



# Water Is Life: A Consideration of the Legality and Consequences of Israeli Exploitation of the Water Resources of the Occupied Syrian Golan - A summary

## Introduction

Water is becoming an increasingly valuable commodity in global politics and markets; this is especially evident in the relationships between Israel and its Arab neighbours. Because of its very nature, water does not respect state boundaries and in many cases states are reliant on the goodwill of their neighbours to not redirect or contaminate their water resources. The region of the Syrian Golan is a geopolitically and hydrologically important plateau located at the point of convergence of the states of Israel, Syria, Jordan and Lebanon. The Syrian Golan receives a much higher level of rainfall than much of Israel and the Occupied Palestinian Territories and as such its water resources are considered as highly valuable in this arid region. Consequently, it is no surprise that it became a part of Israel's territorial agenda which led to it coming under Israeli occupation during the 1967 Arab-Israeli War.

Indeed, former Israeli Prime Minister, Yitzhak Rabin, stated in 1995 that:

*“the greatest danger Israel has to face in the negotiations with Syria is the possibility of losing control over the Golan Heights’ water resources[...]”*.<sup>1</sup>

## Water shortage in Israel

It has been estimated that the average annual rainfall for all of Israel is somewhere in the region of 7,900 million cubic meters annually, but the precipitation levels vary greatly from year to year, ranging from 12,000 million cubic meters in particularly rainy years, to 4,000 million in particularly dry years.<sup>2</sup> The majority of this water evaporates back into the

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<sup>1</sup> Tel Aviv Ma'uriv, July 19, 1995 as quoted in Frederic C. Hof, The Water Dimension of Golan Heights Negotiations, Middle East Policy, Vol. V, No. 2, May 1997, p. 134.

<sup>2</sup> Euro-Mediterranean Information System on know-how in the Water sector, Israeli National Focal Point, Water Context 512/, at [http://www.emwis-il.org/EN/Water\\_context/context\\_05.htm#5.\\_Rainfall\\_](http://www.emwis-il.org/EN/Water_context/context_05.htm#5._Rainfall_) last accessed (30 June 2010).

atmosphere, leaving about 30% (2,400 million cubic meters) to flow into the water systems.<sup>3</sup> Much of this rain occurs in the northern region of the Occupied Syrian Golan, with the levels becoming less and less the further south you go.

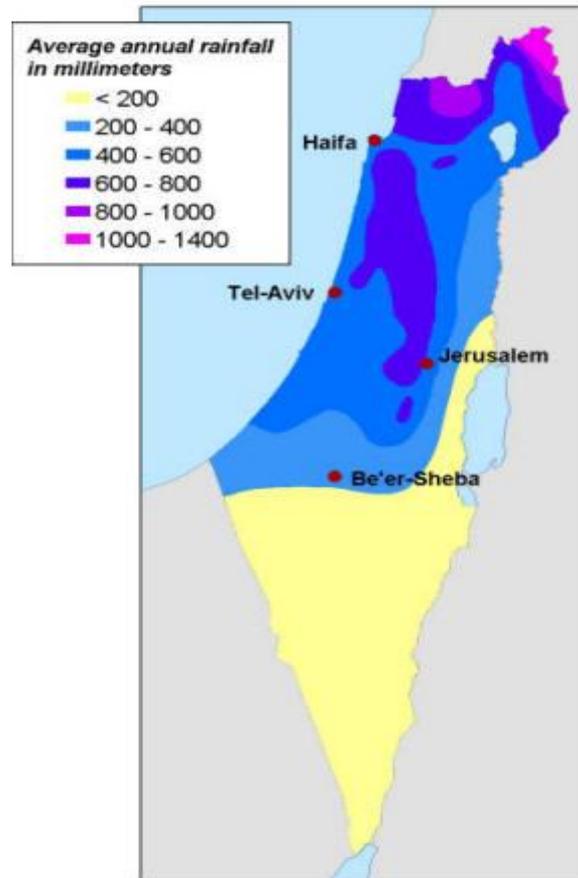


Figure 1: Average annual precipitation 1961-1990 - the Meteorological Service - [http://www.emwis-il.org/EN/Water\\_context/context\\_05.htm#5.\\_Rainfall\\_](http://www.emwis-il.org/EN/Water_context/context_05.htm#5._Rainfall_)

The water situation in Israel has always been a serious issue for the government of the day and the Israeli administration has not always been very effective at adopting an efficient and sustainable strategy for water provision. In fact, in two reports issued by the Israeli Knesset, one released in 2002 and one more recently in March 2010, illustrate the extent to which Israel is continuing to face massive water shortage.<sup>4</sup> The most recent report has stated that there is 15.2 billion cubic meters of water lacking in Israeli reserves and that this

<sup>3</sup> Ibid.

