

# The U.S. Recognition of Israeli Sovereignty over the Golan Heights: A Threat to International Peace

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**ABSTRACT** *This research shows that the U.S. recognition of Israel's sovereignty over the Golan Heights is a radical shift in U.S. policy regarding the ownership of lands seized by military force since the Second World War. It is also considered a new and implicit abandonment by Washington of its commitment as a guarantor of the post-war international order. Moreover, this recognition will set a precedent for other countries to militarily seize any lands they claim are vital to their strategic security. Crucially, this recognition does not have any legal effect. It is null and void, with no international value or legitimacy, and is a clear violation of the provisions of international law and international treaties, agreements, covenants, and norms. It also threatens international peace and security and incites other countries to seize illegally the lands of their neighbors. Furthermore, it is contrary to all resolutions that have been issued in a legitimate manner, including those issued by the United Nations obligating Israel to return these lands. The Golan is legally recognized internationally as occupied Syrian territory before and after this recognition. Since the right to self-determination is linked to peoples and not to states, Israel cannot confiscate this right under the pretext that "the Syrian state has engaged in an aggressive war against its people."*

**Keywords:** Golan Heights, Israel Occupation, International Law, United States, United Nations

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## Introduction

**E**ven though Israel formally annexed the Syrian Golan Heights on December 14, 1981, after initially occupying it during the Six-Day War in 1967, this action violated international laws, rules, and treaties (which forbid the occupation of another country's regions by force), and was nationally and internationally condemned, especially by the United Nations Security Council. The latter issued a resolution No. 497 on December 17, 1981, stating that “the Israeli decision to impose its laws, jurisdiction, and administration in the occupied Syrian Golan Heights is null and void and without international legal effect.”<sup>1</sup>

However, Israel has ignored all international resolutions condemning and strongly rejecting the Israeli annexation decision. Thus, Israel has consolidated its control over the occupied Golan, expelled its inhabitants, established settlements, as well as exploited the natural resources of the Heights. It has used the high mountainous terrain for the benefit of its economy as much as to strengthen its security, not taking into consideration that the Golan Heights is still, according to international law, occupied Syrian territory and that the Israeli presence is violating these same laws.

Regardless of Israel's adherence to its annexation decision and its establishment of Jewish settlements on the Golan, the legal status of the occupied Golan Heights remains unchanged internationally. However, in recent years, the U.S. has come out of a quasi-international consensus and recognized the sovereignty of Israel over the Golan with a resolution signed by U.S. President Donald Trump on March 25, 2019, in which he declared that the U.S. recognizes the full sovereignty of Israel over the Golan Heights. In an announcement at the White House, accompanied by Israeli Prime Minister Benjamin Netanyahu, Trump declared, “This has been planned for some time.”<sup>2</sup>

The legal status of the occupied Golan has drawn the interest of many researchers, including Robert Granholm, who published a study entitled “The International Borders of the Golan Heights in International Law: Israel, Annexation, and Legal Norms.” Through this study, he concluded that international law prohibits the seizure of territory by force, considering that Israel's claim to sovereignty and actions commensurate with a sovereign state do not alter this basic fact. He pointed out that the legal status of the Golan Heights is Syrian sovereignty and Israeli occupation, which confers upon Israel the duties and obligations of military occupation but which have not changed the legal international borders between the two countries.<sup>3</sup>

In the same context, *Human Rights Watch* considered that the decision of the Trump Administration, which denies the reality of the Israeli occupation of

the Golan Heights, shows its disrespect for the protection of the Syrian population under international humanitarian law. Eric Goldstein, deputy director of the Middle East and North Africa division of the organization, wrote: “President Trump appears to be preparing to destroy the international law that protects the population of the occupied Golan,” adding that “If Trump continues doing that; he could encourage other occupying countries to step up annexation, establish settlements, and plunder resources.”<sup>4</sup>

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Moriel Ram, a Researcher Associate in the Development and Planning Unit, University College London, states that the fact that there is no legal case for annexing Golan cannot be changed and security threats are not a legitimate reason for annexing the territory of another country. He adds, “The position of some legal experts that the territory rightfully belongs to Israel since it was occupied as an act of self-defense stands on shaky ground. It was Israel who invaded Syria which, until the moment of the incursion did not play a significant part in the actual fighting of the June 1967 War.”<sup>5</sup>

Similarly, Eliav Lieblich from the *Just Security* website highlights that in 1970, the UN General Assembly, in its famous Declaration on Friendly Relations (a resolution relied upon by the International Court of Justice to ascertain Customary international law) stated that: “the territorial integrity of a State ... is an inviolable” and “the territory of a State shall not be an object of acquisition by another State resulting from the threat or use of force.”<sup>6</sup>

However, away from the sharp ideological divide that exists in Israeli society, the Golan nowadays enjoys an almost comprehensive Israeli consensus on its importance and necessity for Israel’s security, and it has invoked the civil war in Syria, describing it as “deep intervention by both Iran and Hezbollah.” Therefore, Israel has intended to enhance and double its capabilities and efforts to retain the Golan and make it an integral part of what Israel considers its historical territory, ignoring international laws, treaties, and UN resolutions that do not recognize the legitimacy of the Israeli presence in the Golan.

