C, which constitutes some 30 percent of the West Bank; or (3) a limited approach, which seeks to secure the existing Israeli settlements and prevent their future evacuation.

The discussion at the conference focused on three alternatives between the Trump plan and the limited approach:

- 1) Annexation of the Jordan Valley and the northern Dead Sea, according to a map presented by Prime Minister Netanyahu. This alternative is grounded first and foremost in security logic, such as anchoring a defensible eastern border for Israel. This alternative includes the Jordan Valley in its broad sense, as well as the eastern Samaritan hills up to the Allon Road (up to 22 percent of the West Bank). This territory contains 30 Israeli settlements but less than three percent of the Jewish population in the West Bank. It also contains a Palestinian enclave of the city of Jericho and a number of Palestinian towns; Israeli sovereignty would not be applied to the Palestinian areas.

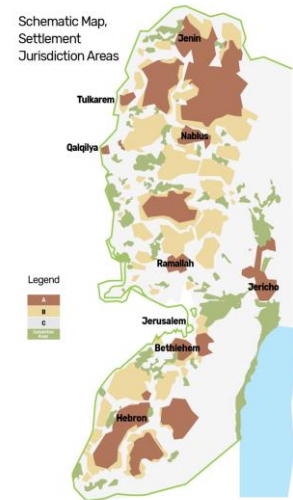


- 2) Annexation of the Jordan Valley and the settlements according to the peace plan presented by US President Donald Trump. This map includes the Jordan Valley, but on a smaller scale than Netanyahu's plan (17 percent of the territory); all the settlement blocs; and 17 isolated settlements deep within the Palestinian territory, which are connected to roads to Israel (an additional 13 percent of the West Bank, for a total of 30 percent). In the realm of security, this alternative ensures Israeli control of its eastern border, as well as the western foothills of the Samaritan hills, which dominate central Israel and Ben-Gurion airport, and the belt enveloping Jerusalem. Its disadvantage is that it will create a border that is 1,600 km long and leave Israeli settlements isolated in the West Bank, connected to Israel by long narrow roads, and thus be difficult to defend. It will also result in significant friction between the Israeli and the Palestinian populations. If the Trump plan is implemented as formulated, Israel will be required to transfer half of Area C to the Palestinian Authority (PA), i.e., 30 percent of the West Bank. This area will join the 40 percent of the territory that is currently subject to PA control (Areas A and B). In addition, Israel will be required to transfer parts of its sovereign territory to the future Palestinian state that amount to an area equivalent to 15 percent of the West Bank. According to assessments, this alternative appears suited for implementation within the framework of a permanent status agreement based on complete trust between the

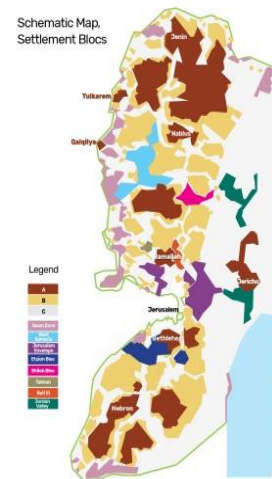


two parties and their populations, but certainly not for an interim situation characterized by a lower level of confidence between the parties.

- 3) Annexation of the settlements' areas of jurisdiction, totaling an area of approximately 10 percent of the West Bank, not including the access roads to the settlements. This alternative offers no strategic advantage and no assurance of viability for the Israeli settlements that remain isolated. For this reason, it is an alternative for the interim period only. Nonetheless, this map's advantage lies in the application of Israeli sovereignty and Israeli law to the entire settlement population, while incorporating only a small Palestinian population into the area (less than 1 percent of the Palestinians in the West Bank). According to this map, the settlements will not be permitted to expand beyond their designated jurisdiction.



There are a variety of additional possibilities, shaped by combinations and permutations of these three alternatives.



