



UNITED NATIONS FORUM ON THE QUESTION OF PALESTINE

*The threat of de facto annexation – What next for Palestine?
4 April 2019*

United Nations Headquarters, New York

CHAIR SUMMARY

The United Nations Forum on the Question of Palestine “**The threat of de facto annexation – What next for Palestine?**” was convened in New York on 4 April 2019, under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP). Ahead of the public Forum, on 3 April the Committee held closed consultations with representatives of civil society organisations from Palestine, Israel and throughout the world.

The Forum brought together Palestinian, Israeli and international experts, representatives of the diplomatic community and civil society to address the question of occupation and annexation policies and measures in the occupied Palestinian territory, including East Jerusalem, and their impact on the viability of the two-State solution and on the prospects to find a peaceful resolution to the Question of Palestine. Panellists raised awareness of the Israeli measures of creeping annexation in the West Bank, including in and around East Jerusalem, and highlighted viable and practical strategies to end it. The Forum provided experts and civil society organizations with a valuable advocacy platform to inform policy and diplomatic action on the question of Palestine.

At the inaugural session, **Assistant Secretary-General for Peacebuilding Support Oscar Fernandez-Taranco**, representing Secretary-General António Guterres, recalled that some of the first decisions of the Organization had been aimed at resolving the Israeli-Palestinian conflict, and stated that the problem went to the heart of the Charter of the United Nations, according to which the annexation of territory by another State is inadmissible. Palestinians had endured prolonged occupation and the peace process had stalled, with security incidents and provocations continuing to escalate the situation in Gaza and the West Bank, including East Jerusalem. A new conflict would be devastating for the Palestinian people, he said, noting the humanitarian crisis in Gaza and the military build-up by Hamas and other militant groups.

Stressing that Palestinian unity is essential for a politically stable and economically viable Palestine, he welcomed the tireless efforts of Egypt to continue dialogue with Palestinian factions and urged Israel to lift restrictions on movement of people and goods. In the occupied Palestinian territory, the construction of Israeli settlements continued unabated, he pointed out,

emphasizing that settlements were illegal under international law. Both parties must avoid unilateral actions that undermine the two-State solution – the only way to achieve the inalienable rights of the Palestinian people and lasting peace for Israel. Referencing the Secretary-General, he underscored that “There is no plan B,” and that the parties to the conflict owed it to their citizens as well as future generations of Israelis and Palestinians to break the cycle of violence.

The **Chair of the Committee, Ambassador Cheikh Niang (Senegal)**, said the growth of Israeli settlements had profoundly fragmented Palestinian land and made realizing the two-State solution on the 1967 borders harder. Even though Security Council resolution 2334 (2016) called for an end to the construction of such settlements in the occupied Palestinian territory, more than 3,000 housing units were planned in Area C of the West Bank. As such, he called on Israel to cease the construction of illegal settlements and halt demolitions of Palestinian structures. Moreover, any unilateral moves to change the political, religious and cultural character of Jerusalem — a city sacred to three religions — would be detrimental to the cause of peace and stability in the Middle East, he observed.

He emphasized that all such outstanding issues should only be addressed as part of final status negotiations, adding that “we will continue to champion these objectives until there is a Palestinian State, side by side with Israel, with secure and recognized borders.” He also called on Palestinian leaders to constructively engage in reconciliation and resolve the current political impasse. The international community must stop the “*laissez-faire* attitude that turns a blind eye to Israel’s indifference to the broader questions of peace,” he stressed. Member States must hold Israel accountable for its actions by enforcing United Nations resolutions and international law.

The **Permanent Observer for the State of Palestine, Ambassador Riyad Mansour**, described the tremendous frustration experienced by the Palestinian people and leadership over the diplomatic impasse and the ongoing Israeli violations. Israel’s protracted illegal occupation of Palestinian territories and its construction of illegal settlements must end, he said, expressing regret about the lack of progress from Israel in the Peace Process. He reiterated Palestinian proposals for a collective process led by the Security Council and called on the international community to muster the political will to implement its global consensus on the two-State solution in accordance with Security Council and General Assembly resolutions.

