

Action Alert: Al-Marsad warns against Israel's latest efforts to put pressure on the international community to recognize the Occupied Syrian Golan as part of Israel

Al-Marsad condemns Israel's mounting pressure to gain sovereignty over the Occupied Syrian Golan

Al-Marsad, Arab Human Rights Centre in the Occupied Syrian Golan

Majdal Shams

10 April 2016

Summary

- Al-Marsad calls for the international community to urgently reject Israel's latest attempts to have the Occupied Syrian Golan recognized as an Israeli territory and to ensure that Israel immediately freezes settlement expansion and the extraction of natural resources in the Occupied Syrian Golan.
- The Occupied Syrian Golan is a mountainous region in southwest Syria that was occupied by Israel in the 1967 Arab-Israeli war, resulting in the expulsion of over 130,000 native Syrian inhabitants, the large scale destruction of their homes, and the establishment of Israeli settlements. In 1981, Israel annexed the Occupied Syrian Golan - an illegal action, overwhelmingly condemned and rejected by the international community.
- Israel is now taking advantage of the ongoing conflict in Syria to launch a new bid to obtain international acceptance of the occupation and annexation of the Occupied Syrian Golan, on the pretext that the current instability in Syria means it is impossible to contemplate the return of the Occupied Syrian Golan to Syria.
- In the meantime, Israel is using tried and tested methods from the Occupied Palestinian Territories in the Occupied Syrian Golan in an attempt to tighten its hold - namely illegal settlement expansion and extraction of natural resources. Plans have been announced to increase the number of Israeli settlers by 100,000 over the next five years. And permits for oil exploration in the Occupied Syrian Golan have recently received a two year extension. Israel already illegally benefits from the Occupied Syrian Golan's vast agricultural resources and abundant water supplies.
- Israel's occupation of the Occupied Syrian Golan during the 1967 Arab-Israeli war and subsequent annexation has violated various major legal principles, including those reflecting customary international law. Relevant provisions are enshrined in the UN Charter; the Hague Regulations; the Fourth Geneva Convention; Protocol 1 of 1977, Additional to the Geneva Conventions of 1949. In addition, the occupation and annexation have been condemned in numerous declarations and resolutions of the UN General Assembly and UN Security Council.

Background on Israel's occupation of the Syrian Golan

The area known as the Syrian Golan is a mountainous region and plateau in southwest Syria that borders Lebanon to the north, Jordan to the south, and Israel to the west. The overall landmass of the Syrian Golan is 1,860km², which is approximately 1% of the total landmass of Syria. From a military perspective, the Syrian Golan offers exceptional geo-strategic value as it overlooks southern Lebanon, much of southern Syria as well as northern Israel. The territory also plays host to lush agricultural terrain and is abundant in water sources.

On the 5 June 1967, during the Arab-Israeli War, Israel seized, occupied and took control of 1,250 km² of the Syrian Golan (roughly 70% of the Syrian Golan, containing 344 villages and farms). Israel secured control over its natural resources, forcibly transferred approximately 131,000 (out of 137,000) native Syrian inhabitants into Syria proper, and, soon after, encouraged the settlement of its own citizens. The 'Occupied Syrian Golan' has been under continued Israeli military occupation since.¹

On the 14 December 1981, Israel annexed the Occupied Syrian Golan by extending its laws, jurisdiction and administration to the Occupied Syrian Golan through the 'Golan Heights Law'. This illegal action has resulted in the effective, de facto annexation of the territory. In 1981, 95% of the native Syrians refused Israeli citizenship, and are still firmly of that opinion, despite the ongoing conflict in Syria.² This illegal annexation has not been recognized by the United Nations, the Syrian Arab Republic or any other country. The Security Council has stated that this de facto annexation is "*null and void and without international legal effect*".³ The General Assembly has repeatedly called upon Israel to rescind its decision and to withdraw from the Occupied Syrian Golan. In November 2012, the UN General Assembly reaffirmed that it was "*deeply concerned that Israel has not withdrawn from the Syrian Golan, which has been under occupation since 1967, contrary to the relevant Security Council and General Assembly resolutions*", and "*stressed the illegality of the Israeli settlement construction and other activities in the Occupied Syrian Golan since 1967*".⁴ The General Assembly then voted by majority, 110 in favour to 6 against (Canada, Israel, Marshall Islands, Federated States of Micronesia, Palau, United States), with 59 abstentions, to demand a full Israeli withdrawal from the Syrian Golan Heights.⁵

