



## FROM CREEPING TO LEAPING: ANNEXATION IN THE TRUMP ERA

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### Introduction

Since President Donald Trump took office, the Israeli right has launched an unprecedented drive to alter the West Bank’s legal status, piecemeal or in its entirety. In this paper, updating analysis first released in April 2018, we lay out the developments that present a quantum leap in Israeli annexation efforts and analyze them against the backdrop of Israel’s 52-year occupation of the West Bank. Further, we examine the ramifications of the transition from “creeping” to “leaping” annexation and present explanations for why this transformation is happening now.

Momentum toward annexation increased in 2019 with promises by Prime Minister Benjamin Netanyahu to annex large portions of the West Bank prior to both Israeli elections this year. Before the September election, Netanyahu [presented](#) a blueprint for annexation of the Jordan Valley to be implemented immediately following the election and indicated that he was drafting his plan in coordination with the Trump administration. The US administration did not disavow the claim. The apparent (if unofficial) repudiation of the two-state solution by the Trump administration is no doubt key to Netanyahu’s [indication](#) that “conditions have ripened” for annexation, producing “a historic opportunity we may not have again.”

At the time of writing, the composition of Israel’s next government is not yet determined. What seems clear, however, is that annexation fever is going mainstream in Israel – embraced by Israel’s largest political parties, which espouse it without substantial backlash from the Israeli public. Whoever becomes the next prime minister and whatever the membership of the next governing coalition is, the entrenchment of occupation and the threat of further measures toward *de jure* annexation will continue – particularly while Donald Trump remains the US president.

### What Is Annexation and Why Does It Matter?

As defined in international law, annexation is a unilateral action in which a state incorporates territory into its domain by proclaiming sovereignty over it. Annexation of a territory acquired through war is impermissible under international law, [regardless](#) of whether the territory in question was conquered in a war of self-defense. Instances of unilateral annexation have been soundly condemned by the international community, from Japan’s annexation of Manchuria in

1932 to Russia's annexation of Crimea in 2014. Similarly, Israel's moves to permanently incorporate East Jerusalem in 1967 and 1980 and the Golan Heights in 1981 were denounced internationally, even though Israel was careful [not to label](#) the changes to Israeli law as "annexation." In the case of the Golan Heights, Prime Minister Menachem Begin [did not consult](#) with the US government prior to pushing through the Knesset the measure to apply "the law, jurisdiction, and administration of the state" in order to avoid pushback from the Reagan administration. President Ronald Reagan's reaction was [swift and severe](#): the US suspended a military agreement with Israel and supported a United Nations Security Council resolution labeling the Israeli move "null and void and without international legal effect."

In the West Bank, Israel has engaged in incremental, de facto annexation since it occupied the territory during the June 1967 War. The establishment of Israeli settlements – illegal under the common interpretation of international law – constituted an early step in this "creeping" annexation of the West Bank. According to the Fourth Geneva Convention of 1949, to which Israel is a signatory, an occupier [may not transfer](#) its population to territory it occupies. The intention of this provision was to prevent colonization of occupied territories. Israel contends that this article does apply to its settlement policy in the West Bank; however, its claim is at odds with the near-consensus in the international community and among experts in international law.

Further instances of creeping annexation include Israeli efforts to blur the Green Line between Israel and the West Bank by way of roads and by routing the separation barrier inside the West Bank. For example, Israelis traveling on Road Number 5 (the Trans-Samaria Road) from Petah Tikvah or Rosh Haayin in Israel to the settlement of Ariel deep inside the West Bank cannot tell when they are crossing the Green Line. Many Israelis do not realize that settlements on the side of the road are not located in Israel proper. Should they request a map from the Israeli government they may find (as one Israeli citizen [did](#)) that detailed maps showing the Green Line are classified military material whose release "would harm Israel's international relations."

Creeping annexation has not only occurred *intentionally*, through long-term but gradual efforts by politicians and settlers. It also happens *organically*, in the minds of Israelis and even of Palestinians and international observers as a result of the passage of time. For example, schematic maps that are not intended to make a political point (such as weather maps shown on Israeli TV) do not delineate the West Bank. Their inclusion of forecasts for large West Bank settlements (not Palestinian towns, though) alongside Jerusalem, Tel Aviv, and Haifa both reflects and shapes a growing perception among Israelis that these settlements are part of Israel.

A central argument of this paper is that a paradigm shift in the Israeli drive to annex the West Bank is taking place. Creeping annexation of the above-mentioned nature is still occurring, but it is now accompanied by what we term "leaping annexation." This new trend reflects a drive to enact in Israeli law what Israeli governments have been inching toward incrementally through establishing facts on the ground, namely, Israeli sovereignty over parts or all of the West Bank.

