

The Illegality of Israeli settlements in the Occupied Syrian Golan under IHL.

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'Both the Security Council and the General Assembly have declared that the Israeli decision to annex the Golan is null and void. Nevertheless, in 2007, Israel continued its expansion of settlements and its curtailment of the rights of the Syrian residents of the Occupied Syrian Golan.'¹

Three days after the decision of the Knesset to 'annex' the Golan the United Nations Security Council Resolution 497 (December 17, 1981) was adopted unanimously and calls on the State of Israel to rescind its *de facto* annexation of the Golan stating that 'the Israeli decision to impose its laws, jurisdiction and administration in the Occupied Syrian Golan Heights is null and void and without international legal effect.'²

As a point of departure, the Israeli 'annexation' of the Syrian Golan is not up for debate. International law recognises the Syrian Golan as illegally occupied and as such, the legality of Israeli practices such as settlement building on this territory requires examination.

THE LAW

- **Geneva Convention 4; Section III. Occupied territories**

Article 27 -Without prejudice to the provisions relating to their state of health, age and sex, **all protected persons shall be treated with the same consideration** by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.....

Article 47 - Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 49 – (Para. 1) Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to

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¹ United Nations General Assembly Economic and Social Council, 7 May 2009. para. 70.

² United Nations Security Council Resolution 497 (1981), December 17, 1981, (section 1).

that of any other country, occupied or not, are prohibited, **regardless of their motive**. (Para. 2) Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased. (Para. 6) The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

- **The Hague Regulations**

Article 55 - The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

- **UN Resolutions relating to the settlements**

United Nations Security Council Resolution 446 (March 22, 1979) ‘Determines that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.’

United Nations Security Council Resolution 452 (July 20, 1979) ‘States that the policy of Israel in establishing settlements in the occupied Arab territories has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.’

United Nations Security Council Resolution 465 (March 1 1980) ‘Deplores the decision of the Government of Israel to officially support Israeli settlement in the Palestinian and other Arab territories occupied since 1967, [and is] deeply concerned over the practices of the Israeli authorities in implementing that settlement policy in the occupied Arab territories, including Jerusalem, and its consequences for the local Arab and Palestinian population. Calls upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories.’

United Nations Security Council Resolution 471 (June 5 1980) ‘Calls once again upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories.’

More recently; **General Assembly Resolution 63/99 relating to the Occupied Syrian Golan (18 December 2008)** ‘calls upon Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan and in particular to desist from the establishment of settlements.’ As with previous resolutions this request has been ignored.

THE FACTS

‘Construction of infrastructure and housing by Israel was actively pursued in 2007 and early 2008. The Israeli Land Department put up 2,500 dunums of land in the occupied Golan for sale to settlers. According to a recent decision by the Regional Settlements Council in the Occupied Syrian Golan, a new settlement tourism village will be built by 2010, on 40 dunums of land close to the destroyed village of Amudiyah [sic] **, with an earmarked amount of \$30 million.’³ (See Art. 49, G.C.4)

‘In its resolution 63/201, the General Assembly reaffirmed the inalienable rights of the Palestinian people and the population of the Occupied Syrian Golan over their natural resources, including land and water, and called upon Israel, the occupying Power, not to exploit, damage, cause loss or depletion of, or endanger the natural resources in the occupied Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan.’⁴ (See Art. 55 Hague)

RISE OF THE SETTLEMENTS – TRANSFER OF POPULATION

Article 49 of Geneva Convention 4 is central to the legal analysis of the settlement building. Three points are vital 1) Settlers cannot be transferred into the occupied territory 2) The indigenous population of the occupied territory cannot be deported from the occupied territory **regardless of motive**. 3) If a population must be transferred for security or military reasons they must be allowed to return once hostilities have ceased.

These three points have been blatantly ignored by Israel as they began the process of population transfer following the Six Day War. The transfer of the population has worked in two ways, moving local Syrians out and moving Israeli settlers in.

EXPELLING THE LOCAL POPULATION

Prior to 1967, the Syrian population of the Golan was roughly 153,000, 137,000 of which were living under Israeli occupation; living in two cities (Quneitra and Fiq), 164 villages and 146 agricultural farms (figure 2 below shows the location of these villages). Almost all of them were uprooted and expelled during and after the war, forced to relocate to refugee camps around Damascus and whose numbers today are approaching half a million. This depopulation procedure was achieved primarily through the use of Military Orders that declared certain areas to be closed military zones. Military Order 39 was the most devastating of these ordering that 101 villages in the Golan be closed. Following this enforced depopulation, the two cities, 130 villages and 112 agricultural farms were destroyed. **In total the occupation expelled roughly 131,000 people to Syria.** This is in direct violation of Article 49(1) of Geneva Convention 4. Following the end of the conflict these people were not allowed to return by the Israeli government. As stated in paragraph 2 of Article 49, an occupying power is permitted to transfer a population for imperative security or military purposes but in such cases these evacuated people must be allowed to return as soon as hostilities have ceased. (Art. 49(2), G. C. 4.) This clearly has not happened.

