



**DIVISION FOR
PALESTINIAN RIGHTS**

**UNITED NATIONS FORUM ON
THE QUESTION OF PALESTINE**

**Convened by the
Committee on the Exercise of the Inalienable Rights of the Palestinian People**

“The threat of de facto annexation – what next for Palestine?”

New York, 4 April 2019

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Executive summary

The United Nations Forum on the Question of Palestine, focusing on the theme “The threat of de facto annexation – what next for Palestine?”, was convened in New York on 4 April 2019 to address the questions of occupation and annexation and their effect on the viability of the two-State solution and on the prospects of a peaceful resolution to the Question of Palestine. Participants raised awareness of the Israeli measures that are tantamount to a creeping annexation in the West Bank, including in and around East Jerusalem, and debated viable and practical strategies to oppose such measures.

The opening session, which included a statement by the Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, a message on behalf of the United Nations delivered by the Assistant Secretary-General for Peacebuilding Support and statements by the representative of the State of Palestine and the Minister for Foreign Affairs of Indonesia, was followed by two plenary sessions chaired by Bureau members of the Committee.

During the Forum, participants reaffirmed that a two-State solution, based on the 1967 borders and applicable United Nations resolutions, was the only solution that would ensure a sustainable and lasting peace in Israel and Palestine, as well as stability for the wider region. They noted that the measures by Israel, the occupying Power, in the West Bank, including in East Jerusalem, were changing the reality on the ground, eroding the prospect of a negotiated solution and constituted a creeping annexation.

Stating that the credibility of the multilateral system was at stake, participants called upon the international community to show unified will and put pressure on Israel to halt all its settlement activities and the demographic remaking of East Jerusalem. If necessary, economic measures should be used to achieve this end.

Noting that settlement activity was beneficial to the Israeli economy, it was recommended that civil society work with governments to pass legislation differentiating imports of settlements products. Another measure that was discussed was bringing selected cases before Israeli courts and international courts. The role of civil society’s was crucial to raise public awareness on the realities of occupation and its costs.

During the Forum, several Member State representatives took the floor and expressed their support for a two-State solution in accordance with applicable United Nations resolutions and international law.

I. Introduction

1. The United Nations Forum on the Question of Palestine on the theme “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. Ahead of the public Forum, on 3 April, the Committee held closed consultations with representatives of civil society organizations from Palestine, Israel and elsewhere.

2. The Forum brought together Palestinian, Israeli and international experts, civil society organizations and representatives of the diplomatic community to address the question of occupation and annexation policies and measures in the occupied Palestinian territory, including East Jerusalem, and their effect on the viability of the two-State solution and on the prospects of finding a peaceful resolution to the Question of Palestine. The Forum also aimed at highlighting viable and practical strategies to counter creeping annexation. The programme of the Forum is annexed to the present report.

II. Opening session

3. The Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Permanent Representative of Senegal to the United Nations, Cheikh Niang, presided over the opening session.

4. The Assistant Secretary-General for Peacebuilding Support, Oscar Fernández-Taranco, representing the United Nations, reminded participants that some of the very first decisions of the United Nations were aimed at resolving the Question of Palestine and that the issue went to the heart of the Charter of the United Nations. He urged Israel to lift restrictions on people and goods in Gaza and recalled that settlements were illegal under international law and constituted an obstacle to a lasting peace. He urged the parties to implement previous bilateral agreements and avoid actions that would endanger a two-State solution, echoing the words of the Secretary-General that “There is no plan B”.

5. **Mr. Niang** warned of deliberate measures by Israel to permanently alter the character and demographics of the occupied Palestinian territory and of the increased risk of a perpetual occupation turning into de facto annexation. Final status negotiations between the State of

Palestine and Israel should address all outstanding issues, he said, promising that the Committee would “continue to champion these objectives until there is a Palestinian State, living side by side with Israel, with secure and recognized borders.” He called upon Israel to cease its settlement policy in the occupied Palestinian territory, and on Palestinian leaders to constructively engage in intra-Palestinian reconciliation and resolve their current political impasse. Mr. Niang closed his statement by calling upon the international community to enforce international law and United Nations resolutions and to hold Israel accountable for its actions.

