

What the Deal of the Century tells us about the world we live in



JAMES M DORSEY

THE real issue with US President Donald J. Trump's "Deal of the Century" Israeli-Palestinian peace plan is not whether it stands a chance of resolving one of the world's most intractable conflicts. It doesn't.

More important is the fact that Israel will, in violation of international law, be empowered to unilaterally annex occupied territory and take steps towards creating an ethnically more homogenous state by transferring a significant proportion of the Jewish state's Israeli Palestinian population to what the plan envisions as a future Palestinian entity.

Trump, by endorsing annexation and population transfers that violate the Fourth Geneva Convention, has put Israel at the cutting edge of an emerging new world order dominated by civilisationalist leaders. These leaders think in terms of "might is right" rather than adherence to international law. They envision civilisationalist states that define themselves and their boundaries on the basis of a specific civilisation as opposed to nation states that are determined by internationally recognised borders, population and language, and have little time for the rule of law.

In doing so Trump, like many other likeminded civilisationalist leaders—including India's Narendra Modi, China's Xi Jinping and Myanmar's Win Myint, who pursue discriminatory policies that

marginalise and disenfranchise minorities and undermine social cohesion—is contributing to a world in which mass migration, radicalisation and increased political violence will likely pose threats on a far larger scale than they do today.

If Israel indeed moves ahead with implementation of Trump's plan, it will likely find itself at the forefront of the civilisationalist effort to shape a new world order that pays little heed to human and minority rights anchored in international law, and that rejects agreements on the status of occupied land and people that were forged in the wake of the 20th century's devastating world wars.

Becoming a flashpoint in the struggle for the shape of a new world order could prove to be more of a curse than a blessing for Israel.

It could turn Israel into yet another, but nonetheless prime, example of what civilisationalist politics is likely to produce—an illiberal if not authoritarian state whose policies are at best controversial rather than, as Israel likes to see itself, the Middle East's only real democracy.

Few in the international community, including a majority of Prime Minister Benjamin Netanyahu's civilisationalist counterparts, with the exception of Trump and potentially Brazil's Jair Bolsonaro and Hungary's Victor Orban, would recognise Israel's unilaterally declared post-annexation borders.

Responding to Trump's plan, conservative Gulf states praised US efforts to achieve peace and called for negotiations but were careful not to endorse Trump's blueprint, while the Arab League outright rejected the proposal.



PHOTO: HO/THE WHITE HOUSE/AFP
This map image released by The White House in Washington, DC, on Jan. 28, 2020, depicts the proposed future states of Israel and Palestine.

This did not stop Lieutenant General Abdel Fattah al-Burhan, the head of Sudan's post-popular revolt Sovereignty Council who has close ties to Saudi Arabia and the United Arab Emirates, from meeting Netanyahu a day later in Uganda.

Nonetheless, few in the international community would endorse the deprivation of citizenship of some 300,000 Palestinian Israelis and their transfer, together with their lands, from what is known as the Triangle in central Israel to a future Palestinian state.

Only 13 percent of Israeli Palestinians surveyed last year by the Israel Democracy Institute defined themselves first and foremost as being Palestinian, while 38 percent said their primary identity was Arab.

Meanwhile, 65 percent said they were "proud to be Israelis." An even larger number, 83 percent, said they strived to be full members of Israeli society.

"Peace is made with the enemy. We are residents of the state, and we are not the enemy. The prime minister (Netanyahu) wants to save his skin at the expense of inciting hatred against the Arab population," said Shuaa Massarweh Mansour, the mayor of Taiibe, a town of 50,000 Israeli Palestinians that was included in the plan's suggestion of a population transfer.

Mansour was referring to last month's indictment of Netanyahu on charges of bribery, fraud and breach of trust in three separate corruption cases.

Demonstrations on the West Bank and in the Gaza Strip in response to the Trump plan were fairly muted, but that is no guarantee that implementation will not provoke wide-spread protests directed not

only against Israel and the United States but also the Palestinian National Authority.

Those protests would likely spread to Israeli Palestinians resident within Israeli borders prior to the 1967 Middle East war in which Israel conquered the West Bank, East Jerusalem and the Golan Heights—all of which were annexed before Trump endorsed their incorporation into Israel—and Gaza. An Israeli crackdown on the protesters would only add to the problems created by implementation of the Trump plan.

The plan appears to be designed to pre-empt what would be a worst case civilisationalist scenario, in which continued Israeli occupation would force Israel to choose between being a democracy and a Jewish state, because of demographics that would likely see Palestinians becoming a majority of the population. The irony is that implementation of the plan without Palestinian consent and cooperation could produce the same dilemma.

