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Research Report

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SWP Comment

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Israel's Anti-liberal Coalition

The new government is seeking fundamental changes in the political system and in the Israeli-Palestinian conflict

Peter Lintl

The new government in Israel is politically further to the right than any other before it. The success of the radical right parties and their inclusion in the government are the results of a long-term transformation of Israel's political landscape. One characteristic of this development is the genesis of a right-wing majority, accompanied by a shift to the right of the mainstream, and the political legitimisation of the most radical segment of Israeli society. The common denominator of this government is its anti-liberal impetus, which amounts to a reorganisation of the state. The government intends to weaken democratic mechanisms, especially the system of checks and balances, the status of the Supreme Court, and that of fundamental rights. Instead, majoritarian principles are to be strengthened, placing few limits on government majorities. This disruptive approach also applies to the conflict with the Palestinians. Here, victory is sought: The integration of the West Bank into the legal territory of the state of Israel is to be made irreversible.

Members of the new coalition call it “fully right-wing”, “truly right-wing”, or simply “national government”. The coalition members consist of Likud (32 seats), the two parties of the Haredim, frequently described as “ultra-orthodox” – Shas (11) and United Torah Judaism (UTJ, 7) – as well as the radical party alliance Religious Zionism (14), which consists of the eponymous party Otzma Yehudit and the micro-party Noam. All parties come from the right-wing, anti-liberal camp. In Israel, the party political classification into “left” and “right” takes place along the axes of opposing views on the conflict with the Palestinians and the identity of the state; the

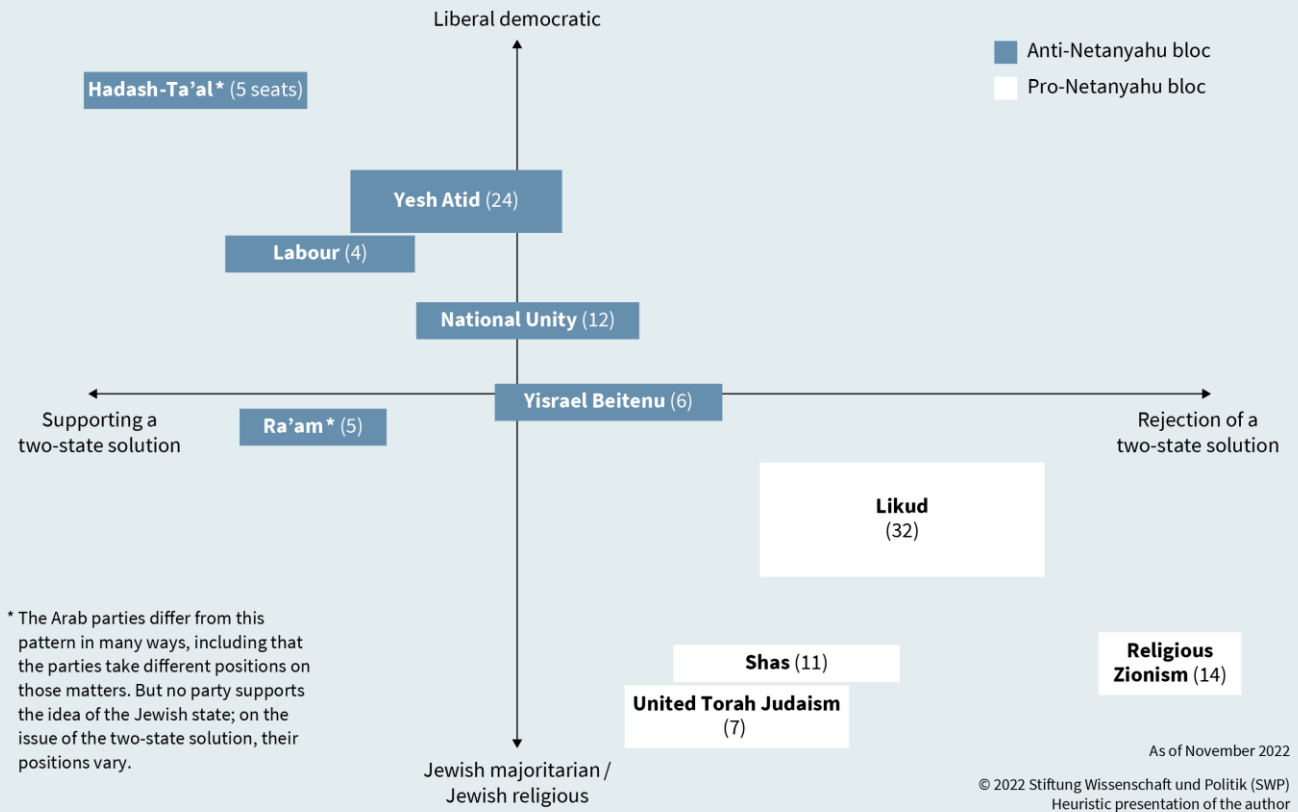
socio-economic dimension is subordinate to this.

