

TRUMP'S DECISION RECOGNIZING THE ISRAELI ANNEXATION OF THE GOLAN HEIGHTS: A CLEAR VIOLATION OF INTERNATIONAL LAW

MUHITTIN ATAMAN • BILAL SALAYMEH

SETA | PERSPECTIVE

MARCH 2019 • NUMBER 53

- What is the context of the decision?
- What does this decision mean for Israel and for Netanyahu?
 - What are the possible implications of the decision?

INTRODUCTION: THE MEANING OF THE GOLAN HEIGHTS

In a dramatic shift, the U.S. President Donald Trump announced that “it is time for the United States to fully recognize Israel’s Sovereignty over the Golan Heights.”¹ The announcement which came initially through Trump’s Twitter account was followed by signing a proclamation officially granting U.S. recognition of Golan as Israeli territory, during Israeli Prime Minister Benjamin Netanyahu’s visit to the White House on March 25, 2019. The move represents a major shift in the U.S. policy and gives a boost to the Israeli Prime Minister Benjamin Netanyahu amid the electoral campaign in Israel. However, the decision jeopardizes the fragile stability in a tumultuous region and undercuts the international norms that prohibit

acquiring territory through the use of force, occupation or annexation.

The Golan Heights is a significant geopolitical territory located on the borders of Syria, Lebanon, Israel and Jordan. It is not even part of the Palestinian lands, which the Israelis claim to control. After the abolishment of the mandate system, the territory was left to the Syrian state. The problem of the Golan Heights, which is historically part of Syria, started with its occupation by the Israeli forces in 1967 during the Six Days War. The occupation of the Golan Heights together with the occupation of the Sinai Peninsula transformed the nature of the Israeli-Palestinian problem and made it the Arab-Israeli dispute. Although Syria tried to liberate the occupied areas during the Yom Kippur War in 1973, it failed to do so but did regain some territory. However, the cease-

1. <https://twitter.com/realDonaldTrump/status/1108772952814899200>.

MUHITTIN ATAMAN

Prof. Ataman graduated from the Faculty of Political Science in the Department of International Relations at Ankara University. Ataman earned his MA at Central Oklahoma University, and PhD at University of Kentucky between 1996 and 1999. He worked as an RA and a faculty member afterwards in the Department of International Relations at Abant İzzet Baysal University from 1993 until 2014. Ataman is currently a faculty member at the Faculty of Political Science in the Department of International Relations at Social Sciences University of Ankara. Prof. Ataman worked at SETA for three years as a part-time researcher in Foreign Policy Research Department. Currently, he serves as SETA’s Director of Foreign Policy Studies and conducts academic research on Turkish foreign policy, the Middle East politics and the Gulf politics. Ataman is also the Editor-in-Chief of Insight Turkey, a journal published by SETA Foundation.

BILAL SALAYMEH

Bilal Salaymeh holds a Bachelor’s (AYBU) and an MS (METU) degree in International Relations. Currently, he is pursuing his PhD in International Relations at METU. Salaymeh is also serving as a research assistant at the SETA Foundation Foreign Policy Research Department. His research interests revolve around the Middle East with particular focus on Syria and the Palestinian Issue.

fire agreement signed in 1974 between the two states has left most of the region under Israeli control. The two sides agreed to disengage their forces in the Golan Heights. Following this agreement, the United Nations Security Council (UNSC) decided to establish the UN Disengagement Observer Forces (UNDOF) on 31 May 1974. Since then, UNDOF has remained in the Golan Heights to preserve the ceasefire and to oversee the implementation of the disengagement agreement.²

After unilaterally declaring the united Jerusalem, including the Eastern part of the city, as its capital in 1980, Israel took a further step in 1981 and officially annexed the area of the Golan Heights. This move was not accepted by the international community; therefore, since then the area has been considered as “occupied territory.” The UNSC Resolution 497 adopted unanimously on 17 December 1981 considered Israel’s decision as “null and void and without international legal effect” and labelled the Israeli state as the “occupying power.”³ The UNSC repeatedly called Israel to withdraw from these lands and to end the violation of international law. However, the Israeli state has never taken the UNSC calls seriously. At the bilateral level, the Israeli and the Syrian sides have held several negotiations to solve the dispute, but no agreement has ever been reached. Consequently, Israel has ignored repeated international demands to return the area to Syria. The region is still under the administrative control of Israel, which has coincidentally been exploiting its resources.