As a result, Trump's civilisationalist approach towards solving the Israeli-Palestinian conflict and Netanyahu's enthusiastic embrace of the plan threatens to not only put Israel at the cutting edge of the struggle to shape a new world; it risks turning Israel into a poster child of everything that is wrong with civilisationalism.

A podcast version of this story is available on Soundcloud, iTunes, Spotify, Stitcher, TuneIn, Speaker, Pocket Casts, Tumblr, Podbean, Audible, Patreon and Castbox.
Dr. James M. Dorsey is a senior fellow at Nanyang Technological University's S. Rajaratnam School of International Studies, an adjunct senior research fellow at the National University of Singapore's Middle East Institute and co-director of the University of Wuerzburg's Institute of Fan Culture

Protecting the rights of a child offender

The Bangladesh perspective

TAHSIN KHAN

BANGLADESH has a population of more than 160 million and almost half the population are children. Due to their young age, children who come in conflict with the law may not possess the maturity to realise the gamut of their acts, and they should not be exposed to the company of adult offenders since that is likely to have a negative impact on them. Realising this, the government enacted the Children Act immediately after the independence of Bangladesh with the aim of modifying the scattered laws relating to children, with a special focus on child offenders. In *Bimal Das v State*, the High Court of Bangladesh observed: "Juvenile courts are created in recognition of special needs of the young offenders so that a child appearing before the court does not come into contact with adult offenders or come out of trial with unnecessary and unavoidable stigma to his name". The issue of children justice jurisprudence became truly international with the advent of the United Nations Convention on the Rights of the Child (UNCRC) 1989. Bangladesh also became a state party to the UNCRC and in order to live up to the international standard, the Children Act, 2013 was enacted. Generally speaking, the Children Act, 2013 has adopted two approaches to protect the rights of the child offenders: the protective approach and the welfare approach.

According to the Children Act, 2013, a child offender is an offender who is under the age of eighteen years. However, the Penal Code, 1860 stipulates that the minimum age for criminal liability is nine. The same Act further adds that nothing is an offence which is done by a child above the age of nine years and under twelve years, if he does not

possess sufficient maturity to form a rational judgment as to the effect of his conduct. The Children Act, 2013 contains a number of provisions that can be characterised as the "protective approach", that is, the protection afforded to child offenders from ill-treatment. The following is a brief discussion of the protections enshrined in the Act.

Although the UNCRC does not make separate children's courts compulsory, the Children Act, 2013 provides for establishing Children's Courts in every district headquarter. In the absence of such courts, the Court of District and Sessions Judge can carry out the responsibilities of a children's court. In order to avoid any harm being caused to the child offender, the Children Act, 2013 has only allowed the members and officers of the court, parties to the proceedings, parents or guardians of the child and such other persons as the court thinks fit, to be present during the trial. The Children Act, 2013 also contains strict prohibitions on publication of reports disclosing the identity of the child concerned in the case. It also penalises publication of any report, photograph or information relating to the trial of the child offender in print or electronic media which may lead to the identification of the child.

Another important provision in the Act requires the establishment of a "child affairs desk" at every police station. It states that the Ministry of Home Affairs shall take initiatives to establish these desks headed by a Child Affairs Police Officer (CAPO), not below the rank of Sub-Inspector. It further mentions that the CAPO shall maintain separate files and registers for the cases involving children, keep contact with probation officers and the child's parents or carers, meet the basic needs of the child, determine the age of the child, explore diversionary measures and prepare

separate charge sheets for child offenders. The UNCRC grants child offenders the right to be represented by legal counsel. In line with the UNCRC, the Children Act, 2013 also says that they must be represented by legal counsel and in case they or their guardian cannot afford to have this, they will be entitled to receive legal aid under the relevant law in force.

On the other hand, the term "welfare approach" refers to the means of exploring effective ways of reintegrating child offenders into society. The Children Act, 2013 provides for adopting various welfare approaches like diversion, family conferences, establishment of child development centres and certified institutes and restrained imposition of punishments. Diversionary measures may be preferred to a formal criminal proceeding for child offenders at any stage, starting from the arrest. The case may be sent to the probation officer, in which case he will meet the guardian of the child and inform the CAPO as well as the Children's Court.

Besides, the Children Act, 2013 also authorises the probation officer to take necessary steps to arrange a family conference once diversionary measures have been initiated. There are no hard and fast procedures to be followed in a family conference but if the court or the CAPO specifies the steps to be adhered to, the probation officer will act accordingly. If the family conference ends without reaching a solution, the court or the CAPO will have to be informed and they will decide what other diversionary measures may be adopted.

The Children Act, 2013 also requires the government to form and supervise an adequate number of Child Development Centres for the accommodation, reformation and development of child offenders. Certified institutions may also be established under the auspices of authorised private authorities.

