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Policy paper: What Israel's 37th government's guiding principles and coalition agreements mean for the West Bank

With the formation of Israel's 37th government and the release of its guiding principles, it has become apparent that Israel is moving towards the annexation of the West Bank in violation of international law. The coalition agreements openly express an intention to apply Israeli sovereignty over the West Bank, or, in other words, annex it.¹

In our assessment, though formal annexation through the enactment of a law applying Israeli sovereignty to the West Bank is unlikely due to foreign policy considerations, the picture emerging from an examination of the various measures included in the agreements is one of annexation without an official declaration. This aim, which is rooted in a clear political ideology, is the foundation for all the measures listed in the coalition agreements.

Notably, the level of specificity included in the coalition agreements is unusual and appears to reflect detailed work plans. Although it is unlikely that the agreements will be fully realized, they provide a clear picture regarding the government intentions, goals and priorities. The agreements provide massive funding to support the further entrenchment and expansion of Israel's settlement enterprise, and for the extensive application of Israeli law, jurisdiction, and administration in the West Bank, adding to the permanence of Israel's presence and control over it.

The planned measures are grounded in an express intent to encourage Israeli citizens to settle beyond the Green Line in blatant violation of Article 49 of the Fourth Geneva Convention. This intent clearly emerges from **the guiding principles adopted by the government, which begin with the following statement: "The Jewish people have an exclusive and indisputable right to all parts of the Land of Israel. The Government will promote and develop settlement in all parts of the Land of Israel - the Galilee, the Negev, the Golan and Judea and Samaria."** The reference to an apparent exclusive right of the Jewish people establishes Jewish supremacy as the central consideration in all government actions in the Occupied Palestinian Territories (OPT) and within Israel.

This document offers a brief overview of the planned measures and trends as they emerge from the coalition agreements, along with an analysis of their impact on the human rights of protected persons in the OPT: annexation, settlement expansion, reduced accountability for security forces and settlers, and shrinking democratic space within Israel's sovereign borders.

The absence of any reference whatsoever to the rights of Palestinians in the West Bank in the coalition agreements with the various parties or the government's guiding principles implies that the Government of Israel most certainly will not grant Palestinians civil status.

¹ In practical terms, there is little difference between application of sovereignty and 'annexation.' In both scenarios, the territory being annexed or the territory over which sovereignty is applied becomes Israeli territory for all intents and purposes. Israeli officials prefer to use the term 'application of sovereignty,' because the act of annexation is prohibited under international law. See: Prof. Amichai Cohen, All You Need to Know about the Application of Sovereignty, **Israel Democracy Institute**, June 2020.

A. Annexation of the West Bank to Israel

‘Application of sovereignty,’ meaning annexation, is expressly mentioned in the coalition agreements signed with the Religious Zionism (*Hatziyonut HaDatit*) and Noam parties.² Even without a formal declaration, annexation of the West Bank will be pursued in practice through: structural changes to the operation of the military government; expansion of the application of Israeli law – to Israelis only - in the West Bank; regularization of all illegal construction in settlements and outposts; and massive expansion of the settlement enterprise through dispossession of Palestinian land.³

1. Structural changes to the operation of the military regime

Additional minister in the Ministry of Defense: Prior to the formation of the government, Basic Law: The Government was amended to allow for the appointment of an additional minister within the Ministry of Defense. Once the government was formed, MK Bezael Smotrich, head of Religious Zionism, received the appointment.⁴ The newly formed ministerial portfolio assumed power over the Coordination of Government Activities in the Territories (COGAT) and the Civil Administration, and took over control of the office of the legal advisor to the West Bank from the military (by introducing positions reserved for civilians who will henceforth perform this function as members of the Israeli civil service, which has profound implications for their duty of loyalty in that they serve the interests of the Israeli public). The office of the legal advisor will henceforth answer directly to the minister, who will also have the authority to approve state responses in High Court cases involving the West Bank.⁵ These new powers further politicize key aspects of the military regime in the West Bank and turn over central functions to civilian hands, effectively unraveling the legal framework governing occupation and violating international law by relieving the military commander of governing powers it reserves for him exclusively. These measures essentially introduce the function of a would-be governor of the West Bank, who, according to the coalition agreements, subsumes all governmental powers in the OPT with the exception of operational functions of using military force. In other words, purely security-related functions and policies will remain under the purview of the military commander, who answers to the minister of defense.