The Legal Dimension

From a legal perspective, “application of sovereignty” and “annexation” are one in the same. Nonetheless, the phrase “application of sovereignty” bears a political resonance and connotation of legitimacy, as opposed to the negative connotation of unilateral annexation, which is commonly dimmed illegal by international law. Since 1967, Israel had held the territory of the West Bank under belligerent occupation administered by a military government, and Israeli legislation has no direct applicability except through orders of the GOC Central Command (the military commander) that are applicable to the areas of the settlements. The application of Israeli law would mean cessation of the application of the law of the region and equating the status and legal administration of the

territory to that of the State of Israel. The Israeli authorities would become the authority in the region. As a result, annexation would make it easier to expropriate Palestinian land for new settlements or the expansion of already existing settlements. The Palestinians in the annexed territory would no longer be subject to the laws of the PA. Rather, as residents of the State of Israel, they would be subject to Israeli law and be entitled to request citizenship. As for the future, in accordance with Israel's Basic Law: Referendum, in the event that Israel agrees to relinquish the annexed area within the framework of a political arrangement with the Palestinians, approval of this concession would require a special majority of 80 Knesset members or a referendum. In actuality, annexation means tying the hands of future Israeli governments that would be willing to transfer territories for a political settlement.

From the perspective of international law, the annexed territory would not be recognized as under Israeli sovereignty or part of the State of Israel, and most international parties are expected to treat it as occupied territory in which the Palestinians hold rights, including the right to self-determination, to be fulfilled by establishing a state. Israel, as an occupying state, would continue to be required to keep its obligations to the Palestinians. The less the Palestinian Authority functions, Israel's duties will intensify. In practice, agreements between the State of Israel and states that do not recognize the annexation would not be applicable to the annexed territory, and Israel would need to decide between distinguishing the territory within Israel's 1967 borders from the annexed territory in the West Bank, and risking the annulment of these agreements altogether. The decision regarding annexation would be defined as a severe Israeli violation of international law. A change of administration in the United States could also lead to a Security Council resolution condemning Israel. In addition, annexation would constitute another issue that will presumably be investigated by the International Criminal Court in The Hague.

The Israeli Public

A public opinion survey conducted by the Israel Democracy Institute (IDI) in April 2020 indicates that annexation enjoys the support of a small majority (53 percent), whereas a minority (28 percent) expressed opposition to it, and almost one-fifth of the respondents (19 percent) had no opinion on the subject. On the other hand, in response to a question regarding the chances that any version of annexation will be implemented in the coming year, some 50 percent of the Jewish public said that they do not believe that annexation will occur. Two months later, in a Channel 12 poll on June 8, 46 percent of the public objected to annexation, with only 34 percent supporting it. While 67 percent responded that the coronavirus crisis is the most important issue today, only 3.5 percent said annexation is the most important issue. On the question of the civil status of the Palestinians in the annexed areas, IDI's survey shows division among the Jewish public

opinion: 20 percent responded that the Palestinians should be given the status of citizens, 24 percent stated that they should be given the status of residents, 37 percent stated that they should not be given a status beyond what they enjoy at the present, and 19 percent expressed no preference.

The issue of annexation has no direct impact on most of the population, and is informed primarily by the media. Indeed, the term “annexation” generally appears in the press that is associated with the left wing of the Israeli political map, whereas the term “application of sovereignty” appears in the media associated with the right wing. Recent days have also witnessed a growing debate among the Jewish settlement population regarding the merits of applying Israeli sovereignty in the West Bank on the basis of the Trump plan: the plan envisions a two-state solution; it also requires a four-year construction moratorium in the isolated settlements, or until an arrangement is reached between Israel and the Palestinian Authority. These conditions, which include demarcation of the area of the territories, make the idea of applying sovereignty less enticing, if not outright problematic, in the eyes of the more hawkish leaders in the settlement movement.

The Palestinian Response

At this stage, the Palestinian leadership – the Palestinian Authority in the West Bank and Hamas in the Gaza Strip – seeks to prevent Israel from implementing annexation. At the same time, they have limited room to maneuver, and a visible gap exists between the intensity of their statements and the effectiveness of the tools at their disposal. The Palestinian population perceives annexation as an Israeli-American plot to fragment the Palestinian people and prevent the evolution of a Palestinian independent state. Although all the factions in the Palestinian arena agree that this is a time for national reconciliation, in practice, the gaps appear beyond bridging. The Palestinian Authority is thus on the horns of a thorny dilemma: on the one hand, it faces severe dangers to the continuity of the state’s institutions, which employ more than 170,000 people in the public sector; on the other hand, following the path of political negotiations appears pointless, and the goal of establishing a Palestinian state throughout the territory conquered by Israel in 1967 is unattainable. De facto annulment of the Oslo Accords would have a severe impact on the Palestinian Authority, and therefore the PA is deliberating the merits of this move.