He called on Member States not to wait for a “grand plan” on resolving the Israeli-Palestinian conflict and called for practical ways to implement the international community’s will. Such solutions might include legal options at the International Criminal Court or at the national level, compelling Israel to accept its obligations under international law. Palestinians also had obligations, among them to end the political division between the Gaza Strip and the West Bank. In that regard, he expressed gratitude to Egypt for its help. Yet, when it came to the Israeli occupation, “Palestinian people will not raise white flags,” he emphasized, “they will never surrender.”

Also speaking at the Opening Session, the **Minister of Foreign Affairs of Indonesia Retno Marsudi** referred to recent unprecedented unilateral measures by the occupying Power, including the withholding of Palestinian tax revenues and the continued expansion of illegal settlements. “A gradual, inhumane and de facto annexation is unfolding before our eyes,” she

said, adding that Member States had a crucial role to play given that disunity has paralyzed the Security Council. The Palestinian issue was at the heart of her country's foreign policy, she said, and Indonesia would be persistent in raising that issue, including during the its presidency of the Council in May 2019 when it will organise an "Arria-formula" meeting on settlements.

Turning to the humanitarian situation in the occupied territory, she noted that the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was again facing a challenging year in 2019 and announced that Indonesia would double its annual contribution to UNRWA's core budget. Noting that it fell on the international community to assist the Palestinians she called for the recognition of Palestine as a United Nations Member State.

During the first panel, themed "*From occupation to annexation — reality in the occupied Palestinian territory*", speakers described ways and means by which Israel was implementing a policy of *de facto* if not *de jure* annexation of the whole occupied Palestinian territory. Among those were measures to keep Gaza separated from the West Bank – through its blockade creating a man-made humanitarian crisis –, the 'Judaization' of East Jerusalem, entrenchment and expansion of Israeli settlements in the West Bank, and legislation of 'apartheid'-style laws.

Internationally, the Israeli government was advancing the notion that territory occupied in 'defensive wars' would belong to the victor, in clear violation of applicable international law and norms, such as the Charter of the United Nations and the Geneva Conventions as well as UN Security Council resolutions. While Israel publicly expressed a willingness to negotiate over the future of the West Bank, it had taken multiple steps to establish a sovereign claim, such as control over its water and the reconfiguration of transport routes to benefit the Israeli settler population at the expense of the Palestinian population and economy.

The current Israeli leadership had, through its actions over the past decade, created a legacy oriented against the two-State solution and for the establishment of an at best 'separate-and-unequal' situation, which even a different political leadership would find hard to overcome. For example, development of archaeological projects and tourist sites in the occupied territory had been given to extremist Israeli organisations which systematically excluded Palestinians and advanced a purely nationalist Jewish narrative.

For Palestinians, while the focus on the two-State solution may have resulted in the current situation of being in limbo, a real one-State solution with civil rights for all its inhabitants – as originally envisioned by the PLO – was not an option, since Israel would not accept any outcome that would not guarantee continued Jewish political and economic supremacy and thus calling for a one-State solution would be liable to be perceived as a call to destroy Israel.

As occupation was turning into annexation, or "occu-xation", it was time to rethink the assumption that the ongoing occupation was not sustainable as claimed in Security Council resolution 2334 (2016). The ascendant Israeli right seems comfortable with the current situation while denying Palestinian rights and taking Palestinian land. The international community had continued to play 'diplomatic checkers' while Israel was playing 'diplomatic chess'.

Asked what actions Member States, private sector and global citizenry could undertake to give effect to Security Council resolution 2334 (2016) and its call on them to distinguish, in their relevant dealings, between the territory of Israel and the territories occupied since 1967, some referred to the longstanding practice in international law for third parties to not engage economically with occupying Powers and for the need to at this stage to emphasise third States' duty to implement Security Council resolutions and the Geneva Conventions. Others argued that Israel was too powerful, technologically and economically, to be affected by something like a worldwide boycott, [even of its settlements – I am not sure this latter part was suggested; but rather the implication was that such measures would have to be more targeted, i.e. focused on the settlements, rather than a broad boycott as proposed by the BDS movement]. Further, any sweeping boycott of Israel would too easily be linked to anti-Semitism and the related discriminatory laws in Nazi Germany, and be used to rally the Israeli population and its allies.