While extremist Israeli politicians have advocated annexation and filed annexation bills in the Knesset for decades, the mainstreaming of annexation initiatives is a more recent development. Past initiatives to unilaterally annex the West Bank or parts of it (not in the context of a negotiated Israeli-Palestinian peace treaty) were largely a matter of political theatrics coming from the extreme right wing of the Israeli political spectrum. Those pushing for annexation knew that their efforts would hit a wall of Israeli consensus in opposition to annexation.

Now, annexation efforts are originating in the Likud Party, some of which have been spearheaded by Benjamin Netanyahu in last-ditch efforts to woo right-wing Israeli voters in order to remain prime minister. Public discourse regarding various possible forms of annexation is no longer taboo; it has become mainstream and normalized. Increasingly, the question posed is less *whether* Israel will annex unilaterally, but how much and which portions of the West Bank it should incorporate. Another subject that is sometimes discussed (but often ignored) is which rights will be extended to West Bank Palestinians whose lands are annexed: will they be extended full citizenship and equal rights?

The ramifications of this leap from creeping to *de jure* annexation are considerable. While settlements can be uprooted (and have been in the past: in the Sinai, in Gaza, and even in relatively small numbers in the West Bank), annexation conveys the intention of permanence. Reversal of annexation, too, is at least theoretically possible. Israel has in the past negotiated over the status of East Jerusalem and the Golan Heights. Nonetheless, moves toward *de jure* annexation, when coupled with continued establishment of facts on the ground designed to make Palestinian statehood impossible, are devastating to chances for a two-state solution. The demise of the two-state solution would put the kibosh on the Palestinian dream of fulfilling Palestinian national political aspirations through statehood, while consigning Israelis and Palestinians to perpetual conflict. Given demographic realities, annexing the West Bank and defining Israel as the territory between the Mediterranean Sea and the Jordan River (even if the Gaza Strip is excluded) would mean that Israel can continue to be a Jewish state only by continuing to disenfranchise the Palestinians in a reality comparable to apartheid. And Israel could continue being a democracy only by granting full rights to a Palestinian majority or near-majority, a step that would lead to the loss of its character as a Jewish state. At a time when Israel's diplomatic engagement with the world, including Arab states, is increasing, annexation would make Israel an international outlaw. It would also deepen painful tensions between Israel and Jewish Americans, a substantial majority of whom [favor](#) a two-state solution and see it as necessary to strengthening Israel's security and ensuring Israel's democratic and Jewish character.

### **The Annexation Leap: How Did We Get Here?**

Despite Israel's deep disagreements with positions widely held by the international community regarding the legal status of the West Bank, successive Israeli governments recognized that the West Bank was not part of sovereign Israel. Israel has applied the laws of belligerent occupation in its rule over the West Bank, albeit [selectively](#) and while claiming it was doing so voluntarily. According to the [laws of belligerent occupation](#), an occupying state may establish interim,

limited military administration over an occupied territory and its population during war. The Occupant's powers include establishment of orderly governance and safeguarding the security of its occupying forces, but it must do this while protecting inhabitants' rights and deferring questions of territorial change and sovereignty to the end of hostilities.

Temporariness is one of the main characteristics of belligerent occupation. Indeed, successive Israeli governments maintained, at least officially, that the West Bank was held temporarily, pending a negotiated settlement. The prevailing view in the late 1960s and 1970s was that a settlement would be negotiated with Jordan; with the 1993 Oslo Accords, Israel transitioned to negotiating an agreement with the Palestinian leadership.

This assumption of impermanence notwithstanding, successive Israeli governments have established settlements in the West Bank. According to data [published](#) by Peace Now, there were roughly 428,000 Israeli citizens living in West Bank settlements in 2018, not including Israeli citizens residing in East Jerusalem. The establishment of settlements created a reality of two populations – Israeli citizens and Palestinian non-citizens – living in the same territory but subject to different sets of laws.

Even when settling large numbers of Israeli citizens in the West Bank became official Israeli policy in the late 1970s, successive Israeli governments avoided directly applying Israeli laws to the settlers. They did so indirectly. The Israeli military chief in the West Bank (Commander of the Central Command) signed executive orders applying to Palestinian residents of the West Bank, as well as Israeli laws adopted by the Knesset to apply to Israeli residents of the West Bank. *De facto*, therefore, Israeli laws have always applied to Israeli citizens in the West Bank. *De jure*, however, these laws were regarded as military laws, in keeping with the provisions of international law regarding an area held under belligerent occupation.