Mounting pressure from the Israeli government and prominent Israeli figures to recognise Israeli sovereignty over the Occupied Syrian Golan

Using the recent geopolitical changes in Syria to their advantage, the Israeli government has launched an initiative to gain international recognition of the annexation. Several Israeli officials and leading figures, including Prime Minister Benjamin Netanyahu, have issued declarations calling on the international community to accept Israel's annexation of the Occupied Syrian Golan. The current argument being forwarded by the Israeli administration is that Syria is no longer a legitimate state itself as it has disintegrated after five years of bloody civil war. This line of argument reasons that there is a low likelihood of Syria transitioning into a stable state to which the Occupied Syrian Golan could be returned, thus making it no longer feasible for Israel

¹ <http://golan-marsad.org/en/>.

² http://www.ansamed.info/ansamed/en/news/sections/generalnews/2012/11/28/Syria-still-feel-Syrian-say-Druze-Golan-Heights_7869606.html.

³ <http://www.cfr.org/israel/un-security-council-resolution-497-israel-syria/p11198>.

⁴ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/25.

⁵ <http://www.un.org/press/en/2012/ga11319.doc.htm>.

to hand back the Occupied Syrian Golan. This camp is calling for international recognition or, at least, recognition by the United States of Israel's 1981 annexation using the excuse that US recognition would appropriately appease Israeli security concerns following the 2015 nuclear deal between Iran and various world powers, including the US.

Michael B. Oren, Israel's former ambassador to Washington and a center-right member of Parliament, wrote a piece published in CNN in November 2015 outlining how Obama can aid Israel's security against its perceived threats stemming from the Iranian nuclear deal. He emphasised that US recognition of the Occupied Syrian Golan as part of Israel would be "*a historic breakthrough*".⁶ He listed security issues including Israel's fear of having Hezbollah and ISIS terrorists directly above Israeli cities and villages in the Northern Galilee if the Occupied Syrian Golan is returned to Syria as well as the claim that Iran, following the nuclear deal, has sent thousands of troops to Syria, which could attack Israel more easily if Israel lost control of the Northern stretch of land. He stated that the "*Golan can no longer be exchanged for peace with Syria because Syria no longer exists*".⁷

During a meeting between Prime Minister Netanyahu and President Barack Obama on 9 November last year, Netanyahu imparted his view that the absence of a functioning Syrian government "*allows for different thinking*" concerning the future status of the Occupied Syrian Golan. Obama did not reply to Netanyahu's effort to persuade the US to recognise Israel's illegal annexation of the Occupied Syrian Golan.⁸

In July last year, Zvi Hauser, Netanyahu's former cabinet secretary, also urged for a reexamination of Israel's strategy regarding the Occupied Syrian Golan, stating that the implosion of the Syrian state marked a "*historic opportunity*" for Israel to seek international recognition for the annexation of the Occupied Syrian Golan.⁹

Another senior Israeli minister, Minister for Education and leader of the right-wing Jewish Home party, Naftali Bennett is also using the Syrian conflict in an attempt to solidify Israel's hold on the Occupied Syrian Golan. At Israel's annual global policy Herzliya Conference last June Bennett stated that the international community have an opportunity "*to display their morality*" and warned that the alternative to recognizing Israeli sovereignty, is ISIS gaining control of the Occupied Syrian Golan.¹⁰

The push for normalizing Israel's control of the Occupied Syrian Golan goes beyond conservative nationalists, Amos Yadlin, the centre-left's candidate for Minister of Defense in the March 2016 elections, included recognition of Israeli sovereignty over the Occupied Syrian Golan in a 2015 paper highlighting potential US steps to salve Israel following the Iran nuclear deal.¹¹

Israel's desired internationally recognised control of the Occupied Syrian Golan would benefit Israel politically, militarily, as well as economically. Indeed, Israel benefits hugely from the settlements which ease housing crises happening in Tel Aviv and Jerusalem and the rich volcanic land which produce vast quantities of apples, beef, cherries and wine, in addition to

⁶ <http://edition.cnn.com/2015/11/08/opinions/oren-israel-golan-heights/>.

