

Profiting from an illegal occupation: Eden Springs water in the Syrian Golan

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Eden Springs Ltd (also known as Mayanot Eden) is an Israeli company which profits directly from its illegal exploitation of the water resources in the occupied Syrian Golan. The human rights of the people of the occupied Golan are directly violated by the actions of Eden Springs. As Eden Springs Ltd bottles, markets and distributes water from the illegally occupied Golan, the company is in violation of international law and also complicit in Israel's illegal occupation of the Syrian Golan.

Eden Springs extracts water from the Salukia spring in the Golan and bottles this water in Qatzrin (also spelt Katzrin), an illegal settlement in the same region (see *fig 1*, page 2). Qatzrin is the largest settlement in the Golan and was built on the site of a destroyed village which contained 474 Syrian residents prior to the occupation. The central issue here concerns the open violations of international law, in particular human rights law and humanitarian law, by the parent company Eden Springs Ltd.

It is undisputed that the actions of Eden Springs Ltd infringe international law; however, the involvement of US and European companies with an unethical brand such as this one is a further matter to be explored. The complicity of non-Israeli companies in human rights violations is of particular relevance in light of the Boycott, Divestment and Sanction (BDS) movement.

The illegal occupation of the Syrian Golan

The Golan region is Syrian territory which has been illegally occupied by Israel since the Six Day War in June, 1967. Following this illegal occupation, Israel forced 131,000 inhabitants (whose descendants now number approximately 500,000 international displaced persons) to leave the Golan and destroyed two cities, 130 villages and 112 agricultural farms.¹

In December 1981, the Knesset passed the Golan Heights Law, which attempted to illegally annex the Golan by placing the occupied territory under Israeli law, jurisdiction and administration. The UN Security Council responded later that same December by passing Resolution 497 which affirmed that 'the acquisition of territory by force is inadmissible' and asserted that 'the Israeli decision to impose its laws,

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¹ Sharif Hikmat Nashashibi, 'The Golan since 1967' *The Golan: Ending Occupation, Establishing Peace*, London International Conference on the Golan (London, June 2007) 9.

jurisdictions and administration in the occupied Syrian Golan Heights is null and void and without international legal effect’.

UN Resolution 59/33, on 31 January, 2005 reaffirmed the 1981 Resolution and emphasised ‘the illegality of the Israeli settlement construction and other activities in the occupied Syrian Golan since 1967’.

The people of the Golan have continuously resisted attempts at the ‘Israelisation’ of their region, with this resistance culminating in a five month general strike in 1982.² Not a single state has granted recognition to Israel’s annexation of the Syrian Golan, and numerous UN resolutions since 1981 have reasserted that the occupation is illegal under international law.

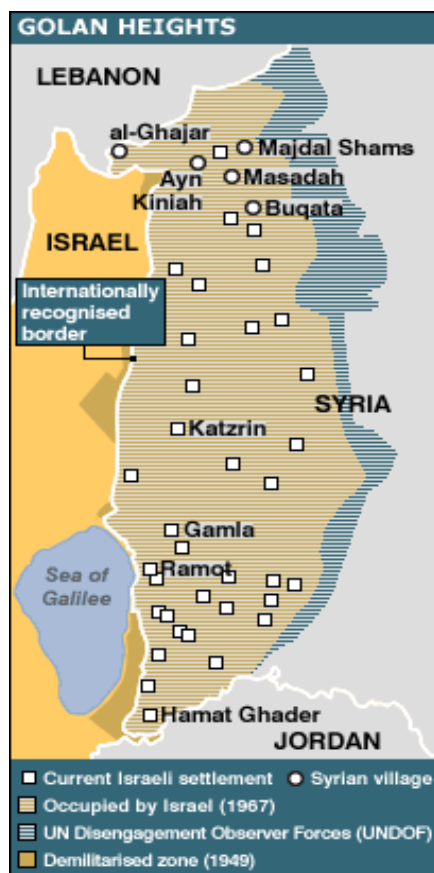


Figure 1 – map of the occupied Syrian Golan

International law and the illegality of profiting from occupation

The status of Israel in the occupied territories is that of a ‘belligerent occupier.’ The laws of belligerent occupation can be found in the Hague Regulations 1907 and the Geneva Conventions (and their protocols) 1949. It is clear that the exploitation of natural resources for commercial gain in an occupied territory (such as the water being utilised by Eden Springs Ltd in the Golan) is prohibited under international law.

² For further reading see Tayseer Mara'i and Usama R. Halabi, ‘Life under occupation in the Golan Heights’ (1992) 22(1) Journal of Palestine Studies 78-93 and Sakr Abu Fahkr, ‘Voices of the Golan’ (2000) 29(4) Journal of Palestine Studies 5-36.

The Hague Regulations IV of 1907 provide that ‘private property...must be respected...[and] cannot be confiscated’ (Art 46). ‘Pillage is formally forbidden’ (Art 47) and property and resources may not be requisitioned except for the needs of the occupying army and must be paid for by the occupying power (Art 52). Furthermore, the occupying power ‘shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct’ (Art 55).

