

## Israeli Agricultural Settlement Expansion in the Occupied Syrian Golan During the Syrian Conflict

### Introduction

In January 2014, the Israeli cabinet approved a proposal to develop 30,000 dunams (7,400 acres) of land in the occupied Syrian Golan for agricultural use. This plan involves the establishment of 750 farming estates with a \$108 million investment from the Israeli government to provide agricultural training, water system upgrades, and land mine clearance over the next four years.<sup>1</sup> Given the historical and political context of this region, this proposed agricultural expansion will only benefit the Jewish settlers in the occupied Golan and further marginalise and economically disadvantage the indigenous Syrians in this region.

Agriculture Minister Yair Shamir stated, “Residents of the Golan rely heavily on agriculture as a source of income, and this decision comes with the goal of expanding employment opportunities for them and creating anchors that will strengthen the communities on the Golan.”<sup>2</sup> The agricultural expansion will serve to strengthen the geographic and economic control of the Israeli occupation.

Following the announcement of the agricultural expansion plans, Finance Minister Yair Lapid suggested in a security cabinet meeting that Israel should take advantage of Syria’s poor image by pressing the international community for recognition of Israel’s sovereignty over the Golan. Deputy Foreign Minister Ze’ev Elkin agreed stating that “it was always a good time to campaign for maintaining Israeli control over the Golan.”<sup>3</sup> However, Deputy Defense Minister Danny Danon rejected the idea by responding, “It is wrong to remind the international community about our control over the Golan. It is better to let sleeping dogs lie.”<sup>4</sup>

The agricultural expansion proposal and the comments made by Israeli ministers reflect the concerted efforts by Israel to maintain its occupation of the Golan, strategically timed whilst Syria is in the midst of a protracted civil war. The government sponsored agricultural expansion is a continued effort to increase settler presence in the occupied Golan for the purpose of exploiting the natural resources for economic gain by Israel. Further construction and economic development by the Israel for the sole benefit of the Jewish Israelis in the occupied Syrian Golan constitute multiple violations of international humanitarian law and international human rights law.

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<sup>1</sup> “Israeli cabinet approves plan for further agricultural development of Golan Heights”, *Jewish News Service*, 13 January 2014. Available at: <http://www.jns.org/news-briefs/2014/1/13/israeli-cabinet-approves-plan-for-further-agricultural-development-of-golan-heights#.Uxg2N15fZme>.

<sup>2</sup> Spencer Ho, “Agriculture Ministry to develop new lands in Golan”, *Times of Israel*, 13 January 2014. Available at: <http://www.timesofisrael.com/agriculture-ministry-to-develop-new-lands-in-golan/>.

<sup>3</sup> Gil Hoffman, “Lapid: Press the world to recognize the Golan Heights as part of Israel”, *The Jerusalem Post*, 23 January 2014. Available at: <http://www.jpost.com/National-News/Lapid-Press-the-world-to-recognize-the-Golan-Heights-as-part-of-Israel-339087>.

<sup>4</sup> Ibid.

## Background history of the Golan

The Golan is a mountainous region of southwest Syria that is bordered by Lebanon to the north, Jordan to the south and Israel to the west. The region is comprised of 1,860 square kilometres.<sup>5</sup> In 1967 during the Israeli-Arab war, Israel captured 1,200 square kilometres of the Syrian Golan. Of the estimated 137,000 Syrian residents living in the occupied part of the Golan at the time, nearly 130,000 of the native inhabitants were forcibly displaced without the right to return. Today only five Arab villages remain with a current population of about 20,000 inhabitants.<sup>6</sup>

In 1981, Israel illegally annexed the occupied Golan despite condemnation from the international community and multiple resolutions from the United Nations Security Council declaring this action “null and void without international legal effect.”<sup>7</sup> However, Israel continues to consider itself “sovereign” over the occupied Golan and has continued to encourage and facilitate a policy of colonisation in this region. Presently there are 33 settlements and nearly 20,000 Jewish settlers in the occupied Syrian Golan.<sup>8</sup>

As of 2009, Israel’s revenue from agriculture produced in the Golan reportedly amounted to roughly 500 million shekels (143 million USD.) Nearly 40% of beef, 30% of apples, 32% of potatoes, 23% of corn, 50% of cherries, 41% of wool, 28% of eggs, and 6% of milk in the Israeli market is produced in the Golan.<sup>9</sup>