6. Speaking on behalf of the State of Palestine, the Permanent Observer of the State of Palestine to the United Nations, **Riyad Mansour**, underscored the frustration of the Palestinian people over the lack of progress towards ending the protracted occupation by Israel of Palestinian territories and its building of illegal settlements. He regretted the international community’s “laissez-faire attitude that turns a blind eye to Israel’s indifference to the broader questions of peace.” The international community, he stressed, could not remain frozen in place waiting for a “grand peace plan”, but must enforce United Nations resolutions and international law. He reaffirmed that Palestinians had the duty to end political divisions between the Gaza Strip and the West Bank and expressed his gratitude for Egypt’s assistance in this regard. Finally, he emphasized that “the Palestinian people will not raise white flags” and “will never surrender” to Israeli occupation.

7. In her remarks, the Minister for Foreign Affairs of Indonesia, **Retno Marsudi**, rejected the “gradual, inhumane and de facto annexation unfolding before our eyes.” She expressed concern over recent unprecedented unilateral measures by Israel, the occupying Power, including the withholding of Palestinian tax revenues and the expansion of illegal settlements. She asserted that the issue of Palestine must remain a priority at the United Nations and other international forums. Also, the humanitarian situation in the occupied Palestinian territory required immediate attention, which is why Indonesia would double its contribution to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). She also drew attention to violations of international law, referencing the report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory and called for an end to the collective punishment of its residents. Ms. Marsudi reiterated that Indonesia saw no

alternative to the two-State solution and urged that any future peace plan respect the parameters of the relevant United Nations resolutions.

III. Plenary sessions

A. Plenary session I.

From occupation to the threat of annexation – reality in the occupied Palestinian territory

Summary

8. During the first plenary session, entitled “From occupation to annexation – reality in the occupied Palestinian territory”, chaired by the Vice-Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and Chargé d’affaires a.i. of Cuba to the United Nations, Ana Silvia Rodríguez Abascal, and moderated by a Senior Fellow at the Institute for Palestine Studies, Mouin Rabbani, speakers discussed the ways and means by which Israel was implementing a policy of de facto if not de jure annexation of the entire occupied Palestinian territory. The session’s panellists were: the Director of the Palestinian Centre for Human Rights, Raji Sourani; the former Ambassador of Israel and Chair of the Policy Working Group of activists on the Middle East Peace Process, Ilan Baruch; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk.

9. **Mr. Sourani**, speaking via teleconference from Gaza,¹ reflected on the illegal blockade of Gaza. Rampant unemployment had caused 85 per cent of the population to depend on UNRWA and other humanitarian aid agencies. He stated that all international human rights and humanitarian agencies, including the International Committee of the Red Cross, considered the blockade a collective punishment and a crime against humanity. Even reconstructing Gaza following Israel’s wars on the Strip had become “mission impossible” due to the blockade. Now, with the first anniversary of the Great March of Return protests, Israel had made it clear that anyone protesting could be shot.

10. For Palestinians, while the focus on the two-State solution might have resulted in the current impasse, a one-State solution with civil rights for all its inhabitants – as originally

¹ The United States authorities denied a visa to Mr. Sourani.

envisioned by the Palestine Liberation Organization (PLO) – was not an option, since Israel would oppose any outcome preventing continued Jewish political and economic supremacy. Calling for a one-State solution may be construed as a call to destroy Israel.

11. Mr. Sourani described conditions in Gaza, expanding settlements in the West Bank and the Judaization of East Jerusalem as a “new brand of apartheid”. Practically and legally it was “as if Palestinians don’t exist.” Moreover, when Palestinians attempted to address the situation through legal means, they failed at the national level because of discrimination under Israeli law, and internationally because Member States had changed their own laws, for example to no longer apply universal jurisdiction on human rights violations.