Palestinian Authority President Mahmoud Abbas has announced that the PA is no longer bound by the agreements that were signed with Israel, as Israel is not implementing them. However, as the PA’s leadership still views the civil and security coordination with Israel as beneficial, it was not abandoned entirely. Until July 1, 2020, the target date for annexation, the Palestinian Authority will focus on an effort to pressure Israel through threats and attempts to mobilize international and regional opposition to annexation. Between July and November, the PA will build on the hope that Democratic candidate

Joe Biden will be elected president of the United States and turn back the clock. In the event that Donald Trump is elected for a second term and supports all Israeli decisions regarding annexation, the Palestinian arena can be expected to enter a new phase: the PA will likely cease functioning in its official capacity, and developments will be led by the Palestinian street. Moreover, Abbas's departure from the Palestinian arena will intensify the struggle of succession within the ranks of the Palestinian leadership. In such a case, the PA can be expected to plunge into a state of chaos.

Hamas, for its part, seeks to prove that the approach of resistance is more appropriate for the struggle toward self-determination and political independence than the political approach of the PLO and the Palestinian Authority. In order to solidify its position in the Palestinian arena in the event of annexation, Hamas can be expected to challenge Israel and the PA through acts of terrorism in the West Bank. It will do so without endangering its control over the Gaza Strip, and will thereby do its utmost to avoid a wide scale military clash with Israel in the Strip. At the same time, Hamas will be compelled to deal with the rejectionist organizations, which will not take its interests into consideration and will also try to cause security deterioration in the Gaza Strip.

Implications for Peace Relations with Jordan and Egypt

The Palestinian question holds existential significance for Jordan, as more than half of the country's population is of Palestinian origin. From the outset Jordan expressed resolute opposition to any act of annexation, regardless of its type or scope. Any Israeli action in this direction can be expected to meet intense opposition on Jordan's part, and unrest in the West Bank is liable to spread to the Palestinian population in Jordan. The economic enticement offered to Jordan as part of the Trump plan – \$7.4 billion in aid – is not enough of an incentive for it to accept the plan, despite its dire economic situation. King Abdullah is cautious and does not often criticize the plan. However, in a recent interview with the German newspaper *Der Spiegel*, the King maintained that annexation would result in a massive conflict between Israel and Jordan. Damage to Israel's peaceful relations with Jordan could include a reduction or even freeze of the bilateral security cooperation, which would threaten the security of Israel's longest border and undermine the stability of the Hashemite Kingdom, which provides Israel with strategic depth to the east. The common view in Jordan is that the right wing government in Israel seeks to achieve conditions in which Jordan will serve as the alternative homeland of the Palestinians, allowing Israel to export the Palestinian problem from within the borders of historic Palestine (the Land of Israel) into Jordan.

Egypt is less vulnerable than Jordan to the effects of annexation and is currently troubled by two weighty issues: the COVID-19 pandemic and the accompanying economic crisis, and Ethiopia's threat to slow the flow of water in the Nile by filling the Grand Ethiopian

Renaissance Dam. Still, the Egyptian Minister of Foreign Affairs has clarified Cairo's opposition to annexation, due to the fact that infringement upon the Palestinians' right to establish an independent state within the borders of the territory occupied in 1967 would negate the feasibility of a two-state solution and end the peace process. He has also expressed concern regarding possible Israeli-Palestinian escalation that would affect Egypt and strengthen Islamist forces in the Gaza Strip and the Sinai Peninsula. As a result, Egypt is pressuring Israel and the United States to roll back this initiative and, at the same time, is pushing the Palestinians to propose an alternative to Trump's plan to prevent unilateral Israeli action. If the Trump administration supports annexation, then with the exception of voicing anti-annexation rhetoric, Egypt will likely refrain from taking resolute action due to its dependence on US financial aid and political assistance vis-à-vis the dam. For this reason, Egypt will choose a restrained response.