In this state of affairs, the main consideration will shift - not only in practice, but now also in official policy - from defending the interests of the protected population (Palestinian residents of the West Bank), as required by international law, to promoting the political and strategic interests of the occupying power (Israel) for the benefit of its own citizens, while pursuing the vision of Jewish supremacy this government has adopted as its credo.

² Section 118 of the coalition agreement with Religious Zionism and Section 26 of the agreement with Noam.

³ The agreements also ensure control of the historical narrative and historical ties to West Bank lands: The Israel Antiquities Authority and the Council for the Preservation of Israel Heritage Sites will be handed over to the Minister of Heritage Affairs, a member of the Jewish Power party, giving powerful tools for strengthening the Jewish-Zionist narrative and erasing Palestinian identity from the region. Sections 97, 121 and 144 of the agreement with Jewish Power as well as the appointment of a minister of heritage affairs from the party and the transfer of the following units to his purview: The Israel Antiquities Authority, the Council for the Preservation of Israel Heritage Sites, and regulations governing support for nonprofits and public institutions engaging in heritage development.

⁴ [Basic Law: The Government, Amendment No. 11](#) (Hebrew) dated December 27, 2022, as well as Section 6.4 of the coalition agreement between Likud and Religious Zionism.

⁵ Functions appendices to the coalition agreement between Likud and Religious Zionism, Section 21.

The Ministry of National Missions: This ministry, staffed by MK Orit Strook, from the Religious Zionism party, will overtake the Settlement Division, the body in charge of establishing and supporting settlements on behalf of the government.⁶ The ministry will produce a five-year plan to support and develop the settlements, within the framework of which many resources will be allocated to improve the living conditions of the settlers.^{7,8} Extending the ministry's powers and areas of control means broadening and further ingraining the policy of preferential treatment for the Jewish population, halting Palestinian development, effecting separation between Jews and Palestinians.

Centralization of enforcement powers: Prior to the formation of the government, the Police Ordinance was amended to give the Minister of National Security broader powers to formulate policy and set priorities, undermining the independence of the police. Once the government was formed, MK Itamar Ben Gvir, head of the Jewish Power party, was appointed as Minister of National Security.⁹ The broader powers given to the minister of National Security include bringing various enforcement agencies under his purview, including the Israel Police, the Border Police as a separate enforcement agency, the Land Enforcement Authority, the Green Patrol, the Green Police and the National Authority for Community Security.¹⁰ These agencies have enforcement and operation powers in the West Bank and East Jerusalem in relation to public and private spaces. This move is expected to significantly increase selective enforcement against Palestinians.

2. Expanding the application of Israeli law to Israelis (only) in the West Bank

The coalition agreements and their appendices contain clauses which institute measures towards systemizing legislation designed to expand the personal application of Israeli laws to Israeli citizens living in the West Bank and ultimately harmonize the legal framework applicable to them with the one applying to Israelis living inside Israel's sovereign borders.¹¹ Even if pursued through military legislation (military orders issued by the military commander), the effect would be ingraining and institutionalizing a dual legal system in a single geographical unit: a civilian legal system that provides a broad range of rights and protections for the settlers, and a system of military law with minimal protections for Palestinians. The two systems are not only separate and distinct. They are designed to ensure Israeli control over the resources of the occupied West Bank and to establish and maintain the domination and oppression of one national group over another. Striving to establish and maintain such a system meets the legal definition of the crime of apartheid.

⁶ Section 122 of the agreement between Likud and Religious Zionism.

⁷ Section 123 of the agreement between Likud and Religious Zionism.

⁸ E.g., Sections 120, 130 of the agreement between Likud and Religious Zionism.

⁹ Section 5.1 of the functions appendices of the coalition agreement between Likud and Jewish Power.

¹⁰ Section 5.1.6 of the functions appendices of the coalition agreement between Likud and Jewish Power.

¹¹ Section 21.6 of the functions appendices of the coalition agreement between Likud and Religious Zionism and Section 96 of the agreement between Likud and Jewish Power.