Exports from the occupied Golan primarily consist of grapes, grapevines, apples, watermelons, melons, citrus, tomatoes, corn, onions, olives, beans, parsley, garlic, peppers and herbs. In particular, nearly all kiwis in Israel are produced in the occupied Golan. In 2010, 2.1 billion USD worth of fruits and vegetables were exported by Israel, the bulk (66%) of which was sold to the European market.<sup>10</sup> Roughly 20% of all produce from settlements in the occupied Golan is exported to twenty different countries including the United States, Canada, Australia and a number of countries in Europe.<sup>11</sup> Of the \$22

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<sup>5</sup> “The Syrian Golan”, Permanent Mission of the Syrian Arab Republic to the United Nations. Available at: <http://www.un.int/syria/golan.htm>.

<sup>6</sup> “Syria: Forty Years On, People Displaced From The Golan Remain in Waiting”, International Displacement Monitoring Centre, 31 October 2007. Available at: <http://www.internal-displacement.org/assets/library/Middle-East/Syria/pdf/Syria-October-2007.pdf>.

<sup>7</sup> UN Security Council Resolution 479 (1981), S/RES/497 (1981), 17 December 1981. Available at: <http://unispal.un.org/UNISPAL.NSF/0/73D6B4C70D1A92B7852560DF0064F101>.

<sup>8</sup> “Settlements in the Golan Heights: Population Data”, Foundation for Middle East Peace. Available at: [http://fmep.org/settlement\\_info/settlement-info-and-tables/stats-data/settlements-in-the-golan-heights](http://fmep.org/settlement_info/settlement-info-and-tables/stats-data/settlements-in-the-golan-heights).

<sup>9</sup> Sara El Abd, “Economic Stakes in the Golan Heights: Constraining the Peace Process?” *The Chronicles*, The American University in Cairo Economic and Business History Research Center, Fall 2009.

<sup>10</sup> “Made in Israel: Agricultural Exports from Occupied Territories”, Who Profits, June 2012. Available at [http://www.whoprofits.org/Agricultural%20Export\\_Flash%20Report](http://www.whoprofits.org/Agricultural%20Export_Flash%20Report).

<sup>11</sup> UN General Assembly, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the occupied Territories : note by the Secretary-General”, 9 September 2009, A/64339/, para. 90.

million in wine that Israel exports abroad annually<sup>12</sup>, 38% of the wine originates from Golan.<sup>13</sup>

### **Establishment of Israel as an occupying power under international law**

The Hague Regulations of 1907 defines an occupation as: “a territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”<sup>14</sup> Although Syria and Israel signed an armistice agreement in 1973, they still technically remain at a state of war, which qualifies Israel as a hostile army in the occupied Syrian Golan.<sup>15</sup>

The ICRC provides the following three criteria to determine the status of a hostile army as an occupying power:

1. An exercise of authority or effective control;
2. Control over the whole or part of the territory of another state; and
3. Armed opposition to the hostile army is not necessary to qualify as an occupation<sup>16</sup>

Likewise, The International Criminal Tribunal for the Former Yugoslavia (ICTY) also developed the following guidelines to determine if an occupying power has established authority in a given area:<sup>17</sup>

1. The Occupying Power must be in a position to substitute its own authority for that of the occupied authorities, which must have been rendered incapable of functioning publicly.

-In regards to the Golan, the Syrian authority has been ineffective and incapable of functioning in the region since 1967 as Israel has exercised effective control over the territory.

2. The enemy’s forces have surrendered, been defeated or withdrawn. Sporadic local resistance, even successful, does not affect the reality of occupation.

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<sup>12</sup> Elana Ringler, “Israeli wine flows onto international shelves”, *Reuters*, 18 August 2009. Available at: <http://in.reuters.com/article/2009/08/18/us-israel-wine-idINTRE57H1R520090818>.

<sup>13</sup> “Fact Sheet Series #84: Golan Wine and Liquor Boards”, Canadians for Justice and Peace in the Middle East, June 2010. Available at: <http://www.cjpmo.org/DisplayDocument.aspx?DocumentID=1109>.

<sup>14</sup> Article 42 of the Hague Regulations 1907, “Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land”, The Hague, 18 October 1907.