This situation was further complicated in 1994 when the Palestinian Authority (PA), which governs parts of the West Bank, was established. As an interim measure, the Oslo Accords created three zones in the West Bank. Since then, a mixture of Israeli military and PA laws have applied to Palestinians living in areas subject to the PA's administrative rule (Areas A and B). In Area C, which includes all Israeli settlements, the pre-1994 status quo persists: Israeli laws as military laws apply to Israeli citizens, while a distinct set of military laws applies to Palestinian non-citizens. These laws are a patchwork of old Ottoman laws, Jordanian laws, and Israeli regulations, signed by the Israeli military governors of the West Bank. Since some proponents of annexation direct their efforts at Area C, it is important to note that the understanding between Israel and the Palestine Liberation Organization (PLO) in negotiations that followed the signing of the Oslo Accords was that most, if not all, of the West Bank (including most or all of Area C) would become part of a future Palestinian state after the conclusion of a final-status agreement.

While some in Israel have called for annexing parts or all of the West Bank since 1967, their agenda was marginal. Israeli governments, including governments led by the right-wing Likud Party, did not seriously entertain such initiatives. An understanding that the international

community, and most importantly the United States, would not tolerate an Israeli leap to annexation played a pivotal role in preventing annexation efforts from becoming mainstream.

The election of Donald Trump as President of the United States reversed that. From his days on the campaign trail, Trump displayed contempt for President Barack Obama's efforts to constrain the Netanyahu government, and particularly Obama's decision to abstain on (not veto) UNSC Resolution 2334 condemning Israel's ongoing settlement construction. As president, Trump has shown no interest in criticizing or using American leverage to deter the Israeli government from taking condemnable actions, whether building settlements or enacting annexation or shooting unarmed protesters in Gaza. To the contrary, Trump's team tasked with formulating a "vision" for peace appears determined to help Israel's right wing destroy prospects for a two-state solution and render permanent Israeli control over at least some portions of the West Bank.

In contrast to the President Trump's erratic and impulsive record on foreign policy as a whole, his administration's approach to the Israeli-Palestinian conflict under the stewardship of Ambassador [David Friedman](#) has been consistent and methodical. Following the decision to move the US embassy from Tel Aviv to Jerusalem and recognize the city as Israel's capital (which predictably enraged Palestinians), the administration refused to release aid appropriated by Congress for humanitarian work in the Palestinian territories, attempted to undermine the status of Palestinian refugees, and closed diplomatic channels to the Palestinians by shuttering the PLO mission in Washington and subsuming the US consulate in Jerusalem into the US embassy to Israel. Trump's [attempt](#) to give Netanyahu an electoral boost before the April elections by "recognizing the Golan Heights as part of the State of Israel" is particularly significant because it set a precedent for US legitimization of annexation. Israelis who favor West Bank annexation got the message. Knesset Speaker Yuli Edelstein of Likud [welcomed](#) the change in the US position on the Golan Heights as a first step toward recognition of Israeli sovereignty over the West Bank.

A longtime supporter of settlements and opponent of the two-state solution, Ambassador Friedman has worked since early in his term to legitimize Israel's occupation of territories conquered in 1967. He began by [stripping](#) the words "occupation" and "occupied" from the State Department's annual human rights reporting on the West Bank, East Jerusalem, Gaza, and the Golan Heights. Trump's Middle East envoy, Jason Greenblatt, joined Friedman's semantic revolution by [indicating](#) that he prefers to call settlements "neighborhoods and cities."

While as of this writing the Trump team has yet to reveal its plan, its words and deeds strongly indicate that President Trump will endorse unilateral Israeli annexation of portions of the West Bank, not in the context of a negotiated agreement with the Palestinians. In June 2019, David Friedman [told](#) *The New York Times*, "I think Israel has the right to retain some, but unlikely all, of the West Bank." In September, Friedman all but endorsed Netanyahu's pre-election pledge to annex the Jordan Valley, regarding which the Trump administration had not commented prior. In an interview with the *Jerusalem Post*, Friedman [indicated](#), "We don't see [Netanyahu's statement] as being inconsistent with a political solution. . . . The US could have endorsed it, as it

did with the Golan. I would not read much into the fact that we didn't." In October 2019, Friedman echoed another Netanyahu election [pledge](#), [stating](#) that the Trump plan would not call for dismantling any settlements or relocation to Israel of any settlers. Friedman elaborated, "The facts speak for themselves. We have not been critical of settlements in any absolute sense."

In his speech at the annual conference of the American Israel Public Affairs Committee (AIPAC) in 2019, Friedman made clear that he sees Trump's presidency as a unique opportunity to pursue his political agenda. Rhetorically, he [asked](#), "Can we run the risk that one day the government of Israel will lament, why didn't we make more progress when U.S. foreign policy was in the hands of President Trump, Vice President Pence, Secretary Pompeo, Ambassador Bolton, Jared Kushner, Jason Greenblatt, and even David Friedman? How can we do that? The answer is, we can't... We will continue to pursue peace, because we believe we can be trusted to have the correct perspective and approach." That approach apparently includes annexation and excludes Palestinian statehood.

