

“Land surveying and settlement” in the Occupied Golan Heights

-Position Paper-



Recently the “real estate settlement office” contacted the owners of the land in the area of Birkat Masa’ada, and invited them on 17 May 2023, to their office in the village of Buqa’atha to notify them of their project on “land surveying and settlement”, i.e., surveying the land owned by indigenous Syrians in the villages of the Golan Heights to create settlements and later register those settlements with the “Israeli Tabu”, requesting them to respond/ interact with the project. This operation to settle lands had begun before this in the village of Ain Qinya.

The Israeli Occupation Forces took advantage of and exploited the reality that they have controlled the Golan Heights since 1967, some 56 years ago, in order to seize as much land as possible. However, the occupation did not stop at seizing the land of Syrian residents who were forcibly displaced from the Golan Heights to Syria during the 1967 War but the confiscation also extended to the lands which belonged to the Syrian residents of the five villages, who remained in the Golan Heights. As we will observe later in this paper, the occupation seized more than 50% of these lands, which were owned by those residents before the occupation. Those lands were

confiscated, and they disposed of them according to their urban, agricultural, grazing and other needs.

This issue poses many questions and concerns amongst Syrians in the Golan Heights, as it is a complex issue, and carries many contradictions in the different perspectives and interpretations of the issue and how to respond to it and deal with it.

In this paper, we will attempt to shed light on the contexts and meanings associated with the “land settlement” process at the legal and administrative level (Israeli) as well as from an international law viewpoint, in addition to the political and sovereign symbols associated with this process, according to the data made available to us.

Introduction:

The land settlement process is one of the functions of the State, and it aims to demarcate the borders around all plots of land and to finalise and determine their ownership through the issuance of Tabu documents.

Land settlement, in a legal and administrative sense, is in practice the registration of land rights; i.e., proving the rights of the land owners according to the system of division into “basins” and “sections” and maps of specific areas.

Israel relies on land settlement, in all areas under its authority and control, which aligns with the settlement strategies initiated by Britain in Palestine, which was called “The Torrens Title” method. This method is based on three principles:

- 1.** Extreme accuracy in demarcating the boundaries of the plots of land, with an aim of issuing possession maps, and identifying ownership of every plot by issuing the Tabu document.
- 2.** Possession maps are final, and it is difficult to challenge them after the completion of the settlement process.
- 3.** The Governing State is responsible for the correctness of the settlement and for any errors which occurred during the process.

- **The land settlement process under “Israeli Laws”:**

Currently, land settlement is imposed on lands owned by the remaining Syrians residing in the occupied Golan Heights under Israeli laws, which were primarily created to expropriate lands from the Arabs and pass ownership to Israeli authorities (the Israeli Land Authority). These laws stipulate the principle of land settlement (according to the Israeli Land Settlement Legislation of 1969), according to the following steps:

- 1.** The Settlement Officer, makes an announcement published on government websites and other forums, which includes publication of the announcement in the vicinity of the location in which settlement will occur (Article 6 of the abovementioned law), by announcing his intention that the settlement will occur on a specific piece of land (30 days in advance), and that is with the aim to inform the

public, because “informing the public” is considered a prerequisite for a settlement to occur. In addition to that, the notice must contain:

- Publication of instructions related to land acquisition and how to submit complaints/claims by residents.
- A warning about the expected results for those who did not submit their claims on time and did not specify the plot of land they own, and about the penalties and consequences of this failure.

2. The second step is to allow everyone who has a claim of ownership rights in the property to submit a legal claim note to the Real Estate Settlement Office, and papers proving land ownership must be attached alongside the claim.

3. After collecting all the submissions of claims that were submitted, the Settlement Officer publishes a table of claims that reflects the contents of the submissions submitted by everyone claiming ownership of the property.

4. In the event that there are contradictory claims of ownership, the matter is transferred to the Central Court to decide on real estate rights.

5. Finally, a table of rights will be published, presenting in a definitive and conclusive manner, the names of the owners with ownership rights for each piece of land¹.