<sup>15</sup> UN Security Council Resolution 338 (22 October 1973) and 350 (31 May 1974). Available at: <http://unispal.un.org/unispal.nsf/0/7FB7C26FCBE80A31852560C50065F878>, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/350%281974%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/350%281974%29)

<sup>16</sup> Daniel Thurer, “Current challenges to the law of occupation”, International Committee of the Red Cross, 6<sup>th</sup> Bruges Colloquium, 20-21 October 2005. Available at: <http://www.icrc.org/eng/resources/documents/statement/occupation-statement-211105.htm>.

<sup>17</sup> International Criminal Tribunal for the Former Yugoslavia. Prosecutor v. Naletilic and Martinovic. Case No. IT-98-34-T, 31 March 2003, para. 217.

-Since the defeat in the 1967 war, Syrian forces have withdrawn from the Golan and have not presented any significant military resistance since that time.<sup>18</sup>

3. The Occupying Power has a sufficient force present, or the capacity to send troops within a reasonable time to make the authority of the Occupying Power felt.

-Israel maintains extensive military presence all over the occupied Golan including training facilities and military camps.

4. A temporary administration has been established over the territory.

-The Israeli military maintained administration of the Golan from 1967 to 1981. The Golan Heights Law replaced the military administration with civil administration in 1981 when Israel illegally annexed the occupied Syrian Golan.<sup>19</sup>

5. The Occupying Power has issued and enforced directions to the civilian population.

-Israeli authorities have continued to issue and enforce directions to the civilian population of the Golan since the onset of the occupation in 1967.

In consideration of both the ICRC and ICTY guidelines for the qualification of an occupying power and its authority over a territory, it is clear the Israel qualifies as an occupying power in the Syrian Golan and exercises effective control and authority over this territory. Therefore the law of occupation is applicable.<sup>20</sup>

The Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and the 1907 Hague Regulations define the law of occupation. Although only the first treaty has been ratified by the state of Israel, the Hague Regulations are “recognized by all civilized nations (and are) regarded as being declaratory of the laws and customs of war.”<sup>21</sup> Therefore these rules are actually part of international customary law and consequently binding on all states, even those which have not ratified the Hague Convention No IV of 1907, such as Israel.<sup>22</sup>

However, Israel maintains that it is not an occupying power in the Syrian Golan, but rather a legitimate sovereign authority due to the Golan Heights Law of 1981 in which Israel annexed the Golan. Despite Israel’s claims of sovereignty of the Syrian Golan, the Golan

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<sup>18</sup> Chaim Herzog, *The Arab Israeli Wars: War and Peace in the Middle East*. Arms and Armour Press: London (1982): pp. 285-306.

<sup>19</sup> Golan Heights Law, 5742/1981 (14 December 1981). Available at: <http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook5/Pages/83%20The%20Golan%20Heights%20Law%20-%205742-1981-%2014%20December.aspx>.

<sup>20</sup> “Occupation and international humanitarian law: questions and answers”, International Committee of the Red Cross, 4 August 2004. Available at: <http://www.icrc.org/eng/resources/documents/misc/634kfc.htm>.

<sup>21</sup> International Military Tribunal at Nuremberg, Trial of the Major War Criminals Before the International Military Tribunal 253-54. 6 F.R.D. 69, 130, 1946.

<sup>22</sup> B. M. Clagett and O. T. Johnson Jr., “May Israel as a Belligerent Occupant Lawfully Exploit Previously Unexploited Oil Resources of the Gulf of Suez?” *The American Journal of International Law*, Vol. 72, No. 3 (July 1978): pp. 558-585.

Heights Law is in fact a violation of Article 2(4) of the United Nations Charter<sup>23</sup> as well as violating the principle of customary international law which prohibits the acquisition of territory by threat or use of force.<sup>24</sup>

One of the core tenets of the law of belligerent occupation is “embedded in the maxim that the occupation does not affect sovereignty (...) Undeniably, divested of possession, at least temporarily, the title of the territorial sovereign is considerably weakened and reduced to a naked title. Nevertheless, the sovereignty of the displaced sovereign over the occupied territory is not terminated. Indeed, it is not even suspended.”<sup>25</sup> In consideration of this, the United Nations Security Council resolution 479/1981 rejects the annexation of the Syrian Golan, reaffirming that “the acquisition of territory by force is inadmissible, in accordance with the United Nations Charter, the principles of international law, and relevant Security Council resolutions.”<sup>26</sup>

## **International law violations**

### *1. Forced displacement/population transfers*

In 1967, the Israeli military forcibly displaced over 130,000 Syrians from the Golan without the right to return. Since then, the Israeli government has implemented policies that not only enable settlements in the occupied Syrian Golan, but actively encourage them. Currently, the indigenous Syrian and Jewish settler populations in the Golan are nearly equal at roughly 20,000 inhabitants each.<sup>27</sup>

A Washington Post article from 2006 noted that the Israeli government had a goal to “double the Jewish population in the Golan to 40,000 within a decade through an appeal that emphasizes cowboy hats over skullcaps.”<sup>28</sup> Although currently that population target has not been reached, the presence of Jewish settlers in the Golan continues to increase by an average of 1,000 people per year.<sup>29</sup>

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<sup>23</sup> UN Charter, Article 2(4): “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations.”