Over 40 thousand Israeli settlers and Syrian Druze live in the occupied Golan Heights, which is a 1,200 square kilometers of territory. In spite of the Israeli forcible displacement of the Arab population, the majority of the population is still Arab, a large Druze majority and a small Alawite minority. The area, known for its strategic and geopolitical importance, is only

about 60 km away from Damascus, the Syrian capital. Thus, it provides the Israeli state with an advantage of monitoring any movement in inner Syria. Additionally, as mentioned by many observers, the area is hydrologically significant and provides one third of Israel’s total water supply.⁴

Trump’s decision, which comes at a time when the Syrian state is in its weakest condition ever, has been denounced by the vast majority of international and regional actors. This move was clearly opposed by the Arab League while the Russian Federation⁵ alongside Germany and France have also denounced the decision. The Turkish political leaders, including President Recep Tayyip Erdoğan and Foreign Minister Mevlüt Çavuşoğlu, have unambiguously opposed the annexation decision declaring Turkish support for Syria’s territorial integrity.

THE CONTEXT OF TRUMP’S DECISION

Trump’s decision is consistent with his Administration’s pro-Israeli Middle Eastern policy. Trump has already adopted a clear pro-Israeli stand not only in the Israeli-Palestinian problem, but also in other regional issues. He announced his decision to move the U.S. embassy from Tel Aviv to Jerusalem last year and recognized the united Jerusalem as Israel’s capital. He withdrew from the nuclear deal signed with Iran, which was also strongly attacked by Israel and Prime Minister Netanyahu.

Following Trump’s election to office in the White House, Israeli officials started to lobby and campaign publicly to push the U.S. administration to recognize the Israeli sovereignty over the Golan Heights. Although this request had been made during the Obama Administration in 2015, it was rejected at that time.⁶

2. “UNDOF Fact Sheet,” United Nations Peacekeeping, <http://peacekeeping.un.org/en/mission/undof>, Access Date: 27 March 2019.

3. “Resolution 497,” UNSCR, Search Engine for the United Nations Security Council Resolutions, <http://unscr.com/en/resolutions/doc/497>, Access Date: 25 March 2019.

4. Muna Dajani, *Dry Peace: Syria-Israel and the Water of the Golan*, The Atkin Paper Series, March 2011, pp. 7, 13.

5. <https://tass.ru/politika/6247411>

6. Luke Baker, “Netanyahu Asks Trump to Recognize Israeli Sovereignty over Golan Heights,” Reuters, 16 February 2019. <https://www.reuters.com/article/us-usa-trump-israel-golan/netanyahu-asks-trump-to-recognize-israeli-sovereignty-over-golan-heights-idUSKBN15U2XX>

During his visit to the White House in February 2017, Israeli Prime Minister Netanyahu asked President Trump to recognize the Israeli sovereignty over the Golan Heights territory. In November 2018, for the first time, the U.S. opposed the UN resolution that called Israel to end its occupation in the Golan Heights.⁷ The decision was also foreshadowed in mid-March 2019, when the State Department changed the description of the Golan Heights in its report from the “Israeli-occupied” to the “Israeli-controlled” area.

It is also thought that this decision was promoted by the Trump’s Middle East team headed by his son-in-law, Jared Kushner. The team’s members consist of Chief Advisor Kushner, Special Representative for International Negotiations Jason Greenblatt and the U.S. Ambassador to Israel David Friedman. These officials are known for their staunch support to the Israeli cause and to the settlement activities in the occupied West Bank. For instance, in September 2018, Friedman said that he expected Israel to “keep the Golan Heights in perpetuity.” Interestingly, Friedman’s statement came only one month after the National Security Advisor to President Trump, John Bolton’s, comments on the issue, in which he stated that “there’s no change in the U.S. position for now.”⁸ This variation of the perspectives undermines the idea that this decision reflects the U.S. national interests and supports the claim that this move is a result of shifting the balance towards pro-Israel policies and policy makers in the Trump administration.

The last signal about the upcoming U.S. recognition decision came on March 11, when Senator Graham, another staunch supporter of Israel, who is also considered to be close to Trump, visited the Golan Heights with Netanyahu and Friedman. Graham

urged the U.S. to recognize the Israeli sovereignty over the territory occupied by Israel.⁹

The decision eventually came while the U.S. Secretary of State was in Israel, where he made a visit to the new U.S. embassy in Jerusalem and accompanied Netanyahu to place a prayer in the cracks of Israel’s sacred Western Wall continuing into the underground synagogue, built under the Muslim quarter in occupied Jerusalem.¹⁰

Trump’s decision was celebrated by Netanyahu, who was hosting the U.S. Secretary of State Pompeo for dinner. Netanyahu called the White House to thank President Trump later telling reporters that “President Trump has just made history. I called him. I thanked him on behalf of the people of Israel. He did it again!”¹¹

One of the reasons why Trump has recognized the Israeli annexation is his ideology and religious beliefs. Considering the consistency in Trump’s policies in the Middle East, he and his ultra-nationalist supporters consider supporting the Israeli state as a religious responsibility. For Trump, this move is thought to help him to mobilize the U.S. Christian Evangelicals, who represent almost 25 percent of the U.S. population and to ensure their support in 2020 election. However, most observers are aware that this move has more to do with the respective domestic politics of the two countries, both preparing for elections. Israel goes to the general elections on April 9 and Netanyahu wants to persuade the Israelis with this move.