## **The Golan Heights: Location, Importance, and Geographical Features**

Despite security and military needs, the geography of the occupied Golan Heights, its natural wealth, and water resources serve as Israel’s primary mo-

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land, and subject the remaining Syrian inhabitants of the Golan Heights to the laws of Israeli rule.

The Golan Heights is important in terms of water resources, as the rainwater that falls on the Heights, feeds the Jordan River, one of the most important sources to meet Israel's water needs. Furthermore, the Golan Heights possesses numerous natural resources, as it is a fertile land where apple trees and vineyards are planted. According to official Hebrew sources, 21 percent of Israel's vineyard products come from this region, and settlers grow grapes to produce the most luxurious wines.<sup>7</sup> Its Syrian Arab population is famed for cultivating apples, and 40 percent of Israel's cattle production is from the Golan. Furthermore, it is the country's only ski resort and more crucially, half of Israel's fresh mineral water demands originate from the Golan Heights. It is strategically located, with its unique geography and high peaks overlooking the Syrian capital Damascus in the East and other cities in Central and Western occupied Palestine. It also overlooks Jordan and Lebanon, and whoever controls the Heights militarily can reach any place, even with the most basic conventional weapons.

Moreover, the Golan is truly a crossroads and a corridor between all sides, East and West, North and South. This junction has its advantages due to the branching of its highways towards the West, penetrating the high mountain barriers that separate the coastal and inland regions. One of these highways heads North to Marjayoun in Southern Lebanon, and the second Southwest to Marj ibn Amer in Palestine, through the Gesher Benot Ya'akov on the Jordan River.<sup>8</sup>

The Golan Heights includes many historical tourist and archaeological sites dating back to different periods in the town of al-Hama and the valley of al-Batihah, among other areas. A major one is the castle of Nimrud (the castle of Sabiba) built on the peak of Mount Dan (in the hills of Jabal al-Sheikh), East of

Anas overlooking the Palestinian Galilee. Its archaeological facades date back to the Roman era. In the same area are the church of Deir Baniyas and archaeological baths in Khirbet Naran dating back to the Byzantine era. Important finds in the region are the bronze statue of the Princess of the Golan from the first century AD (now located in the National Museum in Damascus) and the golden treasure of Baniyas (currently held by Israel) dating back to the Roman era.<sup>9</sup>

Also passing through the Golan, there is the Hejaz Railway that provided a connection through Palestine to Mecca during the Period of Ottoman Protection of the area, and of current importance is the Trans-Arabian Pipeline (Tapline), which reaches the Lebanese coast in the Zahrani region of Southern Lebanon.

Due to the numerous and significant benefits it possesses, the Golan maintained its importance in modern times as a result of the ambitions of the colonial powers in the Arab countries, including Israel's occupation of it after the June 1967 War.

## **The Israeli Ambitions in Golan Heights throughout History**

Israel has always relied, in its occupation, on the historical narration, and considered it as an indisputable fact, taking advantage of the divine promise and alleged historical right to return to what the founders called the Land of Israel. From here, Israel used the biblical discourse to support the saying “the great and perfect land,” which is based on the saying “every land that their feet have trod upon.”<sup>10</sup>

Accordingly, the occupation of the Syrian plateau was not the result of certain circumstances, but rather an old Israeli proposition. Moreover, the founder of the Zionist movement, Theodore Herzl, talks in his diaries on April 25, 1896, about a dialogue he had with Rev. William Hechler, during which he referred to “the borders of Greater Israel in the North, the Mepadocia (also known as Cappadocia) Mountains in Türkiye, and in the South the Suez Canal.”<sup>11</sup>

In the year 1918, before the Balfour Declaration was issued, David Ben-Gurion (the first Prime Minister of Israel) indicated that Israel's borders, according to his theory, extend “from Mount Hermon in the North to Aqaba (the Red Sea) in the South, and from the Mediterranean Sea in the West to the Syrian Desert in the East.” He called on the Jews to settle in Palestine, Moab, Gilad, and Horan as well. Ben-Gurion set his vision for the borders of the Israeli state, while he was working for its establishment, to include the entire Negev, “Judea and Samaria,” referring to the West Bank, Galilee, the Sanjak of Hauran, the Sanjak of Karak,

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Ma'an, Aqaba, part of the Sanjak of Damascus, and the districts of Quneitra, Wadi Anjar, and Hasbaya.<sup>12</sup>

Similar sentiments were expressed in a letter from the representative of American Zionism, Louis Bernades to Chaim Weizmann, the leader of the World Zionist Organization, in which he demanded that the British government intervene practically to prevent the loss of part of Northern Palestine in the Golan.