12. **Mr. Baruch** explained that, as occupation shifted towards annexation, he personally had changed from being a loyal diplomat serving his Government to becoming a political activist. He stressed the central role of Jerusalem in Israeli-Palestinian relations and detailed how Israel had consolidated its control over East Jerusalem while systematically weakening Palestinian presence in the city. As the 1967 Green Line, allegedly the basis for a negotiated agreement on borders, was systematically eroded by Israel, United States policy had undergone a far-reaching shift ignoring the Palestinian aspiration to have their future Government based in East Jerusalem.

13. Through its actions over the past decade, the current Israeli leadership had 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, the development of archaeological projects and tourist sites in the occupied Palestinian territory had been given to extremist Israeli organizations, which systematically excluded Palestinians and advanced a purely nationalist Jewish narrative. Mr. Baruch called on the international community to rethink its strategy and change these current Middle East dynamics.

14. **Mr. Lynk** discussed the provisions of international law as they apply to military occupations and described patterns of annexation with a focus on the West Bank. Internationally, the Israeli Government was advancing the notion that territory occupied in “defensive wars” would belong to the victor, he said, in clear violation of applicable international law and norms,

such as the Charter of the United Nations and the Geneva Conventions, as well as Security Council resolutions. While Israel publicly expressed a willingness to negotiate over the future of the West Bank, it had taken 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.

15. In recent years, falling short of de jure annexation because of lack of international support, Israel had accelerated the implementation of measures it believed would help establish a sovereign claim over the occupied Palestinian territory by using a combination of the following: statements, consolidating control over infrastructure in the West Bank and annexation legislation. Examples included the reconfiguration of the sewage system and the integration of communications and highway systems into Israeli domestic networks, thus contributing to the interconnectedness of the settlements with Israel, at the expense of the contiguity and viability of a separate Palestinian polity. There had been an uptake in the applicability of Israeli domestic laws in illegal Israeli settlements in the West Bank and the extension by statute of Knesset laws into the settlements, thus overriding the international law of occupation and moving into a state that was better described as annexation. Recent examples of these legal measures included the Settlement Regularization Law (2017) and the Jewish Nation-State Law.²

16. 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 seemed comfortable with the status quo of denying Palestinian rights while taking over Palestinian land, Mr. Lynk said. The international community had continued to play “diplomatic checkers” while Israel was playing “diplomatic chess”.

Discussion

17. In the ensuing discussion a participant asked what actions Member States, the private sector and global citizenry could undertake to give effect to Security Council resolution 2334

² Mr. Lynk drew special attention to article 7 of the Jewish Nation-State Law, which states: “The State views the development of Jewish settlement as a national value, and shall act to encourage and promote its establishment and strengthening”.

(2016) and its call upon them to distinguish, in their relevant dealings, between the territory of Israel and the territories occupied since 1967. In response, some referred to the longstanding practice in international law for third parties to not engage economically with occupying Powers and for the need to emphasize the duty of third States 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. Further, any sweeping boycott of Israel could easily be linked to anti-Semitism and to the discriminatory laws implemented in Nazi Germany and be used to rally the Israeli population and its allies.

18. Another speaker remarked that the PLO had shifted its position from Palestine as the only State to recognizing Israel and embracing the two-State solution. Presently the facts on the ground were foreshadowing a one-Jewish State solution, contrary to United Nations resolutions and the expressed consensus of the international community on the two-State solution, leaving the Palestinians in limbo.

19. It was also discussed that the situation in Gaza made the creation of a unified Palestinian State very challenging, if not impossible. This prompted the question whether a different approach should be taken in the West Bank than in Gaza. Speakers called for robust civil society action in both situations, suggesting a strong focus on convincing Israel that establishing a unified State of Palestine was in Israel's interest. However, this would first require Israel to come to the conclusion that the occupation was not sustainable.

20. The representative of the Organization for Islamic Cooperation intervened to express the Organization's view that the delusion of peace negotiations provided Israel with political cover to prolong the occupation and undermine a two-State solution. He stated that Israel's violations continued at an alarming rate and expressed regret that some diplomatic missions were relocating to Jerusalem. However, changes to the reality on the ground would not generate rights or legitimacy. He called upon the international community to pressure Israel and also to end the blockade of Gaza. The Organization supported the Palestinian people to obtain their rights, he reaffirmed.

