



## ACTION MEMO: Israeli Annexation & Anti-Democracy Moves

Dylan Williams, J Street Senior Vice President for Policy and Strategy

Dr. Debra Shushan, J Street Director of Policy

February 13, 2023

---

Amid an escalation in deadly violence in the West Bank and East Jerusalem – including recent terror attacks that killed Israeli civilians, including two young children, as well as Israeli raids against militants that killed Palestinian civilians – Israel’s new ultra right-wing government [decided](#) this week to move forward with a series of provocative and consequential steps toward West Bank annexation and removal of judicial restraints on its executive power.

The government decided to take the following **major steps toward annexation**, which intentionally preempt prospects for a peaceful two-state outcome to the Israeli-Palestinian conflict by converting significant West Bank land into territory functionally attached to Israel, while further shrinking and isolating the small pockets of disjointed land left for Palestinians living under military occupation:

- “Regularizing” or “legalizing” nine outposts in the occupied West Bank that are illegal under both Israeli and international law, turning them into new, authorized settlements;
- Connecting dozens of other still-illegal outposts to Israeli state-provided infrastructure like water and electricity; and
- Convening the planning and zoning committees of Israel’s Civil Administration in the occupied West Bank to approve the planning and building of thousands of new housing units in existing settlements – possibly the largest ever single approval of such units.

The government also moved to **neutralize the judiciary and eliminate checks on its power** by advancing through Knesset two bills that are integral parts of the Netanyahu government’s [plan](#) to subvert Israel’s judicial system, serving Netanyahu’s personal interest in [evading conviction](#) on corruption charges and his government’s goal of removing the Supreme Court as an obstacle to the radical reforms contained in its [coalition agreements](#), including those regarding annexation:

- Moving a bill to functionally [terminate](#) the Supreme Court’s power of judicial review on foundational issues by preventing the Court from considering the validity of Israel’s Basic Laws – which stipulate civil rights and the powers and functions of Israel’s governing bodies, in the absence of a formal Constitution – or amendments to them; and
- Advancing a second bill that would allow the governing coalition to pack the judiciary with judges of its own choosing, in contrast to the [current system](#) which requires judges and politicians to achieve a consensus upon the appointments of new judges to Israel’s Supreme Court and all other civil courts. According to the [proposed law](#), five of nine members of the selection committee would be members of the coalition government, and a bare majority of five votes would be required to appoint judges.

## Taking Action: Recommendations for the Biden Administration and Congress

The Biden Administration has [reportedly](#) been weighing in privately against such moves with top Israeli officials for several weeks. In response to the Israeli government's decision to move forward with the West Bank steps this week, Secretary of State Antony Blinken [said](#) the United States was “deeply troubled” and “strongly oppose[s] such unilateral measures, which exacerbate tensions and undermine the prospects for a negotiated two-state solution.”

Just days before, President Biden himself cautioned against the moves to undermine Israel's judiciary with a measured [46-word warning](#) that: “The genius of American democracy and Israeli democracy is that they are both built on strong institutions, on checks and balances, on an independent judiciary. Building consensus for fundamental changes is really important to ensure that the people buy into them so they can be sustained.”

The magnitude of the Israeli government's provocative moves toward annexation and against the democratic rule of law at this volatile moment merit an urgent and more forceful US government response. At a minimum, **the Biden administration and US lawmakers should take the following steps:**

- Publicly and consistently make clear that there is a distinction in international law and US policy between the State of Israel and the territory it controls in the West Bank, and that the United States does not regard West Bank settlements as consistent with international law or as part of Israel;
- Reinforce US and international differentiation between Israel and the West Bank through steps like [restoring](#) the longstanding bipartisan customs guidance on accurate labeling of West Bank goods;
- Indicate that use of US-origin military equipment or aid in connection with acts toward annexation like evictions, demolitions, forced relocations and the construction of civilian infrastructure designed to benefit settlers could trigger investigations into whether such use constituted a violation of existing US arms export control or aid law;
- Make clear to Israeli officials that the United States will not block accurate, appropriate criticism of acts toward annexation like evictions, demolitions and forced relocations in international fora, including in the United Nations Security Council;
- State that the shared values upon which a strong, crucial US-Israel relationship rests are premised upon democratic systems underpinned by an independent judiciary that acts as a check upon executive power and protects civil liberties — and that an erosion in Israeli democracy would negatively impact the bilateral relationship; and
- Remind Israeli officials that compromising judicial independence can impact the decisions of international bodies like the International Criminal Court as to the adequacy of domestic remedies, making review of Israeli actions by such bodies more likely.