With the fall of the Ottoman Empire after the First World War, the leaders of the Zionist movement in the Mandate found that there was a golden opportunity looming on the horizon, to achieve their historical biblical dreams. The World Zionist Organization, led by Chaim Weizmann, submitted a memorandum to the Supreme Council of the Peace Conference in Paris on February 3, 1919, in which it declared the borders it wanted for Palestine (the lands that were to be transferred to the awaited State of Israel).

The memorandum states:

In the North, the border begins with a point located on the Mediterranean coast next to Sidon and follows the watercourses of the Lebanese mountains until Qaraoun Bridge, and from there to al-Bireh, following the line separating the basins of Wadi al-Qarn and Wadi al-Taym, then it runs in a Southerly direction, following the line separating the Eastern and Western slopes of Mt. Sheikh until you reach the vicinity of Beit Jinn, then heads East following the Northern bank of the Mughniyeh River, until it parallels the Hijaz Railway to the West... Any details of the borders or any detailed amendments to them must be applied by a special committee in which the Jews will have representation.

The memorandum continues, "The borders shown above are what we consider essential to the economic foundations necessary for the country. Palestine must have its natural exits to the seas, and its control over its rivers and water sources."

Furthermore, the memorandum says:

Jabal al-Sheikh is the real (father of water) for Palestine, and it cannot be separated from it without inflicting a radical blow on its life... It must therefore



remain under the control of those who are willing and able to restore it to its maximum benefit. International arrangements must be put in place to protect water rights. For the people who live to the South of the Litani River, and if these sources receive sufficient care, they can be used for the development of Lebanon, as well as for the development of Palestine.<sup>13</sup>

Furthermore, in 1921, the American Zionist author Horace Merkallin wrote in his book entitled *Zionism and World Politics*: “The entire future of Palestine is in the hands of the state that extends its control over the Litani, Yarmouk, and the headwaters of the Jordan River, which means control over the Golan Heights.”<sup>14</sup>

## Golan Heights in Israeli Military Strategy

Israel considers that the Golan without peace is more vital for Israel than peace without the Golan. Since Israel’s “independence,” the status of the Golan occupied an important place in Israel’s strategic and political calculations, and the actual course of events was often overshadowed by more popular nationalistic perceptions among the Israeli public.

Hence, the discussion of the “creeping annexation” of the demilitarized zone by Israel was rarely discussed in previous years. In a private interview, Moshe Dayan, who was Minister of Defense during the 1967 War, admitted that when

Israeli soldiers and a military vehicle are spotted close to the Lebanon border in the Israeli-annexed Golan Heights, on January 29, 2015.

SALIH ZEKI  
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Israel opened the Northern Front, the Syrians, on the fourth day of the war, “were not a threat to us.” But the seizure of the Golan Heights during the June 1967 War was portrayed to the Israeli public, as “crucial” because the Syrian army had harassed Northern Israel for many years. Meir Amit, chief of Mossad at that time, confirmed that “The capture of the Golan Heights was essential and was delayed only because Dayan, as Minister of Defense, from the tactical or operational point of view wanted to do it that way.”<sup>15</sup>

Successive Israeli governments have resolved the status of the Golan by affirming that it is indispensable to the national security of the State of Israel. On this basis, Prime Minister Golda Meir, who formed the government after the 1969 elections, outlined the policies of the new government towards the occupied territories and summarized them as follows: “Agreed, secured, and recognized borders will be laid down in the peace treaties... Without a peace treaty, Israel will continue to maintain, in full, the situation as established by the ceasefire and will consolidate its position following the vital requirements of its security and development.”<sup>16</sup> In parallel, the Galilee document that outlined the political vision of the Labor Party towards the occupied territories in mid-August 1973, suggested establishing new settlements on the Golan.

For many years, the position of the Labor Party on the Golan reflected the position of the Israeli right wing rejecting the idea of abandoning the occupation of the Heights. In line with Labor’s policy, Minister of Defense Shimon Peres presented a peace plan that would include “territorial continuity in Sinai and Golan Heights and settlements on the Golan Heights for the defense of the valleys, and the Jordan as the border from which Israel’s security commences.”<sup>17</sup>

Former Prime Minister Yitzhak Rabin declared in December 1975, “Even in the context of a real peace, we will not go down from the Golan Heights.” During the 1992 election campaign, he was not indifferent to the Golan’s strategic value.<sup>18</sup> Since the late 1970s, Likud has followed the same path as the extremist Labor Party, where former Prime Minister Menachem Begin declared that Israel “cannot descend from the Golan Heights. This is the general consensus that I can express now.”

