

Justice Delayed, Justice Denied



Killing the Peace Process: US Policies in Palestine in the Trump Era

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Since Donald Trump took office on January 20, 2017, US policies in Palestine have radically shifted. Despite its military, economic and political support to Israel, the US has been supporting a two-state solution for the last two decades, but that it is no longer the case. Under the current administration, the US seems to be committed to a unilateral one-state solution, rather than willing to fulfill the rights of Palestinian people to build an independent sovereign state on the land that had been occupied by the Israeli colonialization on the 4th of June 1967.

The memory of *Al-Nakba*, “the catastrophe” of the ethnic cleansing of Palestinians from their own lands in 1947-1948, was still too vivid to accept the existence of the nation who perpetrated it. However, after the occupation of the West Bank and Gaza started in 1967, Israel began receiving unconditional support from the US. Regional support to the Palestinian cause decreased dramatically after Arab countries were defeated for the third time in 1973 third Arab-Israeli war. Palestinians became more and more isolated.

Therefore, when the fire of 1987 First Palestinian Intifada (“uprising”) began waning, negotiations were carried on between the Organization for the Liberation of Palestine (PLO) and Israel, with US mediation. The so-called “Oslo agreements”, resulting from this process in the 1990s, outlined a two-state solution. The agreements promised the creation of a Palestinian State within 5 years, and contained a mutual recognition between the PLO and Israel as well as a pledge of the PLO to non-violent methods. Besides that, the agreements created the Palestinian Authority as a political institution for Palestinians, but, in a division that was supposed to be temporary, assigned only 17% of the West Bank to its power, not including control of borders and aerial space, natural resources, and taxes.

As the promises of the Oslo Agreements have remained unfulfilled and illegal settlements have kept expanding, the Palestinian Authority has maintained its very limited power over the West Bank, while Israel has imposed a harsh blockade and launched several wars on Gaza since Hamas took control of the Strip in 2007. The hope of the Palestinian people, including for a two-state solution, has gradually waned. Analysts in the Trump administration may have concluded that times are mature enough to end the peace process by closing doors to any concession to Palestinian rights.

Towards the “Deal of the Century”: Trump’s policies in Palestine

In February 2017, Trump made the shift in US policies public, declaring for the first time since Oslo negotiations that the US was open to a one-state solution. Some months later, in November 2017, Trump’s administration announced the development of a comprehensive plan to settle the Palestinian issue. The plan, elaborated by Trump’s senior advisor Jared Kushner and chief negotiator Jason Greenblatt, is popularly called the “Deal of the Century”. Since its first announcement, the revelation of the details of the Kushner Plan to the public has been delayed several times, and was only partially revealed during the Manama conference in late June, 2019.

According to leaks¹, the Plan foresees an annexation and expansion of settlements in the West Bank; a fragmented and incomplete Palestinian entity with no army; Israeli control over Jerusalem, and the prohibition for the Palestinian authorities to have an army. The issue of Palestinian refugees' right to return to their homelands is not addressed. For what concerns Gaza, a partial – and strongly insufficient – easing of the blockade seems to be foreseen, as well as the creation of a new industrial zone in the Sinai Peninsula.

In light of this information, Trump's policies in Palestine suggest that, since 2017, the US have been "preparing the ground" for what can be deemed a unilateral one-state solution. This happened on two main fronts: the diplomatic one and the economic one.

In December 2017, the President declared that the US embassy in Israel would be moved from Tel Aviv to Jerusalem, *de facto* recognizing Jerusalem as the capital of Israel. Israel invaded East Jerusalem in 1967, performing an annexation that has been repeatedly condemned by the UN Security Council. Since then, the status of Jerusalem has been one of the biggest difficulties in all negotiations. In 1980, Israel passed a Basic Law declaring Jerusalem, "complete and united", as its own capital. The Security Council declared the law null and void in Resolution 478, which also called upon member states to withdraw their diplomatic missions from the city.

The US move – condemned by 128 States in the UN General Assembly – was therefore an exceptional concession to Israel and a break in the fragile post-Oslo equilibrium, as well as an official political endorsement of the *de facto* annexation of East Jerusalem. Israeli policies in East Jerusalem make Palestinian residents subject to a number of constraints, that strongly limit their freedom of movement and their right to housing, a family life and health services. Such an international political endorsement of such policies is unprecedented.

