



The Trump Effect on Israeli Settlement Policies

The Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ) is deeply concerned about the effect that the election of Donald Trump as the 45th President of the United States will have on illegal Israeli settlement policies in the occupied Palestinian territories, including East Jerusalem.

Since the occupation in 1967 the international community has been very clear on the illegality of the settlement policy. The occupying power cannot move its own population into occupied territory, nor can it force protected persons from the occupied territory to leave.¹ Several UN legal documents that were adopted in the past five decades have confirmed this reasoning.²

Nevertheless, Donald Trump has indicated his intention to move the US embassy to Jerusalem, a city only half of which is considered a part of the state of Israel.³ To make matters worse, he does not believe settlements are an obstacle to peace. One of his top advisors was quoted saying: "It is certainly not Mr. Trump's view that settlement activities should be condemned and that it is an obstacle for peace, because it is not an obstacle for peace."⁴ Such statements are welcomed by a number of Israeli officials. Immediately after the election, Education minister Naftali Bennett declared the end of the two-state solution together with the idea of a Palestinian state. Some have suggested postponing plans to pass controversial bills on settlements until the Trump administration has taken up office, expecting to increase chances of success.⁵

Trump's remarks have already paved the way for proposals for more settlement laws that are in direct contravention with international law. The "regulation bill," which would retroactively legalize 4000 housing units in settlement outposts, has recently passed the first reading in the Knesset. The latest version of the bill would allow the Israeli state to forcibly lease private land from Palestinian owners in exchange for monetary compensation.⁶ Israeli law makes a distinction between legal settlements approved by the government and illegal settlements called outposts. Legal settlements under Israeli law provide inhabitants with five-year tax exemptions, electricity supply, 90% coverage for the cost of housing, and governmentally administered infrastructure.

Amona

The outpost of Amona is the main reason the proposal to legalize outposts was put forward. In 2008, the Israeli High Court ruled in favour of Palestinians whose private land the settlement outpost was built on. The same Court has ordered the evacuation of the outpost by 25 December 2016. On Monday, 5 December 2016 the Knesset pushed forward on a controversial bill (the regulation bill) that will allow the government to recognize outposts built on private Palestinian land. The regulation bill does not include overriding the High Court decision on Amona.⁷

Even though a clause on Amona has been left out of the regulation bill, the Israeli minister of justice, Ayelet Shaked, stressed its 'historical dimension' by calling it one of the most proudly written pages in Israeli history, and a return to Zion. She said she will "work hard during the golden anniversary (50 years) of the great victory of the 1967 war which started the eradication of challenges and threats to the settlements. Amona people, I salute you, you are the real heroes of this historical achievement."⁸

Jerusalem mayor Nir Barkat stated that the regulation bill means that Israel is moving away from the idea of a Palestinian state. In the Israeli newspaper Ma'ariv he called it the arrow head for full annexation and control by imposing Israeli sovereignty on the West Bank. According to Barkat, the regulation bill is a comeback for the 'national camp' and a repetition of the 1977 coup where Israeli right took control after defeating 30 years of rule by the left.⁹ He also stated that the High Court decision to remove Amona would have implications for the city's east, 'where Arabs have illegally built on private or municipal land'.¹⁰ Since it is made nearly impossible for Palestinians to get a permission to build in East Jerusalem, this statement poses a major threat to the livelihood of Palestinians who are already living in the city as second class citizens because of Israeli discriminatory policies against them. Demolitions of Palestinians homes have severely increased in 2016. It should be reiterated that East Jerusalem is part of the occupied Palestinian territory which makes any kind of settler implantation or forced population transfer illegal under international law.

Last night, after the Likud bloc meeting, Netanyahu stated that any solution they will choose will allow the population of Amona to continue living as a community.¹¹ Last week, plans were announced to move Amona to private land owned by people from Silwad village.¹² Israel considers this land to be "left land". The Ottoman Land Code, applied during the British Mandate, used this term (also referred to as *Miri*) for feudal land or 'vacant' land. The people in Silwad are not able to access their private land located in area C due to its classification as a military zone. Because they cannot access it, Israel considers it to be 'vacant'. With the assistance of Yesh Din, an Israeli human rights organization, legal appeals against this plan have been filed.¹³ Currently there are only two options left, on land that Israel considers to be 'absentee property'.¹⁴

The Israeli settlement policy in the West Bank and East Jerusalem brazenly contradicts international law. The international community, including the US, have expressed their concern about the regulation bill, but this is not enough.¹⁵ The lack of the international community and third state parties' action encourages Israel to continue these violations. The United Nations and its member states, including the future US administration of Donald Trump, therefore, share responsibility for Israel's settlement activities and Israel's threat to evict protected persons under fourth Geneva Convention from their homes in East Jerusalem.