<sup>4</sup> Ron Friedman, No guiding hand directs water sector, Jerusalem Post, 032010/25/, <http://www.jpost.com/Israel/Article.aspx?id=171842> and The Parliamentary Committee of Enquiry on the Israeli Water Sector, Report, Jerusalem, June 2002, at <http://www.knesset.gov.il/committees/eng/docs/englishwater.pdf> (both last accessed 01 July 2010).

is more water than can be replenished even with a succession of particularly wet years.<sup>5</sup> The reports have blamed the absence of coherent long-term goals; insufficient input from professional bodies; inefficient handling by the Water Authority; and a lack of transparency, enforceability and education; for Israel's severe water shortage.<sup>6</sup>

### **Military occupation of Syrian Golan by Israel during the 1967 Arab-Israeli War**

Before the 1967 Arab-Israeli War the population of the Syrian Golan comprised of 153,000 people of varying ethnic and religious backgrounds, including a majority Arab population with Circassians; Kurds; Armenians; Turkomans; Maghribis; Bedouin tribes and Palestinian refugees, the religion of the vast majority of the people was Sunni Islam with minorities of Christians, Druze, Alawites, Isma'ilis, and Shi'a.<sup>7</sup> The Druze made up approximately 6% of the population and were situated mainly in the far north on the slopes of Jabal al-Shaykh (Mount Hermon).<sup>8</sup> During the war the Israeli army captured 70% of the land mass of the Syrian Golan. Reports estimate that somewhere in the region of 130,000 people were forcibly removed or fled through fear and the Syrian Authorities state that the number of their descendants is now approaching 500,000.<sup>9</sup> After the 1967 war, only 7,000 of the original Arab population remained in the Golan.<sup>10</sup>

### **Control of water resources in Syrian Golan following occupation**

The water exploitation in the Occupied Syrian Golan was initiated with the introduction of Military Order 120 on 24 March 1968. It gave authority to the Israeli Military Commander to appoint an Israeli official to manage and oversee the water resources in the Golan and 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

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<sup>5</sup> Ron Friedman, No guiding hand directs water sector, Jerusalem Post, 032010/25/, <http://www.jpost.com/Israel/Article.aspx?id=171842> (last accessed 01 July 2010).

<sup>6</sup> Ibid.

<sup>7</sup> Sakr Abu Fakhr, Voices from the Golan, Institute for Palestine Studies, Vol. 29 No. 4, Autumn 2000, pp. 5-6.

<sup>8</sup> Ibid.

<sup>9</sup> Internally Displaced Monitoring Centre, 433,000 persons estimated to be internally displaced according to official sources (as of September 2007), [http://www.internal-displacement.org/8025708F004CE90B/\(httpEnvelopes\)/D8AAF21F3223D3EF802570B8005AA9A0?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpEnvelopes)/D8AAF21F3223D3EF802570B8005AA9A0?OpenDocument) (last accessed 1 July 2010).

<sup>10</sup> The Golan-Ending Occupation, Establishing Peace, London International Conference on the Golan, 2007, p. 4 at [http://www.syrianembassy.us/pdf/Publications/golan\\_publication.pdf](http://www.syrianembassy.us/pdf/Publications/golan_publication.pdf) (last accessed 1 July 2010).

on obtaining the permit.”<sup>11</sup> The order also obliged the Arab population to disclose information regarding the water assets of the area, if demanded by the military commander, and allowed the military access to any area containing water works.<sup>12</sup>

In addition, the order bestowed upon the military commander the right to compel any member of the indigenous population, with control over the extraction, supply or transportation of water, to supply the water to wherever the commander deems necessary, albeit with adequate compensation provided.<sup>13</sup> Any contravention or violation of this order carried a potential sentence of up to one year in prison or 1,000 Israeli Lirat (100 NIS).<sup>14</sup>

After the enactment of the Golan Heights Law in 1981 and the de jure, albeit illegal, annexation that was the result, the water laws of Israel were enforced in the Occupied Syrian Golan. These laws once again changed the way in which the Arab population were allowed to utilise their resources and further denied them the right to utilise and manage their own resources. These laws continued the terms of Military Order 120, constricting and controlling the Arab population’s ability to access and develop their natural water assets.