^{**} Alternate spelling is ‘Masadya’.

³ United Nations General Assembly Economic and Social Council, 7 May 2009, para. 61.

⁴ *Ibid.*, para. 3.

Six villages with a total population of 7,000 remained. In 1971, the Israelis destroyed the village of Suheta, deported its residents to the adjacent village of Masadah and turned Suheta into a military base. Today, the Golan's communities are concentrated in five villages: Majdal Shams, Masadah, Buqatah and Ain Kinya to the north and east of the region and Ghajar in the northwest. The number of Syrians living in the Golan totals around 20,000.⁵ (See fig.1 below for locations of these villages)

INTRODUCTION OF SETTLERS

As the introduction of Israeli settlers has continued, the settlement population has now equaled that of the indigenous Syrian population and will soon surpass it. This is a direct violation of Article 49(6) of Geneva Convention 4. The three main reasons given for this settlement expansion are military strategy, economic motives and Zionist growth. This strategic settlement expansion has resulted in exploitation of natural resources as well as asymmetrical water quotas and taxes. The Israeli water authority imposes discriminatory water quotas on Syrian farmers: the quota for Israeli settlers is 450 m³ of water per dunum of land, and the quota for Arab farmers is 90 m³ per dunum. In addition, Syrian citizens pay more for water as a result of an indirectly discriminatory tariff system. Syrian citizens are therefore unable to produce the same quantity of high-quality produce per dunum of land as Israeli settlers in the region.⁶

It is not just the construction of the settlements that has infuriated the Syrian locals but also the manner in which they are being built. Taiseer Maray spoke to Al-Marsad regarding the Israeli settlement of Neve Ativ⁷ (see fig. 1) which was built in 1971 on top of the destroyed Syrian village of Jubata Ez-Zeit. ‘....when they began to expand this settlement they built a new tourist area, this tourist area was built on top of [part of] the graveyard of the village.’⁸ Unfortunately this is not an issue exclusive to Neve Ativ, as fig.2 below shows numerous Israeli settlements have been built on the ruins of destroyed Arab villages whose populations were forcibly removed to Syria

It is somewhat difficult to still argue exclusively the point of the military objective in the age of modern warfare and in the view of the Syrians; modern missiles and techniques have diminished the significance of the Golan to Israeli security. In Israel, the Golan question is now more than just a question of security, it is also clearly a question of settlements, water, domestic politics, and to some, is even a question of ideology.⁹ Regarding these economic motives, The Golan is known for its fertile land and bountiful water sources with three tributaries of the Jordan River, the Dan, Hasbani, and Banyas finding their sources in this region¹⁰ which are crucial to agricultural development, and this is one of the key aspects to this occupation. Israel had confiscated land and evicted

⁵ Arab Media Watch, The Golan since 1967 in *The Golan-Ending Occupation, Establishing Peace*, p. 9.

⁶ United Nations General Assembly Economic and Social Council, 7 May 2009. para. 63.

⁷ Dr. Ray Murphy & Declan Gannon, Changing the Landscape: Israel's Gross Violations of International Law in the Occupied Syrian Golan, p. 32.

⁸ *Ibid.*

⁹ Muhammad, Muslih The Golan: Israel, Syria and Strategic Calculations, (Autumn, 1993) 47.4 *Middle East Journal* 611, p. 631.

¹⁰ Muhammad, Muslih The Golan: The Road to Occupation p. 4.

Arab inhabitants, expanded their settlements and diverted the area's natural resources to support those settlements, of which there are already approx. 37¹¹, and the population is expected to increase by 15,000 over the next three years with Israel's recent resolution aiming to expand and add nine more settlements. As with the West Bank these settlements are illegal under international law.

SETTLEMENT PRODUCTS

In the Occupied Syrian Golan the two major settlement products/industries of the region are the Golan Winery and Eden Springs, both of which find their homes in the settlement of Katzrin which considers itself the capital of the region. The illegal settlements have been built in the surrounding regions primarily to support these types of industries. Eden Springs has been the centre of controversy in recent years when their east Scotland branch was forced to shut down in 2007 after a boycott campaign was launched by pro-Palestinian activists such as the Scottish Palestinian Solidarity Campaign (SPSC). The illegality of these ventures can be demonstrated as follows.

- Israel's policies regarding water distribution in the Occupied Golan have, as shown above, discriminated between the residents and the settlers on racial grounds and as such are in contravention of Article 27 of Geneva Convention 4.¹²
- The Eden Springs company acts in contravention of Article 55 of the Hague Regulations by privatising water which in reality belongs to an occupied people.