B. Massive expansion of the settlement enterprise and incentives for Israelis to move to the Occupied Territory.

Regularization of unauthorized construction¹² - outposts and settlements: The government is expected to employ a variety of tactics to advance the regularization of all illegal Israeli construction in the West Bank, including outposts, farms, shepherding outposts and neighborhoods and extensions built in existing settlements. This includes illegal construction on privately owned Palestinian land that cannot be regularized under existing laws.¹³ Many of the outposts were deliberately established in strategic locations with the aim of preventing Palestinian development and severing geographic contiguity between Palestinian communities.

Massive expansion of the settlement enterprise: Numerous clauses in the coalition agreements present a detailed work plan for support and further expansion and development of the settlement enterprise, including massive funding and dedicated staff positions. Measures include plans for road development;¹⁴ plans for developing and strengthening settlements, including specific plans for the expansion of the settlement in Hebron;¹⁵ massive funding for the Settlement Division and the regularization of its status;¹⁶ service and quality of life improvements;¹⁷ the removal of barriers to the construction and establishment of settlements and the inclusion of settlement enterprise needs in national planning;¹⁸ equal benefits for Israeli farmers in the West Bank (as compared to farmers inside Israel); incentives for Settler agriculture in Area C;¹⁹ and preservation of open spaces.²⁰ In addition to all this, the coalition agreements provide settlers tax

¹² While according to international law, all settlements established by an occupying power in occupied land are illegal, Israeli law does not prohibit the establishment of settlements on occupied land, and the Israeli government considers settlements built with government approval to be legal. Settlements built without government approval are referred to as "unauthorized outposts", and all similar construction in neighborhoods and extensions in settlements is referred to as "unauthorized construction." Notably, unauthorized construction is considered illegal according to Israeli law as well. A large proportion of the unauthorized construction, in outposts and elsewhere, is located on privately owned Palestinian land.

¹³ The government will form a ministerial team tasked with regularizing outposts (Ministerial Team for the Regulation of Young Settlement in Judea and Samaria) headed by the Prime Minister; Section 6 of the coalition agreement between Likud and Jewish Power, and Section 9 of the coalition agreement between Likud and Religious Zionism' additionally, Sections 119, 131 and 149 of the coalition agreement between Likud and Religious Zionism; section 151 of the coalition agreement between Likud and Jewish Power; Section 180 of the coalition agreement between Likud and Shas, and Section 3 of the agreement between Likud and Agudat Yisrael. Agreements also include the revocation of the Disengagement Law and the regularization of the Homesh outpost: Section 124 of the agreement with Religious Zionism; Section 119 of the agreement with Jewish Power and Section 28 of the agreement with Noam; The promotion of the Evyatar settlement plan: Section 125 of the agreement with Religious Zionism; Section 149 of the agreement with Jewish Power and Section 29 of the agreement with Noam.

¹⁴ Section 129 of the agreement between Likud and Religious Zionism; Section 98 of the agreement between Likud and Jewish Power and Section 27 of the agreement with Noam.

¹⁵ Section 123, 126, 143 and 150 of the agreement between Likud and Religious Zionism; Sections 145 and 150 of the agreement between Likud and Jewish Power.

¹⁶ Section 122 of the agreement between Likud and Religious Zionism.

¹⁷ Section 120, 130 and 138 of the agreement between Likud and Religious Zionism; Sections 96 and 105 and 148 of the agreement between Likud and Jewish Power.

¹⁸ Sections 121, 132 and 133 of the agreement between Likud and Religious Zionism and Sections 96 and 118 of the agreement between Likud and Jewish Power.

¹⁹ Section 140 and 149 of the agreement between Likud and Religious Zionism; Sections 143 and 147 of the agreement between Likud and Jewish Power.

²⁰ Sections 138, 150 and 155 of the agreement between Likud and Religious Zionism; Section 143 of the agreement with Jewish Power; Section 3 of the agreement between Likud and Agudat Yisrael.

breaks, and some settlements would be included in national priority and financial aid government schemes.²¹

The aggregate of the above indicates that the government is planning to incentivize Israeli citizens to move to the occupied West Bank, in blatant violation of the provisions of international law.