### **Annexation Goes Mainstream**

The lack of constraints by the international community (and especially by the Trump Administration) enabled the extreme right-wing Israeli governing coalition that had assumed power in 2015 to indulge its annexationist impulses. The result, evident particularly since 2017, is a pivotal change in efforts to formally annex the West Bank or parts of it to Israel, as well as an intensification of *de facto* creeping annexation. Both the efforts to officially annex at least portions of the West Bank and public discourse on annexation have gone mainstream.

Politically, a key change is that support for unilateral annexation is no longer limited to parties on the far right of Israel's political spectrum. It is now embraced as official policy by the Likud Party, which has dominated Israeli politics for the lion's share of the past four decades, since it first formed a government in 1977 under Prime Minister Menachem Begin. Since 2002, Likud has [opposed](#) the creation of a Palestinian state. In December 2017, Likud's Central Committee unanimously adopted a non-binding resolution supporting the extension of Israeli law to West Bank settlements, thus effectively applying Israeli sovereignty over them. Addressing the Committee, Public Security Minister Gilad Erdan [said](#), "We will now promote the recognition of our sovereignty of the Jewish settlements in Judea and Samaria [the West Bank]. . . . We must begin to enact this sovereignty, we have the moral right and obligation towards our settler brothers." A number of other high-ranking lawmakers within Likud have made similar [statements](#) underscoring their support for unilateral annexation by Israel within the West Bank.

While the resolution by the Likud Central Committee has not yet resulted in government-endorsed legislation to extend Israeli sovereignty to the settlements, Likud members have submitted [annexation bills](#). These range from annexing specific settlements such as Maale Adumim to annexing settlement clusters – those around Jerusalem, for example – to annexing vast geographic areas such as the Jordan Valley, to annexing all settlements and outposts in the West Bank.

The annexationist fervor in the Likud Party and within the right-wing “national camp” more broadly led Prime Minister Netanyahu to make his unprecedented pre-election annexation pledges. As he [made clear](#) in *A Durable Peace*, which he published in 2000, Netanyahu believes Israel should retain 60 percent of the West Bank (equivalent in size to Area C), with Palestinians receiving limited autonomy in the remaining 40 percent. Nonetheless, Netanyahu projected that it would take many years, even generations, for conditions to arise that would make his desired goal possible. Thus, Netanyahu has avoided supporting legislation that would extend Israeli sovereignty over the West Bank, preferring instead to allow creeping annexation to continue while waiting for conditions to mature in favor of *de jure* annexation. In essence, Netanyahu preferred to play the long game, convinced that time was on Israel’s side, but that if Israel moved too soon it would incur significant international backlash. As Avi Gil, a former Director General of Israel’s Foreign Ministry [put it](#), “‘Annexation Now’ is as . . . deplorable as ‘Peace Now’” according to Netanyahu’s “strategic patience” approach. Gil continues, “Annexation, even partial, would mobilize the world against and lead to a premature final status settlement before the strategic conditions favorable to Israel are ripe.”

Despite his preference for creeping moves toward annexation, Netanyahu ultimately chose to pander to his base by promising annexation measures. In a desperate bid to remain prime minister so that he could attempt to enact legislation granting himself legal immunity from prosecution over multiple counts of corruption, Netanyahu acted in hopes of wooing right-wing voters to Likud.

Whatever Netanyahu’s fate, leaping annexation will remain a threat in Israel’s next government, even if it includes the Blue and White Party, which is considered centrist. Blue and White, which edged out Likud for largest number of seats in the September 2019 election, has not taken a stance against annexation. In fact, when Netanyahu promised to annex the Jordan Valley, the party led by Benny Gantz and Yair Lapid issued a [statement](#) that “Blue and White has declared that the Jordan Valley will be part of Israel forever” and claimed Netanyahu had copied its plan.

Despite Netanyahu’s pledges, the question of annexation did not feature prominently in the public debate leading up to the 2019 elections. When asked their views on annexation, polling shows substantial support for annexation among the Israeli public (with important differences in the views of Israeli Jews and Palestinian citizens of Israel). The Israel Democracy Institute [found](#) that a plurality of Israelis would support annexation of Area C if the Trump administration announces support for it. (Forty-eight percent of Jewish Israelis support such an annexation and 28 percent oppose. Eleven percent of Palestinian Israelis support.) When asked what should happen to the roughly 200,000 Palestinians who live in Area C in the event of annexation, a plurality of Jewish Israelis (36 percent) would prefer to transfer Palestinians to territories under the Palestinian Authority’s control. By contrast, 46 percent of Arab respondents think Palestinians who prefer to remain in Area C should receive Israeli citizenship. Reflecting on multiple polls, Israeli public opinion expert Dahlia Scheindlin [finds](#), “Overall Israeli public

support for sovereignty in the West Bank is substantial; the public only unites against annexation when they realize Palestinians swept up in sovereignty might be equal to Israelis.”