The implications of the Trump decision will be analyzed on three different levels: national, regional and global. After examining the meaning of the decision for Israeli politics, the perspective will focus on

7. Oliver Holmes, “US to Oppose UN Motion Condemning Israeli Control of Golan Heights,” *The Guardian*, 16 November 2018, <https://www.theguardian.com/world/2018/nov/16/us-israel-golan-heights-syria-un-resolution-oppose>

8. “U.S. Envoy Sees Israel Keeping Golan Heights Forever,” *Reuters*, 6 September 2018, <https://uk.reuters.com/article/uk-mideast-crisis-israel-usa-syria/u-s-envoy-sees-israel-keeping-golan-heights-forever-idUKKCN1LM12L>

9. Oren Liebermann and Clare Foran, “Lindsey Graham Meets with Israeli Prime Minister Netanyahu,” *CNN*, 12 March 2019, <https://edition.cnn.com/2019/03/11/politics/lindsey-graham-netanyahu-golan-heights/index.html>

10. Andrea Mitchell, “Trump Lends a Helping Hand to Netanyahu on the Campaign Trail,” *MSNBC News*, 22 March 2019, <https://www.nbcnews.com/politics/2020-election/trump-lends-helping-hand-netanyahu-campaign-trail-n986046>

11. Mitchell, “Trump Lends a Helping Hand to Netanyahu on the Campaign Trail,”

the impact of the decision on the regional balances and finally the global perception.

THE MEANING OF TRUMP'S DECISION FOR ISRAEL AND NETANYAHU

Trump's decision has significant implications for the Israeli state and for its Prime Minister Netanyahu. One of the main purposes of Trump decision is to legitimize the Israeli expansionism, including the Golan Heights. Another reason of his decision is support for Netanyahu, who can be considered as Trump's counterpart, as an ultra-rightist politician.

LEGITIMIZATION OF THE ISRAELI ANNEXATION

For Israel, which had officially annexed the occupied territory in 1981, Trump's decision represents a symbolic legitimization of its occupation and it will boost its expansionist tendencies. The Israeli settler movements and the far-rightist politicians, who celebrate the decision, will be more enthusiastic to increase their occupation activities in the West Bank. This move by Trump will encourage the settler movements and their political leaders to ask for an application of the same norm to the occupied West Bank or at least the big settlements and Area C of the West Bank, by recognizing Israel sovereignty. Thus, this decision arguably will substantiate the rise of far-rightist policies in Israel.

This tendency to push the U.S. administration to recognize Israel's sovereignty over the occupied West Bank can be seen in the calls of controversial Israeli Knesset Member Bezael Smotrich. Hours after U.S. President Donald Trump announced the recognition of Israel's sovereignty over the Golan Heights, Smotrich called for Trump to take a similar step regarding the occupied West Bank.¹² Furthermore, this was also hinted during a convention of AIPAC by the pro-Israel American ambassador to Is-

rael, David Friedman, who argued that Trump administration understands Israel's need to have 'overriding security control' in the [occupied] West Bank in any future peace deal.¹³

However, beyond this symbolic move that is celebrated mainly by the settler movement, the decision will not have any positive impact on Israeli security rather it will jeopardize its northern front border security and will increase the possibility of threats emanating from Syria. At the end of the day, this move which did not change anything on the ground will boost Iran and its proxies including Hezbollah's justification for more military activities near the Golan Heights. Meanwhile, it will make it harder for the pro-Israeli Arab leaders to take measures against the activities of Iran's proxies against Israel. No need to mention that this decision will also negatively affect the Israeli reputation worldwide.

Moreover, this unilateral and illegal move by the Trump administration is a step against the international law and its basic principles on which Israel itself tries to legalize its existence in a hostile environment. Furthermore, Trump's decision, which legitimizes the acquisition of territory by means of force through occupation and annexation, would jeopardize the Syrian-Israeli disengagement agreement which has been functioning for more than 40 years.