On the eve of the Madrid Peace Conference in 1991, Prime Minister Yitzhak Shamir affirmed that all “political elements in Israel agree that the Heights are a vital component in the defense of Israel.”<sup>19</sup> Similarly, former Chief of Staff and Minister of Agriculture Rafael Eitan warned in March 1991 that Israel should not forgo the Golan, even if this means that no formal peace agreement is signed with Syria. Likewise, former Mossad chief Yitzhak Hoffe had declared that he is ready to forgo peace if the quid pro quo must be to return to

the Golan Heights because peace is a relative situation and could change. Current Labour leader Ehud Barak (as chief of staff) and Netanyahu's Defence Minister Yitzhak Mordechai (as head of the Central Command) have strongly argued in favor of Israel retaining the Golan even during peacetime.

**The Golan's regional position has maintained its usefulness and significance even in the era of unconventional weaponry like ballistic missiles, hypersonic missiles, or drones**

### **Israel's Arguments for Continuing Its Occupation of the Golan Heights**

One of the various arguments and explanations used by Israel to justify its maintenance and control of the Golan Heights is that the Golan Heights is essentially a security issue and a significant strategic asset to Israel's security and military leadership. The Golan's regional position has maintained its usefulness and significance even in the era of unconventional weaponry like ballistic missiles, hypersonic missiles, or drones (which are the most significant and lethal weapons in recent battles).

The Golan Heights, according to Israeli military doctrine, is not just another geographic landmass: it is about 62 kilometers in length and 25 kilometers in greatest width, and about 300 meters higher than the remaining Israeli territory in the North, but it is undoubtedly a strategic asset with great advantages for any force or army occupying the Heights.<sup>20</sup>

Israel thus emphasizes the strategic significance of the Golan Heights in three primary levels. First it is the defensive level based on which the Heights, with its geographical location, is a defensive area, and "a retaining wall" of the Jordan Valley, the Eastern Galilee and the Panhandle of the Galilee, and all the Northern areas of Palestine occupied in 1948. In addition, it overlooks the Hula Plain, which is considered the food basket of the Hebrew state, as well as Lake Galilee at its Western and Southern sides with very steep rough edges rising between 250-500 meters. Thus, the topographical features of the Golan have made it a military stronghold and key to controlling Northern Palestine, in addition to the fact that the Israeli military presence in the Heights threatens the Syrian vital facilities and provides stable and flexible Israeli defenses against any possibility of Syrian military incursions into Northern Palestine.

Secondly, in terms of the deterrence level, the presence of the Israeli army over the Heights, due to its topographical features and the presence of hills and heights scattered along the map of the Golan, is a great deterrent against any

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Syrian military move and a monitoring area along the horizon for large geographical areas beyond Southeastern Syria. In addition, the Heights constitute a threat to the Syrian capital Damascus, which is only about 60 kilometers from its border. From an Israeli perspective, the IDF's control over the Golan Heights places it in a strategic and tactical power balance with the Syrian Arab Army.

At the tactical level, the issue is due to the topographical composition of the Heights, which makes it a "safe border." In the South of the Heights, the Yarmouk River is a natural obstacle that is difficult to cross by armored vehicles, tanks, and even infantry forces. In the North and East, there are a series of heights extending from Tal al-Saqi in the Southeast to Jabal al-Sheikh in the North, all of which are considered natural barriers that play the role of natural walls and bunkers from the Israeli side.

The peaks and heights of the Golan also provide a view of the desert of the Levant, Jabal al-Arab, the plains of Houran, the areas of al-Lajat and Ghouta Damascus, all the way to Palestine, Transjordan to the mountains of Ajloun, Lake Tiberias, Hula, the mountains of Galilee and Carmel. From the top of Mount Hermon, which stands roughly 2814 meters above the Mediterranean Sea, one can see Tyre, Jabal al-Jarmak in the Galilee region of Palestine, Ras Carmel, and Baroque in Lebanon.<sup>21</sup>

In addition, Mount Hermon and Mount Avital are important natural sites for military monitoring and play a pivotal role in Israeli monitoring of troop movements in and around Damascus and along the Damascus-Beirut highway. Over the years, Israel has established a series of observation posts in the Golan, equipped with the latest electronic surveillance devices that are so vital and impenetrable.

