

Israel is Selling Lands in the Occupied Territories

Adalah Position Paper on the Privatization of the Lands of the Settlements on the Golan Heights and in East Jerusalem

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On 3 August 2009, the Israeli parliament, the Knesset, ratified the Israel Land Administration Law (Amendment No. 7) 5769 - 2009, which is, in fact, a reform in the management of lands owned by the State of Israel, the Development Authority and the Jewish National Fund, constituting 93% of the area of the State of Israel (hereinafter the "**Land Reform Law**"). The law concerns land both within the State of Israel and in part of the territories occupied since 1967, to which Israel has applied its laws and illegally annexed them to its territory. These are the territories of the Golan Heights and East Jerusalem.

As part of the reform, the State of Israel will begin a process of privatization of built-up areas and areas planned for development in the State. The significance of the privatization process is that ownership rights in these lands will be transferred from the state to private persons. The scope of the lands to be privatized is estimated at around 800,000 dunams (4% of the area of the State). **The privatization will also include the lands of the settlements and the areas planned for development located in the Occupied Territories of East Jerusalem and on the Golan Heights, which were illegally annexed to the State of Israel. That is to say, ownership of the built-up areas in the settlements in these regions as well as areas planned for development will be transferred from the state to private individuals. In fact, the State of Israel will be selling lands in the Occupied Territories, thereby taking a great deal of capital into its treasury.**

The Settlements on the Golan Heights and in East Jerusalem

Since the occupation in 1967, the State of Israel has built and expanded its settlements on the Golan Heights and in East Jerusalem. Dozens of settlements were built in these areas, where hundreds of thousands of Jewish Israeli settlers live. As a result of the land reform, these settlers will become owners of the property rights which they will acquire from the occupier, the State of Israel.

The Golan Heights

The Golan Heights were the first Occupied Territory in which Jewish Israelis began settling immediately after the occupation in 1967. Today, approximately 18,000 Israeli settlers live on the Golan Heights, 6,400 of whom reside in the urban settlement of Katzrin, and the remainder who reside in 32 smaller towns and villages. These settlements control the majority of the land and water resources of the Golan. The majority are located in the southern part of the Golan, where the best land for agriculture is located.¹

¹ <http://nakba/online.tripod.com/golan-7.htm>

Settlements in the Golan (2007)

No.	Place Name	Settlement Established	No. of Residents ²	Original Syrian Place Name ³
1	Avnei Eitan	1978	463	El Aal
2	Odem	1976	103	No data
3	Ortal	1978	238	A-Dalwa
4	El Rom	1971	271	Ein el-Hajal / Buq'aata
5	Alonei Habashan	1981	287	Jwiza
6	Elei Ad (Elei Al)	1968	272	El Aal
7	Ani'am	1978	462	Al-Amudia
8	Afiq	1967	216	Fiq
9	Bnei Yehuda	1972	1036	Scopia
10	Giv'at Yo'av	1968	452	Scopia
11	Gashur	1971	204	'Adisa
12	Had-Ness	1989	510	No data
13	Hasfin	1973	1369	Mazra'at Nab
14	Yonatan	1976	353	Tanuria
15	Kanaf	1991	333	Mazra'at Kanaf
16	Kfar Haruv	1974	312	Kofor Harb
17	Mevo Hamma	1968	339	Kofor Harb
18	Meitzer	1981	65	Rajem al-Yakusa
19	Ma'aleh Gamla	1976	357	Khirbet Khokha
20	Merom Golan	1967	497	Al-Mansura
21	Ne'ot Golan	1967	350	Fiq / Scobia
22	Nov	1973	529	Mazra'at Naab
23	Navi Ativ	1972	175	Jabata a-Zeit
24	Natur	1980	111	Majdolia?
25	Nimrod ⁴	1999	No data	Majdal Shams
26	Ein Zivan	1968	213	Ein Zivaan
27	Kidmat Zvi	1985	373	Na'araan / Ein Simsim
28	Kela (Kela Alon)	1984	154	No data
29	Katzrin	1977	6444	Fakhura
30	Keshet	1974	526	Khushnia
31	Ramot	1970	487	kofor 'Akab
32	Ramat Magshimim	1968	517	Khisfin
33	Sha'al	1976	225	Karhata
Total Population			18243	

