

Israeli land seizures, settlements violate international law

On Aug. 20, 1991, the Palestinian human rights organization Al-Haq produced an extensive report entitled "Israeli Land Acquisition and Settlement Policies in the Occupied Territories," documenting Israeli policy which is being implemented in defiance of international law. The report was published in the English-language supplement of the Jerusalem newspaper Al-Fajr on Sept. 9 and 16. The report provides more detailed confirmation of charges outlined in an Aug. 23 EIR article entitled "Israel's Apartheid System Shows Zionism Is Racism." The following are excerpts from the Al-Haq report.

There has been a dramatic increase in illegal Israeli acquisition of Palestinian land and its settlement in the Occupied West Bank and Gaza Strip since January 1990. Settlement plans have been and are in the process of being implemented at a greatly expanded pace, with no regard for Israel's obligation as an occupying power under international law. Further, Israeli authorities have repeatedly indicated that they have no intention of either reversing or halting their illegal settlement policies and practices. These Israeli policies will be illustrated by two recent case studies of Israeli land acquisition that demonstrate the urgency of the situation, one in the Bethlehem village of Irtas and the other in the Ramallah village of Bil'in.

The increase in illegal land acquisition and settlement has accompanied the most significant rise in Jewish immigration since the first few years of Israel's 43-year history. Al-Haq is especially concerned about two aspects of this recent influx: First, some new immigrants are settling in the Occupied Territories; and second, the scope of the influx and the short duration in which it is occurring has placed an unprecedented strain on housing availability within Israel, leading other Israelis to move from within the pre-1967 Green Line to the Occupied Territories [the Green Line is the pre-1967 border of Israel].

It is widely accepted under international law that land acquisition and settlement by an occupying power are illegal, contravening the Hague Regulations of 1907, and the 1949 Fourth Geneva Convention. In particular, Israeli policies of land acquisition and settlement violate the requirements of Article 43 of the Hague Regulations that an occupied territory must be administered, with limited exception, for the benefit of the local population.

Al-Haq calls on the High Contracting Parties to the 1949 Fourth Geneva Convention to fulfill their obligation under the Convention and intervene with Israel in order to end its practices of land acquisition and settlement in the Occupied Territories. These policies and practices are clearly illegal and their continuation threatens the livelihood of Palestinians living under occupation and prejudices any long-term solution to the status of the Occupied Territories and peace in the region.

1. Land acquisition

1.1. Recent developments

According to documentation and information compiled by Al-Haq, illegal land acquisition by the Israeli military authorities has escalated significantly since the beginning of the intifada [December 1987] and especially since January 1990. Between January 1988 and June 1991, over 504,120 dunums of land [a dunum is about a quarter of an acre] were confiscated by the Israeli authorities in the Occupied West Bank (excluding East Jerusalem) and Gaza Strip under various pretexts. This number amounts to 8.78% of the total land area of the West Bank (excluding East Jerusalem) and Gaza Strip. Of this, 418,642 dunums, or 7.29%, were confiscated between January 1990 and July 1991. [The total percentage of the West Bank and Gaza Strip land which has been seized since 1967 is about 60%.]. . . .

2. Israeli settlement

2.1. Recent developments

Estimates for the number of Jewish settlers in the Occupied Territories (excluding East Jerusalem) vary significantly, ranging from 77,000 to 120,000. Based on conservative estimates, at least 104,000 Jewish settlers currently live in the Occupied Territories (excluding East Jerusalem). In addition, well over 127,700 Jewish settlers reside in Occupied East Jerusalem. The settler population of East Jerusalem has increased by at least 14.6% since January 1990, when, according to the *Statistical Yearbook of Jerusalem*, 111,400 Jewish settlers lived in the area.

2.2. Recent policy statements

Israeli Housing Minister Ariel Sharon was recently quoted as saying that "Israel has no plans to leave Judea, Samaria, and Gaza, nor will it ever have such plans." Sharon

is also clear on the question of settlements: "We have built in the past, we are building now, and we will build in the future." In addition, Sharon recently noted in reference to mobile homes set up in the Occupied Territories (because municipalities within the Green Line opposed locating them in their environs) that he would have preferred not to have installed them in "Judea and Samaria" since "our design there is for permanent settlement." [Judea and Samaria are the Zionist terms for the West Bank.]