The second panel, on “*Viable and practical steps for the international community to stem annexation*”, considered various viable and practical steps based on international legal norms that could help to halt the incremental annexation of Palestinian territory and contribute towards bringing an end the Israeli occupation.

Speakers stressed that there would have to be consequences for breaking international law. Since commercial activity was not divorced from political impact, Irish legislators had tabled a bill in Parliament that sought to ban the import and sale of goods produced in the Israeli settlements in occupied territories, the first of its kind in the European Union.

With this legislation, Ireland was seeking to give meaningful effect to the basic rules of international law and fulfil its obligations under existing international law. The bill attempted to address a fundamental disconnect in the national and international arenas, where settlements were repeatedly condemned as illegal, but continued financial support to and profit for them was tolerated. In the case of the European Union, this resulted in the bloc importing goods from Israeli settlements worth 15 times more than those imported from the State of Palestine. Apart from the bad political signal it sent, this also had a material impact on the State of Palestine's ability to grow a functioning economy. The Irish Parliament was thus seeking a binding commitment on business and human rights. While the Irish Government had concerns over the compatibility of this law with EU commercial law, the sponsors of the bill were confident that competing EU human rights obligations of the Member States would override any such potential impediments.

It was stressed that the current initiative in Ireland's parliament could and should be complemented by many others, for example in the Arab world and in Africa, that is among those Member States publicly supporting the rights of the Palestinian people.

Speakers also urged vigilance towards any signs of ongoing annexation measures and practices; if the international community waited for formal, *de jure* annexation “it will have been too late.” Every step further entrenching Israel's presence in the occupied Palestinian territory and increasing its control over Palestinian lives constituted a stepping stone on the way to annexation. The [protraction or longevity] of Israel's occupation had always been in its ability to

make subtle, incremental changes that ‘fly under the radar’ and that were anchored in sophisticated legal procedures.

Engaging Israeli courts could be critical to stem annexation and force the political-military system to contend with its inherent contradictions. In parallel, third States should also engage in legal and diplomatic efforts to remind Israel of the bounds of international humanitarian and human rights law. Such actions would send an important signal to Israel about the international community’s ‘red lines’ when it came to annexation and human rights abuses.

The media also represented a powerful tool, as Israel’s political class and military responded when the optics of their policies proved unsavoury. Recent and ongoing crackdowns on civil society voices highlighting Israeli human rights violations and calling for action to halt them – in Israel and abroad – were a sign that these discussions were becoming serious and had started to affect Israel’s ability to act with impunity. Human rights organisations in Israel had an impact on the public perception of the occupation, through use of sharper language (e.g. “confiscation laws” in reference to regularisation laws).

While using Israeli courts to fight violations posed the risk of setting bad precedents and further entrenching harmful policies, as well as legitimizing a legal system that had provided cover for occupation policies, carefully selected cases could be filed strategically to force the Israeli State to reveal its policies and respond to allegations of violations of international law. As such, this option provided a tool for the international community to organize other strategies to combat those policies.

Israel should be reminded and forced to respect its own commitments under the Oslo Accords, which remained vital. To do so, economic actions by the international community could yield results. Currently, Israel was profiting from the occupation and had no reason to leave the occupied Palestinian territory. It would not feel the burden of occupation unless there was resistance from inside the occupied territory coupled with an international boycott of the settlements. Some argued that, if needed, the latter could be elevated to a full boycott of Israel.

In this context, the role of the Security Council was under serious question. If the United Nations was not able to act, then its resolutions would become meaningless.

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****Note: This Summary attempts to provide an overall picture of the deliberations of the Conference. A detailed report, including specific questions that were addressed during the interactive discussions, will be published by the Division for Palestinian Rights in due course.*