Before the Israeli occupation there was no real exploitation of the groundwater of the Syrian Golan. The region contained a few shallow wells, however, there were no deep wells. After the occupation Israel initiated a programme to gain access to the aquifers. In 1984 the Allone HaBashan 2 well was the first to produce a significant amount of water and since then seven more deep wells have been drilled in its environs. The Israeli authorities now extract more than 10 million m<sup>3</sup> of water a year from these deep wells, the majority of which goes to Israel and illegal Israeli settlements.

In the 1980s some Arab farmers who had very little access to water and were forbidden by Israeli law from digging wells, started to erect large metal tanks on their farms, to catch the winter rain water, to be used for irrigation when needed in the summer. These tanks were prohibitively expensive, costing \$17,000-20,000 (approximately the same amount as a hectare of land) and they could only hold 600 cubic meters of water, enough to properly irrigate only one dunum. However, when the Israeli authorities noticed these tanks, they

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<sup>11</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>12</sup> Military Order 120, March 24th 1968, Section 45-.

<sup>13</sup> Military Order 120, March 24th 1968, Section 68-.

<sup>14</sup> *Ibid.* Section 13.

decided to regulate them. A policy was implemented which forced the local farmers to apply for permission to erect the tank and a gauge had to be installed on each tank so that the water could be measured and charged for by the Israeli authorities. Many of the local farmers who had installed these tanks were fined and a number of the tanks were destroyed.

### **Discriminatory distribution and price of water in the Occupied Syrian Golan**

The distribution of water in the Occupied Syrian Golan is discriminatory in nature. While Israeli settlers, whose inhabitation of the Occupied Syrian Golan land is illegal, enjoy unmeasured access; the Arab population, and rightful owners of the land, experience significant restrictions.

Unlike Arab farmers, Israeli settler farmers have their water pumped directly to their farms; they do not have to install their own pumping mechanisms, fit their own water transport systems or indeed pay the on-going costs associated with the running and maintenance of these infrastructures.<sup>15</sup> This obviously leaves the settler farmers at a distinct economic advantage.

As well as the actual supply of the water, the Israeli authorities also discriminate against Arab farmers in terms of quotas. The farms of the Israeli settlers are permitted to consume considerably more water than the local Arab population and as a result their agricultural yields are significantly higher and the quality of the produce is superior. Therefore, they also have a greater choice in terms of the choice of what products to grow as a result of these higher water allowances. Some members of the Arab population of the Golan estimate that the disparity in water consumption between Israeli settlers and Arab farmers is somewhere in the region of 4:1.

The pricing system is based on a tiered structure with three different prices involved. Customers are allocated quotas of water in three price categories A, B, and C. As a result, the payment due to Mekorot (the Israeli national water company) depends on the volumes of water consumed. The water allocated in category A is the cheapest at 1.363 NIS in 2009, then Category B at 1.575 NIS, and Category C at 2.058 NIS. The Arab farmers, because of

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<sup>15</sup> Information gathered from an interview conducted with Majid Marey who works as an overseer on settlement farms, carried out by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 24 May 2010.

their smaller quotas, have to use all of the water allocated to them, including the water from the more expensive price categories. As a result of this system, the Arab farmers end up paying more money on average than the settler farmers, even if the prices as they appear on paper are the same.<sup>16</sup> As previously noted, the Arab farmers have to pay infrastructural fees, as well as the cost of the water itself, and this pushes up the cost of the water.



Figure 2: Water holding tanks on Arab farms in the Occupied Syrian Golan – Al-Marsad archives

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<sup>16</sup> Figures sourced from documents acquired from interviews conducted with Samera Said-Ahmed (Mdah) and Majid Marey conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, both carried out on the 24th May 2010.

### **Occupation forcing change of agricultural produce**

Before the Israeli occupation, the native population grew trees suitable for arid land on the hilly area surrounding the irrigated valley; these crops included almonds, figs, and grapes. These crops would have previously been sold to the Syrian market but after the Israeli occupation, the farmers were also cut off from their customer base. The local farmers had to alter the crops they grew, to cater for the Israeli market instead of the Syrian one. Many of the local farmers started planting apple and cherry trees, even in areas where there was little or no irrigation.

### **Settlement industries profiting from occupation of the Syrian Golan**

There are a large number of settlement industries profiting from the occupation of the Syrian Golan and exploiting the natural resources for personal economic gain. These corporations are complicit in the crimes of the State of Israel and their activities are illegal. Examples of these industries include Eden Spring, the Golan Heights Winery, the Golan Brewery, Biomor, Bendaplast, and Pigmentan, to name but a few.