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War 1949 forbids ‘any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or to the State, or two other public authorities, or to social or cooperative organisations’ (Art 53) and further states that ‘the occupying power may not requisition foodstuffs, articles or medical supplies available in the occupied territory’. The Commentary to the Convention asserts that the occupying power ‘may not requisition supplies for use by its own population’.³

A variety of United Nations Resolutions also prohibit an occupying power from profiting from an occupation. **UN Resolution 3336 (XXIX) Permanent sovereignty over national resources in the occupied Arab territories 1974** ‘reaffirms the right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty over all their resources and wealth’ and also ‘reaffirms that all measures undertaken by Israel to exploit the human, natural and all other resources and wealth of the occupied Arab territories are illegal and calls upon Israel immediately to rescind all such measures’.

UN Resolution 38/144 Permanent sovereignty over national resources in occupied areas 1983 ‘calls upon all States, international organizations, specialized agencies, business corporations and all other institutions not to recognize, or cooperate with or assist in any manner in, any measures undertaken by Israel to exploit the national resources of the occupied Palestinian and other Arab territories’ (para 9).

UN Resolution 63/201 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources 2009 ‘reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water’ and ‘calls upon Israel, the occupying Power, not to exploit, damage, cause loss or depletion of or endanger the natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan’.

Water restrictions on the Arab population of the occupied Golan

The existence of Eden Springs Ltd is all the more offensive to the people of the Golan in light of the fact that Israel is notorious for its expropriation of water resources in

³ Oscar Uhler and Henri Coursier, *Commentary on the Geneva Conventions of 12 August 1949, Vol IV* (ICRC, Geneva 1958) 311 para 2(1).

the region. Shortly after occupation began, the Israeli authorities began implementing numerous policies, in the guise of military orders, aimed at controlling the water resources of the region. Native Syrian inhabitants were forbidden from accessing or utilizing the water for agricultural purposes, which had a devastating impact on the primarily agricultural economy. In contrast, unlimited amounts of water were provided to the settlements at a low cost.⁴

Under the Israeli Water Law of 1959, all water resources in the region became the property of the state of Israel. The drilling of wells and pools was prohibited in the mid-1970s. Lake Ram, which collects 2-3 million m³ of water per year and was used for livestock and local irrigation, was confiscated around the same time, and the water piped to Jewish settlements.⁵

Fearful of further restrictions, the local Syrian farmers erected iron tanks in their apple orchards as a way of accessing water. The Israeli authorities banned the construction of these tanks between 1983 and 1985. Consequently heavy fines were imposed on the farmers and several of the tanks destroyed on grounds that all water resources, even rainwater, belonged to the state.⁶

Corporate social responsibility

While the illegality of Eden Springs' actions is clear, the role of European and US companies which engage in business with or are in some way affiliated with offending Israeli companies must also be examined. While such companies may not act in direct violation of international law, their links with companies like Eden Springs Ltd raise questions of corporate social responsibility and corporate complicity.

One of the core principles of the 2008 report, 'Protect, Respect and Remedy: A Framework for Business and Human Rights' by John Ruggie,⁷ is the corporate responsibility to protect human rights. This notion of corporate responsibility and the report's discussion of corporate complicity are illustrative of a shift towards recognition of corporate responsibility for international law violations: 'The corporate responsibility to respect human rights includes avoiding complicity. The concept has legal and non-legal pedigrees, and the implications of both are important for companies. Complicity refers to indirect involvement by companies in human rights abuses - where the actual harm is committed by another party, including governments and non-State actors.' (para 73). In this case, the very existence of the Eden Springs company is dependent on Israel's continuing illegal occupation of the Syrian Golan.

With regard to the legal definition of 'complicity', Ruggie believes the Unocal case⁸ to provide the clearest guidelines. The ruling asserted that complicity involves three

⁴ Al Marsad Report, 'The Occupied Syrian Golan' (2005) Al-Marsad the Arab Centre for Human Rights in the Occupied Golan 7-8 <http://www.golan-marsad.org/pdfs/backgroundgolan.pdf>

⁵ Tayseer Mara'i and Usama R. Halabi, 'Life under occupation in the Golan Heights' (1992) 22(1) Journal of Palestine Studies 86.

⁶ Al Marsad Report (n 4) 8.

⁷ Tayseer Mara'i and Usama R. Halabi (n 5) 86.

⁷ UN Special Rapporteur of the Secretary General on human rights and transnational corporations and other business enterprises since 2005.

⁸ Doe v. Unocal, 248 F.3d 915 (9th Cir. 2001).

elements: practical assistance being given to the perpetrator, that assistance having a significant effect on the commission of the criminal act, and the knowledge criterion.