<sup>24</sup> “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” International Court of Justice, Summary of Advisory Opinion (9 July 2004), para. 87.

<sup>25</sup> Yoram Dinstein, *The International Law of Belligerent Occupation*. Cambridge University Press: Cambridge (2009): p. 49.

<sup>26</sup> UN Security Council Resolution 479, 1981. Available at: <http://unispal.un.org/UNISPAL.NSF/0/73D6B4C70D1A92B7852560DF0064F101>, p. 36.

<sup>27</sup> Supra 9 and 11.

<sup>28</sup> Scott Wilson, “Golan Heights Land, Lifestyle Lure Settlers”, *Washington Post*, 30 October 2006. Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/29/AR2006102900926.html>.

<sup>29</sup> Ofer Petersburg, “Israelis Moving to Golan Heights as Development Booms”, *Al Monitor*, 8 October 2012. Available at: <http://www.al-monitor.com/pulse/business/2012/10/the-plot-of-land-is-for-free-tho.html#>.

The Israeli State Treasury invests a substantial amount of funds into settlements through the Settlements Division of the World Zionist Organization (WZO), which serves as the operational branch of the government overseeing construction in the West Bank and other “peripheral communities”. In March 2014, 177 million shekels (50.6 million USD) were transferred to the WZO, 22.5 million (6.4 million USD) of which was allocated to the Northern District, which includes the Golan.<sup>30</sup>

Israeli authorities are continually expanding infrastructure, building factories and developing other economic opportunities in the occupied Golan in efforts to draw more Jewish settlers to the area.<sup>31</sup> The Israeli government actively provides multiple incentives for the establishment and construction of settlements in the Golan including special tax incentives, extra governmental support, low rents, and lax enforcement of labour and environmental laws.<sup>32</sup>

Jewish settlers are provided with exceptionally low development costs and are even given plots of land for free, paying only for the cost of infrastructure and construction. Furthermore, the Golan Heights Small Business Development Centre (“Mati”) offers settlers services such as economic and legal counselling as well as architectural and supervisory accompaniment and guidance.<sup>33</sup>

Forced displacements and population transfers are both violations of Article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (commonly referred to as the Fourth Geneva Convention) of which Israel is a party. In regards to forced displacement, Article 49 states:

“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive....

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.”<sup>34</sup>

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<sup>30</sup> Tova Dvorin, “Left-Wing MKs Angered Over Government Funds to Judea-Samaria”, *Arutz Sheva*, 30 March 2014. Available at: <http://www.israelnationalnews.com/News/News.aspx/179052#.Uzk5F15fZmd>.

<sup>31</sup> “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the occupied Territories: note by the Secretary-General”, UN General Assembly, 9 September 2009, A/64339/, para. 90.

<sup>32</sup> “The Settlement Industry: Settlement Products”, Who Profits? Available at: <http://www.whoprofits.org/involvement/settlements-products>.

<sup>33</sup> *Supra* 27.

<sup>34</sup> Article 49, “Convention (IV) Relative to the Protection of Civilian Persons in Time of War”, Geneva, 12 August 1949.

Additionally, Article 49 states, “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”<sup>35</sup>

The ICRC explains:

“[...] this clause [...] 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”.<sup>36</sup>

The UN Security Council has reiterated this point on multiple occasions. In particular, resolution 465 (1980) expressed that the Security Council:

“5. Determines [...] that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

6. Strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government and people of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem [...]”.<sup>37</sup>

In summary, the application of the Fourth Geneva Conventions to the Israeli occupation of the Syrian Golan means:

1. Settlers cannot be transferred into an occupied territory;
2. The indigenous population of an occupied territory cannot be deported from the occupied territory regardless of motive;
3. If a population must be transferred for security or military reasons they must be allowed to return once hostilities have ceased.<sup>38</sup>

## 2. *Land Appropriation*

After over 130,000 Syrian inhabitants were forcibly displaced from the occupied Golan in 1967, the Israeli military declared the occupied Golan a closed military zone. In total,

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<sup>35</sup> Ibid.

