



Israel's Ongoing Annexation: The Continuous Expansion of the Settlement of Har Gilo

On the top of Bethlehem's highest altitude lies the illegal settlement of Har Gilo, built on lands belonging to Beit Jala and Al Wallajah of the occupied Palestinian territory ("oPt"). What started as a small Jordanian military base, which Israel occupied in 1967, was converted into a small civilian settlement in 1972 prior to becoming a strategic geographic factor in overtaking and controlling Bethlehem.¹ Har Gilo's population growth was not a steady and natural increase, but rather an artificial one through the deliberate annexation of Palestinian lands, and Israel's government-sponsored policy of encouraging and rewarding settler population in the oPt with significant incentives.

In fact, there is a direct correlation between the land acquisition of Al-Walajah property and the population increase of the Har Gilo settlement. For example, from 1972 until 1999, the population remained below 363 settlers.² It increased to 670 in 2013 and spiked to 1585 afterwards.³ The significant growth in settler population coincided with the 2013 decision to confiscate 1,200 dunums and designate them towards a National Park.⁴ As it stands, the population of Har Gilo numbers 1646 settlers today.⁵

¹ UNRWA, (P3) "Al Walaja: An Analysis Under International Law", <http://www.unrwa.org/userfiles/2011081763638.pdf>

² Jewish Virtual Library, "Population of Jewish Settlements in the West Bank by Community", available at: <https://www.jewishvirtuallibrary.org/israeli-settlements-population-in-the-west-bank>. Last accessed: October 12, 2020.

³ Ibid

⁴ Btselem, "Refa'im Stream National Park" available at https://www.btselem.org/jerusalem/national_parks_refaim_stream last accessed on October 12, 2020.

⁵ Jewish Virtual Library, "Population of Jewish Settlements in the West Bank by Community". Available at: <https://www.jewishvirtuallibrary.org/israeli-settlements-population-in-the-west-bank>. Last accessed: October 12, 2020.

The Settlement of Har Gilo and its Strategic Importance for Israel's Annexation Plans

The strategic location of the settlement of Har Gilo enables the settlement to operate as a link between the areas annexed around the southern parts of Occupied East Jerusalem (namely, the Gilo settlement and the Gush Etzion settlement bloc built to the west and south of Bethlehem). Moreover, its location serves to sever the geographic contiguity between Bethlehem and Jerusalem. Consequently, since its establishment, and especially after the construction of the illegal Annexation Wall, the Har Gilo settlement, along with its "area of jurisdiction", continue to be expanded at the expense of Palestinian lands and fundamental rights.

Continuous Settlement Expansion Entrenches the Ongoing Process of Annexation

In early June, the Israeli government announced plans to erect 560 housing units in the Har Gilo settlement, scheduled for 2020.⁶ This week, additional 900+ units were approved⁷, an expansion that will cut the historic connections between Al Walajah, Beit Jala and Battir setting what could be considered to be a whole new settlement.

The expansion of the Har Gilo settlement must be understood within the context of Israel's annexation objectives. Since 1967, Israel, the occupying power, has looked towards annexing more Palestinian territory year after year. As a result, the areas in and around Occupied East Jerusalem are seen as part of the "Israeli consensus" regarding annexation.

On the one hand, *de facto* annexation has already been enforced in the occupied Palestinian territory, most notably in Area C, where settlements

⁶ Ir Amim, "Civil Administration Advances Huge Road Construction Plans, Pushing Forward the De-Facto Annexation of Greater Jerusalem, Including its Fourth Settlement Bloc" available at <https://www.ir-amim.org.il/en/node/2529>. Last accessed: October 12, 2020.

⁷ Peace Now, "Amid Pandemic and Economic Crisis, Israel to Advance at Least 4,430 Settlement Units" available at <https://peacenow.org.il/en/amid-a-pandemic-and-economic-crisis-israel-to-advance-at-least-4430-settlement-units>. Last accessed: October 12, 2020.

serve as a critical tool to achieve this objective. On the other hand, Israel claims that *de jure* annexation has been "suspended". In practice, however, the successive Israeli governments have made incessant attempts to "legalize" annexation, mostly through legislation in the Israeli parliament. Legislation bills such as the Greater Jerusalem bill and the Etzion Bloc Bill,⁸ introduced in 2017, seek to further expand the boundaries of the Israeli Jerusalem Municipality,⁹ including Bethlehem territories that fall well beyond the Green Line. Its approval would constitute a concrete measure of formal annexation that includes the hinterland of Beit Jala and the villages west of Bethlehem, including Al Walajah.

Recently, the Israeli Civil Administration, Israel's government body tasked with the administration of the occupation, approved a decision to expand a bypass road linking the Har Gilo settlement with West Jerusalem as part of a larger development plan to upgrade road infrastructure and expedite settlement traffic congestion between Jerusalem and its neighboring West Bank settlements.¹⁰ The decision to expand the road adjacent to Al-Walaja village is vital to realize the expansion of the Har Gilo settlement. Simultaneously, this paves a way for the expansion of other settlement constructions.