The agreements include a commitment to renewing the settlement of title process (land registry) in the West Bank, which was halted when Israel captured it in 1967.²² This measure, which determines land ownership registration in the West Bank, has critical implications for Palestinians' property rights in the OPT. Given Israel's legal approach to proof of ownership (which differs from practices prior to the Israeli occupation), and Palestinians' lack of access to the relevant databases, the measure is expected to dispossess Palestinians of property rights on a colossal scale, effecting a broad, long-term change in the occupied territory. The agreements also provide for changes to security legislation such that 'enemy property' would be restored to Jewish owners or their descendants.²³ The property in question consists of lands and other real estate owned by Jews prior to 1948, which are now in the hands of Palestinians or held in trust by the Custodian of abandoned property. A similar arrangement, in place in East Jerusalem, has served as a major tool for dispossessing Palestinians of their property and expanding settlements. Needless to say, the law does not apply to property owned by Palestinians in West Jerusalem prior to 1948, nor is it expected to apply to property originally owned by Palestinians within Israel.

Settlement expansion, massive infrastructure development and the allocation of vast areas to settlers for farming and shepherding all mean, first and foremost, the ouster of Palestinians from Area C and the dispossession of those among them with title to lands, in violation of property and other rights. For instance, denying Palestinians access to large areas in conjunction with building road systems designed primarily to serve the needs of the settlers and preventing Palestinian development will dramatically decrease Palestinian freedom of movement within the OPT and fragment West Bank areas where Palestinians live into isolated enclaves.

C. Reduced accountability of security forces and settlers

Under the guise of improving governance and security, the government will work to undermine agencies, mechanisms and arrangements meant to ensure accountability regarding Israeli security forces and law enforcement on Israelis who harm Palestinians. This is an attempt to abdicate the fundamental duty to protect Palestinian residents of the OPT and give those who harm them greater impunity. Lack of accountability and blanket impunity may result in increased violence against Palestinians.

This direction is reflected, first and foremost, in the guiding principles adopted by the new government, whereby it shall work to "strengthen security forces and support soldiers and police officers." According to the coalition agreements, the government will take action towards enacting laws enshrining and expanding

²¹ Sections 136, 137 and 143 of the agreement between Likud and Religious Zionism; Sections 145 and 168 of the agreement between Likud and Jewish Power; Section 2 of the agreement between Likud and Agudat Yisrael.

²² Sections 139 and 132 of the agreement between Likud and Religious Zionism.

²³ Section 127 of the agreement between Likud and Religious Zionism.

the impunity afforded to soldiers who harm Palestinians and their property²⁴ (It is important to note that *de facto* impunity already exists, with less than one percent of complaints filed resulting in indictments).²⁵

As noted, with the amendment of the Police Ordinance, the Minister of National Security (MK Ben Gvir, head of Jewish Power party) was given extensive powers enabling him to set priorities and determine policies for the police.²⁶ This includes the ability to intervene in policies pertaining to the investigation and arguably prosecution of Israeli civilians who harm Palestinians, giving them broader *de facto* impunity and even formalizing their impunity.²⁷ The coalition agreement also stipulates that the Minister of National Security will re-examine the open-fire regulations (rules of engagement) used by the police and have the power to change them.²⁸

Reduced accountability plays a significant role in Israel's aspiration to increase its control while shutting out and dispossessing Palestinians, as it creates conditions in which they are put at risk of harm and abandoned to their fate. Israel cynically couches this in the language of security needs and rule of law, yet entirely ignores its duty to ensure the safety of the protected persons. And so, under the guise of improving governance, Jewish supremacy is being established in the occupied territory as an element in the implementation of annexation.

D. Reduced democratic space within Israel's borders

The work of curbing illegal government action and human rights violations against Palestinians in the OPT has been done so far, within Israel, by civil society organizations and the Israeli judicial system. Although the measure of restraint achieved has been limited, watch dogs are indispensable for critiquing the regime's actions, keeping its power in check and preventing human rights violations against minorities or individuals who are denied civil rights altogether, such as Palestinian residents of the OPT. The new government is aiming to effect a regime change which includes suppressing checks and balances, partly in order to give it the freedom to execute its policy of annexation.