Such institutions will be inspected by the government and the Director General of the Department of Social Welfare in order to collect necessary information and advise the government accordingly. However, be it a government or private establishment, all development centres and institutions will have to keep the Department of Social Welfare up-to-date regarding the details of the children therein. Finally, the Children Act, 2013 also creates an obligation upon the Children's Court to stipulate in every order that the order may be subject to periodical review and the child offender may even be released with or without any condition.

The UNCRC has put a restraint on imposing any kind of cruel, inhuman and degrading punishment on children. The children justice jurisprudence of Bangladesh has also evolved around the same principles. The old Children Act, 1974 (repealed by the 2013 Act) prohibited death penalty. The Children Act, 2013 retains this prohibition and child offenders can under no circumstances be sentenced to death irrespective of how gross the offence might be. However, it is unfortunate to note that despite the prohibition of death penalty in international instruments as well as in the national legal system, there are a few instances where the courts opted to blatantly overlook this.

For example, there was the case of Shukur Ali, a boy of fourteen, who raped and murdered a girl of seven. The trial court sentenced him to death. He made an appeal against his sentence to the High Court Division and the appellate court upheld the death sentence in 2004. Afterwards, the Appellate Division also confirmed the death sentence in 2005. The review petition was rejected by the Appellate Division in the same year as well. It is interesting to note

that despite being a child according to the then existing Children Act, the trial was held under the Prevention of Repression of Women and Children Act. At this stage, Bangladesh Legal Aid and Services Trust (BLAST) got involved and challenged the validity of the law. The High Court Division partly allowed the petition in 2010 as it declared the law unconstitutional, but nevertheless refused to set aside the death penalty. BLAST filed an appeal to the Appellate Division but the death sentence was upheld again in 2015, considering the young age of the victim and the brutal nature of the offence. The Appellate Division commuted his death penalty to a life imprisonment on the ground that Shukur Ali was a child at the time of the offence. Thus finally, the gross violation of the provisions relating to the prohibition of imposition of death penalty on children was rectified.

Adequate legal provisions have been adopted over a period of time to foster the children justice jurisprudence in Bangladesh. In particular, many of the provisions of the Children Act, 2013 are in conformity with international instruments, in particular the UNCRC. However, it is true that such legal provisions have not always been respected. Nevertheless, the judiciary, particularly the higher judiciary in recent times, have played a pivotal role to enhance the protection of the rights of child offenders in Bangladesh. The civil society as well as the international community should also extend their support to the government in this respect. It would not be an exaggeration to claim that despite certain disappointments, Bangladesh has been on the right track to uphold the rights of child offenders, albeit slowly.

Tahsin Khan is Assistant Professor of Law, Notre Dame University Bangladesh.

ON THIS DAY IN HISTORY

February 4-11, 1945
YALTA CONFERENCE OPENED

During the final stages of World War II in 1945, the Yalta Conference opened with Franklin D. Roosevelt, Winston Churchill, and Joseph Stalin meeting to plan the final defeat and occupation of Nazi Germany.

CROSSWORD BY THOMAS JOSEPH

ACROSS

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- 12 Stately
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- 16 TV's Danson
- 17 Movie role for George Burns
- 18 Twist together
- 20 Commotion
- 21 Play division
- 22 Bearing
- 23 Parts of hearts
- 26 Pinochle scores
- 27 Ninny
- 28 Fish eggs
- 29 Summit

DOWN

- 1 Cobbler fruit
- 2 Blockhead
- 3 Cloth fold
- 4 Pet perch
- 5 Racy reading
- 6 Slyly disparaging
- 7 Very popular
- 8 John Adams' wife
- 9 Over-whelmed
- 10 Muscle connectors
- 14 Dispatched
- 19 "Hold on!"
- 22 Come together
- 23 Sets upon
- 24 Like saddle shoes
- 25 Turned red, perhaps
- 26 Eyeglass
- 28 Horse strap
- 30 Unrefined
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- 32 Caribou's cousin
- 33 Possessed
- 38 Drinking spree
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YESTERDAY'S ANSWERS

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BEETLE BAILEY by Mort Walker

DON'T WORRY, SOMEONE'S COMING... HE'LL FIND OUT WHAT'S WRONG... YOU'LL BE ALL RIGHT... WHO'S SARGE TALKING TO? YOU'RE FAMILY HIS FRIDGE

BABY BLUES by Kirkman & Scott

DRIVING THAT LOANER CAR MADE ME REALIZE HOW OUTDATED OUR VAN IS. NEW CARS HAVE SO MANY COOL FEATURES. I LIKE THE VAN FOR THE THINGS IT DOESN'T HAVE. LIKE WHAT? CAR PAYMENTS.