It is also evident, as Sharon recently stated, that "Settlement in Eretz Israel, including Judea and Samaria, is a government policy according to government decisions. I am not executing a personal policy, but a policy of the Israeli government." Prime Minister [Yitzhak] Shamir's media adviser, Avi Pazner, recently confirmed that the settlement of the Occupied Territories was government policy when he warned against greeting U.S. Secretary of State James Baker's visit with another settlement, saying that "it is not our policy to set up settlements while Baker is here. These acts of setting up settlements at this time only interfere with our efforts to settle at other times." The director general of Prime Minister Shamir's office, Yossi Ben-Aharon, recently stated that a "freeze [on settlements] violates a very basic principle . . . the right of Jews to live in any part of this land west of the River Jordan." . . .

2.4. Settlement construction since January 1990

An Israeli Housing Ministry spokesman recently stated that there were 4,500 housing starts recorded in "Judea, Samaria, and Gaza" in fiscal year 1990. According to the *Washington Post*, between January and October of 1990, Israel had allocated \$80 million to settlement funding. In the past two years, 13,000 housing units and 1,900 mobile homes have been established in the Occupied Territories (excluding East Jerusalem) according to Aryeh Bar of the Housing Ministry.

In a report presented to the Knesset in May 1991, Sharon reported that 4,468 units were under construction in the Occupied Territories (excluding Jerusalem), with 95,000 units scheduled for completion by the end of 1991 for Israel and Occupied Territories; Sharon refused to reveal what proportion of the 95,000 units were to be built in the Occupied Territories. Israeli Deputy Minister of Construction and Housing Avraham Ravitz stated that there are 13,000 housing units being planned for the Occupied Territories (excluding East Jerusalem) in 1991 and 1992, with Knesset members Charlie Biton and Ali Ben Menachem charging that the Housing Ministry actually plans to build as many as 24,300 housing units in seven West Bank settlements by the end of 1992. . . .

4. International law applicable to Israeli land acquisition and settlement

4.1. Background

International Law is unambiguous on issues of land acquisition and settlement in an occupied territory. Article 43 of the Hague Regulations requires that an occupied territory



United Nations/M. Nasr

The number of registered Palestinian refugees has now passed 2 million.

must be administered, with rare exceptions, for the benefit of the local population. Article 73 of the Charter of the United Nations similarly requires that in "non-self-governing territories," "the interests of the inhabitants of these territories are paramount." The acquisition of the majority of the local population's land and its settlement by the occupying power is clearly not in the interest of, nor does it benefit, the Palestinian people.

The United Nations has repeatedly affirmed the applicability of both the Hague Regulations of 1907 and the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War to the 24-year-old Israeli occupation of the West Bank and Gaza Strip. In addition, the international community has historically rejected the validity of Israel's 1967 annexation of East Jerusalem and has repeatedly affirmed its status as an occupied territory.

4.2. The Israeli position

While Israel accepts the applicability of the Hague Regulations to the Occupied Territories as customary law, it does not accept the applicability of the Fourth Geneva Convention of 1949 even though the General Assembly of the United Nations voted by 141 to 1 (Israel) in 1981 that the Convention applies to the West Bank and Gaza Strip. After the first five months of the occupation, Israel took the position that it is not an occupier and therefore is not bound by the Geneva Convention, but "agrees to apply the humanitarian standards laid down in these conventions." Most legal scholars believe that all Israeli justifications in this regard "fail in view of the clear wording of Geneva-IV, to which Israel is a party, and of the reiteration of the wording in PR-1 (Protocols to the Convention) of 1977, Article 85 (4a)."

4.3. Land acquisition

In relation to seizure of land, Article 23 of the Hague Regulations of 1907 forbids an occupying country "to destroy

or seize the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war." Article 46 of the Regulations specifically states that "private property can not be confiscated." Article 52 requires that "requisition . . . shall not be demanded . . . except for the needs of the army of occupation." Israel's actions clearly do not fall within the exceptions allowed under the Hague Regulations. Land has been seized for the purpose of annexing territory, for settling Israeli civilian population, and for other non-military purposes. Further, Israel's claim of military necessity is often offered in cases where the justification is arguable at best.

