

THE OUTPOST OF EVYATAR

TREND OF RETRO-ACTIVE “LEGALIZATION”

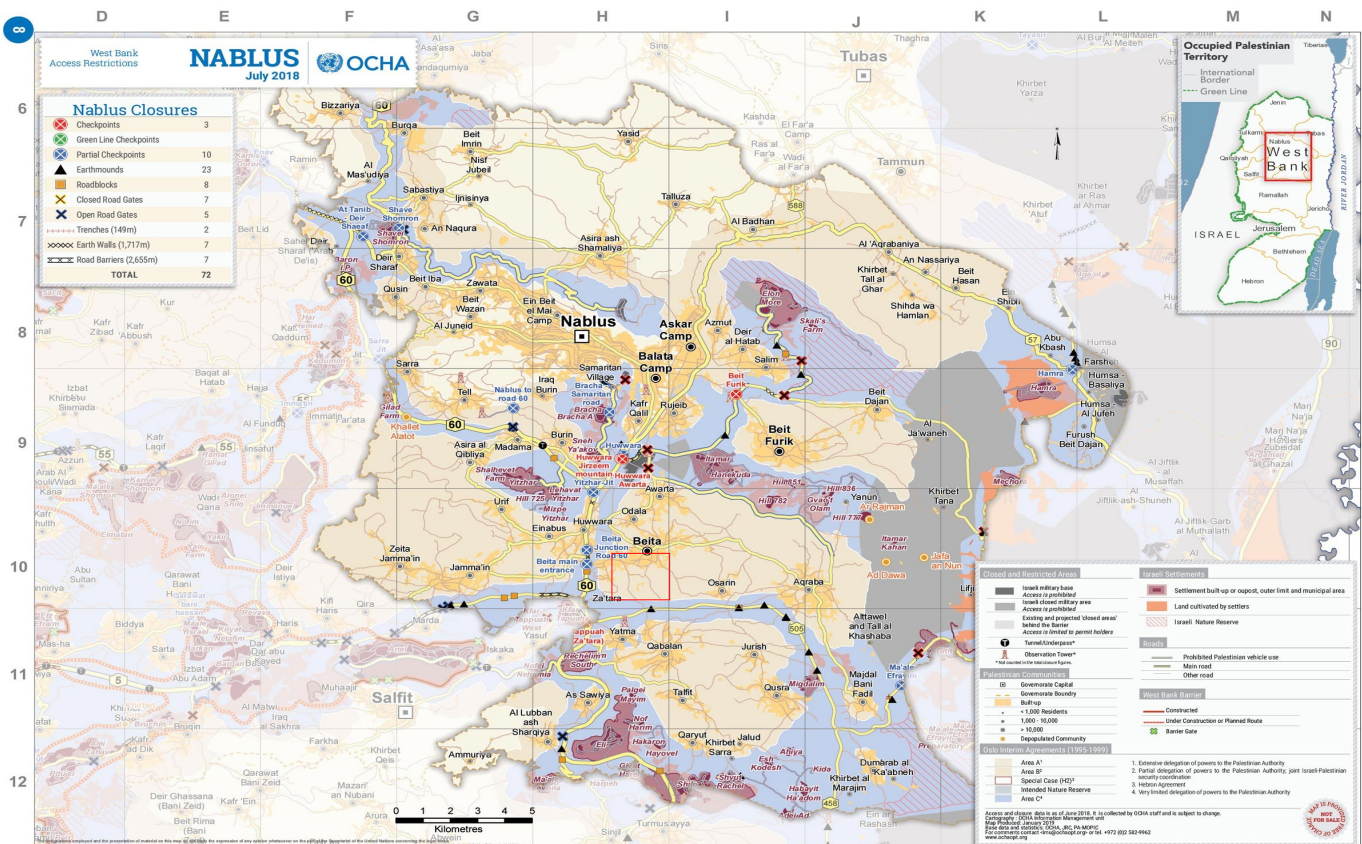


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While the 1979 Israeli Supreme Court Ruling (involving the landmark case of the settlement of Elon Moreh) made the use of military orders to expropriate private Palestinian land illegal under Israeli law, and the more recently ruling in June 2020 annulling the Regularization Law of 2017 prohibited retroactive expropriation of private Palestinian lands; settlement expansion continues to be facilitated through a host of policies and tactics. A microcosm of Israel’s relentless efforts to expand into Palestinian territory, the outpost of Evyatar constructed in May of 2021 (illegally even according to Israeli standards) is the fourth attempt by settlers in the area of the southern Nablus governorate to overtake the strategic site of Sabih Hill (a privately owned 35 dunum stretch of land belong to villagers from Beita, Yatma and Qabalan). While the other three attempts (in 2013, 2016, and 2018) promptly faced demolition by Israeli authorities, Evyatar, and its 50 structures, roads and other infrastructure (built in less than two weeks, reflecting state sponsored support), remain standing despite the issuance of a military order by the Israeli military’s District Commander on June 6, 2021 ordering eviction/ demolition of the outpost within two weeks. By the start of July, settlers had struck a deal with the Bennet government to temporarily and peacefully evacuate, though structures would remaining standing until the ICA (Israeli Civil Administration) examines the land’s “status”; an all too familiar foreshadowing of re-classification and annexation as played out in Israeli courts many times prior in retroactively legalizing outposts and disenfranchising Palestinian land owners.