The Heights are considered by Israel to be a water, agricultural, and tourist resource and almost unpopulated territory after the Israeli ethnic deportation of its inhabitants in 1967. In addition, it has climatic characteristics similar to the coastal areas in terms of the annual level of rainwater, which averages 800 mm per year<sup>22</sup> and includes in its surface 280 square kilometers of natural forests with reddish-chestnut soil rich in iron oxides.

Thus, from the Israeli point of view, it has the potential to be settled by more than half a million Jewish colonists and this number will increase over time

as the flow of Jews coming from colonial settlement to occupied Palestine continues.

With the civil war in Syria since 2011, the security dimension of the Heights has grown in importance, and for this purpose, Eyal Zisser, a historian, and expert on Syrian affairs at Tel Aviv University said: “Besides the moral and historical dimensions, the reasons are due to the importance of the Golan as a buffer zone with Syria. We see the chaos in Syria, and the presence of Iran and Hezbollah there.” He adds that the territory is a barrier between Israel and the events in Syria, claiming that from a strategic point of view, it would be preferable for Israel to remain on the heights.<sup>23</sup>

### **Trump’s Statement and Its Impact on the Legal Status of Golan Heights**

On March 25, 2019, then U.S. President Donald Trump signed a declaration recognizing Israel’s “full” sovereignty over the Golan Heights confirming that this had been in planning for a while in a statement at the White House, flanked by Israeli Prime Minister Benjamin Netanyahu. The latter described the recognition as “historic” and said, “The Golan Heights will remain forever under Israeli control, and we will never give it up.”<sup>24</sup>

The U.S. State Department paved the way for Trump’s move by issuing a report that dropped the term “occupied territories” for the Syrian Golan Heights, the besieged Gaza Strip, and the West Bank, which are territories occupied by Israel since 1967. The American annual “Global Report on Human Rights Practices” considered that the Syrian Golan Heights, the occupied West Bank, and the besieged Gaza Strip are areas under Israeli control, noting that previous reports issued in this regard described these areas as “occupied.”<sup>25</sup> Based on this, the U.S. State Department has changed its usual description of the Golan Heights, from the “Israeli-occupied” areas to the “Israeli-controlled” areas.

On the other hand, this recognition is a departure from the international consensus, as experts in international law unanimously agree that U.S. President Donald Trump’s decision regarding the recognition of Israel’s sovereignty over the occupied Syrian Golan Heights is null and contrary to the provisions of international law as well as international covenants and treaties.

These experts believe that the decision is a clear violation of international legitimacy and the Charter of the United Nations, contrary to all resolutions issued regarding the Golan by the United Nations and the UN Security Council. It does not have any legal effect nor value or legitimacy because it violates the provisions of international law that prevent seizing the lands of countries by force, and therefore any support for this seizure is contrary to the provisions of international law.<sup>26</sup>

The rules of international law regarding the occupied Syrian Golan region confirm that this decision is void legally as the U.S. does not have the right to dispose of the lands of any other country, including the Golan. Since this decision was issued by a person who does not have the jurisdiction to act on the status of another country's land, therefore this decision is not considered applicable according to international law.

Accordingly, Syria's failure to exercise its actual authority over the occupied Golan Heights does not affect its legal sovereignty over it. The unjust and temporary Israeli control over the heights does not establish any Israeli right following the principles and rules of international law and relevant international resolutions, nor does it undermine any Syrian sovereignty over all of its various regions.

Syria, too, has never ceded the occupied Golan Heights. The waiver of territories or islands means the official transfer of the right of sovereignty over the lands of one state to another, with the voluntary waiver giving a legitimate right to the new owner. This waiver is usually carried out according to the provisions of a waiver treaty that completely defines the region or part that will be transferred to the sovereignty of the new state.

Occupation, whatever its reasons or necessities, is nothing more than a material incident in international law, no matter how long it lasts, whether it lasts a year or more than a hundred years because the occupation is an actual temporary situation, not a legal legitimacy. Hence, any actions or measures by the occupation authorities that would change the nature, topography, or demography of the occupied territory as it exists in the Golan are considered invalid and illegal and constitute an international crime and the occupying authority accountable for it must be punished following the rules of international responsibility.<sup>27</sup>

The military occupation, whether it is peaceful by agreement or usurper military, cannot in any way nullify the legal sovereignty of the sovereign state over the occupied territory or part of it. It is also impossible for that occupation to transfer the ownership of that occupied territory or any part of it to the occupying state, as long as there is no consensual agreement between the occupying state and the occupied state to annex the occupied lands, and as long as the territorial state does not explicitly concede that occupied territory.<sup>28</sup>

The International Court of Justice has previously cut off any doubt in this regard with conclusive judicial rulings that refute any pretexts, arguments, or justifications for those who adopt Israeli claims regarding its occupation and then its annexation of the Syrian Golan. Among these decisive judicial rulings was what the court issued in the case of the border dispute between Mali and Burkina Faso in 1986. Where the Court ruled that: when a dispute arises between the legal sovereignty over a region with the actual de facto sovereignty

over this region, the right must be returned to the owner of the original legal right.<sup>29</sup>

More than that, the occupying power cannot defend its control over the occupied land or its ownership with claims that it is tantamount to an acquired right for it in the occupied territories, based on the passage of a long period of time since its occupation of the territories.

