



15 June 2021

Senator the Hon. Marise Payne
Minister for Foreign Affairs
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Senate
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Dear Minister Payne

RE: LEGALITY OF ISRAELI ANNEXATIONS IN OCCUPIED PALESTINIAN TERRITORIES

On 3 June 2021 during Senate Estimates, Senator Janet Rice asked you to clarify if the Australian government considers the unilateral annexation of territory in the West Bank, Occupied Palestinian Territories (OPT) as ‘illegal’ under international law.

Mr Benjamin Hayes, Acting First Assistant Secretary, Middle East and Africa, from the Department of Foreign Affairs and Trade stated that Australia “does not take a position” on the legality of such annexation under international law. Amnesty International holds deep concerns about this ‘non-position’.

I am writing to you to inform you that ‘annexation’ is a flagrant violation of international law, and I urge you to update Australia’s position to reflect this in regards to the human rights situation in the OPT.

Annexation is a flagrant violation of international law

‘Annexation’ is acquiring territory by force and, as such, is a flagrant violation of international law. It violates both the Charter of the United Nations and the Geneva Convention, and is contrary to the fundamental rule affirmed many times by the United Nations Security Council and General Assembly that the acquisition of territory by war or force is inadmissible.¹ It can have no effect on the legal status of the territory, which remains *de jure* occupied. In the context of the OPT, “annexation” means extending Israeli law to areas which are recognized as occupied and treating them as part of the territory of Israel.

Israel’s continued pursuit of a policy of annexation further illustrates its disregard for international law. Such policies do not change the legal status of the territory and its inhabitants under international law as occupied, nor remove Israel’s responsibilities as the occupying power under

¹ United Nations Special Procedures, *Israeli annexation of parts of the Palestinian West Bank would break international law – UN experts call on the international community to ensure accountability*, 16 June 2020: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25960&LangID=E>

international humanitarian law— rather it points to the longstanding need for the international community to put an end to impunity for violations of international law by Israel.

Exacerbation of human rights violations and war crimes in the OPT

Amnesty International has called on the Israeli authorities numerous times to abandon any plans to “annex” territory in the occupied West Bank because they will exacerbate decades of systematic human rights violations against Palestinians and aim to deprive Palestinians in the OPT of the protection of international humanitarian law. Such a step by Israel would also violate the UN Charter, peremptory norms of international law (*jus cogens*), and obligations under international humanitarian law.

Israel’s policy of settling its civilians in Occupied Palestinian Territory and displacing the local Palestinian population continues to contravene fundamental rules of international humanitarian law. Article 49 of the Fourth Geneva Convention states: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” It also prohibits “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory.”

Settlements are created with the sole purpose of permanently establishing Israeli civilians on occupied land; this is a war crime under the Rome Statute of the International Criminal Court and “annexation” has no bearing on this legal determination.

Serious implications of “annexation”

“Annexation” can have serious implications. For example, the residency and citizenship status of Palestinians in the proposed annexed territory is not yet clear. I note that the new Prime Minister, Naftali Bennett, is a supporter of “annexation”.

“Annexation” would also likely result in the mass expropriation of privately-owned Palestinian land and expropriation of other private property. The “annexation” of Israeli settlements will likely include the expropriation of agricultural lands owned by Palestinians in the OPT.

It deepens violations of the right to adequate housing. Israel’s “annexation” plan places individuals and communities - particularly communities in villages which are unrecognized by Israel - at risk of expulsion or targeting for home demolitions, especially if they fall within any “annexed” area.

The “annexation” of large parts of the West Bank would also further limit Palestinians’ freedom of movement. Many of the existing restrictions are directly linked to the settlements, including restrictions aimed at protecting the settlements and maintaining “buffer zones.”

Importance of recognising “annexation” as illegal

Australia, and all members of the international community must enforce international law and re-state that “annexation” of any part of the occupied West Bank is null and void. They must also work to immediately stop the construction or expansion of illegal Israeli settlements and related infrastructure in the Occupied Palestinian Territories.

Discrimination against Palestinians, and the dispossession of Palestinians fuels conflict in Israel and the Occupied Palestinian Territories. The international community, including Australia, must end impunity for Israel’s crimes under international law by publicly denouncing war crimes committed by both Israel and Palestinian armed groups, and illegal Israeli settlements, if we are to work towards peace and security for everyone living in Israel and the Occupied Palestinian Territories.

I urgently call upon the Australian government to publicly reaffirm its commitment to international law by stating that “annexation”, including that of the West Bank, OPT, is illegal.

For further information, or to discuss and organise a meeting, please contact Joel MacKay at joel.mackay@amnesty.org.au or 0424 242 112.

Yours sincerely,



Sam Klintworth
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