About JLAC

The Jerusalem Legal Aid and Human Rights Center (JLAC) is a Palestinian non-governmental organization mandated with providing pro-bono legal aid and consultation in the defense of human rights, both in East Jerusalem and the remainder of the West Bank. JLAC has coupled its legal aid with public interest cases, legal reform, community awareness, and advocacy.



In the interim, the same military order calling for the eviction and demolition of the outpost deemed the vicinity a “closed military zone”, with the Israeli army serving as custodian of the land and the Samaria Regional Council (which actively aided in the construction of the Evyatar outpost and many illegal outposts across the northern West Bank) tasked with “maintaining” the illegal structures and overseeing the “deal”. The entrance to the village of Beita was consequently blocked by the Israeli army and movement by Palestinians in the area was restricted, including for accessing agricultural lands which serve as the communities’ main source of livelihood.

If legalized, beyond the loss of the land by titleholders and loss of livelihoods and movement restrictions of their communities (with a 30,000+ population), the Evyatar outpost would serve to anchor the large settlement of Ariel further east of the green line by bridging it with Rechelim and Eli and with the central Jordan Valley (another area heavily targeted by settlement expansion). The obstruction of the Za’tara/Tappuah junction (the intersection of route 60 and Road 505) that connects the north with the remainder of the West Bank would serve to bisect the territory and further impede freedom of movement. Worse yet, the outpost will give further legal precedents to the trend towards retroactive legalization of “illegal” outposts and their expropriation of private Palestinian lands. Demonstrators, from across the West Bank and internationally standing in solidarity, have flocked to the site to resist against this incessant trend. It was the mounting pressure following the massive popular movement against the establishment of Evyatar which brought on the issuance of the demolition order and served to prevent the habitation of the outpost thus far. As of yet, 9 persons have been killed and 5,537 injured (as per OCHA figures).

On 8 July 2021, JLAC and the Colonization and Wall Resistance Commission (CWRC) filled a petition before the Israeli Supreme Court (on behalf of nine Palestinian land owners and the local councils of Beita, Yatma and Qabalan) demanding the cancellation of the “deal” signed the week prior between the Israeli government and Israeli settlers. The petition was submitted against the Israeli government and its Defense Minister, the Military Commander in the occupied West Bank, the ICA, and the Samaria Regional Council, for adopting and signing a blatantly unlawful agreement (as per international humanitarian law- IHL, i.e. Article 49 of the Fourth Geneva Convention) in entrenching Evyatar outpost and to whitewashing

the criminal offences of invasion, trespass, and illegal construction. Presenting land ownership documents, inheritance deeds, tax registration, and photographs, the petitioners offered ample evidence that the land on which Evyatar was established on is private Palestinian land and cultivated by Palestinian farmers, as testified by decades-old olive trees. The petitioners demanded the annulment of the military seizure order and the opening of a criminal investigation into the Samaria Regional Council’s willful and deliberate aid to settlers in their criminal offences pertaining to the Evyatar outpost.

On 15 August 2021: The Israeli Supreme Court issued a decision to strike down the JLAC - CWRC petition challenging the legality of the Evyatar agreement, as per IHL, and demanding the demolition of its structures (due to its additional illegality as per even Israeli law). As part of its decision, the Supreme Court considered the petition “too soon” and postponed the examination of the legality of the outpost and the agreement concluded between the settlers and the Bennett government until after the lands on which the outpost is established are surveyed and the ICA has determined the possibility of declaring the locality (in total or in part) as State Land. The court refused to discuss the legality of the agreement, which maintains the 50 settlement structures built under the protection of the Israeli army and on lands where it has been admitted the settlers have no right being on. The court ignored the petitioners’ appeals that the agreement was completely illegal in accordance with international law, regardless of the outcome of the administration’s examination of the alleged legal status of the land. Hence, a legal problem exists in that the law is being adapted literally for the interest of the settlers. Moreover, the court ignored the loss of nine Palestinian lives and the thousands more injured as part of the popular resistance of settlement expansion in the area.

On 2 February 2022, Israel’s State Attorney issued a statement effectively approving the retroactive legalization of Evyatar, giving a green light to the ICA to classify the lands as State Land and hand them over to the settlers. JLAC anticipates, at any moment, for the vicinity in total or in part to be announced as State Land. As a preparatory step, JLAC has begun gathering land ownership documents (and other related documents) needed in contesting the reclassification through individual petitions before the ICA and relevant military courts, up to the Israeli Supreme Court, or beyond.