Similarly, in March 2019 Trump announced that the US would recognize the Golan Heights as Israeli, a part of the Syrian territory occupied by Israel since the 1967 Six-days War. Shortly before April 2019 Israeli elections reconfirmed Benjamin Netanyahu in power, the declaration constituted another endorsement of a policy of occupation and *de facto* annexation of territories by Israel.

Following US political declarations and the official recognition of Jerusalem as Israeli capital, the PLO has integrally rejected the Kushner Plan and, more widely, the US as a middleman in negotiations with Israel. As a reaction – but also as a declared punishment for the PLO suing Israel in the ICC for crimes against humanity –, the US decided the closure of the PLO's office in Washington, DC, thus denying Palestinians their only form of diplomatic representation in the United States.

At a regional level, the Trump administration's policies also reinforced the position of Israel through their withdrawal from the 2015 nuclear agreement with Iran – a move for which Israel and Zionist lobbies within the US had long and strongly pushed for. Similarly, the US and Israel's withdrawal from UNESCO, announced in October 2017 following UNESCO's recognition of some Palestinian heritage sites, including the old city of Hebron, sounded as a blackmail for all future decisions of the international community concerning Palestine.

¹ <https://www.maannews.com/Content.aspx?id=783388>

From an economic point of view, in August 2018 Trump announced a complete cutting of US funding to UNRWA, the UN specialized agency for Palestinian refugees having lost their households and) means of living between 1946 and 1948, and their descendants. As US funding amounted to one-fourth of UNRWA total budget, the cut has profoundly impacted around 5 million refugees, sharply worsening their already precarious situation. UNRWA's services, including humanitarian aid, infrastructures, health and social services, education and microfinance programs, have been deeply affected by the move.

The decision also has a strong political effect: Palestinian refugees' right to return to their lands, currently denied by Israel, has been a deeply conflictual topic in all negotiations. By cutting their funds to UNRWA, the US took a clear political stand against any recognition of the historical rights of refugees to return and rights to self-determination. Finally, aid to the PA and funding for health structures in East Jerusalem have also been cut for a total of more than \$225 million, in an attempt to further undermine the PA's position and increase the pressure before the announcement of the Kushner Plan. "According to a budget approved by the US Congress, the hospitals in East Jerusalem, , were budgeted to receive USD 25 million in funding during financial year 2017 to cover costs for patients referred by the Palestinian Ministry of Health. Today's news reports (8th of September 2018) come following a policy review by the US administration that resulted in several funding cuts affecting people in the West Bank and Gaza"². The President himself made this position explicit, stating that "*You [the Palestinians and the Palestinian leaders] will get money, but we're not paying until you make a deal. If you don't make a deal, we're not paying*"³.

Israeli Policies in the Trump Era

At the same time, the situation on the ground in Palestine has been worsening over the last few years, making the life of Palestinians increasingly difficult. Emboldened by US policies, Israel has implemented a policy of expansion of settlements in the West Bank and increasing restrictions of Palestinians in the West Bank and in Gaza, while ethnic and religious nationalism has reached a high in the public debate and the political and legal sphere.

1. Gaza

The humanitarian and economic situation of the Strip of Gaza, under Israeli see, air and land blockade since Hamas took power in 2007, is extremely and growingly problematic. According to OCHA, "*1.8 million Palestinians in Gaza remain 'locked in', denied free access to the remainder of the territory and the outside world*"⁴, as crossing the borders is almost impossible and increasingly hard, even when there are serious medical reasons. As for May 2019, "*about 68 per cent of households in Gaza experience severe or moderate levels of food insecurity, and the unemployment rate increased from 44 per cent in 2017 to 52 per cent in 2018*"⁵, reaching a shocking 78% for young women⁶. The humanitarian situation, characterised by widespread poverty, and lack of health and other basic services, has been exacerbated by the destruction provoked by bombings during three wars on Gaza in 2012, 2014 and 2018, as well as during several escalations, the last as recently as the ongoing escalation relevant to peaceful Marches of

² <https://jerusalem.lutheranworld.org/content/us-cuts-funding-east-jerusalem-hospitals-91>

³ <https://www.cbsnews.com/news/trump-says-he-wont-give-aid-to-palestinians-unless-they-agree-to-peace-deal/>

⁴ <https://www.ochaopt.org/theme/gaza-blockade>

⁵ <https://www.ochaopt.org/content/child-labour-increasing-gaza#ftn1>

⁶ WCLAC, GUPW, 2017, Shadow Report for Consideration Regarding Israel's Sixth Period, Report to the 68th Session of the UN Committee on the Elimination of Discrimination Against Women

Return that began in March 2018 . While the UN has long warned that the Strip will be “unliveable” by 2020⁷, the extremely life-threatening repercussions of the prolonged blockade have led to widespread hopelessness, especially among the most vulnerable groups of women and youth.