21. The representative of Angola intervened to reaffirm the importance of multilateral institutions on fostering dialogue and decision-making. Considering the settlements as a source of perpetual suffering, he urged Israel to cease all settlement activities and reaffirmed his country's commitment to the two-State solution.

22. The representative of Tunisia also expressed his country's commitment to the two-State solution, claiming that any other solution would fail. Moreover, he insisted on the need of a unified international policy to reject the Israeli de facto occupation and find a peaceful and lasting solution.

B. Plenary session II.
Viable and practical steps of the international community to stem annexation

Summary

23. During the second plenary session, speakers discussed viable and practical steps based on international legal standards to counter the creeping annexation of occupied Palestinian territory and to contribute towards peace and stability in the region. The session was chaired by the Permanent Representative of Malta to the United Nations, Carmelo Inguanez and moderated by the Legal Researcher and Advocacy Officer of Al-Haq, Marya Farah. The four panellists of the session were: the former Minister of State of Palestine and co-editor and co-publisher of the Palestine-Israel Journal, Ziad Abu Zayyad; Senator of the Republic of Ireland, Frances Black; Researcher and Policy Adviser for the Senate of Ireland, Conor O'Neill; and Human Rights Attorney, Emily Schaeffer Omer-Man.

24. **Ms. Black** started off the plenary session by presenting the Occupied Territories Bill that she had tabled in the Irish Senate in January 2018. The bill sought to ban the import and sale of goods produced in illegal Israeli settlements in occupied territory, the first of its kind in the European Union. Ms. Black was seeking to give meaningful effect to the basic rules of international law and fulfil Ireland's respective obligations. This bill was ground-breaking as, despite statements to the effect that the Israeli settlements were illegal, the European Union had not taken concrete action to address the situation. She underscored that this bill was in no way part of the boycott, divestment and sanctions movement as it was not aimed at Israel as a whole, but only at upholding international law as it referred to the illegal settlements. Ms. Black stated that the bill enjoyed wide support and was expected to be passed into law soon.

25. **Mr. O'Neill** further elaborated that the Occupied Territories Bill attempted to address a fundamental disconnect between the international arena, where settlements were repeatedly condemned as illegal, and the domestic one where ongoing financial support to and profit from settlements was tolerated. He underlined that under international law the obligation existed not to recognize or render aid to maintain an illegal occupation. Therefore, the current bill was not new policy, but a measure to put into effect principles to which the European Union already subscribed. In the case of the European Union, it currently imported goods from Israeli

settlements worth 15 times more than goods imported from the State of Palestine. The bill would send a strong signal and may also benefit the economy of the State of Palestine.

26. Since commercial activity was not divorced from political impact, Mr. O’Neill stated, other small States like Palestine, such as his own country (Ireland), also benefitted from a rule-based international order. Therefore, the Bill would seek the Irish Parliament to signal a binding commitment on business and human rights. He expressed the hope that if Ireland showed leadership in this matter, other States would follow. While the Government of Ireland had concerns over the compatibility of the Bill with European Union commercial law, Mr. O’Neill stressed the analysis of eminent legal scholars that human rights obligations under international law superseded EU trade agreements. Therefore, there was no conflict between European Union regulations and the proposed law. Mr. O’Neill stressed that the current initiative in the Irish Parliament could and should be replicated by similar ones among those Member States publicly supporting the rights of the Palestinian people, for example in the Arab world and in Africa.

27. **Mr. Abu Zayyad** reflected on differing views on the situation in Palestine, refuting the notion that negotiations had failed, that Israel had won and that Palestinians had to capitulate. Stressing that Palestinians were steadfast and would never surrender, he stated that the present situation characterized by a Jewish State comprising a non-Jewish population without democratic rights, was not viable in the long term. Just as apartheid had failed in South Africa it was bound to fail in the occupied Palestinian territory, because of the resistance of the Palestinian people and the support extended to them by progressive Jews.

