Water is Life:
A Consideration of the Legality and Consequences of Israeli Exploitation of the Water Resources of the Occupied Syrian Golan

Kathy Keary, LLM International Human Rights Law

Legal Researcher, Al-Marsad-The Arab Human Rights Centre in the Golan Heights

2013
Acknowledgements

I would initially like to extend my sincerest gratitude to all the staff and board members of Al-Marsad. Their ceaseless support and encouragement made the writing of this report possible. In particular I would like to thank Nizar Ayoub, Abulkher Abujabal, Jameel Abujabal, Salman Fakher-Aldeen, Jalaal Marey, Areen Sabag, Atef Safadi, and Majdolin Safadi. Their endless patience and assistance made the carrying out of this research paper both feasible and enjoyable. I would also like to thank Shhady Nasralla, Majid Marey, Samera Said-Ahmed (Mdah), Dr. Nazeh Brik, Hassan Ghuttany, Madad Ewidat, and Alam Edeen Khattar for allowing me access to their knowledge and resources.

If I have forgotten to mention anyone in particular I apologise wholeheartedly. In general I would like to thank all the people of Majdal Shams who welcomed us, befriended us, fed us, took care of us and accepted us into their lives. They truly are the most wonderful and generous people and I sincerely hope will soon achieve fulfilment of all their human rights, freedom from their oppressors and the cessation of the ongoing occupation of their lands.
# Table of Contents

## Abbreviations

| 6 |

## Executive Summary

| 8 |

## 1. Introduction

| 14 |

## 2. Background

| 18 |

2.1 Geography

| 18 |

2.2 Run-up To the 1967 War

| 20 |

2.3 Arab-Israeli War of 1967 and the Pre-1973 Situation

| 25 |

2.4 Arab-Israeli War of 1973

| 29 |

2.5 'Annexation' of the Golan in 1981

| 30 |

## 3. Illegal Israeli Practices Concerning Water Extraction and Supply in the Golan

| 33 |

3.1 Importance of the Golan to Israeli Water Problems

| 33 |

3.2 Illegal Exploitation of Water Resources in the Golan

| 36 |

3.3 Israeli Control and Management of Golani Water Resources

| 45 |

3.3.1 Mey Golan and Mekorot

| 49 |

3.4 Discriminatory Policies Regarding Water Supply to Arab Farmers

| 52 |

3.4.1 Allocation of Water

| 59 |

3.4.2 Price of Water

| 60 |

3.5 Corporate Involvement in the Exploitation of the Water Resources

| 61 |


| 65 |

4.1 United Nations Regulations

| 66 |

4.2 Humanitarian Law Provisions

| 69 |

4.2.1 Hague Convention and Regulations

| 70 |

4.2.2 Geneva Conventions

| 74 |

4.3 Human Rights Law Provisions

| 76 |

4.3.1 Right to Water

| 77 |

4.3.2 Self determination

| 80 |

4.3.3 Non Discrimination

| 81 |

4.3.4 Derogation from International Human Rights Law

| 83 |

4.4 Corporate Complicity in Human Rights Violations

| 84 |

4.4.1 Legal Personality of Corporations in International Law

| 85 |

4.4.2 State Regulation of Multinational Corporations

| 86 |

4.4.3 ILO Tripartite Declaration

| 87 |

4.4.4 OECD Guidelines

| 89 |

4.4.5 Repercussions for Settlement Industries

| 92 |

## 5. Transboundary Water Sources and International Law-Israeli-Syrian Negotiations

| 94 |

## 6. Recommendations and Concluding Remarks

| 104 |

## Appendix A: Important Dates in the Conflict Over Control of the Water Resources of the Jordan River Basin

| 106 |
“Fierce national competition over water resources has prompted fears that water issues contain the seeds of violent conflict... If all the world’s peoples work together, a secure and sustainable water future can be ours”