4.4. Land settlement

The settlement of an occupied territory also clearly violates Article 49 of the Fourth Geneva Convention, which requires that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies." The International Committee of the Red Cross (ICRC) Commentary to the Convention agrees with this formulation, stating clearly that Article 49 "is intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race."

Even if the definition Israel uses for claiming that the land it has acquired is "state land" is correct, Article 55 of the Hague Regulations states that an occupying power "shall be regarded only as the usufructur and administrator of state property." In keeping with this mandate, Israel must safeguard the property and "may not impair its substance or alter its character." Building Jewish settlements on these acquired lands is clearly a violation of this mandate.

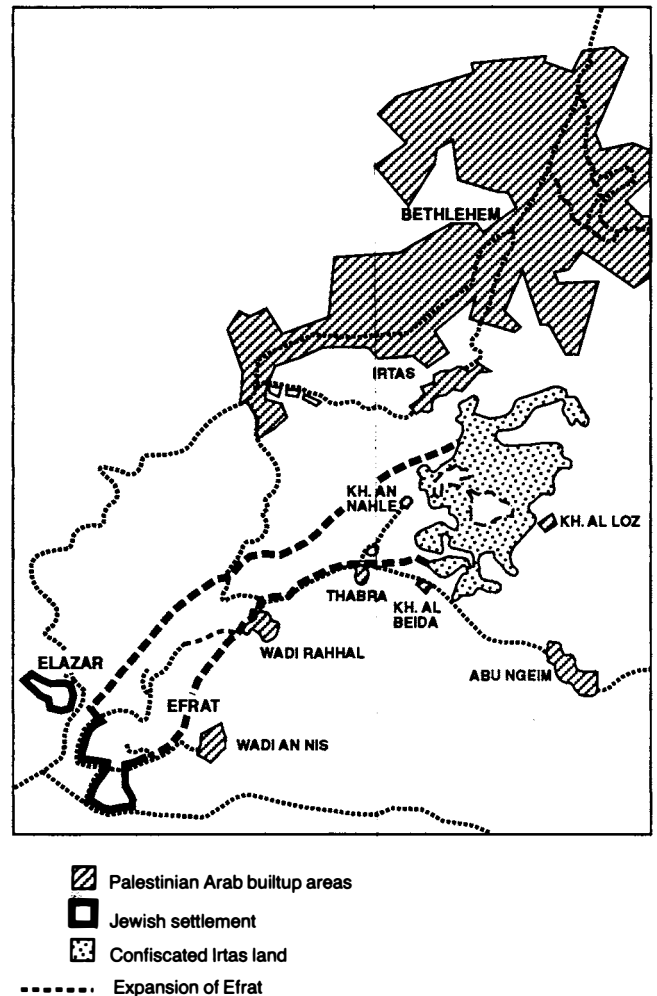
5. Al-Haq case studies

5.1. Irtas village

Irtas is a village that lies a few kilometers south of Bethlehem with a population of approximately 2,000 people. On April 12, 1991, the mukhtars of the village were informed by written announcement in Hebrew of the intention of the Israeli authorities to seize 1,432 dunums of land in the areas of Jabal Abu Zeid, Wad Irtas, Shu'ub Salman, Harikat Milia, Nahleh, Khirbet al-Khokha, and al-Khaleej based on the pretext of the land's designation as "state land" [see Figure 1].

This announcement was relayed to the local landowners. Although the villagers were not informed earlier, the announcement indicates that the actual acquisition order was issued on March 14, 1991. The owners of the land include Palestinian villagers of Irtas, residents of nearby Bethlehem, and the Irtas Convent. Portions of the land to be confiscated are cultivated with grape vines and almond trees. In addition, some of the land, no more than 10%, is used for the cultiva-

FIGURE 1
Irtas village land acquisition



tion of vegetables in the summer season and grains in the winter season.

The villagers believe that the land will be used for expanding the nearby Jewish settlement of Efrat, which was built on land previously confiscated from Irtas and the nearby village of Khader. This belief is confirmed by Figure 1, which indicates the expansion area proposed by Efrat.

