



The Civic Coalition for Palestinian Rights in Jerusalem

18 November 2011

Construction of a “National Park” on Confiscated Palestinian Land in Jerusalem is a Clear Violation of Human Rights

On 18 November 2011 the Israeli District Planning Committee for Zoning and Building in Jerusalem approved and submitted a plan for the construction of a “National Park” (Plan 11092). The construction will stretch across approximately 738 dunums of land confiscated from Al ‘Isawiya village and At-Tur neighbourhood

The initial plan, drafted in 2005, suggested constructing the park on lands stretching from the southern part of Al ‘Isawiya to the northern part of At-Tur. This plan was cancelled in 2009 in favour of one that rezoned construction away from Hebrew University. The new plan, finalized by the Jerusalem Municipality, Jerusalem Development Authority and the Israel Nature and National Parks Authority (INPA), confiscates a larger amount of Palestinian land. On 5 April 2011 the District Committee for Zoning and Building approved the project.

Background

Al ‘Isawiya Village

The village of Al ‘Isawiya lies to the northeast of the Old City of Jerusalem, 730 to 750 meters above sea level. Originally, the village was comprised of 10,399 dunums, (one dunum = 0.25 acres) of land. Between the years 1948 and 1967, 235 dunums fell into the no-man’s land between East and West Jerusalem and were inhabited by Israelis. Since 1967, the village has been divided into two parts: a small part within Jerusalem’s municipal borders and the rest in the West Bank.

The area within the borders of the Jerusalem municipality is estimated to be 2,317 dunums. The amount of confiscated land is approximately 1,885 dunums within municipality borders and 432 dunums outside municipality borders.

Estimates say that 923 dunums of land in Al 'Isawiya are planned and 962 dunums are unplanned. The planned area includes 367 dunums for residential use and 556 dunums for public purposes.

At-Tur Neighbourhood

Until 1967, At-Tur lay beyond Jerusalem's municipal borders. It is home to many holy sites for both Muslims and Christians and many institutions, notably the Islamic Waqf, Al Makassed and Augusta Victoria hospitals. Most residents of At-Tur work outside the village and its economy is heavily reliant upon tourism. The village is comprised of 8,867 dunums of land, including the smaller nearby area of Az Zaayem. Its main water source is the Ein Fara Spring.

The area within the Jerusalem municipality borders is estimated to be 6,382 dunums, with 2,441 outside municipality borders. Further estimations show 43 dunums of confiscated land within municipality borders, 519 dunums for residential areas and 825 dunums for public green areas.

Declared Aim of the "National Park"

The objective of Plan 11092 is to categorize the eastern slope of "French Hill" as a National Park in accordance with the 1988 Law on National Parks, National Reserves, National Sights and Memorials. Furthermore construction of the "National Park" will further the 2030 Jerusalem Master Plan by connecting the area with the "Holy Basin."¹

Israeli planning institutions have declared the "National Park" to be of specific importance to the Israeli Authority because it marks the "eastern gate" to Jerusalem. The plan states that the site should be kept as an "open area," due to its strategic, archaeological and natural importance. The Israeli Authority argues that the area in question constitutes a key part of Israeli cultural inheritance and that the construction of the park ensures its cultural and religious preservation. Additionally, as the entire site has been declared an archaeological area, any and all construction requires coordination with the Archaeology Authority and operation according to the Archaeology Authority Law.

The plan states that the land can no longer be used for any public buildings. According to the 1965 Law of Building and Zoning the expropriated land, initially intended for public purposes, will now be registered in the name of the Local Authority.

Furthermore, the "National Park" will connect Hebrew University in the west of the city to the main road to Ma'ale Adumim Settlement in the east and At-Tur neighbourhood (Mount of Olives) in the south to Al 'Isawiya in the north. Future Israeli tourist projects for the area are already planned and being finalized for implementation.

¹ The Holy Basin includes: from the Old City to Wadi Hilweh; Al Bustan area of Silwan in the south; the slopes of the Mount of Olives in the east; Wadi al Joz to Sheikh Jarrah in the north.