## **Legal Developments in the Leap to Annexation**

Since Donald Trump became president, there has been an increase both in creeping annexation and attempts to make the leap to formal legal annexation. The former includes an upsurge in tenders awarded for settlement construction in the West Bank, as [documented](#) by Peace Now’s Settlement Watch team. The number of plans promoted for settlements during Trump’s first two years in office is *nearly three times* that during the final two years of Barack Obama’s presidency. In addition, the number for 2019 is on track to outpace 2017 and 2018. Creeping annexation is also evident in East Jerusalem, where the Israeli government is moving to intensify settlement construction.

Regarding the leap to extend Israeli sovereignty *de jure* over portions or all of the West Bank, we will highlight and discuss the significance of key measures already adopted. For a full and updated list of annexation-related legislation, both approved and proposed, see the [database](#) published by Yesh Din.

- 1) **Ministerial Committee for Legislation decision:** In January 2018, after receiving endorsement from Attorney General Mandelblit, Justice Minister Ayelet Shaked (who headed the Committee at the time) [stated](#) that going forward, any government-endorsed bill submitted to the Committee must state the form in which it will apply to Israelis living in the West Bank. Indeed, when the Committee met subsequently on January 21, all 12 government-endorsed bills discussed included reference to the way in which they apply to the settlers. One [bill](#), passed in June 2018, states that for the purpose of egg production quotas, Israel and the West Bank settlements will be regarded as one entity. The Committee decides when government-initiated bills will advance to the Knesset docket and determines the Cabinet’s position on bills initiated by opposition MKs. The implication of this decision is that bills that do not explicitly state that they apply to the settlements will not be endorsed by the coalition; therefore, they have almost no chance of passing.
- 2) **The “Regularization Law”:** Adopted by the Knesset in February 2017, this law determines criteria for “kosherizing” previously unauthorized outposts built on private Palestinian land. Essentially, it enables the government to [award](#) to settlers recognition of possession of land they have taken from Palestinians, while permitting the state to force compensation on Palestinian landowners. The measure makes a mockery of the rule of law in Israel by rewarding the actions of radical settlers who established outposts in violation of Israeli law. The “Regularization Law” directly applies Israeli law in West Bank territory. It is the first time the Knesset has adopted a law that directly applies to Palestinians in the West Bank and to land there.

The law has drawn sharp [criticism](#) from Israeli legal experts, including those who warn that the measure undermines Israeli rule of law and can be interpreted as a form of annexation. In a Knesset discussion in November 2016, the Knesset’s Legal Advisor Eyal Yinon [said](#) that in that sense “the law crosses a line that has never been crossed before.” A group of Israeli NGOs and Palestinian local councils challenged the law immediately after its passage. Attorney General Avichai Mendelblit refused to defend it before Israel’s High Court of Justice. Despite Mendelblit’s [position](#) that the law is “unconstitutional” and “null and void,” which led the government to hire private lawyer Harel Arnon to defend it, the Attorney General created a legal mechanism to enable the government to accomplish the same end without the Regularization Law. Dubbed “market regulation,” Mendelblit’s mechanism is based on the idea that as long as settlers who build homes on private Palestinian do so “in good faith,” their outposts can be legalized. On this basis, the Jerusalem District Court legalized the outpost of Mitzpe Kramim in August 2018. Peace Now has [warned](#) of the far-reaching consequences of Mendelblit’s doctrine, given the existence of “132 settlements and outposts where nearly 7,000 housing units have been built on private Palestinian land, stretching over 10,000 dunams.”

- 3) **Amendment to the Prohibition of Discrimination in Services Law:** In February 2017, the Knesset approved an amendment to an existing law, which now [prohibits](#) businesses from refusing services to Israeli settlements in the West Bank in the guise of preventing “discrimination” based on place of residence. In the first lawsuit filed under the amended law, a family from the settlement of Maale Mikhmash sued a ceramics company for refusing services in 2018. This law as amended works to normalize settlements and blur the distinction between Israel and territory across the Green Line.
- 4) **Higher Education Council Act:** Passed by the Knesset in February 2018, this law places the university in Ariel, a settlement deep in the West Bank, under the auspices of Israel’s Higher Education Council. Previously, the Council had authority only over institutions within Israel, while a separate Council for Higher Education in Judea and Samaria had jurisdiction over the Green Line. The new legislation dissolves this latter body and applies Israeli law to higher education institutions in the West Bank. Supporters of the legislation left no doubt about the intention behind the measure. The sponsor of the bill, MK Shuli Moalem-Rafaeli (Jewish Home), [stated](#), “Alongside the academic importance of the bill, there is an element of imposing sovereignty, and I’m proud of the two things together.” Following the bill’s adoption, Minister of Jerusalem Affairs Zeev Elkin (Likud) [tweeted](#): After "applying Israeli sovereignty on Ariel University, let us begin to apply Israeli sovereignty on Israeli communities in Judea and Samaria.”
- 5) **Amendment to the Administrative Affairs Courts Law:** Adopted by the Knesset in July 2018, this amendment [transfers original jurisdiction](#) over some West Bank cases from Israel’s High Court of Justice (HCJ) to the Jerusalem District Court. Previously, the High Court of Justice had original jurisdiction over all administrative petitions against the government. In 1967, when Israel conquered the West Bank and Gaza, the HCJ expanded