Since the initial Israeli occupation of the Syrian Golan Heights in 1967, and up to the present moment, Israel has been confronted with official protests and demands not only from the Syrian state but also from the international community without exception. Rather, all successive American administrations have not acknowledged the illegal Israeli measures, whether occupation or annexation, and the weight of evidence rests with those who confirm –whether the U.S. or Israel– and not those who deny, therefore it is impossible to accept that the case of the possessor is better than the case of the plaintiff.<sup>30</sup>

Under international law, the Golan is an occupied land. Its legal status, that it is owned by the state of Syria and that Israel seized it by force, was confirmed by the United Nations, which has issued several resolutions obligating Israel to return these lands to the Syrian state. Therefore, no other country has the power to issue a decision to seize this land and claim ownership of it for the occupying state.

## **UN Resolutions on Golan Heights Violated by Trump’s Statement**

Trump’s statement violated many international resolutions, issued by the United Nations and its affiliated organizations that affirm the illegality of the Israeli occupation and recognize Syrian sovereignty over the Golan Heights, considering it as an integral part of Syria. The above resolutions are summarized as follows:

### ***UN Security Council Resolutions***

- i. Resolution No. 497, issued on January 17, 1981, in which the UN considered that “Israel’s decision to impose its laws, jurisdiction, and administration on the occupied Syrian Golan is null and void and has no international legal effect, and it demanded that Israel immediately can-

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U.S. President Donald Trump and Prime Minister of Israel, Benjamin Netanyahu announce the so-called “Peace Plan of the Century” at the White House in Washington, D.C., on January 28, 2020.

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cel its decision.”<sup>31</sup> The resolution confirmed that “all the provisions of the Geneva Convention issued on August 12, 1949, related to the protection of civilians in times of war, are valid on the Syrian territories occupied by Israel since June 1967.”

- ii. Resolution No. 2334, issued in 2016, stipulated that the Security Council would not recognize any changes to the June 4, 1967 lines, including concerning Jerusalem, other than those agreed upon by the parties through negotiations.

### ***UN General Assembly Resolutions***

- i. Assembly Resolution No. 35-122, issued on December 11, 1980, condemning Israel for imposing legislation involving changes in the nature and status of the Golan.
- ii. Assembly Resolution No. 207-35 issued on December 16, 1980, renews the strong rejection of Israel’s decision to annex the Golan Heights and Jerusalem.
- iii. Resolution No. 36-147, issued on December 16, 1980, condemning Israel for its attempts to forcibly impose Israeli citizenship on Syrian citizens in the Golan.<sup>32</sup>
- iv. Decision 73/255, issued on January 20, 2018, which included the following:
  - a- The General Assembly reaffirms the inalienable rights of the Palestinian people and the inhabitants of the occupied Syrian Golan to their natural resources, including land, water, and energy resources.

- b- Demands that Israel, the Occupying Power, stop exploiting the natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, or destroying, causing their loss or depletion, and endangering them.<sup>33</sup>

### ***Human Rights Committee and Council***

- i. Resolution No. 1, issued in the 43<sup>rd</sup> session, held on February 11, 1982, reaffirmed that the decision taken by Israel in 1981 to impose its laws, powers, and administration on the Syrian Golan is null and void, and called on Israel to cancel it immediately.<sup>34</sup>
- ii. Resolution No. 2, issued in the 32<sup>nd</sup> session, held on February 13, 1967, condemned the continuous violations of human rights in the occupied Arab territories, the alteration of the features of Jerusalem, and the demolition of the city of Quneitra, in violation of the Geneva Convention relating to the Protection of Civilian Persons in Time of War of 1949.
- iii. The Human Rights Council resolution of March 28, 2014, entitled “The situation of human rights in the occupied Syrian Golan,” condemns the Israeli actions in the occupied Golan. The resolution called on Israel to comply with the resolutions of the General Assembly, the Security Council, and the Human Rights Council.