⁷ <http://edition.cnn.com/2015/11/08/opinions/oren-israel-golan-heights/>.

⁸ <http://www.globalresearch.ca/israel-stakes-claim-to-golan-after-oil-find/5488969>.

⁹ <http://www.timesofisrael.com/recognize-israeli-annexation-of-golan-netanyahu-hints-to-obama/>.

¹⁰ http://www.herzliyaconference.org/_Uploads/dbsAttachedFiles/BennettTJP080615.pdf.

¹¹ <http://www.inss.org.il/index.aspx?id=4538&articleid=10477>.

the abundant water supplies and other natural resources. Moreover the area has a booming tourist industry, the destination drawing in three million tourist visits in 2014.¹²

Seeking to profit from the ongoing conflict in Syria by calling for recognition of Israel's annexation of the Occupied Syrian Golan is cynical and immoral and Al-Marsad urges the international community to reaffirm its position that the annexation is illegal. In the meantime, Israel is using tried and tested strategic tactics on the ground to further its goal, including increased settlement expansion and the control of natural resources.

Settlement Expansion as a tool to gain sovereignty

Israeli began to establish settlements in the Occupied Syrian Golan within a month of the 1967 war. Today, there are approximately 23,000 settlers, living in over 30 settlements.¹³

This is a figure that could soon dramatically increase. In 2015, the Israeli Minister for Education Naftali Bennett announced that 100,000 new settlers will relocate to the Occupied Syrian Golan in the next five years. *"We're in a whole new strategic situation, and a new strategic situation requires new strategic responses"*, said Bennett, who has promised to invest *"several hundreds of millions of shekels"* to create jobs, housing, schools and transportation in the Occupied Syrian Golan.¹⁴ Such an influx would not only dramatically change the population dynamic (the current settler population is approximately the same as the population of the remaining native Syrian inhabitants) but would also make it more challenging for the Occupied Syrian Golan to be returned to Syria.

Exploitation of natural resources as a tactic to gain control over the territory

Israel, as an occupier, is obliged by the 1907 Hague Regulations to *"safeguard the capital"* of the occupied party's natural resources and is not entitled to exploit any land or resources in the Occupied Syrian Golan for its own benefit.¹⁵ This recent push for international legitimization has coincidentally come at a time when Israel is exploring the possibility of oil extraction in the Occupied Syrian Golan. On the first of February 2016 a two-year permit extension was approved for Afek Oil and Gas by the Northern District Committee for Planning and Building. The permit allows for the exploration for conventional oil at up to 10 sites in a 39,500-hectare zone south of the settlement Katzrin.¹⁶

Given a recent court decision regarding 'legalising' quarrying in the West Bank by Israeli companies, the Israeli courts are unlikely to place any obstacles in the way of drilling operations in the Occupied Syrian Golan.¹⁷ In a ruling in late 2011, Israel's Supreme Court created a new principle of *"prolonged occupation"* to justify the theft of Palestinian resources, such as quarried stone, in the West Bank.¹⁸

¹² http://www.nytimes.com/2015/10/03/world/middleeast/syria-civil-war-israel-golan-heights.html?_r=0.

¹³ <http://golan-marsad.org/en/publications/>.

¹⁴ http://www.nytimes.com/2015/10/03/world/middleeast/syria-civil-war-israel-golan-heights.html?_r=0.

¹⁵ Article 55, Hague Regulations, available at <https://www.icrc.org/ihl/WebART/195-200065>.

¹⁶ <http://www.jpost.com/Business-and-Innovation/Environment/Drilling-to-go-on-in-the-Golan-443533>.

¹⁷ <http://www.middleeasteye.net/news/israel-stakes-claim-golan-after-oil-find-913890970#sthash.O49Nwu96.dpuf>.

¹⁸ (HCJ 2164/09), available at <https://www.yesh-din.org/userfiles/file/הכרעות20דין/psak.pdf>.