Map of the Settlements on the Golan Heights

For a detailed map of the settlements on the Golan Heights, see:

<http://www.history-map.com/picture/000/settlements-Israeli-Heights-Golan.htm>

² See the website of the Israeli Central Bureau of Statistics: <http://www.cbs.gov.il/ishuvim/ishuv2007/bycode.xls>

³ <http://nakba-online.tripod.com/golan-7.htm>

⁴ <http://nakba-online.tripod.com/golan-7.htm>

East Jerusalem

During the occupation years, the State of Israel expropriated a total of 24,193 dunams of land in East Jerusalem to build settlements in the region. Approximately 195,000 Jewish Israelis presently live in East Jerusalem. Below is a list of the expropriated areas and the settlements built thereon:⁵

The Local Entity from which the Areas were Expropriated	Expropriated Area (dunams)	Settlements Built on the Expropriated Land
Lifta	3,345	French Hill, Ramat Eshkol, Mount Scopus
East Jerusalem	485	Ma'a lot Dafna
Beit Hanina and Hezma	1,235	Neveh Ya'acov
The Old City	116	The Jewish Quarter in the Old City
Lifta, Beit Exa and Shu'afat	4,840	Ramot Alon, Shu'afat Ridge
Tzur Bahar	2,240	Talpiot East
Beit Jalla, Beit Safafa, Sharfat	2,700	Gilo
Kalandia	1,337	Atarot
Sur Baher	600	Expansion of Ramat Rachel
Beit Hanina and HezMa	4,400	Pisgat Ze'ev
Jabal Abu G'anim	1850	Har Homa
The Eastern City	230	Rehovot Yaffo and Revava
Beit Safafa, Beit Hanina	535	Expansion of Gilo and Neveh Ya'acov
Total (dunams)	24,193	

Israeli Settlements in East Jerusalem (2007)

Name of Settlement	Year Established	Population
Ramot Eshkol	1968	6200
Ramot Alon	1973	40837
Neveh Ya'acov	1972	20149
Pisgat Ze'ev	1985	41653
Atarot	1970	Industrial Zone
Talpiot East	1973	12078
Gilo	1971	27173
Mount Scopus	1968	--
Giv'at Shapira (French Hill)	1968	6724
Ramat Shlomo	1994	17000
Giv'at Hamatos	1991	343
Har Homa	1991	5697
The Jewish Quarter in the Old City		2546
Total		180,400

East Jerusalem Settlements Map

For a detailed map of the settlements in East Jerusalem, see:

<http://www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/GreaterJerusalem2009Eng.pdf>

⁵ Adnan Abdelrazek & Khalil Tofakji, *Israeli Colonial Policies and Practices: De-Arabization of East Jerusalem* (2008), The Arab Study Society, Jerusalem, pp.68.

On the Legal Status of the Golan Heights and East Jerusalem and the Planned Sales

As is well-known, immediately after the war in 1967, the Government of Israel decided to annex 70,500 humans of the occupied land to the north, east and south of Jerusalem (presently known as East Jerusalem), and in 1980 it enacted the Basic Law: Jerusalem, Capital of Israel, which specifies in Section 1: "The whole and united City of Jerusalem is the capital of Israel". In the year 2000 the Basic Law: Jerusalem, Capital of Israel was amended granting legal and constitutional protection to the decision to apply Israeli law on East Jerusalem pursuant to the 1967 annexation.

This law was denounced by the United Nations Security Council in Resolution 478 of 20 August 1980 which states that Israel's enactment of a "basic law" on Jerusalem constitutes a violation of international law and does not affect the continued applicability of the Fourth Geneva Convention of 1949. The Council included in its Resolution the statement that all legislative and administrative actions taken by Israel, the occupying power, aimed at altering the status of Jerusalem, especially the Basic Law, are void and the UN member states should refrain from recognizing them.⁶

An annexation law with similar intention was enacted by the Knesset in 1981 concerning the Golan Heights (the Golan Heights Law, 5752 - 1981), which specifies in Section 1: "The law, jurisdiction and administration of the State shall apply in the area of the Golan Heights as described in the Addendum". Even before the Golan Heights Law was enacted, in August 1980, the Israeli Knesset enacted an amendment to the Citizenship Law – 1952 that, inter alia, enabled the Syrian residents of the Golan to take Israeli citizenship.