UN Secretary General Kofi Annan,

World Water Day 2002
**Abbreviations**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of all forms of Discrimination Against Women</td>
</tr>
<tr>
<td>CESCR</td>
<td>Committee on Economic Social and Cultural Rights</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>DMZ</td>
<td>Demilitarised Zone</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICERD</td>
<td>International Convention on the Elimination of all forms of Racial Discrimination</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic Social and Cultural Rights</td>
</tr>
<tr>
<td>ICRC</td>
<td>International Committee of the Red Crescent</td>
</tr>
<tr>
<td>IHL</td>
<td>International Humanitarian Law</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>NCP</td>
<td>National Contact Point</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>NGO</td>
<td>Non Governmental Organisation</td>
</tr>
<tr>
<td>NIS</td>
<td>New Israeli Shekel</td>
</tr>
<tr>
<td>OECD</td>
<td>The Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td>oPt</td>
<td>occupied Palestinian territory</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDOF</td>
<td>United Nations Disengagement Observer Force</td>
</tr>
<tr>
<td>UNRWA</td>
<td>United Nations Relief and Works Agency for Palestine Refugees in the near East</td>
</tr>
</tbody>
</table>
Executive Summary

Water is becoming an increasingly valuable commodity in global politics and markets; this is especially evident in the relationships between Israel and their 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 Golan is a geopolitically and hydrologically important plateau located at the point of convergence of the states of Israel, Syria, Jordan and Lebanon. It is Syrian land which provides a vital source of water for Israel. The region receives a much higher level of rainfall than much of the rest of Israel and the occupied Palestinian territory and as such the 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 falling under Israeli occupation in 1967.

Before the occupation there was no real exploitation of the groundwater of the Golan, while the region contained a few shallow wells 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 m³ of water a year from these deep wells.

The distribution of this water is discriminatory in nature. While Israeli settlers, whose inhabitancy of Golan land is illegal, enjoy unmeasured access, the Arab population, and rightful owners of the land, experience significant restrictions. In addition, the few local springs that Israel has continued to allow the Arab farmers access to have been drying up as a result of the drilling activities and water extraction carried out by Israeli companies and Israeli authorities.
Lake Tiberias is the only fresh water lake that Israel can claim riparian rights to. Taking into account the line of 4 June 1967, these rights are not held solely by Israel, Syria should also be considered a riparian state. The lake and surrounding basin are estimated to supply 560 million m$^3$ of water a year to the Israeli water economy; that is approximately 33% of their annual fresh water consumption. The Israeli authorities have consistently and continuously over extracted water from the lake, which is devastating for the water quality, the ecosystems of the area and the sustainability for the lake in general. On a smaller scale but with devastating results for the local population, Lake Birket Ram situated in the north of the Golan has suffered a similar fate at the hands of the Israelis. The water from the lake is exploited by the Israeli companies Mey Golan and Mekorot which force the local populations to purchase water to irrigate their farms from the Israeli authorities. In addition the authorities pump water into the lake for storage at certain times of the year which results in the flooding of Arab owned land.

The Israeli Water Law states that the water resources of the state are public property and that ownership of the land does not also mean ownership of the water resources on or under that land. According to the law, the Israeli state serves only as custodian of the water and manages it for the use of its residents; they do this through the Governmental Authority for Water and Sewerage. Any operation involving the use of a water source requires the individual to have a license issued by the Water Authority. All water supplied to the population whether it be for domestic, agricultural or industrial purposes is allocated, measured and charged for. Since the mid-1980s, the Water Commission (now the Water Authority) has been enforcing cutbacks in the amount of water allocated to farmers and consumption allowances depend on the level of rainfall.

Israeli occupation of the Golan has cut the local farmers off from their support base in Damascus and halted the assistance they previously received from the Syrian authorities. Before the occupation, the native population of the area 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 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.

Co-operative groups of farmers were established, to administer the water to the Arab farmers. There are currently seventeen co-operatives providing water to the Arab farmers in the area of Majdal Shams and, except for in a small number of exceptional circumstances, all farmers are members of a co-operative. These organisations are overseen and managed by members of the local Arab population with the water supplied by Mekorot.