As a reaction to the worsening conditions and in order to demand the right of return for Palestinian refugees to their homelands, mass protests, named “Great March of Return” demonstrations, have started to be held every Friday on the Strip’s perimeter fence since March 2018. The protests have been met by systematic violent repression and live ammunition by Israeli authorities, attracting strong condemnations by the UN⁸. Between 30 March 2018 and 04 May 2019, more than 31,500 Palestinians have been injured and 205 have been killed by Israeli authorities in the context of the repression of the demonstrations⁹. Due to their traditional social role of carers of the elderly, the wounded and the children, women are particularly affected by the less mediatically visible consequences of these events, with a strong impact on their everyday lives and their already limited possibilities for personal development.

In spite of factual evidence of the consequences of Israeli policies, in June 2018 the US vetoed a UN Security Council resolution condemning Israeli violence against protestors. The systematic and consistent Israeli breaches of international law have been perpetuated and encouraged by the lack of action of international community.

2 The West Bank

2.1 Expansion of settlements

In the West Bank, Israeli authorities have multiplied plans for the expansion of settlements in 2017-2018 at an unprecedented high level. According to EU sources, approximately 15,800 housing units have been promoted during 2018 in the West Bank and East Jerusalem – enabling potentially more than 60,000 new Israeli settlers to move over the next years¹⁰. This development accounts for “*an extraordinary three- to four-fold increase (...) compared to 2015/2016*”¹¹. Settlements are illegal under international law, as they are commonly recognized to violate fundamental rules of international humanitarian law, including the Fourth Geneva Convention and the Hague Regulations of 1907. According to Amnesty International, settlements in the Occupied Palestinian Territories (OPT) also “*amount to war crimes under the Rome Statute of the International Criminal Court*”¹².

However, the Israeli law only considers as illegal settlements that are built without previous government approval or on private Palestinian land (without previous confiscation). Still, even these enjoy a *de facto* endorsement by the State. In 2017 and 2018, several regulations approved by Israeli legislative bodies have attempted to retroactively legalize this kind of settlements as well, thus paving the way for legal channels of otherwise illegal appropriation of private Palestinian land.

⁷ <https://www.middleeastmonitor.com/20150902-un-gaza-could-be-uninhabitable-by-2020/>

⁸ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24226&LangID=E>

⁹ <https://www.ochaopt.org/data/casualties?tab=palestinianinjuries>

¹⁰ Around 612,000 settlers are already present in the West Bank and East Jerusalem, over a Palestinian population of around 2.9 million. (<https://www.reuters.com/article/us-israel-palestinians-settlements/israels-netanyahu-says-plans-to-annex-settlements-in-west-bank-if-reelected-idUSKCN1R10JY>)

¹¹ https://eeas.europa.eu/sites/eeas/files/sixmonth_report_on_israeli_settlements_in_the_occupied_west_bank_including_east_jerusalem_reporting_period_july-december_2018_0.pdf

¹² <https://www.amnesty.org/en/latest/campaigns/2019/01/chapter-3-israeli-settlements-and-international-law/>

A first “Regulation Law” was passed in February 2017, allowing the retroactive expropriation of private Palestinian land for practically all kinds of settlements¹³. As the implementation of the law was suspended by the Supreme Court of Israel following a petition of Palestinian local governments and NGOs for unconstitutionality, a new legal mechanism was established in December 2018, that allows to retroactively authorize illegal construction on private Palestinian land whenever the land was allotted "in good faith," meaning if the state erroneously believed that it was state land when it allotted it. As around 2,000 illegal structures could be potentially legalized through this law¹⁴, the legislation constitutes a legal endorsement of the already systematic, albeit silent, support of illegal settlements by Israeli authorities. This illegal expansion of settlements is predominately carried out to alter the demographic composition in favour of Judization of Palestinian lands.

Furthermore, the Israeli government has been implementing a plan for a settlement of 2,500 housing units in an area south of Bethlehem, known as “E2”. Human rights organizations have strongly condemned the plan, warning that the construction of this big settlement would cut off Bethlehem from the rest of the West Bank, as the city is already surrounded by settlements and roads preventing its natural expansion¹⁵.