One of the largest corporations is Eden Springs. It started trading in Israel and the Occupied Territories in 1982 and today turns over a profit of 144 million Euro.<sup>17</sup> The multinational enterprise has expanded its operations to 15 European countries and has somewhere in the region of 450 million clients.<sup>18</sup> It distributes 368 million litres of water a year.<sup>19</sup>

Mey Eden, the Israeli branch of the multinational corporation Eden Springs, has been producing and marketing mineral water extracted from the Salukia Spring in the Occupied Syrian Golan since the early 1980s. The company have a bottling plant, located in the Qatzrin industrial zone in the Qatzrin settlement. Qatzrin is the biggest settlement in the Occupied Syrian Golan and is considered by the Israeli authorities to be the region's capital.<sup>20</sup> The extraction, processing and selling of the natural water resources of the Occupied Syrian

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<sup>17</sup> [http://www.infomat.net/1/focus/foci/eden\\_springs/about.asp](http://www.infomat.net/1/focus/foci/eden_springs/about.asp) (last accessed 26 June 2010).

<sup>18</sup> The 15 European countries Eden Springs operates in are Denmark, Germany, Spain, Estonia, Finland, France, Luxembourg, Latvia, Lithuania, the Netherlands, Norway, Poland, Sweden, Switzerland, Scotland contact details for each of them can be found at <http://www.edensprings.com/our-locations,1,4.html> (last accessed 1 July 2010).

<sup>19</sup> Eden Springs, Corporate Overview at <http://www.edensprings.com/corporate-overview,1,1.html> (last accessed 1 July 2010).

<sup>20</sup> Qatzrin settlement is built on the land of the destroyed Arab villages of Alahmadia, Shqief, and Qesrin.

Golan are violations of international human rights and humanitarian law. The very existence of the settlements and all of their associated industries are illegal.

### **Illegality of Israel's actions and condemnation by international community**

The United Nations Security Council and General Assembly; the United Nations treaty monitoring bodies; the International Court of Justice and the International Commission of the Red Cross; have all condemned Israeli policies in the Occupied Territories. In November 1967, just days after the cessation of the war, the Security Council issued Resolution 242 calling on Israel to withdraw its forces from the areas recently occupied in the 1967 war. After the purported annexation of the Occupied Syrian Golan in 1981 the UN Security Council issued Resolution 497 which deems the actions of the Israeli authorities to be "null and void and without international legal effect."

### *Illegality of Israel's exploitation of water*

The organisations above have all recognised that Israel's obligations under the various international human rights treaties apply equally to the Occupied Territories and that the Israeli authorities have obligations under international humanitarian law in their role as belligerent occupiers. As such the Fourth Geneva Convention and the Hague Regulations do apply. Articles such as 46, 55, and 56 of the Hague Regulations forbid the expropriation of private property except in exceptional circumstances and protect the interests of the civilian population. In addition, the Fourth Geneva Convention prohibits the expulsion of protected persons from occupied territory and the transfer of the civilians of an occupying power into occupied territory (Article 49). It also forbids the destruction of private property (Article 53). Additional Protocol 1 proscribes attacking objects necessary for the survival of the civilian population, such as water installations (Article 54(2)).

In a conference of the High Contracting Parties of the Fourth Geneva Convention in 2001 the applicability of the Convention to the Occupied Territories was reaffirmed.<sup>21</sup>

The International Commission of the Red Cross has stated:

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<sup>21</sup> International Committee of the Red Cross, Implementation of the Fourth Geneva Convention in the occupied Palestinian territories: history of a multilateral process (19972001-), Annex 1-Conference of the High Contracting Parties of the Fourth Geneva Convention: Declaration, 5 December 2001, at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/5fldpj?opendocument> (last accessed 26 June 2010).

'Being only a temporary administrator of occupied territory, the Occupying Power must not interfere with its original economic and social structures, organization, legal system or demography. It must ensure the protection, security and welfare of the population living under occupation. This also implies allowing the normal development of the territory, if the occupation lasts for a prolonged period of time.'<sup>22</sup>

### *Right to water of native Arab inhabitants*

Water is recognised as being one of the most basic and necessary elements for a healthy and productive life and is fundamentally important for the wellbeing not only of the individual but the society as a whole. There is explicit reference in a number of the prominent human rights treaties to the right to water including Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)<sup>23</sup> and the Convention on the Rights of the Child (CRC).<sup>24</sup>

There are also a number of international human rights treaties from which a right to fair and equitable access to water can be deduced including, the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Racial Discrimination (ICERD), and the International Covenant on Civil and Political Rights (ICCPR). For example, the Committee on Economic Social and Cultural Rights has stated that a right to water can be inferred from Articles 11 and 12 of the Convention. The exploitation of resources can also be framed in terms of self-determination which is guaranteed in Article 1 of the ICCPR and the ICESCR, and is listed as one of the four basic purposes of the United Nations.<sup>25</sup>

The CESCR has considered and discussed the particular case of Israeli actions and policies with regard to the occupied territories. They have stated in their concluding observations

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<sup>22</sup> Ibid. IAnnex 2-Conference of High Contracting Parties to the Fourth Geneva Convention: Statement by the International Committee of the Red Cross, ¶ 3.