In the case of Eden Springs, the Israeli parent company carries out grave breaches of international human rights law through its exploitation of the natural resources in the Golan region, both land and water. Therefore, companies such as Eden Springs UK Ltd under the umbrella of this Israeli parent company are complicit in violations of international law through their dealings with the latter.

A successful boycott

In January 2005 the Occupied Palestine and Syrian Golan Heights Advocacy Initiative (OPGAI) initiated a call for boycott, divestment and sanctions (BDS) against Israel 'until it complies with international law and universal principles of human rights'. The practical effect of this movement can be observed in this case study of the Eden Springs UK Ltd controversy.

Since the 1990s Eden Springs Ltd has expanded its operation throughout Europe. The UK branch of the company is known as Eden Springs UK Ltd and provides water coolers to city council premises, universities and offices. Eden Springs Ltd/Mayanot Eden is an Israeli parent company which owns, manages and controls Eden Springs UK Ltd.

The UK branch of Eden Springs has been eager to obscure its status as an Israeli-owned company. One anonymous insider reported that the manager of Eden Springs has been looking into the possibility of a brand name change, as one way of mitigating the damage caused by the company's association with the Israeli brand and its image as a violator of human rights.⁹

Eden Springs UK Ltd was forced to close its East of Scotland depot in Loanhead, Edinburgh in 2008 after losing a substantial amount of its Scottish contracts.¹⁰ According to the Scottish Palestine Solidarity Campaign (SPSC) this loss of contracts was a direct result of a boycott campaign conducted by them in response to an appeal from the Israeli peace group Gush Shalom.

While the water used by Eden Springs UK does not come from the Golan itself, the boycott was based on the conviction that any company or institution which engages in business with Eden Springs UK is effectively supporting illegal settlements, illegal settlement products and Israel's violations of international law. According to Tom Hastings, of the Friends of Palestine Society, 'Eden Springs is not just a silent partner in violations of international law, it is itself the active violator.'¹¹

⁹ 'Israel's Eden Springs taking hit from successful boycott campaign', 25 November 2008

http://www.scottishpsc.org.uk/index.php?option=com_content&view=article&id=2742:israels-eden-springs-taking-hits-from-successful-boycott-campaign&catid=288&Itemid=200256

¹⁰ Ibid.

¹¹ 'Friends of Palestine Society call for campus wide boycott of unethical water company', 7 December 2008, <http://scan.lusu.co.uk/2008/12/07/friends-of-palestine-society-call-for-campus-wide-boycott-of-unethical-water-company/>

According to SPSC, very few UK offices using Eden Springs water cooler products were aware of its status as the UK arm of an Israeli company. The campaign therefore consisted of raising public awareness of the unethical links between the UK branch and its Israeli parent company. It focused on making universities, companies and local council offices aware of the violations of international law being committed by the Israeli Eden Springs company.

The campaign lobbied city Councillors and members of the Scottish Parliament to cancel all contracts Eden Springs had with the public sector, as ‘public money should no longer fund illegal occupation’.¹² Organisations that boycotted the company included Caledonian MacBrae Ferries, East Lothian and West Lothian Councils, the Scottish Trades Union Council and a range of colleges and universities around the UK.

A further successful boycott of Eden Springs water involved Ben and Jerry’s ice cream, a company which prides itself on its ethical and fair-trade image. In June 1998, the company agreed to a contract with Eden Springs Ltd to use only Eden Springs water in the sorbet products manufactured in Israel. New Yorkers for a Just Middle East Peace (NYJMEP) threatened to launch a boycott campaign. Form-letter emails sent to the company were supported by a coalition of groups including the American-Arab Anti-Discrimination Committee. By September 1998 Ben and Jerry’s had cancelled their agreement with Eden Springs.¹³

The outcome of both boycotts illustrates the potential for the BDS movement to achieve real and practical results. US and European companies who engage with human rights violators now risk tarnishing their own brand and reputation. Public opinion can therefore be a useful tool with which to pressure corporations to act in a manner consistent with human rights norms and adversely impact Israeli companies which persist in violating international law

Conclusion

The occupation of the Syrian Golan, the settlements in the region and the subsequent settlement industry – including Eden Springs water - are illegal under international law. Therefore Eden Springs Ltd is in direct violation of international law and complicit in Israel’s illegal occupation of the Golan. Furthermore, non-Israeli companies with links to Eden Springs Ltd are also complicit in these violations. The boycott of Eden Springs in the UK and Ben and Jerry’s icecream in the US shows how the BDS movement can be an effective way of voicing protest against Israeli violations of international law and achieving practical results.

¹² Scottish Palestine Solidarity Campaign ‘Boycott Eden Springs’ leaflet
http://www.scottishpsc.org.uk/index.php?option=com_content&view=article&id=2814:eden-springs-flyer-jan-2009&catid=365:what-you-can-do&Itemid=200257

¹³ ‘Peace vs Israel’ *The Other Israel*, October/November 1998, Issue No. 86
<http://www.israelipalestinianpeace.org/issues/86toi.htm#Peace>