The villagers noted that the seizure of this land will affect other large areas, especially land in the southern part of the village of Khader, which is parallel to the acquired land. This land is cultivated with grape vines and portions of it had been seized previously for the building of Road #60, which connects Hebron with Jerusalem. That acquisition had caused the loss of huge areas of agricultural land, especially fruit trees. As a result, the remainder of this land in southern Khader now falls between the road and the land that has been seized. Usually in these situations, restrictions are placed on



United Nations/M. Naar

On the West Bank, 36% of those injured in the first 18 months of the Palestinian uprising were children under the age of 15, according to the U.N. Relief and Works Agency. Here, doctors at Ahli Arab Hospital, Gaza, treat a 10-year-old Palestinian who was beaten by Israeli soldiers.

farmers tending their land due to its proximity to a settlement, settlement roads, and land confiscated for other uses.

The people of Irtas have begun the process of objecting to this acquisition, although there has been no response yet from the Israeli authorities. In addition, on April 19, the villagers sent a letter to U.N. Secretary General Javier Pérez de Cuellar protesting the acquisition and urging the United Nations to intervene to rescind the seizure of the land. In addition, the villagers sent an appeal to U.S. Secretary of State James Baker asking him to pressure the Israeli authorities to return their land.

5.2. Bil'in village

On Feb. 25, 1991, the mukhtars of Bil'in village in the Ramallah district received an announcement in writing of the intention of the Israeli authorities to seize approximately 1,000 dunums of land belonging to 45 families in the areas of Thahr, Mazarib, Jourit Abu Shal, Al-Masatheeh, Al-Mumalaha, Umm al-Sabiya, Wahrit al-Shajr, Khalit al-Maqadir, and Khirbet Umm al-Thineen on the pretext that the land is "state land" with some of it intended to be a "nature reserve." Approximately 57 dunums of the land to be seized belong to villagers in nearby Saffa [see Figure 2].

On March 10, an Israeli land official came to the village with a "Captain Sammy," the director of "Absentee Property," and a representative of the Israeli civil administration from Khirbet Bani Harith. They orally warned the villagers that they are forbidden to enter the seized land and threatened

them with punishment if they did so. On March 18, nine of the village landowners were requested to meet with a representative of the civil administration in Kharabtha village. On their entry to the meeting, the villagers received written orders of acquisition and were threatened with punishment if they violated the order. Some of the landowners signed the order and others refused.