The aim of this coalition is to resolve in advance these central controversies that shape Israeli society. This applies both to the conflict with the Palestinians and to the – in their view too liberal – image of the state and its institutions. The anti-liberal impetus here is directed against the central features of liberal democracy (and not against economic liberalism), that is, against the normative anchoring of human rights and the associated control of parliament by an independent judiciary. In contrast, the new Israeli government aims to establish a majoritarian democracy and



Figure 1

Political positioning of parties in Israel, 2022



regards such restrictions as an illegitimate curtailment of the democratic process.

The new coalition is not an accident. Already with the first of the five elections since 2019, the possibility of a right-wing coalition that could fundamentally change Israel had emerged. This is the result of a political transformation in the country that began to gain momentum in 2015: A right-wing majority became entrenched in parliament, the right-wing mainstream became radicalised, and it abolished all barriers to right-winged extremist parties, which in turn resulted in the legitimisation of the extreme fringe of the political spectrum.

The political slide to the right

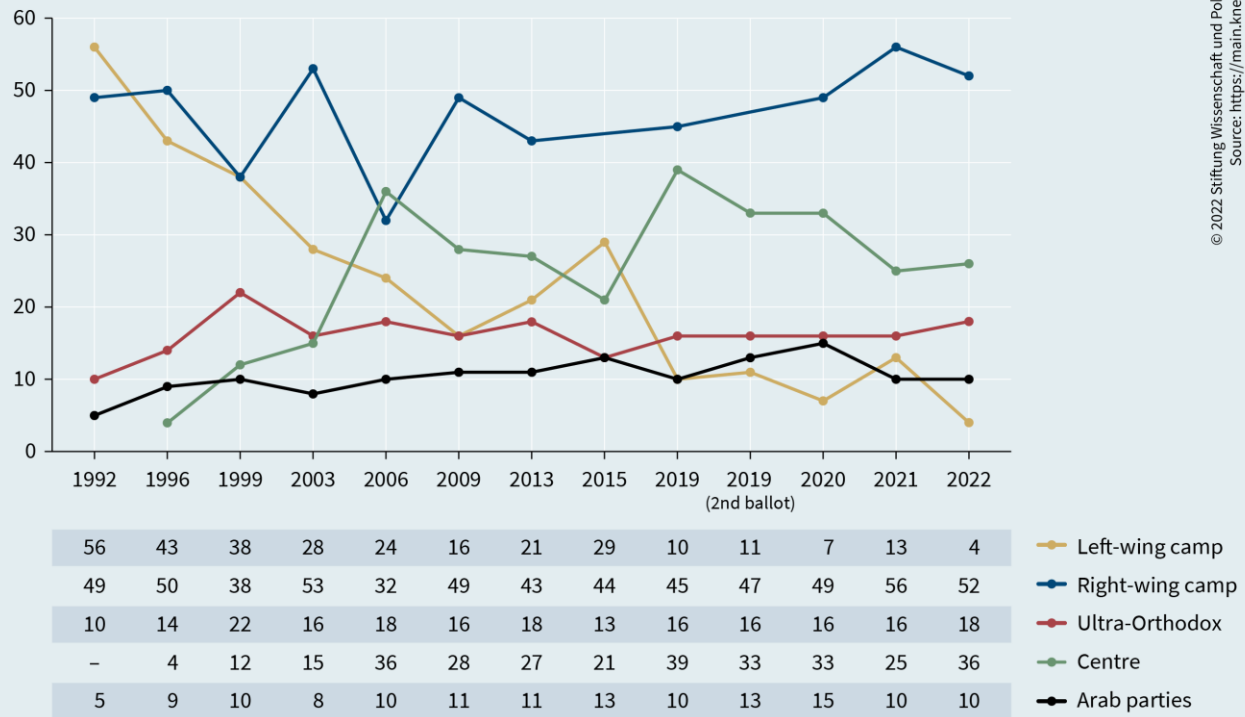
There are a number of reasons for this trend. One factor is, *firstly*, the demographic development. In Israel, the younger the citizen,