This law was also denounced in Resolution 479 of the UN Security Council of 17 December 1981, in which the Security Council reiterated and emphasized the status of the Golan Heights as occupied territory, and resolved that Israel's legislative actions imposing Israeli law on the Golan Heights be voided. It also declared that these actions are devoid of any effect from the aspect of international law.⁷ The UN General Assembly reiterated these principles in Resolution 120/61 dated 14 December 2006.⁸

Accordingly, the above unilateral annexation actions by Israel have not altered the legal status of East Jerusalem and the Golan Heights according to international law, and they remain, as they were prior to the annexation, occupied Palestinian/Syrian land and their residents are protected under the Fourth Geneva Convention.

The rule that the use of force cannot lead to or cause any transfer or change in sovereignty constitutes one of the basic principles of international humanitarian law. An expression of this basic principle is also to be found in Article 47 of the Fourth Geneva Convention of 1949 which stipulates, inter alia, that the Convention applies to the population of the occupied territory even if it is annexed by the occupying power. This principle is also one of the three basic principles, which jointly guide the laws of occupation: (a) the principle whereby the use of force does not confer sovereignty and cannot lead to or cause the transfer or any change whatsoever in the sovereignty of a particular territory; (b) the occupying power is responsible for managing civil and public life in the occupied territory; and (c) the occupation must be temporary.

⁶ <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/399/71/IMG/NR039971.pdf?OpenElement>

⁷ <http://unispal.un.org/unispal.nsf/361eea1cc08301c485256cf600606959/73d6b4c70d1a92b7852560df0064f101?OpenDocument>

⁸ <http://daccessdds.un.org/doc/UNDOC/GEN/N06/501/63/PDF/N0650163.pdf?OpenElement>

Indeed, the International Court of Justice (ICJ), in its Advisory Opinion of 9 July 2004, concerning the Separation Wall being built by the government of Israel (hereinafter - the "**ICJ Advisory Opinion**"), relates inter alia to the status of East Jerusalem in international law. The ICJ reiterated unequivocally that the status of East Jerusalem, as well as that of the West Bank and the Gaza Strip, is that of Occupied Territory, i.e. a place actually and effectively controlled by the Israeli military. Thus, the ICJ stated explicitly in paragraph 78, that the agreements of the 1990s (the Oslo Accords) do not alter the status of the Occupied Territory:

“The territories situated between the Green Line (see paragraph 72 above) and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, these were therefore occupied territories in which Israel had the status of Occupying Power. Subsequent events in these territories, as described in paragraphs 75 to 77 above, have done nothing to alter this situation. All these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of Occupying Power.”

Notably, in this context, the same analysis and principles apply to the Golan Heights which have also been occupied by Israel since 1967.

Therefore, Israel's actions in East Jerusalem and on the Golan Heights are governed both by the rules of international humanitarian law and by international human rights law. This position is also supported by from Resolution 181/62 of the UN General Assembly dated 31 January 2008.⁹

Accordingly, the sale of any assets in the Occupied Territories constitutes, in fact, a final expropriation thereof from their owners, contravening Article 147 of the Fourth Geneva Convention. This article stipulates that extensive appropriation of assets in the Occupied Territories constitutes a gross breach of the Geneva Convention. Moreover, Regulation 46 of the Regulations Annexed to the Hague Convention on Laws of War on Land of 1907, stipulates the need to respect individual proprietary rights, and expressly forbids expropriation of private property.

The acts of privatization and transfer of ownership of land in the Occupied Territories as above, under the Israel Land Reform Law, by the occupying power, constitute a gross breach of international humanitarian law.

9

<http://domino.un.org/UNISPAL.NSF/9a798adbf322aff38525617b006d88d7/1bfd3798c7567b4f852573fe005b8494!OpenDocument>