The expansion of settlements and the military presence in the West Bank not only undermine the possibility of a peace process and constitute a de-facto annexation of the OPT, but they also directly threaten life, physical integrity, human security, property and well-being of Palestinians. Settler violence is a daily reality in the West Bank and mostly goes uninvestigated or unpunished¹⁶. According to OCHA, it is on the rise: between January and October 2018 the average number of incidents per month was the highest recorded since 2014 and represented a 57% and a 175% increase compared with 2017 and 2016 respectively¹⁷. Settler violence ranges from blocking roads, throwing stones at cars and houses, raiding villages and farmland and torching fields to physical assault, sometimes to the point of throwing Molotov cocktails and using live fire. “On 31 July 2015, Ali Saeed Dawabsheh was burned to death in his home. He was 18 months old. Ali suffered severe burns after his house, situated in the West Bank village of Duma, was attacked by Jewish Israeli settlers. Ali’s parents and brother also suffered second and third degree burns, and were taken to Rafedia Hospital Centre in Nablus. Two extremist settlers were responsible for the attack on the Dawabsheh home, using Molotov cocktails”.¹⁸

In areas close to settlements, as well Area C and the so-called Seam Zone between the Wall and the Green Line, widespread settler violence and regular harassment at checkpoints and in public and private spaces by Israeli soldiers encourage school drop out of young girls, and further hamper the active participation of women in society and their access to public spaces¹⁹. “Sami, 40 years old, lives in the western hamlet of Ein ar Rashash (also known as Khirbet Jib’it), which is the most exposed to settler violence. “Settlers want to force us to leave”, said Sami. “We are in a continuous struggle with them. They prevent us from reaching our land, steal our sheep, follow our children on

¹³ <https://www.haaretz.com/israel-news/explained-israel-s-new-palestinian-land-grab-law-and-why-it-matters-1.5495208>

¹⁴ <https://www.haaretz.com/israel-news/.premium-israel-says-will-legalize-west-bank-homes-built-on-private-palestinian-land-1.6919910>

¹⁵ <https://peacenow.org.il/en/the-new-settlement-in-e2-nahla-a-significant-threat-to-the-two-states-solution>

¹⁶ https://www.btselem.org/settler_violence

¹⁷ <https://www.ochaopt.org/content/high-level-violence-israeli-settlers-rise-israeli-fatalities>

¹⁸ <https://www.middleeastmonitor.com/20180731-remembering-the-arson-attack-that-orphaned-ahmed-dawabsheh/>

¹⁹ WCLAC, 2010, Life Behind the Wall. Voices of Women from the Seam Zone

their way to school and direct spotlights onto our tents at night while singing and dancing [...] Last year I went into debt and had to sell some of my sheep to buy around 120 tons of fodder because settlers prevented us from reaching our water wells or planting barley.”²⁰

2.2 Demolitions and hardening of policies in East Jerusalem

As opposed to tolerance and government support of settlements by Israeli authorities, Palestinian communities are systematically denied the possibility to construct and develop in the West Bank. While Israeli communities are present in 60% of Area C, (where Israel retains near exclusive control, including over law enforcement, planning and construction), less than 1% of Area C has been assigned to Palestinians – most of which is already built up²¹.

As a result, the threat of demolition is constant. 2018 and, particularly, 2019 marked a peak²² in demolitions in East Jerusalem, also due to the newly introduced legal possibility for inspectors of issuing administrative orders for demolitions more easily and with restricted possibility of appeal²³. Only 13 % of East Jerusalem is zoned for Palestinian construction – as in the case of the West Bank, much of this is already built up. According to OCHA, “[a]t least a third of all Palestinian homes in East Jerusalem lack an Israeli-issued building permit, potentially placing over 100,000 residents at risk of displacement”²⁴. The hardening of construction policies is part of a wider set of policies aiming at pushing Palestinians to leave East Jerusalem, with the wider purpose of changing the demographics of the city, in the perspective of its definitive annexation it after the US recognition.

In order to live in East Jerusalem, an occupied territory under international law, Palestinians need a permit from the Israeli Ministry of Interior. Human rights organizations point out that since 1967, and particularly since the 1990s, “Israel created and consistently expanded the criteria for revoking the residency status of Palestinians from Jerusalem, of whom at least 14,500 had their residency revoked”²⁵. The impact of these policies on women can be particularly damaging, as, for instance, spouses of Jerusalem ID holders automatically lose their right to residency – and therefore to enter East Jerusalem and to keep contact with their children – in case of divorce, even when it is due to domestic violence.