Before dealing with the case of the Golan Heights in particular, it may be useful to look at previous experiences in the settlements of Arab lands which Israel has carried out in other places while taking into consideration the different contexts. In the process of settling the lands of the Galilee, for example, Israel changed many British and Ottoman laws and regulations, especially with regard to local committees and oral testimonies which confirm that “the land is in possession of so-and-so” and that the idea of “owning the land” means

The land settlement process in the Galilee region came in the context of its Judaization and facilitation of settlement, but what is important in that experience is how Israel carried out the land settlement at the time, as it denied the legitimacy of all the oral testimonies that were relied upon in the British settlements and dropped the tax records and thus managed to confiscate large pieces of land, arbitrarily. The data indicates that, as a result of this settlement and the resulting transfer of ownership, 8,000 appeals filed by Palestinian landowners reached the Israeli courts, but 85% of them were rejected.

In the Negev as well, the settlement was announced in 1974 in the area in which the Bedouin tribes were concentrated, and after the announcement, 3,220 property claims were filed within the framework of the settlement. However, Israel chose to freeze these claims and negotiate with their owners, but as of 2004, only 15% of these claims have been settled².

¹ https://www.nevo.co.il/law_html/law01/286_031.htm#Seif5

² <https://www.arab48.com/%D9%85%D8%AD%D9%84%D9%8A%D8%A7%D8%AA/%D8%AD%D9%88%D8%A7%D8%B1%D8%A7%D8%AA/2022/04/09/%D8%AD%D9%88%D8%A7%D8%B1-%D9%85%D8%B9-%D8%AF-%D8%A3%D9%85%D8%A7%D8%B1%D8%A9-%7C->

Land Settlement in the villages of the Occupied Golan Heights from an International Law perspective:

Despite more than half a century since Israel's occupation of the Golan Heights, and more than 40 years since its decision to annex it, international law still defines the Golan Heights as an area under forceful occupation, condemns its annexation and considers it illegitimate and unlawful, and does not recognize the Golan Heights as a part of the occupying State.

International law prohibits the occupying State from forcibly deporting and displacing the indigenous population of the occupied territory, whether to other areas inside the occupied territory or outside of it. In return, the occupying State is prohibited from transferring its population to the occupied territory and establishing settlements. International agreements, the most important of which is the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War 1949, stipulate that no changes should be made to the status of occupied lands. Despite that, Israeli violates all international treaties and laws and proceeds with its policy of seizing land and creating new realities about it through building and expanding settlements.

On the eve of the occupation of the Golan Heights, and according to Israeli data, the residents of the four villages (Majdal Shams, Buqa'atha, Masa'ada, Ain Qinya) owned approximately 96,000 dunams, of which about 27,000 dunams were arable (i.e. suitable for growing crops), and the rest (69,000) dunams were pasture lands owned by the residents of those villages³. The same Israeli sources specify in another paper that 74,000 dunams; were pasture lands owned by the aforementioned four villages prior to the occupation, which then decreased in the year 1969 to 38,000 dunam, as a result of confiscation⁴.

Based on this data, we can say that the four villages owned over 100,000 dunams of agricultural and farming land, prior to the occupation. However, the village of Al Ghajar owned around 5,000 dunams prior to occupation, and today owns 2,000 dunams, as more of the confiscation in this land occurred for the benefit of the "Snir" settlement.

Officially, the size of the four villages (the administrative boundaries) today amounts to approximately 58,000 dunams. However realistically and practically, this does not exceed 47,000 dunams, if around 11,000 dunams are removed for the preservation of the environment it is surrounded by. This means that since the occupation, the Israeli occupation forces have confiscated around 56% of the land owned by Syrian residents

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³ [\(archives.gov.il\) החקלאות הדרוזית ברמת הגולן | סמנכ"ל להנדסה וטכנולוגיות | ארכיון המדינה](#)

⁴ [\(archives.gov.il\) נזקי עיזים ברמת-הגולן | רשות שמורות הטבע | ארכיון המדינה](#)

of the Golan Heights, for the benefit of the military, settlement, and preservation of nature⁵.

The Political and Sovereign Symbols for the land settlement process in the occupied Golan Heights:

The fact that the occupying state's conduct of a land settlement process in the occupied part of the Golan is a clear violation of all international resolutions and treaties which do not grant it such a right, and this settlement process by the occupying State constitutes a violation of the sovereignty of the Syrian state, which has the exclusive right to settle and register the land and issue its own land registry documents.