its jurisdiction to cases brought against the Israeli government by Palestinian residents of these occupied territories. (It did so under Israel's Basic Law: The Judiciary, according to which the HCJ considers cases in matters that do not fall within the jurisdiction of other courts.) The Administrative Affairs Courts Law (AACL), passed in 2000, reduced the workload of the over-burdened HCJ by transferring administrative cases to newly established lower-level courts: administrative courts within Israel's district courts. Like all legislation before the 2017 Regularization Law, the AACL did not apply to the West Bank. Thus, the HCJ continued to be the court before which Palestinian residents of the occupied territories could receive judicial review of their cases. By extending the AACL to the West Bank through passage of the 2018 amendment, the Knesset has established another first in the march toward de jure annexation: namely, extension of an ordinary jurisdictional statute to the West Bank. In the [words of Bezalel Smotrich](#) of the Jewish Home Party, who introduced the law: "This is another step in the normalization of the settlement in Judea and Samaria, a goal we have set for ourselves at the beginning of [this Knesset] term."

- 6) **The Nation-State Law:** Passed in July 2018 as a Basic Law which has quasi-constitutional status, the [Nation-State Law](#) codifies Israel as the nation-state of the Jewish people in which Jews alone enjoy the right to national self-determination. The liberal Meretz Party [attempted to amend](#) the controversial Nation-State Law to prevent the law from being applied to territories beyond Israel's current sovereign boundaries (i.e. the West Bank). This proposed amendment failed by a vote of 63 to 31. The perceived need for the amendment may have arisen from a provision within the law which states, "The Land of Israel, in which the State of Israel arose, is the historic homeland of the Jewish people." Given this provision, the law could be read to imply an Israeli territorial claim extending beyond its current borders to the broader geographical area between the Mediterranean Sea and the Jordan River, which includes the West Bank. A month after the Nation-State Law was passed, Harel Arnon (the private attorney defending the "Regularization Law") argued before the HCJ that the Nation-State Law applies in the West Bank. Specifically, Arnon [stated](#) that the Law's stipulation that "the state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation" justifies legalizing wildcat outposts in the West Bank built on private Palestinian land.
- 7) **Subcommittee for Judea and Samaria Affairs:** During the 20<sup>th</sup> Knesset (2015-19), this body [began](#) to operate under the Foreign Affairs and Defense Committee under the chairmanship of MK Moti Yosev (Jewish Home). At its meetings, settler leaders demand that Israeli civilian bodies and military officials address issues in the settlements that are not related to security – for example, those related to water supply, transportation safety, or electricity provision. They do so, of course, in the absence of representatives of West Bank Palestinians whose lives are often impacted by these discussions.

As the Association for Civil Rights in Israel (ACRI) [notes](#), measures designed to legislate annexation within Israeli law are accompanied by efforts to undermine the applicability of the international laws of occupation to the West Bank. Legislation passed by and pending before Knesset is designed to undermine three foundations of the laws of belligerent occupation: 1) the temporary nature of occupation, 2) the prohibition on changes to laws that applied to the territory prior to occupation, and 3) the role of Military Commander as acting sovereign, who bears a duty to protect the interests of the occupied population.

## **The Future of Annexation: Proposed Schemes**

More ambitious initiatives have been proposed, some of which have been entered as bills on the Knesset docket, awaiting the right circumstances to be brought to a vote. Others are still in the concept stage. The following list groups them according to their scope.