### ***Subcommittee on Prevention of Discrimination and Protection of Minorities***

Resolution No. 11 of September 1, 1987, condemned Israel for violating human rights in the occupied territories, and for its decision to impose its laws and administration on the Golan. In addition to all this, the United Nations’ position, confirming the illegality of the Israeli occupation of the Golan, came after Trump’s decision. This was evident through the statement of the Under-Secretary-General for Political Affairs, Rose Marie de Carlo, who stressed that “the position of the United Nations towards the occupied Syrian Golan is based on the resolutions of the UN Security Council and the General Assembly in this regard.”<sup>35</sup>

In her briefing to the Security Council on the situation in Syria, the UN official said, “We must avoid any misunderstanding or actions that would escalate the situation, and in this regard, the Secretary-General has been informed of developments concerning the occupied Syrian Golan.” She stressed that “the position of the United Nations is based on Security Council and General Assembly resolutions on this issue,” adding that “the efforts of the United Nations to facilitate the political process in Syria, following Security Council Resolution 2254, will continue to support the principles of Syria’s sovereignty, independence, and territorial integrity.”<sup>36</sup>

In the same context, many international organizations, especially *Human Rights Watch*, condemned Trump’s move, saying, “The Trump Administra-

tion's denial of Israel's occupation of the Syrian Golan Heights is a violation of international laws." The New York-based organization added, in a statement published on its website, that "Trump's decision to recognize Israel's sovereignty over the Golan shows its lack of respect for the protection due to the Syrian population under international humanitarian law and international human rights law."<sup>37</sup>

The statement quoted Eric Goldstein, deputy director of the Middle East and North Africa department at the organization, as saying that Trump is "preparing to destroy international law that protects the residents of the occupied Golan." The organization also warned that Trump's decision "encourages other occupying countries to escalate the annexation of lands, the establishment of settlements, and the plundering of resources."

According to the above and after thoroughly analyzing all international resolutions, we can ascertain that the United Nations and all its affiliated institutions, committees, and relevant organizations, when issuing these resolutions, depended on a multitude of facts, historical evidence, and legal principles related to public international law and humanitarian law, which can be condensed as follow:

On the historical side, it is beneficial to travel back several decades, when the Golan Heights, before its occupation by Israel during the Six-Day War in 1967, was an essential part of internationally recognized Syrian territory, as per the armistice agreement signed between Syria and Israel in 1949. Concerning the legal perspective, these decisions were founded on three legal principles:

- i. Sovereignty of states originated from international law which underlines the impossibility of modifying known borders under conditions of war.
- ii. The right to self-determination for people living under occupation (according to public international and humanitarian law), prohibits the annexation of occupied territories if their inhabitants do not consent to secession and annexation.
- iii. The doctrine forces occupying states to fulfill tasks inflicted by the laws of war, including the protection of the population, property, and cultural heritage and preventing any interference with or exploitation of the resources of the occupied territories, which remain under the sovereignty of the parent state (in this case, Syria).

Hence, Trump's decision to assert Israel's sovereignty over the Golan Heights, recognizing its laws, judiciary, and administration, is nonbinding and void, lacking any legal international effect.

## Conclusion

Trump's decision may not have an actual effect on the status quo in the Golan, as it has already been under Tel Aviv's military control since 1967, and in light of the internal conditions in Syria and the Arab countries in general, no change is expected on the ground in the foreseeable future.

Israel, of course, does not value international decisions. Its governments, since its inception, have been practicing a policy of imposing a *fait accompli* by force. However, the Golan Declaration –even if it was accompanied by much less fanfare than moving the U.S. embassy to Jerusalem– goes beyond being a mere departure from American policy or the desire of an arrogant president to enhance his personal credit. According to the American intelligence platform Stratfor, it is a vital step in a broad reconfiguration by the U.S. –perhaps inadvertently– of the agreed standards for managing the global system since the end of the Second World War.

The most important of these criteria is the consensus of international powers to reject the seizure of land by military force, a step that joins many similar American approaches over the past two years, which included renunciation of international agreements such as the Paris Climate Agreement and the Iranian nuclear agreement, the expansion of trade wars and the use of tariffs not only against competitors but also against allies.

In the aftermath of the Second World War, the victorious Allied countries agreed that renouncing the illegal use of force to change borders was the greatest guarantee for preventing a third world war. Despite this, some countries have violated these rules for various reasons and motives. For example, Türkiye with its intervention in Cyprus in 1974, the invasion of Indonesia into East Timor two years later, the Iraqi invasion of Kuwait in 1990, and Russia's annexation of Crimea in 2014. None of these invasions have gained any international recognition, but rather faced or face calls for international interventions to reverse matters and restore the lands to their previous status.