28. “The realistic solution is the two-State-solution” he said, claiming that a one-State solution, in which all people would enjoy equal rights without discrimination, was simply not a realistic proposition. Although he felt that the Oslo Accords had failed, because they had been too ambiguous, they had brought the Palestinian people significant social and educational improvements. Therefore, there was a need to further build upon the Oslo Accords and revive the prospect of the two-State solution, based on the 1967 borders with a just and fair solution for the refugees. He called upon Israel to freeze all settlement activities in the West Bank including East Jerusalem, and also called upon the international community to boycott those settlements and to

reject any change in the legal status of Jerusalem. “Without Jerusalem, there will be no basis for the two-State solution”, he stressed.

29. **Ms. Schaefer Omer-Man** 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 that further entrenches Israel’s presence in the occupied Palestinian territory and increases its control over Palestinian lives constituted a stepping stone on the way to annexation. The key to Israel’s protracted 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.

30. The media also represented a powerful tool, as Israel’s political class and military then 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 starting to affect Israel’s ability to act with impunity. Human rights organizations in Israel had an impact on the public perception of the occupation, through use of sharper language, for example “confiscation laws” in reference to regularization laws. At the same time, the use of Israeli courts to fight violations could bring respite to individual Palestinians it posed the risk of further entrenching harmful policies as well as legitimizing a legal system that provided cover for occupation policies. Nonetheless, 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 also provided a tool for the international community to organize different strategies to combat those policies.

Discussion

31. In the ensuing discussion, experts debated various measures that civil society, third States and the courts could play to influence Israeli policies and stem creeping annexation, detailed promising strategies and cautioned against approaches deemed counterproductive.

32. The speakers argued that civil society both within and outside Israel had an important role to play. In addition to advocacy and raising awareness, a broad coalition of civil society partners had contributed legal advice during the drafting of the Occupation Bill in Ireland. Those proposing the bill discussed the possibility of liaising with parliamentarians in other countries to help them put forward similar legislation in their own countries.

33. In response to a question on the role of the international community, speakers stressed the need for United Nations credibility. The role of the Security Council was under serious question and if the United Nations was unable to act, then its resolutions would become meaningless. This issue was larger than just the rights of the Palestinian people.

34. It was further argued that, despite the current impasse, the Oslo Accords had brought improvements in the lives of Palestinians. Therefore, negotiations should build upon the Oslo Accords and the international community, in particular the European Union, should pressure Israel to respect those agreements, if necessary, through economic sanctions.

35. After expressing his support for the Palestinian cause, the representative of South Africa expressed concern at the increasing detention of juveniles and health workers and asked about strategies to address this. Unfortunately, the panellists explained, no effective legal strategy to change this policy on a structural level had yet been found, but this was an example where the use of media could be helpful.

36. Representatives of Guinea and Nigeria expressed their concerns over the current situation and asked about the future direction of the Question of Palestine. In response the panellists reflected on the necessity of a two-State solution and the inherent difficulties of a one-State solution contending that it would be impossible for Israel to be Jewish, democratic and indefinitely maintain the occupation at the same time.

37. At the end of the discussion, the representative of Ireland clarified the official position of his Government, which is in opposition to the proposed Occupied Territories Bill, citing incompatibility with European Union Common Trade policies. In response, speakers argued that many eminent scholars of international law had judged the draft legislation not to be incompatible, citing exemptions to the trade policy in order to comply with international human rights law.

IV. Closing session

38. The closing session of the Forum was chaired by Mr. Niang.

Summary

39. In his closing statement, **Mr. Mansour** thanked all the participants and organizers. He also noted that, despite many challenges, there was remarkable outpouring of solidarity in the United States, where support for the Palestinian cause at institutes of higher education – carried by Palestinian and Jewish students, as well as others, and across the political spectrum – now outpaced that for Israel. The situation in Europe was similar: despite coercive measures, people continued to support the just Palestinian cause.

40. **Mr. Niang** stated that the Forum had highlighted the importance of international law, from diverse perspectives, and that the presentations had provided better insight into the realities of the creeping Israeli annexation of Palestinian territory. The Committee would bear in mind the issues raised during the day, when it continued its dialogue with all stakeholders, including parties to the conflict, civil society organizations, parliamentarians and non-governmental organizations.