the more politically right-wing they are. This is related to the high birth rates in religious Zionist and ultra-Orthodox milieus. Overall, more than 60 per cent of Jewish Israelis today place themselves on the political right, which corresponds with the composition of the parliament. *Secondly*, the failure of the peace process makes left-wing positions less credible and right-wing positions more plausible. Since the mid-2000s, there has been a steady downward trend of left-wing parties and a growing dominance of right-wing parties. *Thirdly*, this trend has been firmly reinforced by the fact that the parties of the Haredim have abandoned their key position as kingmakers between the political blocs and now position themselves in the right-wing camp. Thus, as of 2015, the right-wing camp – together with the centre-right party Kulanu – held a majority in the Knesset; since 2019, there have been solely right-wing majorities in parliament.

Figure 2

Party-political camp development in Israel, 1992–2022

Decline of the left and dominance of the right camp (number of seats in the Knesset)



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Source: <https://main.knesset.gov.il>
Clustering according to the author's own system

Fourthly, this dominance by the right was constantly accompanied by internal struggles for hegemony, which led to a radicalisation: Suddenly, the realisation of right-wing political ideas, which until then had only been discussed in the abstract, appeared to be within reach. A process began in which these ideas were translated into concrete political plans and legislative proposals. At the same time, Likud was forced to show its colours. Parties further to the right pushed (and are still pushing) Likud to implement these visions. This also applied to its leader, Benjamin Netanyahu: The current chairman of Religious Zionism, Betzalel Smotrich, for example, accused him in 2016 of not being right-wing at all and of preferring coalitions that included left-wing or centre parties. This was reflected in the polls by the migration of Likud voters to parties further to the right. Even when a right-wing coalition was established in 2015, this dynamic and the struggle for ideological hegemony continued.

Netanyahu responded by making a substantive shift to the right (a step his party had already taken), thereby facilitating, for example, the Nation-State Law, or a law that legalised outposts that were illegal even under Israeli law. Fifthly, the fact that the United States under President Donald Trump supported many of the right-wing positions did the rest to further strengthen the trend.

Lastly, the accusation of corruption against Netanyahu proved to be an additional catalyst for this process. In the context of the criminal proceedings, first the Israel Beitenu party, then the Likud splinter party New Hope under Gideon Saar, and finally Yamina under Naftali Bennett all successively turned their backs on Netanyahu from the 2019 election onwards. To compensate for the loss of these votes, the prime minister mobilised forces on the extreme fringes of the right-wing political spectrum that were ready to protect him from corruption charges. In the run-up to

the 2021 election, Netanyahu therefore orchestrated the new radical right-wing Religious Zionism party alliance. The idea behind this was that, given the 3.25 per cent threshold, no electoral votes would be lost to these parties. Shortly before, Netanyahu had already begun to present himself as the leader of a hard ideological right, advocating plans for the annexation of the West Bank, or parts of it.

All these manoeuvres have resulted in the abolition of any meaningful divisions between Likud and the extreme right. Although they might not share all views, for Likud under Netanyahu today, there is no party on the right-wing of the political spectrum that would disqualify itself as a partner by taking positions that are too radical. This is particularly evident in the example of Otzma Yehudit, which stands the furthest to the right on the political spectrum. It is the successor party to Kach, which was banned for racism. When its founder, Meir Kahane, took to the podium in the Knesset in the 1980s, the plenum would leave. Not so today: Netanyahu not only paved the way for his successor party, Otzma Yehudit, to enter parliament, but also the cabinet.