A POLITICAL GIFT FOR NETANYAHU

Although the Trump decision can be seen as a victory for the Israeli state, it will also serve Netanyahu's political ambitions. Trump's decision and its timing is an overt move to help Netanyahu amid an intense electoral campaign and corruption allegations. The electoral race in Israel currently running neck and neck is presenting a serious challenge to Netanyahu's ambitions to stay in the prime minister's office for a fifth term. Netanyahu's most significant opponent is the

12. "Israel MK calls for Trump to recognise Israel's annexation of West Bank," Middle East Monitor, 23 March 2019, <https://www.middleeastmonitor.com/20190323-israel-mk-calls-for-trump-to-recognise-israels-annexation-of-west-bank/>

13. "Friedman Hints Trump's Peace Deal Will Include Israeli Security Control Over West Bank," Haaretz, 26 March 2016 <https://www.haaretz.com/israel-news/friedman-hints-trump-s-peace-deal-will-entail-israeli-security-control-in-west-ban-1.7061461>

opposition camp led by the former Chief of Staff General Benny Gantz, who is himself facing his toughest fight in his political career and is also struggling against corruption, fraud and bribery allegations.

President Trump denied that his decision on the Golan Heights had anything to do with the upcoming Israeli elections.¹⁴ However, such a move will definitely support Netanyahu's credibility among the far-right settlers and will help him to consolidate his electoral camp. A welcoming of the move even came from one of Netanyahu's main opponents, Yair Lapid, which described Trump's decision as "a dream comes true."

Moreover, Netanyahu received another boost from Trump, who invited him to the White House, less than two weeks before the Israeli elections which will be held on April 9. To finalize the effect Trump emphatically signed the presidential order recognizing Israel's sovereignty over the occupied Golan Heights in Netanyahu's presence.

POSSIBLE IMPLICATIONS OF TRUMP'S DECISION

Apart from the implications of Trump's decision on Israeli politics, it has many repercussions for regional and global politics. On the one hand, Trump's unilateral policies damage the regional stability and the American mediation efforts. On the other hand, the decision will greatly damage the main principles of the global order and the international norms.

ENDANGERING TRUMP'S PEACE PLAN

The Trump decision recognizing the Israeli annexation of an occupied Arab territory broke the decades-long American policy of mediation between Israel and the Arab States. It will discredit the American role of acting as a mediator between the two parties and weakens its position as a peace facilitator, not to mention the irreparable harm inflicted on the public image of the U.S. in the region. Hence, this move puts the Trump Administration's peace plan, which has been hailed in

the media as the "Deal of the Century", at stake. This move by the Trump Administration will make it harder for the Arab leaders to respond positively to the American peace plan while the U.S. recognizes the annexation of an occupied Arab territory.

The negotiations between Israel and the Arab states have followed bilateral tracks since the aftermath of the Madrid Conference in 1991, instead of a joint Arab versus Israeli track. Yet the sense of Pan-Arabism and joint action remains, the sense which was manifested through the Arab Peace Initiative in 2002. However, Trump's unilateral move is against the principle of the initiative which is "territory for peace and normalization" and it violates the UN Security Council Resolutions (no. 224 and 338) that the initiative had adopted. Hence, this move will drive the Arab leaders into a corner and present a serious test to Pan-Arabism. Trump has effectively increased the political cost to his Arab Allies for supporting his peace plan.

Arguably, jeopardizing of the U.S. reputation and its ability to mediate between the state of Israel and the Arab states will also remain as Trump's legacy for future administrations. Any future U.S. president will face an enormous challenge to restore the U.S. credibility, let alone its neutrality.

THREATENING THE REGIONAL STABILITY

This decision has been made while the Syrian Arab Republic is witnessing its weakest situation yet. Syrian President Bashar Assad is preoccupied with his attempts to retake control over the Syrian territory, while the Syrian sovereignty is violated by not only other states such as Russia and Iran, but also by non-state actors. The state apparatuses have become fragile and penetrated by competition between Iran and Russia. In such a situation, no serious Syrian retaliation is expected from the Assad regime. Yet, the decision could spur Iran and its proxies on the ground to action, as it substantiates their argument of fighting with Israel over Syria.

Iran's proxies in Syria, including Hizbullah, have constantly claimed that their final objective from pre-

14. Mitchell, "Trump Lends a Helping Hand to Netanyahu on the Campaign Trail,"

senting in Syria is to counter Israel. Trump's decision, which was received as an open aggression from the Israeli side, will support this claim. Taking into consideration that the Syrian security apparatus is being penetrated by Iran and that the Syrian regime is unable to ensure its control over its claimed territory, the possibility of the situation being utilized by Iran's proxies is high.