<sup>36</sup> “Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War”, International Committee of the Red Cross, Geneva, 1958: para. 6. Available at: [http://www.loc.gov/rr/frd/Military\\_Law/pdf/GC\\_1949-IV.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/GC_1949-IV.pdf).

<sup>37</sup> See United Nations Security Council Resolutions 298 (1971), 446 (1979), 452 (1979), 465 (1980), 471 (1980), and 476 (1980). Declaration of the Conference of High Contracting Parties to the Fourth Geneva Convention, 5 December 2001, Yearbook of International Humanitarian Law -2001, page 664, available on line at <http://unispal.un.org/UNISPAL.NSF/0/8FC4F064B9BE5BAD85256C1400722951>.

<sup>38</sup> Jonathan Molony, Michelle Stewart, and Nancy Tuohy-Hamill, “From Settlement to Shelf: The Economic Occupation of the Syrian Golan”, Al-Marsad, December 2009, p. 38.

Israel seized 1250 km<sup>2</sup> of the 1860 km<sup>2</sup> of the Golan region.<sup>39</sup> All private movable and immovable property (including money and real estate) of the displaced Syrian residents was considered “abandoned property” by Military Order No. 20. The Israeli Occupying Power was then given full control of the “abandoned property” enabling Jewish settlers to access and use the land, whilst the displaced Syrian inhabitants were denied any recourse to dispute the true ownership of the property and land. On the 20<sup>th</sup> of July 1967, Military Order No. 21 declared all private property and Syrian government property in the Golan as property of the Israeli government.<sup>40</sup>

The local Arab economy was dramatically impacted as land used for livestock (a significant source of Golanese Syrians’ livelihoods pre-1967) was expropriated by the Israelis. Local Syrians were denied access to their pastures and large portions of agricultural lands in order for the Israelis to construct military zones and minefields.<sup>41</sup> Subsequently the Golanese Syrians’ livelihoods dependent on field crops and dairy production were completely decimated forcing them to rely on purchasing agriculture and other foodstuffs produced in the settlements or Israel.<sup>42</sup>

These actions perpetrated by the Israeli military and government are in violation of the International Humanitarian Law which prohibits the acquisition and annexation of land by force, the creation of settlements in occupied territories, and in direct violation of Article 46 of the Hague Regulations which states “private property cannot be confiscated.”<sup>43</sup>

### 3. *Natural resource exploitation: Water*

In accordance with the Law of Occupation, as the occupying country, Israel has the legal obligation to serve as the just administrator of public property and natural resources.<sup>44</sup> Article 55 of the Hague Regulations states that “the occupying State 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.”<sup>45</sup> The International Military Tribunal at Nuremberg determined that an occupying power may only use property, including natural resources, to an extent which is

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<sup>39</sup> “Golan for Development, ‘Golan Heights: Facts and Figures’”, 15 October 2009. Available at: [http://www.jawlan.org/english/openions/read\\_article.asp?catigory=15&source=5&link=11](http://www.jawlan.org/english/openions/read_article.asp?catigory=15&source=5&link=11).

<sup>40</sup> “The occupied Syrian Golan: Background”, Al-Marsad, the Arab Centre for Human Rights in the occupied Syrian Golan, 2005: p. 7.

<sup>41</sup> Ibid. p. 14.

<sup>42</sup> Ibid. pp.13, 14.

<sup>43</sup> UN Charter (Art. 2, para. 4), Hague Regulations IV 1907 (Articles 43 and 55), Geneva Convention IV 1949 (Articles 47 and 54); Geneva Convention IV 1949 (Articles 45, 46 and 49), Geneva Convention Protocol I 1977 (Article 85 subsection 4b); Geneva Convention IV 1949 (Article 49), Geneva Convention Protocol I 1977(Article 85 subsection 4a).

<sup>44</sup> N.F. Lancaster, “Occupation Law, Sovereignty, and Political Transformation: Should the Hague Regulations and the Fourth Geneva Convention Still Be Considered Customary International Law?”, *Military Law Review*, Vol. 189 (2006): p. 51; Kathleen Cavanaugh, “The Israeli Military Court System in the West Bank and Gaza”, *Journal of Conflict and Security Law*, Vol. 12(2), 2007: pp. 197-220.