International Perspectives

In the United States, annexation is almost the last issue on its current multi-crisis agenda, which is now dominated by the pandemic, the economic crisis, and the widespread racial protests. Circles within the administration have conveyed equivocal messages, ranging from support for any action chosen by the Israeli government to a demand that Israel refrain from taking action that will deny the feasibility of the Trump plan. The US administration may give Israel a red light with regard to annexation in the event of one or more of the following possibilities: if the Palestinian Authority expresses a willingness to engage in negotiations based on the Trump plan; if the Arab countries convey direct messages of resolute opposition; if severe opposition to annexation arises within the Israeli government among the Blue and White party ministers, reflecting that there is no Israeli consensus regarding Israel's right to annex the territory. Democratic presidential candidate Joe Biden has expressed opposition to annexation and to unilateral actions that he regards as nullifying the possibility of a two-state solution. He has stressed that annexation is against the interests of the United States. There is no way to know whether or to what extent Biden will act against annexation in the event that he is elected president. He may seek ways to oppose the action, and he may try to convince the Palestinians that it is still possible to promote a two-state solution and to take action to bring the parties back to the negotiating table – perhaps even by forcing concessions on Israel.

The international community will not recognize the annexed territory as part of the State of Israel. From its perspective, annexation of the West Bank will not negate the Palestinians' right to self-determination and control of the entire territory, including East Jerusalem. Indeed, international support for this right is likely to increase, as may the recognition of a Palestinian state under Israeli occupation. The European Union, which is currently engaged in the effects of the pandemic and the ensuing economic crisis, is

currently extremely weak and polarized, and its member states are unable to reach a consensus regarding annexation, not to mention regarding the imposition of sanctions on Israel. Agreement that annexation runs counter to international law strengthens the voices of those calling for harsh measures, some even calling for annulment/suspension of the agreement on association between Israel and the European Union, which has implications for cooperative efforts, including in the realms of commerce, research, and academia. However, the lack of cohesion within the EU frustrates these efforts.

Most of the Jewish communities in the West are preoccupied with COVID-19, which has also sparked a rise in antisemitism. The discourse regarding annexation fuels organizations that reject the legitimacy of the State of Israel and serves to promote a boycott against Israel. Although the pro-Israel camp operates according to a “big tent” system – meaning that despite multiple views, it is able to act on behalf of the State of Israel – in the case of annexation, the community will find it difficult to articulate a uniform voice.

For and against Annexation

Negative Implications

- 1) Detrimental impact on the security reality in the Israeli-Palestinian arena, which over the past decade has been characterized by relative calm and stability. The application of Israeli sovereignty in the West Bank could increase the Palestinian motivation to engage in violence. Cooperation between Israeli security forces and the Palestinian Authority security apparatuses has already paused and will cease (in areas such as thwarting terrorism, preventing discord, dispersing demonstrations, and sharing valuable intelligence information). This cessation will make it more difficult for Israel to foil terrorism and violence.
- 2) Annexation is liable to push the PA toward Hamas and possibly encourage it to return to the resistance approach, while demanding sovereignty over all of Palestine. At the same time, Hamas will act to undermine stability in the West Bank and will have trouble restraining the rejectionist groups in the Gaza Strip. This will increase the chances of simultaneous security deterioration in the West Bank and in the Gaza Strip.
- 3) Annexation and the loss of the horizon of a Palestinian state will increase the likelihood that the Palestinian Authority will collapse or return the keys to Israel. In this event, Israel will be forced to assume responsibility for the entire Palestinian population (2.7 million) of the West Bank.
- 4) Negation of the benefits of the peace treaty with Jordan: Israel's border with Jordan is its longest and calmest border, and security cooperation with Jordan has continued successfully over the course of years. In addition, annexation would

- negate Israel's eastern defensive strategic depth, which currently reaches the Jordanian-Iraqi border.
- 5) Israel's primary security effort will need to shift from resistance to Iranian entrenchment in the northern arena to intensified efforts and forces in the Palestinian arena. Today, the relative stability and calm that exists in the Palestinian arena allows the IDF to focus on thwarting the Iranian threat to Israel.
 - 6) Annexation would hurt Israel's cooperation with countries with which it does not enjoy official relations, which are based on a common interest of halting the expansion of negative Iranian influence throughout the Middle East. It would undermine Israel's regional status vis-à-vis the pragmatic Sunni Arab countries: even if they maintain low profile ties with Israel, these relations will not advance in the foreseeable future.
 - 7) Large scale annexation would mean an end to the possibility of furthering a political-territorial arrangement between Israel and the Palestinian Authority.