Israel's New Right

Likud can no longer be compared to the national-liberal party it was in the 2000s. Former party leaders such as Dan Meridor, Benny Begin, and Reuven Rivlin have also distanced themselves from today's Likud and are, in turn, criticised by the current ranks. Even after its founding, Likud advocated the goal of a "Greater Israel", which should at least include the West Bank. After the Oslo Accords, however, this position was moderated and the discourse on permanent statehood was for a long time overshadowed by the attention given to conflict management. This changed in the 2010s: In the meantime, Likud members were no longer focussed on conflict management but on pushing Palestinians to surrender and integrate at least parts of the West Bank

into the Israeli state. The demand for annexations became mainstream in the party over the course of the decade. Netanyahu was the last to adopt it. This process was accompanied by concrete plans, policies, and draft laws, according to which the Palestinian population should either live outside the state of Israel in semi-autonomous enclaves under Israeli control or be denied their political rights within the state.

What is more drastic for Likud, however, is the wholesale abandonment of its identity as a national-liberal force and its transformation into a party that adheres to majoritarian principles and is often populist. This transformation is frequently reflected in the verbal attacks on the media, political opponents, the Arab minority, but above all on the judicial system and the Supreme Court. Whereas in 1992 Likud established the Basic Law "Human Dignity and Liberty" as one of the constitutional cornerstones of Israel as a liberal democracy, today one of the party's main goals is to neutralise this legislation. Justice Minister Yariv Levin, for example, Likud's ideological point man, stresses that Judaism must have priority in the Jewish state. The Supreme Court, he says, seriously damages Israel's democracy. In the context of the indictment against him, Netanyahu also speaks of the "deep state", consisting of media and judicial organs, which acts in a coup d'état-like manner against democratically elected right-wing governments. Since the opening of the criminal trial, Netanyahu has switched from defending the Court to being in the camp of the Court's harshest critics.

Right-wing extremism gains legitimacy

On the right-wing fringe, the Jewish-Orthodox alliance Religious Zionism is standing for election. This includes the micro-party Noam, which is known primarily for its anti-LGBTQI positions. Yet, it also contains the somewhat larger parties of the Religious Zionism alliance and Otzma Yehudit, which are very similar in terms of content,

although Otzma Yehudit always appears somewhat more radical. Both parties advocate annexation of the West Bank, represent the interests of the settlers, and demand a transfer of Palestinians from the West Bank and Israel to Europe, for example. The chairman of Religious Zionism, Smotrich, has set out these plans in a document, and Itamar Ben-Gvir, the head of Otzma Yehudit, has advocated for them in various interviews. Otzma Yehudit also wants to establish an emigration office for Palestinians. In its party programme, it also calls for an “all-out war” against Israel’s enemies. As former party leader Michael Ben-Ari has stated, these enemies include 99 per cent of Arabs. Smotrich proclaimed to the Arab MPs in 2021 that their presence in the Knesset was a historic mistake by Israel’s first prime minister, David Ben Gurion. The latter had “not completed his job of throwing them out”.

These parties also include people who have a direct affinity with violent actors. Ben-Gvir himself was convicted of incitement to racism and of having membership in a terrorist group. Both parties also demand that the rights of the Supreme Court be severely curtailed. They argue that the principle of a Jewish state and religious commandments take precedence over the values of peace and Western democracy. They also argue that Israel is a democracy even after the annexation of the West Bank, even if the Palestinian population there is not granted civil rights. The long-term goal of these parties is to have a state based on *halacha*, the religious code of law.

The parties of the Haredim

The two ultra-Orthodox parties, Shas and UTJ, are more reticent about the occupied territories because, unlike many religious Zionists, they do not associate the settlement with any messianic hopes. Rather, they engage in patronage politics. They are mainly concerned with financing Torah students and protecting them from the influence of the state and society: For example, their schools barely have to teach

secular subjects, only about 50 per cent of the men pursue jobs and study Torah instead, and they rarely serve in the military.

Nevertheless, the ultra-Orthodox have also moved to the right in recent years. One of the reasons for this is that Netanyahu accommodates them on all the above-mentioned issues, whereas the opposition wants to abolish their various privileges and exemptions and, in addition, cut funding for their schools. The greater integration of the community, which has been isolated for decades, also means that the ultra-Orthodox are increasingly making claims with regard to the internal organisation of the state of Israel and, in particular, its relationship to the Jewish religion. Their extremely conservative worldview is increasingly influencing Israeli society, for example by creating public spaces where the sexes are segregated. They are also vocal in their opposition to the “liberal terror” of the Supreme Court, which has overturned many of their privileges, citing principles of equality. Therefore, they are leading the charge to strip the Court of its power.