Impact of Construction on Palestinian Housing

One of the main concerns of the Israeli Authority is to maintain a ‘demographic balance’ in Jerusalem. As a part of the 2020 Jerusalem Master Plan, the city’s population must have a Jewish majority and Palestinian minority. This has meant the expulsion of Palestinians from strategically important neighbourhoods in East Jerusalem and simultaneous Jewish settlement growth and expansion.

Construction of the park encircles and closes off Palestinian neighbourhoods, offering no housing plan in response to the needs of the growing Palestinian population. Construction of the “National Park” worsens the housing situation for Palestinians in East Jerusalem who already suffer from an estimated shortage of 42,000 housing units.

The combination of an increasing housing unit shortage and routine denial of building permits for Palestinians creates socio-economic and psychosocial problems within the affected communities. In 2010 Israeli authorities demolished fifteen structures in Al ’Isawiya, with devastating consequences for the 46 affected Palestinians, including 19 children.

The construction of the “National Park” on the expropriated land of Al ’Isawiya and At-Tur should be regarded as a part of the continuing Israeli occupation and its discriminatory policy towards Palestinians. Plan 11092 is, in fact, a small part of the large-scale INPA plan to construct nine national parks in the high hills of Jerusalem and around its municipal borders. Some of these parks have already been completed while some remain under construction. Such moves facilitate the “Israelization” of Jerusalem and deny Palestinian Jerusalemites their rights to adequate housing.

Possible Impacts

- Diminishes the possibility of future expansion for Palestinian villages in the area. This deepens the Palestinian housing problem in East Jerusalem, forcing people to live in increasingly difficult circumstances and their eventual migration from the city.
- Obstructs continuity between and effectively separates Al ’Isawiya village and At-Tur neighborhood.
- Facilitates the strategic link between Jerusalem, Ma’ale Adumim and E1 settlements.

Legal Analysis

Israeli National Parks Law

- Identifies the administrative, economic and organizational procedures for declaring a national park.
- Does not allow confiscation of land from its original owners but gives the INPA a broad mandate.
- Prevents the owner from using the land for private purposes (i.e. the land is transformed into public property under the INPA).
- The owner of the land is not eligible for any compensation if the land is taken for the purposes of constructing a National Park.
- The mandate for zoning, management, supervision and implementation is transferred from the Local Authority to the INPA.
- Gives the INPA a mandate to transfer management of a National Park area to private societies, such as settler organizations, in the future.

International Law

- Palestinian Jerusalemites are “Protected Persons” as defined by Article 4 of the Fourth Geneva Convention, imbuing Israel, the Occupying Power, certain responsibilities and obligations as laid out in Article 29 of the Convention.
- Numerous international law documents, to which Israel is a signatory, guarantee the right to both adequate housing and protection from destruction or confiscation of housing.
- Article 17 of the Universal Declaration of Human Rights (UDHR) guarantees the right of everyone to own property as well and to not be arbitrarily deprived of said property.
- Article 25(1) of the UDHR declares the right of all people to an adequate standard of living. This specifically includes housing.
- Article 17 of the International Covenant on Civil and Political Rights (ICCPR) and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) specifically reference housing rights.
- Housing rights are indirectly protected through Articles 12(1) (the protection of family) and 23(1) (the freedom to choose residence) of the ICCPR and Articles 10(1) (the protection of family) and 12(1) (the right to health) of the ICESCR.

The Civic Coalition therefore demands, that the United Nations oblige the Israeli government to refrain from expropriating Palestinian land.

The Civic Coalition recommends that:

- International humanitarian and human rights law become the primary frame through which the world views the occupation and annexation of Palestinian land by Israel.

- The UN and European Union uphold their obligations towards the “Protected Persons” of occupied Jerusalem.
- Israel immediately halt the expansion of settlements in occupied East Jerusalem, as such actions are a clear violation of international humanitarian law as set out in the Fourth Geneva Convention.
- Palestinians residing in East Jerusalem be free to make their own informed decisions and to create their own planning and zoning laws. Palestinians should not be subjected to laws, planning or regulations decided by Israeli authorities.

For more information, please contact the Civic Coalition for Palestinian Rights in Jerusalem, or visit our website: www.civiccoalition-jerusalem.org