<sup>45</sup> Article 55, “Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land”, The Hague, 18 October 1907.



necessary to meet the cost of the occupation.<sup>46</sup> Additionally the occupying power is “prohibited from exploiting these resources in a way that undermines their capital and results in economic benefits for its inhabitants or for its national economy.”<sup>47</sup>

Military Order 120 was issued on 24 March 1968 and gave the Israeli Military Commander the authority to assign an Israeli official to manage and oversee the water resources in the Golan. This order stated that “...no person is allowed to carry out or operate any work related to water, unless by an official permit issued by the official in charge and according to the conditions set out on obtaining the permit.”<sup>48</sup> Additionally, the order required Arab inhabitants to inform the military commander of any water resources in the area if he so demanded, and to allow military access to any area involving water works.<sup>49</sup> Since the start of the occupation, Israel has pursued a programme of accessing aquifers in the Golan in order to exploit the groundwater for Israeli consumption. The Israeli Water Law 5719-1959 prohibits private ownership of water and considers all water resources (including natural springs and rivers) as property of the state. After the illegal annexation of the occupied Syrian Golan in 1981, all water resources in the Golan fell under Israeli state administration.<sup>50</sup> Native inhabitants of the Golan are now forced to purchase water for farm irrigation from Israeli authorities.<sup>51</sup> Licenses are required for any private operation using a water source, including the construction of tanks to catch rainwater.<sup>52</sup>

In 1985, the Allone HaBashan 2 well was discovered to produce significant amounts of water, resulting in the subsequent construction of numerous additional deep wells in the occupied Golan.<sup>53</sup> Currently over 10 million m<sup>3</sup> of water is extracted from these wells annually<sup>54</sup>, providing the state of Israel with one third of its total water consumption.<sup>55</sup>

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<sup>46</sup> Anne-Marie Hearne and Claudia Nicoletti, “Pillage of the Dead Sea: Israel’s Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory”, Al-Haq, 2012: p. 26. Available at: <http://www.alhaq.org/publications/publications-index/item/pillage-of-the-dead-sea-israel-s-unlawful-exploitation-of-natural-resources-in-the-occupied-palestinian-territory>.

<sup>47</sup> Ibid. p. 27.

<sup>48</sup> Jonathan Molony, Michelle Stewart, & Nancy Tuohy-Hamill, “From Settlement to Shelf: The Economic Occupation of the Syrian Golan”, Al-Marsad, 2009, p. 72.

<sup>49</sup> Military Order 120, March 24th 1968, Section 45-.

<sup>50</sup> “Israel’s Water Economy - Thinking of future generations”, Ministry of National Infrastructures, The Water Commission, 10 August 2002. Available at: <http://mfa.gov.il/MFA/AboutIsrael/Spotlight/Pages/Israel-s-%20Water%20Economy%20-%20Thinking%20of%20future%20genera.aspx>.

<sup>51</sup> Kathy Keary, “Water is Life: A Consideration of the Legality and Consequences of Israel Exploitation of the Water Resources of the Occupied Syrian Golan”, Al-Marsad, 2013: p. 41.

<sup>52</sup> Ibid. p. 47, 54.

<sup>53</sup> Masahiro Murakami. *Managing Water for Peace in the Middle East: Alternative Strategies*. United Nations University Press (Tokyo): 1995, Appendix C.1. Available at: <http://www.unu.edu/unupress/unupbooks/80858e/80858E0m.htm#C%20Historical%20review%20of%20the%20political%20riparian%20issues%20in%20the%20developmen>.

<sup>54</sup> E. Dafny, H. Gvirtzman, A. Burg and L. Fleischer, “The Hydrology of the Golan Basalt Aquifer, Israel”, *Israel Journal of Earth Science*, Vol. 52, November 2003: p. 21.

<sup>55</sup> UN General Assembly, Economic and Social Council Report, 3 May 2007, A/6275-/E/200713/, para. 72

The Israeli authorities' current exploitation of water resources in the occupied Syrian Golan is in direct violation of international humanitarian law which prohibits occupying powers from exploiting natural resources or property in an occupied territory for the economic gain of the occupying power or its inhabitants, as well as exploiting the water resources for purposes beyond the cost of the occupation.