Legal analysis – occupation and annexation of the Occupied Syrian Golan

Israel's occupation of the Occupied Syrian Golan during the 1967 Arab-Israeli war and subsequent annexation has violated various major legal principles.

As occupied territory, the Occupied Syrian Golan enjoys a specific legal status in international law, governed by the law of occupation, a branch of humanitarian law. The law of occupation provides that military occupation be temporary in nature and does not lead to sovereignty over occupied land. The relevant provisions are enshrined in the 1907 Hague Regulations, the 1949 Fourth Geneva Convention and certain provisions of Protocol 1 of 1977, Additional to the 1949 Geneva Conventions. Israel's actions since the occupation, which include but are not limited to: the forced transfer of native Syrian inhabitants of the Occupied Syrian Golan to Syria proper and the destruction of their property; the transfer of Israeli citizens into the Occupied Syrian Golan; the extraction of natural resources for private gain; the annexation of the Occupied Syrian Golan through the implementation of Israeli civil law; amount to serious violations of numerous of these provisions, including, but not limited to: Article 49 Fourth Geneva Convention,¹⁹ Article 53 Fourth Geneva Convention,²⁰ Article 55 of the Hague Regulations,²¹ and Article 43 of the Hague Regulations.²²

Israel's purported annexation of the Occupied Syrian Golan is illegal and a violation of Article 2(4) of the United Nations Charter and the principle of customary international law prohibiting the acquisition of territory by threat or use of force. Article 2(4) of the UN Charter notes that "*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations*".²³ Article 2(4) is reiterated in Principle one of General Assembly resolution 2625 (XXV), the "Declaration On Principles Of International Law Concerning Friendly Relations And Co-Operation Among States in Accordance With The Charter Of The United Nations (1970). Furthermore, shortly after Israel's annexation of the Occupied Syrian Golan in 1981, the UN General Assembly declared that "*Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights constituted an act of aggression under the provisions of Article 39 of the Charter of the United Nations and General Assembly resolution 2214 (XXIX)*".²⁴

Conclusion

- Israel's illegal attempt to acquire territory of the state of Syria cannot be excused by the international community.
- Israel is employing in the Occupied Syrian Golan the same methods it uses in the Occupied Palestinian Territories: expanding illegal settlements to establish 'realities on the ground' that are deemed difficult to remove, therefore fixing the occupation

¹⁹ Article 49, Fourth Geneva Convention, available at <https://www.icrc.org/ihl/WebART/380-600056>.

²⁰ Article 53, Fourth Geneva Convention, available at <https://www.icrc.org/applic/ihl/ihl.nsf/ART/380-600060?OpenDocument>.

²¹ Article 55, The Hague Regulations, available at <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=0C16200ECC1B0C3EC12563CD00516954>.

²² Article 43, The Hague Regulations, available at <https://www.icrc.org/applic/ihl/ihl.nsf/ART/195-200053?OpenDocument>.

²³ Article 2 (4) UN Charter, available at <http://www.un.org/en/sections/un-charter/chapter-i/index.html>.

²⁴ *Resolution on the Situation in the Occupied Arab Territories*, UN Doc.A/RES/ES-9/1 (% February 1982).

permanently in place.

- Whilst, the settlements scattered throughout the Occupied Syrian Golan are illegal on the same basis as those in the Occupied Palestinian Territories, the Occupied Syrian Golan is dubbed the 'forgotten occupation', given that it rarely attracts the attention of the international community. Given the latest attempts of the Israeli government to have its claims of sovereignty recognized – the international community must seize this opportunity to **reiterate its condemnation** of Israel's illegal annexation of the Occupied Syrian Golan.

- Furthermore, Al-Marsad calls on the international community to:
 - **Condemn** plans that seek to bring 100,000 more Israeli settlers to the Occupied Syrian Golan.
 - **Call for a halt** of natural resource exploitation by Israeli companies for private gain in the Occupied Syrian Golan.
 - **Condemn discrimination** by the Israeli authorities against the native Syrian population living in the Occupied Syrian Golan and the violation of their civil and political rights.