### *Partial West Bank Annexation Proposals*

- 1) **Annexation of Specific Settlements or Settlement “Blocs”:** A number of proposed bills are more tightly geographically focused, reflecting a piecemeal approach to annexation. MK Moti Yogev, the chair of the Knesset’s Subcommittee on Judea and Samaria Affairs, introduced 13 of these bills in the 20<sup>th</sup> and 21<sup>st</sup> sessions of Knesset. They include legislation to annex [Ariel](#), “[Greater Hebron](#)” (including Kiryat Arba and the Har Hevron Regional Council), “[Western Samaria](#),” the “[heart of Samaria](#),” the [Modi’in Bloc](#), and the [Menashe Bloc](#).
- 2) **Annexation of West Bank Settlements:** Shortly after Likud unanimously adopted its December 2017 resolution to annex the West Bank settlements, Likud MK Yoav Kish and Jewish Home MK Bezalel Smotrich submitted a [bill](#) to turn the resolution into law. (Kish and Smotrich are co-chairs of the Entire Land of Israel caucus in the Knesset.) The bill was blocked by Prime Minister Netanyahu from coming to a vote. In the short-lived 21<sup>st</sup> Knesset, formed after the April 2019 election, Likud MK Michal Shir proposed a [bill](#) to annex settlements, roads, and industrial areas in the West Bank. The bill’s explanatory notes state that the bill is necessary because “throughout the years there has been discrimination against Israeli citizens who live in the ‘Area’ [the West Bank] compared with Israelis living in the rest of the country.”
- 3) **Annexation of Area C:** Naftali Bennett, who headed the extreme right-wing Jewish Home Party and served as Education Minister, has [proposed](#) annexing all of Area C – which includes 60 percent of the West Bank, including all Israeli settlements there. Per the Oslo Accords, this territory remains under full security and administrative control, though that was intended as a temporary condition. As for the area’s Palestinian residents, Bennett would give them three options: citizenship, possibly accompanied by a mandatory oath of loyalty to Israel; residency, which Bennett believes many Palestinians will choose, as in East Jerusalem; and continued residency/citizenship in a Palestinian “or

other” authority, which could include Jordan. Bennett underestimates the number of Palestinian residents in Area C at 80,000 to 90,000. In reality, the number is [much higher](#). Should the population be deemed unacceptably large, Bennett suggests freezing the number permitted, even retroactive to 1993 levels. The remaining 40 percent of the West Bank, composed of as many as 169 distinct and disjointed Palestinian enclaves, will come under an autonomous Palestinian rule but not a full-fledged state. Palestinian statehood would be impossible given the size and lack of contiguity of the autonomous Palestinian entity. Although Bennett has not submitted his plan as a bill, preferring that it be enacted by government decision, the plan has inspired other Knesset members, mainly from Likud, to take legislative action. Several have initiated bills calling for annexation of “areas of settlement,” which is often understood to mean all of Area C.

- 4) **Jerusalem Area Expansion and Annexation:** A number of Likud MKs have proposed measures that would incorporate into Jerusalem settlements built in portions of the West Bank relatively proximate to the city – in effect, annexing them. Supporters of these initiatives favor them at least in part because they offer a way to bolster Jerusalem’s Jewish majority. Introduced by Likud MKs, the “[Greater Jerusalem Bill](#)” proposed that Efrat and neighboring Etzion Bloc settlements of Beitar Illit, Givat Zeev, and Ma’ale Adumim would become parts of Jerusalem, while Arab neighborhoods of the city would be excised. Other MKs are submitting bills to annex specific settlements. For example, a bill sponsored by Likud MK Yoav Kish, temporarily backed by Prime Minister Netanyahu, [proposed annexing](#) the settlement of Ma’ale Adumim and the land corridor that connects it to Jerusalem. Known as E1, annexation of this corridor “[would create a salient jutting](#)” nearly halfway across the West Bank at its most narrow point, cutting the route that connects Ramallah and Bethlehem. Foreign diplomats, including Americans before and during the Obama presidency, have warned Israel not to build in E1. [Palestinian analysts](#) argue such a move would render a two-state solution impossible.
- 5) **Jordan Valley Annexation:** In January 2018, Likud MK Sharren Haskel submitted a [bill](#) to annex the Jordan Valley and the northern Dead Sea. In promoting the measure, she declared, “The support we are receiving in the international arena from our friend the United States proves that there has not been and will not be a better time” to annex the Jordan Valley. While Prime Minister Netanyahu would go on to issue a pre-election pledge to annex the Jordan Valley in September 2019 (as detailed earlier in this paper), he displeased annexation enthusiasts in 2018 by [removing](#) Haskel’s bill from the agenda of the Ministerial Committee for Legislation. Israeli governments, left and right, have emphasized the need to settle the Jordan Valley. Their rationale was that Israel needed to control the valley as a buffer on Israel’s Eastern frontier to hinder conventional military attacks and guerrilla warfare. The Jordan Valley, which includes the Palestinian city of Jericho, has a Palestinian population of 65,000 and some 11,000 settlers. It constitutes about 30 percent of the West Bank.