Even if dealing with the occupied territories is of secondary importance to the Haredim, one can attest to a shift to the right in this regard as well. This is due to the fact that the fastest-growing settlements are inhabited by the ultra-Orthodox. Therefore, they are critical of a withdrawal from the areas. More importantly, the ultra-Orthodox electorate, especially the youth, is moving further to the right. This means that the parties are being forced to adjust their political views in order to not lose supporters – in the last election, they lost voters to Religious Zionism. Among the Haredim, therefore – contrary to conventional academic assumptions – increasing democratisation through political participation is leading to radicalisation rather than moderation.

Thrusts and priorities of the coalition

The most important common denominator of this government is the weakening of

liberal institutions and the strengthening of national and religious collective principles. What this can mean in its more extreme form could be observed during the coalition negotiations: There were demands for the unlimited detention of asylum seekers, for a right for doctors to refuse to treat certain groups (e.g. from the LGBTQI community), or for the removal of the provision that racism is one of the reasons for which one can be disqualified for election to parliament. The Israeli government is thus following a path also taken by other movements or governments committed to majoritarian principles, such as in Poland, Hungary, the United States, Brazil, and India.

Yet, the anti-liberal impetus in Israel has specific implications, because it is not only directed per se against liberal values or against what is classically understood as a danger to ethnonational collectives (for example, immigration). In Israel, there is also the conflict with the Palestinians, which has not only a territorial but also an identity-determining dimension for the state. The criticism of the universality of human and minority rights is sometimes combined in the discourse on the Palestinians with an openly displayed disregard for international law.

The transformation of the judiciary

Looking at the plans of the new coalition, there is hardly an area in which the government is not seeking changes in the normative foundations and functioning of institutions. The intent is to transform the management of the occupation of the West Bank, education, the position of women, the LGBTQI community, as well as the Arab minority, the judiciary, the police, the relationship between state and religion, and citizenship law, among other issues. This government is being driven by an anti-liberal, cultural revolutionary momentum.

As a rule, two thrusts emerge: First, the functional imperatives and checks and balances by which the institutions operate are to be undermined in favour of a politi-

cal majoritarian principle; second, ethnonational principles are to guide action in the aforementioned areas over the long term. This approach becomes directly visible, for example, when Ben-Gvir is given exclusive powers to prescribe behavioural guidelines for the police, when internal military powers are assigned directly to the new ministry under Smotrich, or certainly most conspicuously in the planned curtailment of the rights of the judiciary and the Supreme Court.

The latter is of such great importance because the Supreme Court is the only institution that exercises an effective control function vis-à-vis parliament. This applies in particular to its judicial review extrapolated from the Basic Law “Human Dignity and Liberty”. The Israeli system of government has no counterweights or limits on power in the form of a second chamber, no presidential prerogatives, no comprehensive constitution, and no federal structure. The Court has used judicial review since 1995 to reject 22 laws and other government decisions, to the great annoyance of the right, who criticise this practice as being fundamentally undemocratic. By comparison, the German Federal Constitutional Court has at least partially overturned or required amendments to more than 200 laws in the same period.

Justice Minister Levin has now presented a comprehensive plan for how to weaken the Court. For example, the election of judges is to be decided by a governmental majority in the future. In addition, the legal principle of reasonableness is not to be applied to government decisions. Most important, however, is the “overrule clause”. This would allow parliament to overrule judicial review procedures, that is, rulings of the Supreme Court based on Israel’s Basic Laws with a simple majority – this would cease to apply only if 12 out of 15 judges supported a repeal of the law. Ultimately, this reform would undermine the already limited principles of liberal democracy in Israel. For without judicial review, the parliamentary majority hardly has any other limitations. Ultimately, the legal basis

on which the Court operates can also be changed. At the same time, the judicial reform creates the preconditions for further reforms that have so far failed at the Court or were not even initiated.

Some politicians have already announced that they want to re-pass laws that have already been rejected by the Court in this legislative period without any changes: These include the legalisation of formerly illegal outposts in the West Bank, the introduction of indefinite security detention, and the exemption of Haredim members from military service. Executive decisions that the Court had also annulled could also be reinstated in the future, such as the routine disqualification of various Arab parties before Knesset elections or the public funding of gender-segregated events. Last but not least, the outcome of the indictment against Netanyahu is likely to depend on the (remaining) strength of the judicial apparatus.