To provide some specific examples of the discrimination Arab farmers experience concerning water resources in the Golan there is also a section of the Israeli settler population of the Golan who have their water supplied by Mekorot. Unlike the Arab farmers these 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. This obviously leaves the Jewish 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. They also have a greater choice in terms of the choice of what product to grow as a result of these higher water allowances. In addition, the Arab population pay more money for water than their Israeli counterparts. Due to their smaller quotas, Arab farmers have to use all of the water allocated to them, including the water from 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.
There are a large number of settlement industries profiting from the occupation of the 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 are Eden Spring, the Golan Heights Winery, the Golan Brewery, Biomor, Bendaplast, and Pigmentan, to name but a few.

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 to some extent. 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 annexation 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.” They have also 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. One of the most recent statements regarding the exploitation of resources in the Golan is a General Assembly resolution adopted on the 21 December 2009 which “reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water”.

The international community has consistently reiterated that the annexation of the Golan is illegal and will not be recognised, and that the area is in fact occupied; 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)).

There are 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. Moreover, discrimination on the basis of race, religion or national or social origin is forbidden by a number of international conventions including ICERD.

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 these companies, keeping them from violating 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.

The Law of Transboundary Aquifers drawn up by the International Law Commission and the Convention on the Law of the Non-navigational Uses of International Watercourses, both establish that shared water courses should be equitably and fairly by the States involved and that States should take into consideration the needs of neighbouring states with a shared interest in the watercourse. Neither of these legal instruments is enforceable against Israel but they do serve to illustrate the thinking of the international community on this issue.

The Golan’s water issue is complex; with peoples’ livelihoods and rights in contention it requires adequate analysis. This report considers the geopolitical and legal intricacies of the Golan’s water
situation. It highlights the discrimination experienced by the Golan’s Arab farmers and the impact that the actions of the Israeli authorities, Israeli companies and consumers concerning water harvesting and distribution has on the indigenous population’s rights within international law. In conclusion, it sets out a range of recommendations. Primarily that a peace settlement should be achieved and separately the riparian rights of both Israel and Syria should be addressed according to the relevant international law provisions. The negotiations surrounding transboundary water issues should involve the relevant riparian states coming together equally to reach an agreement, not one state holding the land of the other to ransom. The livelihoods and traditional water rights of the Arab population should not be brokered for peace. In any peace treaty considered by the Syrian authorities the sovereign rights of Syria over the Golan and its resources and the rights of access of the Syrian population should be expressly assured.
1. Introduction

Water is becoming an increasingly valuable commodity in global politics and markets; this is especially evident in the relationships between Israel and their 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. As the International Development Research Centre has pointed out:

If a forest is destroyed, the water regime in the reservoirs will change. If water is withdrawn from a river and disposed of somewhere else, the river regime downstream will change. If groundwater is pumped from an aquifer, discharge and recharge volumes to and from hydraulically connected streams will be modified and the stream regime will change. If surface water is used, related groundwater will be affected. If vegetation is eliminated, both surface and groundwater in the downstream basins will be affected.¹

This illustrates the necessity of good relations between neighbouring states with regard to their shared water resources.

Israeli policies concerning the occupation of Arab territories and the exploitation of the resources of these territories are protracted, systematic, and are deemed to be illegal under international law.² One of these Arab territories, the Syrian Golan,³ has been under the occupation of Israel since 1967. The occupation of this territory has been less publicised in international forums, but faces similar discriminatory policies at the hands of the Occupying Power as those inflicted upon the occupied Palestinian territory (oPt). Israeli actions in the Golan have included the mass expulsion of the population, the denial of the basic human rights of the remaining Arab communities, the implementation of an illegal settlement programme and

³ Hereafter referred to as the Occupied Syrian Golan, Syrian Golan, Golan or Occupied Golan.
the exploitation of the natural resources for the benefit of these settlements and the State of Israel in general. All of these actions amount to serious violations of the rights of the indigenous Syrian Arab population of the Occupied Golan. The international community has been vocal in its condemnation of the Israeli occupation of Arab territories and there is a considerable body of work including UN Security Council and General Assembly resolutions; Treaty Body Reports and General Comments; Reports and Judgements from the International Law Commission, the International Court of Justice and the International Labour Organisation and a mass of documentation from Non-Governmental Organisations. Despite this almost universal condemnation of Israeli practices with regard to the occupied territories including the Syrian Golan the violations have continued unabated.