The move will also complicate the attempts to find a final resolution to the ongoing Syrian conflict, since it will increase the risk of partition of the Syrian state. The Syrian territory has already lost its integrity, while the Syrian opposition is in control of the Idlib pocket, and the U.S. Supported YPG/SDF tries to maintain its control over the Eastern Euphrates region. Thus, this move which has weakened the vulnerable Syrian statehood will affect the possibility of reaching a resolution for the Syrian crisis within the framework of the territorial integrity in the short run, and will end any possibility of peace between the Syrian and the Israeli states in the long run.

VIOLATION OF THE INTERNATIONAL NORMS

Trump's decision has many international implications. First of all, this move is a clear violation of international law and the second article of the UN Charter, which lists the main principles of the global UN system. Article 2/4 of the Charter states that, "all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." The U.S. became the first state to recognize the illegal Israeli annexation, thus the first state to undermine the very same system that it had established after the Second World War. From now on, other states will imitate this unilateral and illegal action, which could precipitate large-scale anarchy. Furthermore, it can be inferred from Trump's decision that, from now on, international stability will be much more at risk due to the irresponsible behavior of global powers. It shows that the logic of power politics has begun to dominate the world politics, which will escalate international and regional crises. All states will have to be very careful,

because this could happen to them. For instance, by recognizing the Israeli annexation of the Golan Heights, the U.S. has lost its grounds for opposing the annexation of the Crimean Peninsula by Russia.

Second, the decision also violates the UNSC Resolution 242 passed after the 1967 war, which rules out acquiring territory by war and guarantees the rights of regional countries to coexist peacefully. Similarly, the decision is a serious rupture from the UNSC Resolutions about the issue, such as resolutions 338 of 1973, 497 of 1981 and 1109 of 1997. Hence, this decision will not only jeopardize the stability and peaceful coexistence, but it also paves the way for more revisionist policies in a time of regional turmoil and represents a case that could be used as an excuse by other international powers.

CONCLUSION

The dramatic move taken by the U.S. President Donald Trump to recognize Israel's sovereignty over the occupied and illegally annexed Golan Heights is a clear violation of international norms and a serious disruption of the UNSC resolutions. However, the decision, which is consistent with the Trump pro-Israeli regional policy, will not strengthen the Israeli security. Rather it represents a symbolic move that would help both the Israeli Prime Minister Netanyahu in the upcoming elections and Trump to reach out more to the pro-Israel Evangelical Christians in his 2020 elections. That is, the decision will serve the personal interests of both Netanyahu and Trump, but it is not expected that the decision will serve either American or Israeli interests. Additionally, it will strengthen the negative American reputation in the region and worldwide and raise the cost of siding with the U.S. and its expected peace plan.

As has been seen in the aftermath of Trump's recognition of a united Jerusalem as the capital of the Israeli state, the reactions are expected to be feeble in the short term. No major retaliation is expected to take place, neither from the fragile Syrian regime which has lost its legitimacy and sovereignty, nor from the war

torn Arab countries or the dispersed Muslim world. While the condemnation of the international community is not expected to lead to punitive measures against the Israeli state which continues to maintain its occupation activities in the Palestinian territories. However, the decision will deepen the instability and chaotic atmosphere in the Middle East in the long term.

The most recent move by Trump contradicts with the basic principles of international law. Even though Trump's annexation decision can be considered as a gift to Netanyahu, it will jeopardize the fragile regional stability in the Middle East. For sure, the recognition of the Golan Heights will endanger Trump's Peace Plan as well. However, there is no significant regional power in the Arab world that can oppose this move. Although

the leaders of some Arab states are already persuaded, if not forced, by the American and Israeli governments, the Arab streets will listen to their respective governments and will continue to struggle against the illegal occupation.

In conclusion, the Israeli annexation of the Golan Heights and the exploitation of its resources cannot be legally or morally justified by any unilateral declarations by Israel or the U.S. That is, the Golan Heights belong to Syria and no state decision can change this reality. Therefore, Trump's decision cannot legitimize the illegal Israeli occupation of the territory. While this move will benefit both Trump and Netanyahu in the short run, it will certainly not bring peace and stability to the region or to the world.



SIYASET, EKONOMİ VE TOPLUM ARAŞTIRMALARI VAKFI
FOUNDATION FOR POLITICAL, ECONOMIC AND SOCIAL RESEARCH
مركز الدراسات السياسية والاقتصادية والاجتماعية

www.setav.org | info@setav.org | [@setavakfi](https://twitter.com/setavakfi)