Positive Implications

- 1) The act of applying Israeli sovereignty would change the rules of the game and the balance of power in the Israeli-Palestinian arena in a manner that would deny the Palestinians the ability to veto proposed arrangements and the ability to hold Israel hostage in the existing state of the conflict.
- 2) For the first time, the United States has agreed to Israel's declared intention to maintain a permanent presence beyond its pre-1967 borders. This should be anchored in sovereignty on the ground.
- 3) There is a significant likelihood that the application of sovereignty would not shake the foundations of Israel's security and political situation, particularly if the scope of the annexation is limited and does not preclude the option of a two-state solution.
- 4) The territories that are essential to Israel are primarily Jerusalem, the Jerusalem envelope, and the Jordan Valley. At the moment, Israel controls these areas with a provisional status, whereas de jure annexation would establish its presence in these essential territories vis-à-vis those who oppose it.
- 5) The application of Israeli sovereignty is meant to expand Israel's settlement map and, at the same time, make it much more difficult to evacuate Jews from their homes in the West Bank. Annexing territories would embolden Israelis to move from the crowded foothills and coastal strip to the West Bank without the fear of future evacuation.
- 6) Israel is at a crossroads and needs to demonstrate strength and resolve, as well as a willingness to weather uncertainty that could have a detrimental impact on its short term security but strengthen it in the long term.

Conclusion

Many variables will affect the immediate implications of annexation, and especially the form it takes, whether limited or large scale. These variables include the extent to which it harms the fabric of Palestinian life and that of the Israeli population in the West Bank, and the pace and intensity of the events, which will affect the dynamic of escalation and will be difficult to control. Additional relevant questions are whether the Palestinians will retain a horizon of hope for actualizing their national aspirations in the form of a two-state solution, and who will be in the White House in 2021.

Beyond the answers to these questions, the examination of annexation's diverse implications for Israel reveals a primarily negative balance. Annexation would not give Israel a strategic advantage for which it is appropriate to take such extensive security, political, and economic risks. The application of Israeli law to parts of the West Bank would not provide Israel with any security advantage over the current state of affairs in which Israel controls the Jordan Valley, enjoys freedom of security operation throughout the entire area, and engages in effective cooperation with the Palestinian security forces. In fact, annexation would increase the threat of terrorism, both in the West Bank, and in the Gaza Strip. This in turn would require the IDF to divert its attention from the northern border and Iran to efforts in the Palestinian arena.

In the long term, if the Palestinian Authority cannot survive the impact of annexation, which will likely spark widespread popular unrest, it may disband and conclude its role. In this case, Israel would be responsible for the territories' 2.7 million Palestinians in many realms, including law and order, basic welfare and security, and beyond. This would occur in conjunction with rising popular support in the Palestinian street for the idea of establishing one state between the Jordan River and the Mediterranean Sea as a substitute for the failed vision of a two-state solution. In addition to the security burden, Israel would be saddled with the burden of the Palestinian economy, without the assistance of the international community (which has contributed to the Palestinian Authority for years). Moreover, these problematic developments would significantly affect the democratic and demographic character of the State of Israel, as it would mean accelerating the slide into a reality of one state and undermining the fundamental vision of Israel as a Jewish, democratic, secure, and moral state, with recognized borders and international legitimacy.

Over the past decade the Israeli-Palestinian conflict has lost its centrality in the regional and global systems, in part due to recognition of the fact that Palestinian rejectionism has played a decisive role in frustrating progress toward a political settlement in the spirit of two states for two peoples. Against this background, Israel was free to contend with the major strategic challenge – the expanding Iranian influence and entrenchment in the

northern arena. At the same time, the development of strategic relations between Israel and the pragmatic Arab countries became possible, as well as the establishment of a broad front against Iran. Annexation can be expected to halt this extremely beneficial process.