#### 4. *Discrimination*

##### **Water**

The on-going Israeli occupation of the Syrian Golan has been accompanied by proactive discriminatory measures against the native Syrian inhabitants, particularly in regards to water resources. As described in the above section, Golanese Syrians have been denied access to natural water for agricultural purposes that have resulted in devastating effects on the predominantly agricultural based industry of the Syrian Golan. Arab farmers must join co-operatives to buy water supplied by Mekorot, the Israeli state owned water company.<sup>56</sup> The cost of the infrastructure, pumps, pipelines and electricity for the pumps are paid by the Arab co-operatives.<sup>57</sup> In contrast, nearby Jewish settlements are provided with full services of pipelines, pumps and infrastructure paid for by Mekorot with water pumped directly to their farms by the water company.<sup>58</sup>

Discriminatory water allocations by the Israelis continue to marginalize Arab farmers in the Golan by limiting their ability to compete in the agricultural market. The Israeli Ministry of Agriculture recommends that 500 m<sup>3</sup> of water is needed per dunam for apple and cherry orchards to produce adequately in the Northern Golan. Currently Arab farmers are allotted 225m<sup>3</sup> of water per dunam of land annually whilst Jewish farmers receive three times that amount at 700m<sup>3</sup> per dunam. Given the abnormally dry winter this year, the Israeli Ministry of Agriculture announced a 23% cut in the allocations of water for both Arab and Jewish farmers. This means Arab farmers will now be limited to 175m<sup>3</sup> per dunam, whereas Jewish farmers will still receive over the recommended 500m<sup>3</sup> of water per dunam. Moreover, Arab farmers are charged 3.80-4.50 NIS per m<sup>3</sup> of water, whereas Jewish farmers are charged only 1.80 NIS per m<sup>3</sup> of water.<sup>59</sup> Unfair water allotments allocate Arab farmers smaller water quotas than those for the settlers. The tiered water pricing schedule increases as quotas are overused. Since Arab farmers are given smaller water quotas, they must overuse their allotment resulting in paying for water in higher pricing tiers. Since the settlers have higher water quotas, they consistently pay lower prices in total for their water consumption than their Arab neighbours.<sup>60</sup>

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<sup>56</sup> "Mekorot's Involvement in the Israeli Apartheid", Who Profits? December 2013. Available at: <http://www.whoprofits.org/content/mekorot%E2%80%99s-involvement-israeli-occupation>

<sup>57</sup> Kathy Keary, "Water is Life: A Consideration of the Legality and Consequences of Israel Exploitation of the Water Resources of the Occupied Syrian Golan", Al-Marsad, 2013: p. 58.

<sup>58</sup> Ibid. P 59

<sup>59</sup> Al-Marsad interview with Mr. Mansour Abu Saleh, lawyer for Agriculture Association of the Syrians in the Golan, 18 May 2014.

<sup>60</sup> Kathy Keary, "Water is Life: A Consideration of the Legality and Consequences of Israel Exploitation of the Water Resources of the Occupied Syrian Golan", Al-Marsad, 2013: p. 61.

This situation was the subject of a report to the United Nations General Assembly in 2009 which highlighted the inequitable policies which provided settlers in the Golan with unlimited water at low cost, whilst Arab farmers were allocated less and charged more.<sup>61</sup> These discriminatory practices violate multiple international human rights instruments. Israel's exploitation of the water resources in the Syrian Golan is a violation of the right of the Syrian population to "freely dispose of their natural wealth and resources" and "in no case may a people be deprived of its own means of subsistence", as affirmed in Article 1(2) of the International Covenant of Civil and Political Rights (ICCPR).<sup>62</sup> Additionally the discriminatory water policies suffered by Syrian farmers in the Golan violate Article 2(1) of the ICCPR and Article 2(2) of the International Covenant on Economic, Cultural, and Social Rights (ICESCR)<sup>63</sup>, as well as Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD.)<sup>64</sup>

## Tourism

In addition to agriculture, a staple of the economy of the settlements in the occupied Syrian Golan is tourism. The Israeli state and businesses have been cited for continually falsely marketing the occupied Syrian Golan as part of Northern Israel. In international advertisements, brochures and travel guides, the occupied Syrian Golan is often listed as part of Northern Israel.<sup>65</sup> The Israeli state and Jewish businesses promote the natural beauty of the Golan for hiking, camping, biking, horseback riding, outdoor sports, sight-seeing, wine-tasting and "pick-your-own" fruit picking on settlement farms. Travel websites that advertise accommodation in the Golan list a plethora of "rural guesthouses", cabins, Bed and Breakfasts, and camping sites either located in settlements or owned by settlers. The Israeli Ministry of Tourism has a website page for the Golan Heights, referring to it as the "Israeli Texas", providing links to accommodation in the Golan. The accommodation search function by city notably lacks any mention of the Arab villages (which do offer accommodation options), yet the Jewish settlements are included.<sup>66</sup> Israeli guides offer tours of the ancient ruins in the Golan, but make no mention of the still visible ruins of the 134 Arab villages destroyed by the Israeli military in 1967.<sup>67</sup> The Israeli state and businesses make a conscious effort to disguise the Arab history in the