Accordingly, the U.S.' official recognition of Israeli control over the Golan is a radical shift in this policy, a precedent for recognizing ownership of lands seized by military force since the Second World War and a new tacit abandonment by Washington of its commitment as a guarantor of the post-war international order. Furthermore, this recognition will create a precedent for

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## Syria should underline the U.S.' transgression of international humanitarian law in the Golan Heights, exploring the opportunity of pursuing an advisory opinion from the International Court of Justice through the United Nations General Assembly

around the world, foremost of which are the Russian seizure of the Crimea peninsula, as well as Chinese claims in the South China Sea. The presence of ethnic and geographical ties in these areas provides clear strategic motives for both Russia and China. The U.S. declaration of Israeli sovereignty over the Golan Heights will give these claims greater legitimacy, while delegitimizing any American opposition to their actions.

In addition, the U.S.' recognition of Israel's sovereignty over the Golan will directly undermine the chances of reaching any agreement regarding the Palestinian issue. While the announcement of the official annexation of most of the West Bank lands, and perhaps the Shebaa Farms and Kfar Shuba Heights in Lebanon, to Israel, has become expected as a next step at any moment, Trump may be rewarding Netanyahu after winning the elections.

Moreover, Trump's decision is considered an "executive declaration" and not an "executive order," as U.S. presidential declarations do not have any legal obligation compared to executive orders. Therefore, it does not have any legal effect, is legally void, has no international value or legitimacy, and is a clear violation of the provisions of international law and international treaties, agreements, covenants, and norms. It also threatens international peace and security and incites other countries to seize the territory of another country. It is contrary to all the resolutions that have been issued legitimately, including those issued by the United Nations, obliging Israel to return these lands.

The U.S. president and all his advisors realize that "no one can transfer ownership of what he does not own," which is a well-known rule in all domestic legislation, including the U.S. administration. They also realize that all legislation, judicial rulings, and internal executive measures of countries, including, of course, the U.S. –the third party in the Syrian-Israeli equation– that were issued in violation of the rules of international law and the commitments of the

other countries, to seize militarily any lands that they think are vital to their strategic security. It will once more give legitimacy to attempts to use military force as a means to reset and control the borders between countries, in a return to the world before the First World War, when empires continuously devoured each other's lands.

Furthermore, the American move will directly contribute to complicating several major border disputes

state, are considered mere material facts that are not legal in international law and do not change stable legal positions. Here, the Golan is occupied Syrian territory, and accordingly, either the Syrian state or government or any Syrian person with a capacity, can file a lawsuit in the various American courts against the advanced presidential declaration based on international law and the U.S. Constitution itself.

Moreover, the annexation, by unilaterally subjecting the people of the Golan to Israeli sovereignty derived from the occupation, still violates the principle of peoples' right to self-determination, even if the annexation is defensive, as Israel claims. Since the right to self-determination is linked to peoples and not to states, Israel cannot confiscate this right, under the pretext that "the Syrian state has engaged in an aggressive war against its people." Of most concern, it is clear that the same argument of defensive wars can be resorted to by Israel to try to annex the West Bank unilaterally, based on the fact that some extreme right-wing groups in Israel are increasingly calling for annexation. Accordingly, the application of this doctrine could pave the way for a new –and more dangerous– era in the Israeli-Palestinian conflict, as it will release Israel's support for what it deems appropriate for its project from the Palestinian territories, under the pretext of defense.

Finally, Israel will take advantage of Trump's decision to give legitimacy to its long-term goal of annexing the Golan Heights. Based on this ruling, Israel will tighten its hold on these highlands and work to obliterate their Syrian identity. More settlements being built and efforts to take over the Syrian identity with an increasingly Israeli one will accomplish this.

It appears that Syria's sole option, given the global power imbalance that favors the U.S., is to tenaciously hold onto its territory and oppose this choice via diplomatic and legal channels. Syria can claim the Golan Heights as a legitimate, internationally recognized part of its territory on a worldwide and universal basis. To do this, an international diplomatic effort to rally support for Syria against the illegitimate and unfair U.S. action must be launched. Syria should establish specialized legal and political bodies, look for aid, and implore friendly and allied countries to back its attempts to overturn the U.S. ruling. Syrian legal advocacy would be strengthened by supplying historical and legal records, UN resolutions, and fundamentals of international law to legal organizations, especially American and European ones.

Additionally, Syria should underline the U.S.' transgression of international humanitarian law in the Golan Heights, exploring the opportunity of pursuing an advisory opinion from the International Court of Justice through the United Nations General Assembly regarding the legal consequences arising from the repercussions of Trump's decision as a breach of international law.

Most specifically due to its endorsement of settlement crimes, land seizure, reinforcement of racial discrimination between Zionist settlers and Syrian Golan residents, and encouragement of Israel to exploit the resources of Golan inhabitants and their properties, violating their basic rights. ■

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