General summaries and estimates of the dimensions of current settlements in the villages of the Golan Heights:

- 1.** It is indisputable that the current proposed settlement in the Golan constitutes a violation of international laws and treaties by Israel. However, on the de facto level, Jawlani's (Syrian residents of the Golan Heights) face policies and legal complications that may threaten the fate of part of the lands belonging to them, exposing them to the possibility of expropriation or bargaining.
- 2.** The results of the settlement process are finally and difficult to be challenged after its completion, and in what known cases there are, those legal appeals, for the most part, were to no avail.
- 3.** In the first practical steps taken by the Settlement Office in the Golan Heights, the Settlement Commissioner did not implement the above-mentioned legal recommendations, as he invited some of the landowners to a meeting in his office in the village of Buqa'atha; it was attended by a limited number of landowners. At the meeting, the representative of the Settlement Office did not present clear and sufficient maps and information about the course and dimensions of the settlement. After the meeting, more than one group was formed on the telephone application "WhatsApp", through the Srouji Engineering Office, which is in charge of following up the survey process, and this is contrary to what is stipulated in the recommendations.
- 4.** The Land Settlement Law requires "transparent" procedures that include landowners providing evidence of ownership, but it is not yet clear what documents

⁵ <https://golan-marsad.org/ar/%d8%a7%d9%84%d9%85%d8%ad%d9%85%d9%8a%d8%a7%d8%aa-%d8%a7%d9%84%d8%b7%d8%a8%d9%8a%d8%b9%d9%8a%d8%a9-%d9%81%d9%8a-%d8%a7%d9%84%d8%ac%d9%88%d9%84%d8%a7%d9%86-%d8%a7%d9%84%d9%85%d8%ad%d8%aa%d9%84-2>

and certificates will be acceptable to prove ownership - according to Israeli laws - and whether challenges will arise in this area, especially in cases where properties are disputed between the local residents themselves or between residents and the occupying power.

5. We must stop at the principle of the “validity of the settlement” which the occupying state will be responsible for, not only because it is an expression of the sovereignty of the “state” that claims its right to settle the lands under its control, but rather because it is based primarily on the laws and legislation of the occupying authorities themselves, and on their exclusive interpretations of these legislations, which are enacted by them with the aim of appropriating the land, through the enactment of various laws, such as the Absentees’ Property Law, the land appropriation laws, and the expropriation law for the purposes of the public interest.

6. During the land settlement process, and upon reviewing the proprietor conditions for any piece of land, the Israeli authority focuses and examines the possibility of the occupying State gaining ownership, despite claims already made and without it having a prior claim to ownership. In this process, the “State” is both the plaintiff and the judge at the same time. In this process, the owner is placed before the eligibility for proof of ownership, and conditions for restricting the verification of ownership are imposed. According to Israeli data, until 1948, only 6% of Palestinian lands were registered under Israeli companies and Jewish owners, whereas currently, over 93% of Palestinian lands are under occupation forces ownership.

7. The lands which are more prone to the transferal of ownership are the Waqf lands (in the area of Mt Hermon, for example), and the lands that fall under the classification of “absentee properties” according to Israeli laws.

8. In early 1989, the occupying force filed a lawsuit against the local authority in Majdal Shams, appointed by it, to settle an ownership dispute over large areas of land that were at the disposal of the residents of Majdal Shams, in Mt Hermon. The local authority failed to attend court hearings, as did the lawyer appointed to it, so a court order was issued on 5 January 1998, to transfer ownership of these lands (Plot No. 2, Basin No. 203019) to the occupying State. This lawsuit followed the submission of contradictory memorandums during the settlement and registration process for these areas, during the year 1988 - (Settlement File No. 33/88). At that time, the Syrian population was not aware of what was happening nor what future risks these legal procedures posed, which would later lead to the deprivation of their right to use these lands.

9. With regard to endowments, particular attention must be given to Article 20 of the settlement law itself, which gives the right to the representative of the endowment to represent the residents before the settlement officer. This stresses the importance of this representation in terms of not infringing public property rights, and in our case, the potential infringement of lands belonging to the endowments of Majdal Shams.

10. Any new administrative or legal arrangement, such as this settlement or others, which would reduce the private or public ownership of the lands of the indigenous population, would not be in their interest.

11. Within the limits of the result of the initial review conducted by Al Marsad, there are no legal paths to object to or stop the land surveying and registration process in its entirety, but rather the matter is limited to the possibility of addressing the relevant authorities.

References

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