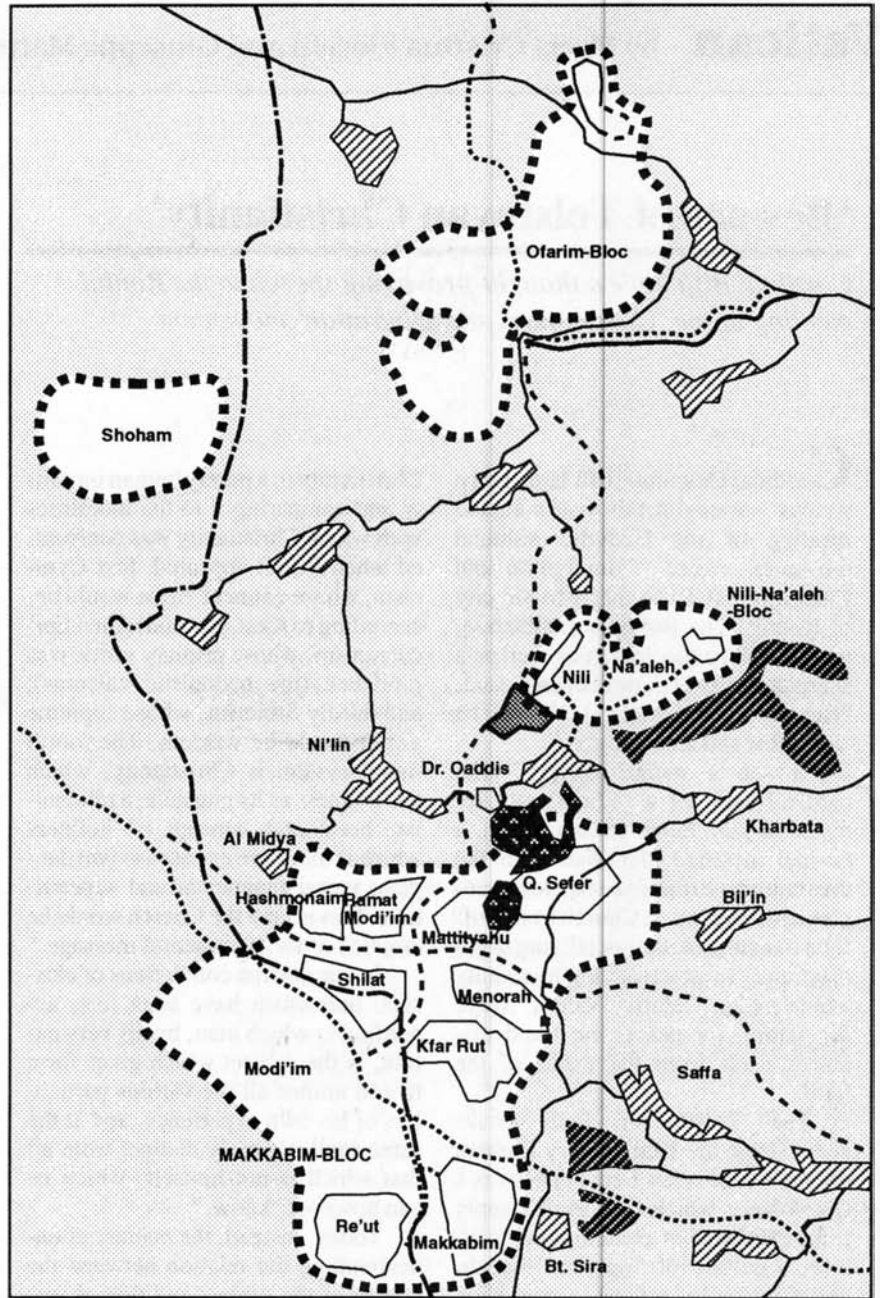
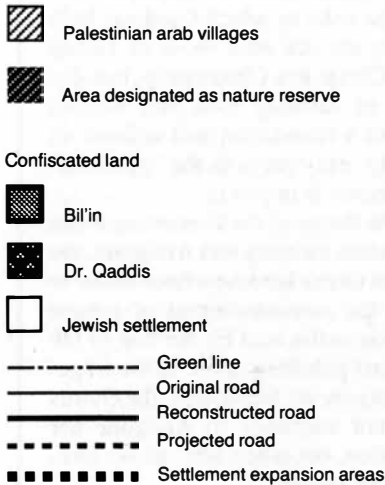
It is important to note that the villagers have objected to land seizure attempts in the same area a number of times and succeeded twice, in 1986 and 1989, in freezing the acquisition of 144 dunums and 400 dunums, respectively. The pretext for those attempted acquisitions was, again, that they were "nature reserves" and "state land."

In addition to the fact that their land has been seized, residents are concerned because the seized land is located about 100 meters from Palestinian homes in the west of Bil'in. Portions of the land have been cultivated with grains for the past 10 years. Further, part of the land was used for grazing by the village livestock. The seized land completely surrounds approximately 1,500 dunums of other land which is planted with olive trees.

5.3. Comments

Bil'in and Irtas are clear examples of how Palestinian villages near expanding blocks of Jewish settlements are being constrained and stifled by this expansion. The land seized in Bil'in will serve as a park area for the Makkabim/Mod'im settlements. As Figure 2 indicates, Bil'in is part of a pattern

FIGURE 2
Bil'in village land acquisition



affecting nearby villages such as Safa, which has had land seized for the projected Modi'im highway; Beit Sira, which has had land seized for the expansion of the Makkabim settlement; and Deir Qaddis, which has had land seized for the construction of nearby Jewish settlements.

Over the years, more than half of the area shown on the right side of Figure 2, east of the Green Line and halfway between Tel Aviv and Jerusalem, has been brought under Israeli control. Most of this land is comprised of irregular stretches of rocky, grazing land, making it an easy target of the Israeli land authorities. Deir Qaddis has lost more than

half of its land, which is now either incorporated as expansion areas of planned large-scale Jewish suburban settlements or designated as nature reserves providing recreation grounds for the emerging Jewish suburbs in the area. Necessary Palestinian village expansion is severely restricted while land confiscated from these villages is at the same time developed to create Jewish suburban cities that in the Bil'in area alone will accommodate more than 300,000 Jewish inhabitants within the next 10 to 15 years. This will bring the Jewish settler population to more than double that of the Palestinian population in the area.