In March 2018, following the recognition of the annexation by the US, the Knesset [the Israeli Parliament] approved a law introducing “loyalty to the State of Israel” as a necessary requirement not to lose “permanent” residency permits in Jerusalem, thus giving authorities a wider legal ground for arbitrary revocations²⁶.

²⁰ <https://www.ochaopt.org/content/increase-settler-violence-during-first-half-2017>

²¹ https://www.btselem.org/planning_and_building

²² <https://app.powerbi.com/view?r=eyJrIjoiMmJkZGRhYWQtODk0MS00MWJkLWl2NTktMDg1NGJlMGNiY2Y3IiwidCI6IjBmOWUzNWRLTU0NGYtNGY2MC1iZGNjLTVlYTQxNmU2ZGM3MCIslmMiOjh9>

²³ <https://www.ochaopt.org/content/new-legislation-impedes-challenges-demolitions-and-seizures-west-bank#ftn7>

²⁴ <https://www.ochaopt.org/content/record-number-demolitions-including-self-demolitions-east-jerusalem-april-2019>

²⁵ <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/1201-punitive-residency-revocation-the-most-recent-tool-of-forcible-transfer>

²⁶ “In this regard, breach of allegiance was defined to include committing, or participating, or incitement to commit a terrorist act, or belonging to a terrorist organization, as well as committing acts of treason specified in the Israeli Penal Code 1977. Such criteria are vague and could be widely applied to any Palestinian from Jerusalem”. Ibid.

3. Ethnic nationalism

In Israeli politics and public debate, the last years have also seen an increase and normalization of ethnic nationalism and racism. A highly debated Basic Law [the equivalent of a Constitutional Law], known as “Jewish nation-state law”, has been approved in July 2018²⁷. The law explicitly sets out an ethnic and religious “*national home of the Jewish people*”, stating that “*the right to exercise national self-determination in the State of Israel is unique to the Jewish people*”. Commenting this law, Prime Minister Benjamin Netanyahu also declared that “*Israel is not a state of all its citizens, but only of the Jewish people*”, revealing an openly racist and discriminatory ideology behind the text.

Among other measures, the law declared undivided Jerusalem as the capital of Israel, and Hebrew as the only official language of the country, downgrading Arabic to a “special status”. Most importantly, the law declared that “*the state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation*”.

This inclusion of the expansion of settlements as a basic “national value” takes further significance in light of Benjamin Netanyahu’s electoral promise of annexing all settlements in the West Bank during his fifth mandate and his far-right government. The overall coherence and the profound effects of these policies and legislations seem to confirm that the nature of recent evolutions is not simply episodic, but part of a systematic strategic change sustained by official US endorsement.

Conclusions

Such policies – the declaration of a Jewish State, the expansion of settlements and the toleration of increasing settler violence, the prohibition for Palestinians to build, the annexation of occupied territories, the repression by violence of peaceful protests, the cut of fundings to Palestinian and aid organizations, the illegal blockage on the Strip, the use of lethal force, and so on – are clearly oriented towards putting pressure on Palestinians, with the purpose of pushing them to leave their land or to accept a strongly unbalanced peace plan.

Breaking with a decades-long position of the international community, Israel and the US not only have abandoned any reference to a two-state solution, but also to a one state-solution that respects basic human rights. According to the information revealed by the leaks, the Kushner Plan would in fact place Palestinians in an institutionalized position of territorial, political, economic, legal and social inferiority. Even if Palestinian institutions have broadly announced their rejection of the Plan, it will probably include a clause threatening to “*ensure that no country in the world transfers money to [the Palestinians]*”²⁸ in case they object to the agreement. Therefore, not only the Plan and the related policies include systematic violations of international law, but they are also planned to be enforced through – economic and military – coercion.

The Plan is thus oriented towards the opposite direction to that of an equal and two-state solution, and it is very far from the promises of independence included in the Oslo agreements. Rather than a new proposal for peace and stability, it seems to constitute a one-sided recognition of a strongly unequal *status quo*.

²⁷ <https://www.timesofisrael.com/final-text-of-jewish-nation-state-bill-set-to-become-law/>

²⁸ <https://www.maannews.com/Content.aspx?id=783388>