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<sup>61</sup> "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the occupied Territories : note by the Secretary-General", UN General Assembly, 9 September 2009, A/64339/, para. 91.

<sup>62</sup> Article 1(2), International Covenant on Civil and Political Rights, 16 December 1966.

<sup>63</sup> Article 2(2), International Covenant on Economic, Cultural, and Social Rights, 16 December 1966.

<sup>64</sup> Article 2, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965.

<sup>65</sup> Barak Ravid, "Britain bans ad promoting tourism to Israel for blurring 1967 borders", *Haaretz*, 23 March 2012. Available at: <http://www.haaretz.com/print-edition/news/britain-bans-ad-promoting-tourism-to-israel-for-blurring-1967-borders-1.420268>

<sup>66</sup> "The Golan Heights", Israel Ministry of Tourism, available at: [http://www.goisrael.com/Tourism\\_Eng/Tourist%20Information/Discover%20Israel/Geographic%20Regions/Pages/The%20Golan%20Heights.aspx](http://www.goisrael.com/Tourism_Eng/Tourist%20Information/Discover%20Israel/Geographic%20Regions/Pages/The%20Golan%20Heights.aspx).

<sup>67</sup> Charlotte Silver, "OECD and Israel's 'tourist' colonization of Syria's Golan", *Electronic Intifada*, 25 October 2010. Available at: <http://electronicintifada.net/content/oecd-and-israels-tourist-colonization-syrias-golan/9084>

region by slightly changing the names of historical sites, villages, nature reserves (mountains, rivers, springs, forests, etc.) to Hebrew versions.<sup>68</sup>

There are also reports of a disturbing trend of “war tourists”, both Israeli and international, that are visiting the settlements situated close to the armistice line in the occupied Syrian Golan to get a glimpse or soundbite of the Syrian conflict just across the fence. Commercial tours have even added stops at vantage points looking into Syria as part of their tourism schedule.<sup>69</sup> The Israeli government and Jewish settlers continue to benefit from their discrimination against Arabs in the occupied Syrian Golan and exploit the Syrian conflict for tourism profit.

## **Conclusion**

The Syrian Golan is an occupied territory and Israel continues to be an occupying power thereby bound by the Law of Occupation of the Hague Regulations.

The continued development and expansion of settlements in the occupied Syrian Golan qualify as population transfers by an occupying power which are violations under International Humanitarian Law.

The land which is being provided to settlers in the Golan was illegally appropriated according the Law of Occupation.

Israel’s continued exploitation of water resources in the Syrian Golan for the benefit of its own nationals and its national economy is also illegal under International Humanitarian Law.

The discriminatory policies enacted by the Israelis to disadvantage and marginalise the remaining Arab communities and Arab farmers in the Syrian Golan is a violation of international human rights law.

The false advertising of the occupied Syrian Golan as part of Northern Israel serves to profit the Israeli state and settler businesses, to the continued detriment and economic marginalisation of the Syrian Arabs in the Golan.

The agricultural settlement expansion plan approved by the Israeli government is in violation of international humanitarian law, international human rights law and a calculated effort to establish “facts on the ground” in order to further internationally assert their illegal annexation of the Golan in the midst of a brutal and protracted conflict in Syria.

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<sup>68</sup> “The Tactic Erasure”, Golan for the Development of Arab Villages, available at: <http://www.jawlan.org/english/golanheights.htm>.

<sup>69</sup> Faine Greenwood, “ ‘War tourists’ flock to Golan Heights in Israel in hope of viewing Syria battle”, *Global Post*, 25 July 2012. Available at: <http://www.globalpost.com/dispatch/news/regions/middle-east/israel-and-palestine/120725/war-tourists-flock-golan-heights-israel>; “Syrian war draws gawking tourists to border”, *CBS News*, 25 July 2012. Available at: <http://www.cbsnews.com/news/syrian-war-draws-gawking-tourists-to-border/>.