The regime change will be reflected by a significant weakening of the authorities, agencies and institutions intended to keep government action in check. The planned reform in the judicial system,²⁹ together with the enactment of the override clause,³⁰ will substantially undermine judicial oversight of the government. Turning the office of legal advisor into a political appointment made directly by elected officials,³¹ and therefore beholden to them, rather than professional appointments made through tenders issued by the

²⁴ Section 115 of the agreement between Likud and Jewish Power.

²⁵ [Law enforcement against Israeli soldiers suspected of harming Palestinians and their property](#), data sheet, **Yesh Din**, December 2022.

²⁶ Section 5.1.1 of the appendices to the agreement between Likud and Jewish Power.

²⁷ Section 8d of the [Police Ordinance Amendment Bill \(Powers\)](#) - 2022; passed first reading on December 19, 2022.

²⁸ Section 103 of the agreement between Likud and Religious Zionism. See also section 104 of the agreement between Likud and Jewish Power with respect to extending the Dromi Law, an Israeli law that exempts individuals who harm intruders into homes, businesses and farms from criminal liability, such that it would also apply to IDF bases and training grounds, police stations and other security facilities.

²⁹ Section 29 introduction of coalition agreements with Religious Zionism, Otzma Yehudit, Shas, and United Torah Judaism.

³⁰ Section 30 introduction of coalition agreements with Religious Zionism, Otzma Yehudit, Shas, and United Torah Judaism.

³¹ Section 31 introduction of coalition agreements with Religious Zionism, Otzma Yehudit, Shas, and United Torah Judaism.

relevant ministry (as is current practice) also significantly weakens government oversight and fundamentally alters the checks and balances that are essential to Israel's system of governance.

Another significant step in this context is silencing critical voices within Israel and reducing freedom of political expression,³² including going beyond the previous government's designation of the six Palestinian organizations as terrorist organizations by targeting Israeli human rights and civil society organizations that criticize and challenge government policy in the OPT by branding them as illegitimate. Such measures may take the form of taxation on donations from "foreign governmental entities" designed to harm the organizations financially, limit their operations and possibly put them out of action altogether.³³ A host of other tactics may also be used to delegitimize organizations, undermine their work and limit their funding.

³² Section 66 of the government guiding principles and Sections 82, 131 and 135 of the agreement between Likud and Jewish Power.

³³ Section 136 of the agreement between Likud and Jewish Power.

Conclusion

The coalition agreements construct a political vision which culminates in the annexation of the West Bank, with Palestinians stripped of rights and protections, and translate it to a detailed work plan, using euphemisms to create a mirage of good governance. **Many elements of this vision may come to fruition under this government, but it is important to understand that even if only a few of the aforementioned clauses are ultimately implemented, a regime change is expected to take place in the West Bank and, in its wake, a further, significant decline in the state of Palestinian human rights.**

Therefore, the coalition agreements must be viewed as a whole that is greater than the sum of its parts - under the guise of sovereignty, annexation will be effected and Israel's control of the West Bank will grow and solidify; under the guise of "the Jewish people's right to the Land of Israel" and support for the settlements, intensive settlement development will be pursued and Israeli presence in the West Bank will increase; under the guise of equality (between Israelis on both sides of the Green Line) the existing legal gap, whereby settlers enjoy rights in vast excess of those granted to the Palestinian residents of the OPT, will grow wider; in the name of a national campaign to restore personal security, security forces will become even less accountable, leaving Palestinians more vulnerable to violence and exacerbating the hardship they already endure; and, finally, in the name of improving governance and restoring a proper balance between the branches of government, democracy within sovereign Israel will be weakened as the system of checks and balances is eroded and civil opposition to government action is silenced.

All of the above means Jewish supremacy in the West Bank will be bolstered; Palestinians will continuously be pushed out of Area C, those among them with affinity to lands will be dispossessed and deprived of their property rights; and the obligations of the occupying power will be abdicated as the rights of protected persons are violated and international law is breached. The new government is, therefore, set to effectively violate two key principles of the regime of occupation – temporariness and trusteeship, and further entrench the regime of apartheid in the West Bank.

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