TERRITORIAL-CLAIMS

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The Israeli-Palestinian conflict is one that has encompassed religious and ideological conflicts, multiple key stakeholders, controversial sacral architecture and the inconclusive question of the application of the Right to Self Determination all in the course of a little over 100 years. This issue traces its origins to the early beginnings of the rise of wide-scale nationalist and religious movements in the late 19th century. Covering all these aspects in this article would be unfathomable, hence this article will mainly focus on the question of the legitimacy of Israel's historical claim over disputed territories and inspect a few previous cases wherein the question has been raised.

“Israel's PM Netanyahu announces post-election plan to annex West Bank”.

This Reuters news headline from September 2019, recently gained extensive traction, with all major news outlets flooding their pages with reports of various statements along these lines made by the Prime Minister of Israel on various Israeli media platforms. It was quick to be labelled an alarming and sudden advancement in the Israeli-Palestine conflict. The TL;DR for those of you who dismissed these reports as false campaign promises (and perhaps rightly so) is that after years of conflict and claims over the holy land, Prime Minister Netanyahu finally went ahead and revealed Israel's plan of annexing key disputed territory - namely regions of the infamous West Bank, along with East Jerusalem and the Gaza Strip. The annexation has been outlined in President Trump's Israel-Palestine peace plan; a plan supposedly aimed at solving the Israeli-Palestinian crisis but one that turns a blind eye to most Palestinian demands to the extent of not even having a Palestinian official being present during its formation. A US-Israeli delegation is set to draw up the exact regional borders shortly. Quite evidently, Prime Minister Netanyahu's statements and intentions are simply in line with those of the P5 nuclear weapon possessing nation supporting them. The pandemic has been a silver lining for the Palestinians as the annexation was set to be put in action starting July; however, a pin was put in the plan for the time being. This allowed for international forums and multiple heads of states to voice their concerns and even outright demand that Israel drop any plans of illegal annexation prior to any escalation of the conflict.

These opinions and threats, however, have so far done nothing to make PM Benjamin Netanyahu waver from his stance. These condemnations by the international community hold little weight as long as Israel has the support of the United States of America- the sole or at the very least, one of the main reasons Israel has gained the ability to be exempt from its international commitments and has not followed Iran or North Korea in being labelled a rogue state.

The criticism for this move ranges from being underscored as simply a strategy for Netanyahu to gain support from the voracious right-wingers in Israel for the upcoming elections, being a major aggravation in the already tumultuous state of affairs in the middle east, an illegal annexation violating various principles of international law and even it soon becoming a major humanitarian crisis for its impact on the lives of the Palestinians. Advocates, on the other hand, see it as a necessary move to keep the integrity of Israeli sovereignty intact due to two major reasons.

The first justification is to secure Israeli borders- a just cause considering the various attempts at infiltration and even wars waged against Israel by its neighbouring nations innumerable times. The sheer number of times conflict has occurred between the same is a startling eight recognized wars, two intifadas, and a series of armed conflicts, all within a very short duration. The second justification is that the Israeli annexation of this territory is its authentic right based on its historical and religious claims of the region. The belief is that the region is the “land of the Jews”, allotted to them by not only divine sanction but also the historical basis of Britain being granted a mandate over the entire region in 1922, and deeming it fit for the establishment of the "National Home" for the Jewish people in the Balfour Declaration. All conflicts in the history of international relations may not trace their history back to the involvement of the British in some unfavourable capacity, but most always will. Regardless, in 1947 Britain terminated its Mandate for Palestine and referred the matter to the United Nations wherein the UNSCOP (United Nations Special Committee on Palestine) and even its ad-hoc committees failed to reach a consensus regarding the decision to be made due to the multiple contrary narratives presented to them from all parties embroiled in the conflict.

All this leads us back to the central perplexing question of discerning between the legitimacy of territorial claims vis-a-vis The Right to Self Determination which is the core focus of this article as well. Territorial claims with a basis in history such as the one made by Israel has been common in the political history of mankind. China being at the very forefront of such territorial issues with its infamous maritime border disputes, Russia, India and various European nations have had claims on territory based on some historical background as well. There is a clear precedent established so far for territorial issues such as this to have remained unresolved, even after UN or ICJ intervention.

This can be seen in the Russian annexation of Crimea and Chinas’ claims in the South China Sea region respectively. The Right to Self Determination follows suit with the unascertained outline of any procedure by which it can be enacted. The Unrepresented Nations and Peoples Organization (UNPO) states that it is “the right of a people to determine its own destiny. In particular, the principle allows a people to choose its own political status and to determine its own form of economic, cultural and social development. Exercise of this right can result in a variety of different outcomes ranging from political independence through to full integration within a state.”. It is important to note that the definition of “a people” in this context has remained undecided but is customarily referred to as established minority groups. It is not the case that independent seceded states haven’t ever been formed as otherwise can be seen in the examples of Kosovo, Eritrea, South Sudan and a few more, however, they have seceded under the extenuating circumstances and through external intervention or agreement by a weakened parent state.

However, multiple cases apart from the one of the Palestinians such as the crucial cases of Catalonia, Kurdistan, Hong Kong, Balochistan, and many more have remained unaddressed so far. It is noticeable that international bodies including the UN view secession and invoking the Right to Self Determination as the last resort to conflict and have only been implemented on a wide scale during dealing with the decolonisation process in the 20th century. It is only actually implemented in other these more recent cases as can be seen in the examples of nations cited above after multiple attempts of reconciliation through different measures and a lot of political turmoil. However, the very idea of Self Determination is to prevent the same turmoil hence it defeats the entire purpose if treated as a last resort option. Furthermore, acknowledging the will of the people should not be deemed as the last resort in the first place.

  On a legal and political spectrum currently, a clear answer to this convoluted issue does exist. According to the Helsinki Final Act of 1975, territorial integrity takes precedence over the principles of Self Determination. This is in accordance with the fact that most nations in the world seemingly maintain following the realist theory of international relations which includes a very similar political philosophy. However, the issue lies in the fact that choosing to insist upon maintaining territorial sovereignty in the face of entire communities being left feeling dissatisfied and even discriminated by those crafting their collective political identity severely undermines the idea that international law was crafted for the purpose of the welfare of the people. If the wishes, rights and desires of people are put secondary to maintaining a mere territorial border, there doesn’t lie much meaning to laws, treaties and international bodies since their very purpose was to ensure the prosperity of people and the very first fundamental chapter of the UN charter isn’t being adhered to. The fact that people enduring living under an identity they do not believe in is dismissed so casually is baffling considering they usually face a high level of intolerance, discrimination or violent instability before resorting to wishing to have their own independent statehood.

There is an urgent need of the international community to dawn upon the realisation that territory should not supersede the rights and desires of a community and its people under any circumstances whatsoever. Paragraph 2 of UN Resolution 1514(XV) states that "all peoples have the right to self- determination" and this very ideal needs to be implemented and enforced for the will of the people overrides all else. International bodies, Governments and all lawmakers and enforcers in a democratic setting must recall the prevailing truth that they were created by the people for the purpose of submitting to the will and welfare of the people and they are accountable to the people.