V. Key themes and recommendations

41. The following key themes and recommendations emerged during the Forum deliberations:

- The two-State-solution is the only viable solution to achieve lasting peace and stability in the region based on mutual respect for the two nations' right to self-determination.
- The international community should put pressure on Israel to make sure it complies with Security Council resolutions and international law, including international humanitarian and human rights law.
- Countries should refrain from recognizing any change in the status of Jerusalem and not move their embassies there.
- Commercial activity is not divorced from political impact and has to comply with international law. It could also be used by the international community to pressure Israel.
- Legislation aimed at preventing commercial activities with the settlements is in accordance with obligations under international law. Thus, the current legislative initiative in Ireland's Parliament could and should be mirrored by other States.
- Civil society could contribute through advocacy and legal advice to help parliamentarians pass laws that help implement Security Council resolution 2334 (2016).
- Vigilance and action towards signs of ongoing annexation measures and practices is needed, as waiting for Israel to announce de jure annexation before addressing the facts on the ground, will result in an irreversible situation.
- Challenging Israeli occupation laws should be done selectively to avoid setting adverse precedents that further entrench the occupation, but carefully selected cases could be filed strategically to force the Israeli State to reveal its occupation policies and allow for counter-strategies to respond to alleged violations of international law.
- The media could be used as a tool to raise awareness on harsh occupation policies. Sharper language could be used to effect stronger public perception of the occupation.

Annex I

UNITED NATIONS FORUM ON THE QUESTION OF PALESTINE

“The threat of de facto annexation - What next for Palestine?”

**Convened by the
Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP)**

New York, 4 April 2019

Trusteeship Council Chamber, UN Headquarters

PROGRAMME

10.00 a.m. - 11.00 a.m. **OPENING SESSION**

Statements by:

Mr. Oscar Fernandez-Taranco
Assistant Secretary-General of the United Nations

Amb. Cheikh Niang
Chair of the Committee on the Exercise
of the Inalienable Rights of the Palestinian People
Permanent Representative of Senegal
to the United Nations

Amb. Riyad Mansour
Permanent Observer of the State of Palestine
to the United Nations
Member of the PLO Central Committee

Min. Retno Marsudi
Minister of Foreign Affairs of Indonesia

11.00 a.m. - 1.00 p.m.

PLENARY I

From occupation to the threat of annexation – reality in the occupied Palestinian territory.

Overview of the de jure and de facto measures advancing the annexation of the West Bank, including East Jerusalem

Panelists:

Mr. Raji Sourani

Director

Palestinian Centre for Human Rights

Mr. Ilan Baruch

Former Ambassador of Israel

Chairperson of the Policy Working Group of activists on Middle East Peace Process based on the two-state paradigm

Mr. Michael Lynk

UN Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Moderator:

Mr. Mouin Rabbani

Senior Fellow

Institute for Palestine Studies

3.00 p.m. - 6.00 p.m.

PLENARY II

Viable and practical steps for the international community to stem annexation

Panelists:

Mr. Ziad AbuZayyad

Former Minister of State of Palestine

Co-editor and co-publisher of the Palestine-Israel Journal

Ms. Frances Black

Senator

Seanad Éireann (Ireland)

Mr. Conor O’Neill
Researcher and Policy Advisor
Seanad Éireann

Ms. Emily Schaeffer Omer-Man
Human Rights Attorney
Tel Aviv

Moderator:

Ms. Marya Farah
Legal Researcher and Advocacy Officer
Al-Haq

5.45 p.m. - 6.00 p.m.

CLOSING SESSION

Statements by:

Amb. Cheikh Niang
Chair of the Committee on the Exercise
of the Inalienable Rights of the Palestinian People
Permanent Representative of Senegal
to the United Nations

Amb. Riyad Mansour
Permanent Observer of the State of Palestine
to the United Nations
Member of the PLO Central Committee

6.00 p.m.

CHAIR RECEPTION
ExPress Bar (GA Building)

Annex II



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 realising 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 seemed 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. 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 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.*