<sup>23</sup> Adopted and opened for signature, ratification and accession by General Assembly Resolution 34180/ of 18 December 1979, entry into force 3 September 1981, in accordance with Article Article14(2h) provides for the right "To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications".

<sup>24</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 4425/of 20 November 1989, entry into force 2 September 1990, in accordance with Article 49. Article24 (2c) directs state parties "To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution".

<sup>25</sup> Adopted 26 June 1945, entered into force on 24 October 1945, Chapter I, Articles 1.2.

regarding Israel's second periodic report, submitted by Israel according to its duties under the Convention, that Israel should "take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution."<sup>26</sup>

The systematic and blatant discrimination evident in the Israeli government's policies on water supply to Jewish and Arab populations both in terms of quantity of water provided and the cost of the water supplied also violates the inalienable right to non-discrimination on the grounds of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", enshrined in international human rights law documents.<sup>27</sup> The principle of non-discrimination is provided for in a variety of UN treaties including the CRC,<sup>28</sup> the CEDAW,<sup>29</sup> the ICCPR<sup>30</sup> and the ICESCR.<sup>31</sup>

The main international covenant dealing with the issue of racial discrimination is the ICERD which outlaws: any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>32</sup>

### *Corporate complicity*

Resolution 38/144 issued in 1983 addresses not only state parties but also "international organisations, specialized agencies, business corporations and all other institutions."<sup>33</sup> (emphasis added) It calls on these organisations not to assist the Israeli authority's exploitation of Arab resources in any way. This particular resolution applies to any settlement organisation or any industry located on Arab territory or utilising the natural resources of occupied land.

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<sup>26</sup> Committee on Economic Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights : Israel, E/C.121//Add.90. 23 May 2003, ¶ 41.

<sup>27</sup> ICCPR, Article 2.1 & ICESCR, Article 2.2.

<sup>28</sup> CRC, Article 2.

<sup>29</sup> CEDAW, Article 2.

<sup>30</sup> ICCPR, Article 2.1.

<sup>31</sup> ICESCR, Article 2.2.

<sup>32</sup> ICERD, Article 1.

<sup>33</sup> General Assembly Resolution, A/Res/3819 ,144/ December 1983.

In general business corporations do not have legal personality under international law but there are a number of initiatives that aim to regulate the actions of companies, according to principles based in international human rights and humanitarian law. These endeavours include the International Labour Organisation's Tripartite Declarations and the Organisation for Economic Cooperation and Development Guidelines both of which Israel is a party to.

### **Conclusion and recommendations**

Although both Israel's occupation of the Syrian Golan and its policy of settlement and exploitation of natural resources as a result of this, have been deemed contrary to international law,<sup>34</sup> this has not had any real effect on Israel's policies. The issue of water has been an integral part of most of the conflicts in the region and as such needs to be addressed in the search for any peace negotiations.

*The International Community should:*

- Continue to exert pressure on the Israeli Authorities to end the occupation;
- Maintain its stance calling for an end to Israeli settlement expansion in the Occupied Syrian Golan both in terms of domestic and economic development;
- Reassess the international legal framework that deals with corporate complicity in illegal state activities, in particular by adding some kind of enforcement mechanism;
- Regulate to ensure that goods being bought and imported from Israel have not been produced in an illegal settlement, and if they are, that they are labelled as such.

*Israel should:*

- Develop plans for ending the occupation
- Recognise the application of international law, including humanitarian and human rights provisions, to the Occupied Syrian Golan;
- Immediately halt Israeli settlement expansion in the Occupied Syrian Golan, including the exploitation of natural resources and the development of industry;
- Promote and protect the human rights of the indigenous population of the Occupied Syrian Golan, including its adequate access to natural resources.

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<sup>34</sup> See UN Security Council Resolutions 242 (1967); 338(1973); 497(1981) and UN General Assembly Resolutions 61/27 (2006); 61/118 and 61/120 (2006).