Several Knesset members, both from Likud and Jewish Home, are proposing full annexation of the entire West Bank to Israel. Significantly, among them is Israel's Citizen Number One, President Reuven Rivlin. Rivlin [supports](#) full annexation of the entire West Bank and its entire Palestinian population. His vision includes full political rights for Palestinians. He concedes, however, that he cannot conjure a way of achieving this while maintaining a Jewish majority in Israel that will sustain its character as a Jewish state. Deputy Foreign Minister Tzipi Hotoveli (Likud) has attempted to [engineer](#) a plan to do just that. She suggests offering Israeli citizenship to West Bank Palestinians and contends that Israel could offset the infusion of new Palestinian citizens through massive waves of Jewish immigration from the diaspora.

MK Bezalel Smotrich also [proposes](#) full annexation but has a different way of addressing the so-called demographic balance. He suggests financially incentivizing massive emigration of Palestinians from the West Bank. Those who refuse to take the deal and leave will have a choice. They can fight and be “defeated” by Israel. The alternative is to accept Israel as a Jewish state and live in “self-governed communities, without national characteristics” in six “regional municipal directorates” as second-class citizens who are denied the right to vote in national elections. In July, Education Minister Rafi Peretz (Union of Right-Wing Parties) [told](#) an interviewer he wants to “extend Israeli sovereignty over all of Judea and Samaria” without giving Palestinians a right to vote in Israeli elections. When the interviewer suggested this was apartheid, Peretz did not contradict her, stating, “We live in a very complex reality in Israeli society and in the State of Israel, and we’ll have to find solutions.” Comments Peretz made elsewhere in the interview regarding the efficacy of gay conversion therapy received widespread condemnation in Israel, including by Prime Minister Netanyahu. Peretz’s apparent endorsement of apartheid received [far less attention](#).

### **Conclusion: The Future of Annexation After Netanyahu**

Michael Sfard, the renowned Israeli human rights lawyer, recently [wrote](#), “I always thought that if Israel were to unilaterally annex the occupied Palestinian territories, it would come under an international spotlight, with denunciations and protests around the world.” He concluded, however, “I was wrong.” In an October 2018 report to the UN General Assembly, UN special rapporteur for human rights in the occupied Palestinian territories Michael Lynk [sounded an alarm](#), urging the international community to take action to stop Israeli annexation of the West Bank. The response has been woefully inadequate. The Trump administration, in actively encouraging annexation, has played an especially pernicious role.

For most of the half-century since Israel conquered the West Bank in 1967, annexation was verboten and seen as crossing a red line by all except for Israel's radical right-wing fringe. In the last decade under the leadership of Benjamin Netanyahu, and especially since Donald Trump took office in 2017, the consensus that annexation of the West Bank was unthinkable has eroded substantially. The *de facto* annexation of settlement expansion has accelerated, while Knesset ministers have submitted annexation-related bills and some of them have passed.

Regardless of Netanyahu's political and legal fate, the threat of annexation is by no means over. Support for annexation within the right-religious bloc is strong. Within Likud itself, ideological settlers are the most powerful pressure group, and leading candidates to succeed Netanyahu within the party – including [Gideon Sa'ar](#), [Yuli Edelstein](#), [Yisrael Katz](#), and [Gilad Erdan](#) – advocate annexation. Benny Gantz has mostly [remained mum](#) on the subject, but his Blue and White Party endorsed annexation of the Jordan Valley. The Israeli parties that *oppose* annexation – Labor-Gesher, the Democratic Union, and the Joint List – won a total of 24 of 120 seats in the September 2019 election.

Even if the prospect of a dramatic move toward annexation recedes, the occupation will continue to deepen through settlement expansion and creeping annexation until a game changer upends the status quo. The next US administration will have a vital role to play. Indeed, the next president must combat annexation, whether it is creeping and/or leaping, and work to advance a viable Israeli-Palestinian peace deal.

### **Recommended Resources**

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McCarthy, Kristin. “Israel's ‘Creeping Annexation’ Policy—Tables.” Foundation for Middle East Peace. 5 April 2018 and updated. [fmep.org/wp/wp-content/uploads/Annexation-Policies.pdf](https://fmep.org/wp/wp-content/uploads/Annexation-Policies.pdf)

Peace Now. “Escalation in Israel's Settlement Policy: The Creation of De-Facto Annexation.” November 2017. [peacenow.org.il/wp-content/uploads/2017/11/Peace-Now-report-The-Creation-of-De-Facto-Annexation-1.pdf](https://peacenow.org.il/wp-content/uploads/2017/11/Peace-Now-report-The-Creation-of-De-Facto-Annexation-1.pdf)

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Yesh Din. Annexation Legislation Database. 5 April 2019 and updated. [yesh-din.org/en/legislation/](https://yesh-din.org/en/legislation/)

### **Please Note**

This paper, with hyperlinked citations, is available online at [tinyurl.com/APNAnnexation](https://tinyurl.com/APNAnnexation).