The economic importance of these settlement products can be illustrated by their overall market value within Israel, with the regions wine making up 21% of the Israeli market and 38% of Israeli wine exports and Eden Water making up 50% of the Israeli bottled water market.¹³

CONCLUSION

The illegal practice of settlement building has been taking place in the Occupied Golan in full view of the international community since the 1967 war. Numerous General Assembly and Security Council Resolutions have been ignored and as stated at the beginning both these bodies have emphatically refused to recognise the annexation of the Golan. As well as these Resolutions, Israel has refused to abide by the Geneva Conventions and Hague Regulations, transferring settlers to an illegally occupied land after forcibly removing approx. 131,000 people. The wanton destruction of Syrian villages and the erection of illegal settlements on their ruins have drastically changed not only the landscape but also the lives of the people beyond repair. The illegality of these settlements extends to the products they produce, something that needs to be recognised more readily by the international community. The pressure of the boycott on Eden springs in Scotland ending with the closure of the plant is proof that if the public are properly informed then results can be achieved.

¹¹ United Nations Security Council, *Report of the Secretary-General on the Middle East* (2006) para. 39.

¹² See n 6 above.

¹³ *The Occupied Syrian Golan Background*, AL-MARSAD - The Arab Centre for Human Rights in the Occupied Syrian Golan (2005) p. 15



Figure 1 List of Israeli settlements

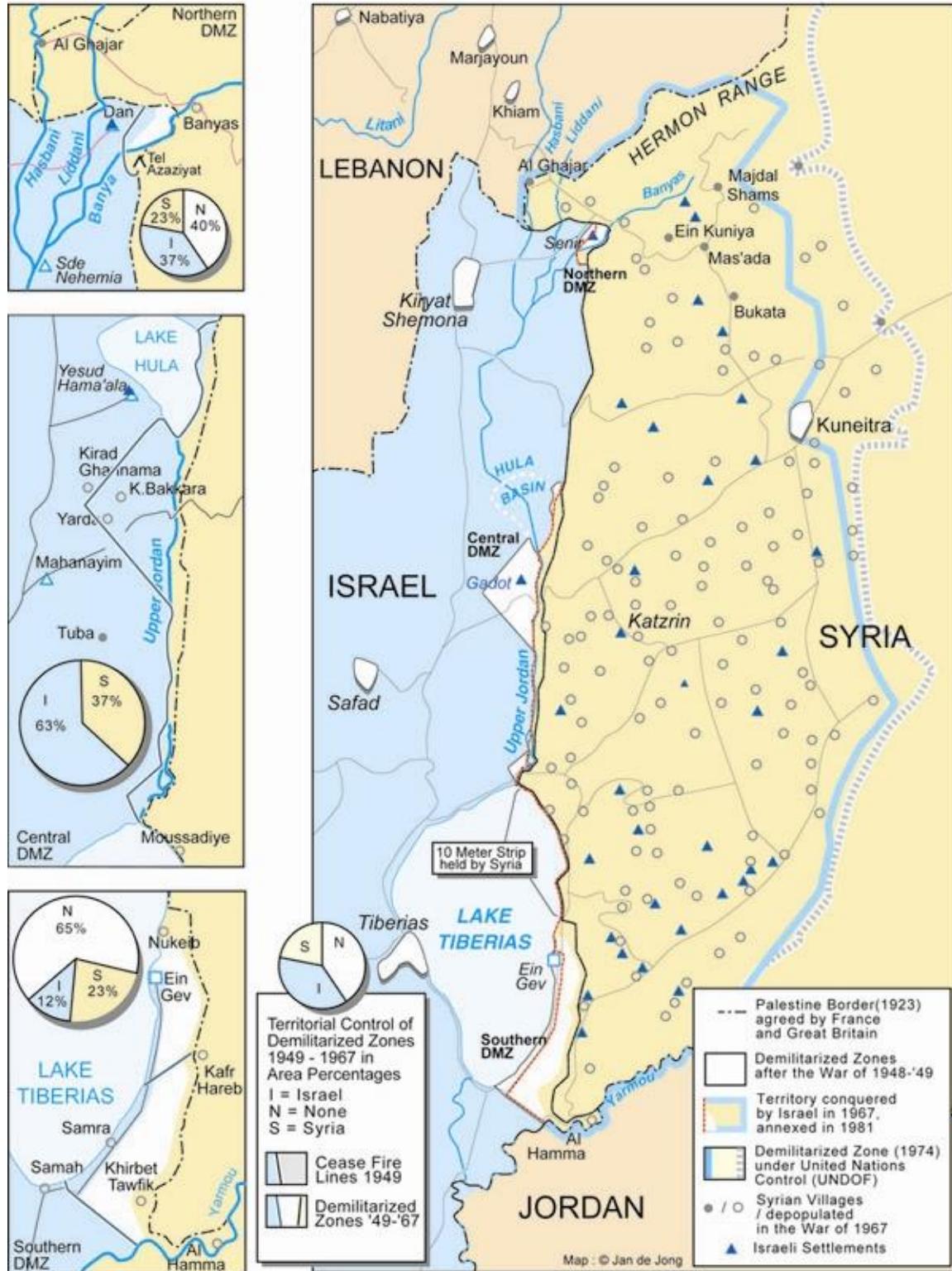


Figure 2 Approx. Sites of former Syrian villages indicating where settlements have been built on their ruins. Map sourced from Foundation for Middle East Peace at <http://www.fmep.org/maps/golan-heights/golan-heights-1923-2008>.