Settlement Infrastructures as Tools to Isolate and Control Al Walajah Village

In the present condition, Al-Walaja village, located 4 km northwest of Bethlehem and 9 km southwest of Jerusalem, is surrounded by the Har Gilo settlement from the North, South and East perimeters. The expansion of the road and enlargement of Har Gilo west of the village will completely disconnect and isolate it from the West Bank territories even further.

⁸ For more information concerning annexation legislations, please visit <https://www.yesh-din.org/en/legislation/>

⁹ Foundation for Middle East Peace "Settlement Report: July 28, 2017", available at: <https://fmep.org/resource/settlement-report-july-28-2017/#Gerrymander>. Last accessed: September 30, 2020.

¹⁰ Ir Amim, "Civil Administration Advances Huge Road Construction Plans, Pushing Forward the De-Facto Annexation of Greater Jerusalem, Including its Fourth Settlement Bloc" available at <https://www.ir-amim.org.il/en/node/2529>. Last accessed: October 12, 2020.

The Annexation Wall already turned the village into an enclave surrounded by all sides. In addition to the road's expansion and Annexation Wall that separates the villagers from their agricultural land,¹¹ the relocation of the checkpoint closer to the village,¹² and the 2013 decision to confiscate land and designate them towards a National Park¹³ further encroach on the village and limit the possibility of any future development in Al-Walaja area. This demonstrates how Israel uses the areas in the occupied Palestinian territory it unilaterally declares as national parks, as a tool to annex more Palestinian territory.¹⁴

Although the Israeli “Civil Administration” justifies the need for the road in the interest of Palestinians,¹⁵ in reality, the road's route for Palestinians is impractical as it leads to a dead-end checkpoint to Jerusalem. Without a permit, nearby Palestinian villagers cannot access either the road heading towards Jerusalem or the newly designated park neighboring the village. Furthermore, this road is originally constructed on private Palestinian land;¹⁶ to actualize this project, which would only be useful for settlement use, more Palestinian private property would be confiscated.

As situation stands now, Israel’s permanent and exclusive control of occupied lands and their transformation into settler-roads, Israeli-exclusive national parks, and illegal settlements throughout Palestine can only be achieved by land confiscation *en masse*, along with the forcible transfer of the protected Palestinian population. The effects of such policies and practices are already catastrophic for the Bethlehem district.¹⁷

¹¹ UNRWA, (P3) “Al Walaja An Analysis Under International Law”, <http://www.unrwa.org/userfiles/2011081763638.pdf>

¹² Ir Amim, “Al-Walaja: Unpermitted Checkpoint Construction Final Development in Sealing off a Village between Jerusalem and Gush Etzion” available at <https://altro.co.il/newsletters/show/10680?key=78ff439c64a778a26cb69fe4e8355076>. Last accessed: October 12, 2020.

¹³ Btselem, “Refa'im Stream National Park” available at https://www.btselem.org/jerusalem/national_parks_refaim_stream. Last accessed: October 12, 2020.

¹⁴ Btselem, “National Parks as Tool for Constraining Palestinian Neighborhoods in East Jerusalem” available at https://www.btselem.org/jerusalem/national_parks. Last accessed: October 12, 2020.

¹⁵ Ir Amim, “Civil Administration Advances Huge Road Construction Plans, Pushing Forward the De-Facto Annexation of Greater Jerusalem, Including its Fourth Settlement Bloc”, available at: <https://www.ir-amim.org.il/en/node/2529>. Last accessed: October 12, 2020.

¹⁶ Ibid

¹⁷ For more information, see: <https://balasan.org/wp-content/uploads/2020/10/AL-MAKHROUR-Report-Email.pdf>

Annexation is Strictly Prohibited under International Law

The core principle of International Humanitarian Law (IHL) is the temporary nature of the occupation. In grave contradiction to this, Israeli settlements in the oPt serve as a permanent base for Israel's exclusive control of occupied territory. According to IHL, confiscation of occupied lands is not allowed under international law; confiscation of private property is prohibited, while the confiscation of public property lands (such as State lands, parks and natural resources) is strictly prohibited for any purpose other than absolute military necessity or the benefit of the local protected population, Palestinians,¹⁸ which is clearly not the case for Israeli settlements.

IHL, namely the Fourth Geneva Convention, strictly prohibits the transfer of the Occupying Power's civilians into occupied territory.¹⁹ This absolute prohibition is also outlined in the Rome Statute of the International Criminal Law, which labels it as War Crime. Israeli settlements, as a key tool in enforcing annexation, obstruct the inalienable right to self-determination for Palestinians.

Annexation of occupied territory is absolutely prohibited under international law, without exceptions or derogations to this rule. The absolute prohibition on annexation/territorial acquisition with the application of domestic law into occupied territory, as a manifestation of the use of force and violation of the right to self-determination, is an *erga omnes* obligation and stands as a core principle of International Law, also confirmed in the UN Charter.²⁰ Specifically under its IHL obligations as an Occupying Power, Israel is obliged to abide by the absolute prohibition of annexation of the oPt, which prohibits an occupier from annexing occupied territory, imposing its sovereignty over it, or applying any measures of a sovereign nature.²¹

¹⁸ IHL, The Hague Regulations of 1907

¹⁹ Articles 27 and 49 of the Fourth Geneva Convention

²⁰ UN Charter, Article 2/4

²¹ Articles 4 and 47 of the Fourth Geneva Convention