The occupied territories

There is a consensus on the right that only the Jewish people have a historical claim to the West Bank, that Israel will no longer withdraw from it, and that there cannot be a Palestinian state between the Jordan River and the Mediterranean Sea. The Coalition Framework Agreement already states in the first sentence: “The Jewish people have an exclusive and inalienable right to all parts of the Land of Israel [...] – Galilee, Negev, the Golan, and Judea and Samaria.” Therefore, this government is far from looking for a compromise with the Palestinians. Rather, the aim is to decide the conflict as unilaterally as possible and to perpetuate control over large parts of the Palestinian territory, especially Area C.

All members of this government also support at least partial annexations (see numerous interviews on this in the journal *Ribonut*), but they have different opinions as to whether this is just strategically prudent – Likud appears to deny this. However, the coalition agreement with Religious Zionism (§118) states that the prime minister is to

design a policy for the transfer of “sovereignty” (i.e. annexation) to the West Bank. Exactly what this should look like is still unclear. Likud politician Levin formulates what strategy the coalition should follow if annexation is not officially carried out: He says the government must try to “hold the maximum amount of territory and apply sovereignty over the maximum amount of territory while keeping the Arab population within it to a minimum”. Levin thus describes a process that can be called *de facto* annexation, namely the legal integration of settlements and settlers into the Israeli legal system, although occupation law prevails in the West Bank, and thus the commander-in-chief of the relevant military unit is also the sovereign under international law. The Israeli think tank INSS concludes from the coalition agreements that Israel is in the process of accelerated annexation. In fact, Likud has already announced that the new government will implement a reform for the “civic equality of settlers”, but without changing the legal status of the territories. Parts of the coalition have also stressed that they want to change the status quo on the Temple Mount – a measure that has a particular potential for escalation.

In general, it is feared that violence in the West Bank will continue to increase. Already under the government of Naftali Bennett and Yair Lapid in 2021/22, violent clashes between the Israeli military, the Palestinians, and the settlers have reached an all-time high since the end of the Second Intifada. Among parts of the new government, it seems at least questionable whether they are interested in calming the situation or seek escalation in order to justify further action against the Palestinians. Above all, the fact that Ben-Gvir and Smotrich have far-reaching administrative as well as police powers in their newly tailored ministries contributes to this fear. This means that two key positions with a decisive influence on the living conditions of Palestinians in the West Bank are now in the hands of people who want to resettle the Palestinian population.

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Outlook

Netanyahu has expressed in various interviews that there is no need to worry about the radicals in his cabinet because he has the decision-making power in the government. However, developments in recent weeks do not indicate that he is currently able or willing to exercise his moderating influence. Rather, this government seems willing to make the state of Israel much more illiberal and to set a decisive course to keep the West Bank permanently under Israeli control.

For German foreign policy, this Israeli government presents a challenge. Against the backdrop of its historical responsibility on the one hand, and its commitment to universal principles such as international and human rights on the other, Germany has so far advocated for a two-state solution. However, the hope that Israeli violations of international law could prospectively cease as a result of a solution to the conflict is completely unrealistic when considering the current government, which is, after all, an expression of a longer-term trend. On the contrary, this government intends to make a two-state solution impossible.

If Germany wants to play a meaningful and constructive part in the conflict between Israelis and Palestinians, it must adapt to this situation. This includes working preventively in concert with the United States and the European Union, and also with some Arab states, to avoid an escalation of violence. This also applies to concrete settlement construction projects and the displacement of Palestinians from the part of the West Bank completely controlled by Israel (Area C) and Jerusalem. In general, German policy should be concerned with exploring how a negotiated conflict settlement can be maintained and what measures should be considered for this.

But the profile of the new Israeli government raises even more fundamental questions: What would the German position on

the conflict be if it should become clear that a two-state solution is no longer possible? The question of the extent to which an occupation – which by definition must be temporary – can still be legitimate under international law when it is clear that the occupiers do not want to leave the territory must also be discussed. Ultimately, a process of introspection is needed to determine what a German-Israel policy could look like against this background – a process in which neither the responsibilities arising from the historical legacy nor the fundamental values of German foreign policy are abandoned.

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