CCPRJ therefore calls upon the international community to give a protective response by:

- Holding Israel accountable for its settlement policy and recall that Israel's occupation, including its illegal annexation of East Jerusalem, amounts to serious violations of IHL and IHRL;
- Assuming its international responsibility to cooperate to end colonialism and apartheid, in addition to non-recognition/assistance, and adopt effective measures for this purpose;
- Calling for sanctions against Israel at the UN Security Council.

¹ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), Geneva, 12 August 1949, article 49(1) and (6).

² Draft Declaration on Population Transfer and the Implantation of Settlers, presented as Annex II in "Human Rights and Population Transfer: Final Report of the Special Rapporteur, Mr. Al-Khasawneh", UN Doc. E/CN.4/Sub.2/1997/23 (27 June 1997); UN Security council resolutions 446, 452, 465, 471 and 476, considered the settlements to have "no legal validity" under Geneva Convention IV.

³ Peter Baker, An Embassy in Jerusalem? Trump Promises, but So Did Predecessors, New York Times, 18 November 2016, available at: http://www.nytimes.com/2016/11/19/world/middleeast/jerusalem-us-embassy-trump.html?_r=0.

⁴ Ruth Eglash, Top Trump adviser says Israeli settlements are not an obstacle to peace, Washington Post, 10 November 2016, available at: https://www.washingtonpost.com/world/middle-east/top-trump-adviser-says-israeli-settlements-are-not-an-obstacle-to-peace/2016/11/10/8837b472-5c81-49a3-947c-ba6a47c4bc2f_story.html?utm_term=.af96cc516eba.

⁵ Michael Wilner, Postpone Amona bill until after Trump inauguration, Lieberman says, Jerusalem Post, 3 December 2016, available at: <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Postpone-Amona-bill-until-after-Trump-inauguration-Lieberman-says-474311>.

⁶ Israel authorizes bill retroactively legalizing settler outposts in the West Bank, MA'AN News Agency, 30 November 2016, available at: <https://www.maannews.com/Content.aspx?id=773992>.

⁷ Amona settlers reject compromise, vow to resist evacuation, Times of Israel, 6 December 2016, available at: http://www.timesofisrael.com/amona-settlers-reject-compromise-vow-to-resist-evacuation/?utm_source=dvtr.it&utm_medium=twitter.

⁸ *The interview in Ma'ariv was translated into:* Bennet: We move to annexation of the West Bank, Al Quds daily newspaper (only available in Arabic), 7 December 2016, p. 1 and 27.

⁹ *Ibid.*

¹⁰ Jerusalem mayor warns against settlement demolition, Jerusalem Post, 8 November 2016, available at: <http://www.timesofisrael.com/jerusalem-mayor-warns-against-settlement-demolition-2/>.

¹¹ *Supra* note, 8.

¹² Decision to transfer and confiscate new land, Al Quds daily newspaper (only available in Arabic), 1 December 2016, p. 7.

¹³ Ahead of evacuation, new legal troubles set to derail Amona plan, Times of Israel, 6 December 2016, available at: <http://www.timesofisrael.com/three-weeks-before-evacuation-new-legal-troubles-snap-amona-plan/>.

¹⁴ Chaim Levinson and Yotam Berger, Israel Forced to Nix Plan to Relocate Illegal West Bank Outpost of Amona, Haaretz, 6 December 2016, available at: <http://www.haaretz.com/israel-news/.premium-1.757400?=&ts= 1481100334075>.

¹⁵ US calls Regulation Bill 'profoundly damaging', Times of Israel, 7 December 2016, available at: http://www.timesofisrael.com/us-calls-regulation-bill-profoundly-damaging/?utm_source=divr.it&utm_medium=twitter.