The Golan region is an area of huge geopolitical value situated on the borders of Syria, Lebanon, Israel and Jordan. It is situated on a fault line of the on-going Arab-Israeli conflict and has huge security and hydrological significance to the State of Israel. As such, Israel has ignored repeated international demands to return the region to Syria.

The water dimension was an important factor in the 1967 Arab-Israeli War which resulted in Israel’s occupation of the Golan and in the Arab-Israeli War 1973 when Syria made a failed attempt to reclaim the territory. There is a severe water shortage in the Middle East as a whole and Israel considers access to the water resources of the Golan as being vital to the on-going viability of the state.

The extensive use of military orders to expropriate lands and forcibly displace the Arab population post-1967 Arab-Israeli War assisted

---


5 For more information see section 4 of this report.

6 This can be seen in documents such as General Assembly Resolution, A/Res/3336 (XXIX), 17 December 1974.
Israel in gaining administrative control of the Golan and its resources.\(^7\)

Almost immediately after the occupation began in 1967 the Israeli authorities commenced a settlement programme in the Golan region. The erection of illegal settlements was accompanied by the simultaneous construction of facilities to provide water to these settlements. The settlers, with the support and indeed encouragement of the Israeli authorities, illegally occupied and expropriated the fertile agricultural lands of the Golan and began cultivating the illegally acquired land with the illegally extracted water of the Golan. In the present day, although there are marginally more Arab residents than settlers in the Golan, the Jewish population cultivate four times more land than the indigenous population and exploit a disproportionate amount of the local water resources.\(^8\)

Consecutive Israeli governments have implemented policies that discriminate greatly against the indigenous Arab population of the Golan. The water management and distribution policies have been removed from the control of the Arab population and they have to rely on the discriminatory administration of the Occupying Power to gain access to resources that they previously enjoyed free and just access to. The Israeli policies have fundamentally changed not only the traditional irrigation methods of the Arab farmers but also the way in which they sow their lands and the markets they have access to.

The Arab farmers remaining in the Golan suffer discrimination in terms of allocation of water resources and the cost of water supplied. This discrimination negatively affects the indigenous farmers in terms of quality and quantity of crops produced when compared with the crops produced by the Jewish settler farmers.\(^9\)

The control over the water resources of the Golan expropriated by the Israeli authorities is an important factor in the ongoing quest for peace in the region. In all negotiations between the Israeli and Syrian administrations the question of control of the water of the region is

---


\(^8\) See section 3.4 of this report for further discussion.

\(^9\) See section 3 of this report for further discussion.
a dominant and integral factor. To grossly oversimplify the issue, it seems to be the case that Syria wants the land but is willing to negotiate about the water, whereas Israel wants the water but will negotiate about the land. International law provides guidelines regarding how conflicting issues should be resolved by neighbouring riparian states.\footnote{See section 5 of this report for further discussion.}

Israeli occupation and exploitation of the Golan and its resources cannot be legally or morally justified. The value of the region in terms of security and resources to the state of Israel is in legal terms unimportant. Both the occupation itself and the way in which Israel operates in its position as an occupying force, run contrary to the provisions of international humanitarian and human rights laws. Although in many ways it might seem futile, the documentation and consideration of the illegal actions by the Israeli authorities is an important way of ensuring that at least some degree of pressure is sustained and awareness of the situation is maintained in the minds of the international community. This can be viewed as especially important in terms of the Golan region and the Golani people who all too often can be overlooked, or whose struggle frequently gets subsumed into the similar, but legally and politically different, Israeli-Palestinian conflict.
2. Background

2.1 Geography

The region of the Golan is a geopolitically and hydrologically important plateau located at the point of convergence of the states of Israel, Syria, Jordan and Lebanon. It covers an area of approximately 1,800 square kilometres, 1,200 of which continue to be occupied by Israel. Topographically the elevation of the Golan ranges from the top of Mount Hermon (Jabal el-Shaykh) at 2,814 meters above sea level in the north, to the Yarmuk River and Lake Tiberias in the south. It overlooks the region of Galilee and the Huleh (Al Huly) Valley. The region receives a much higher level of rainfall than much of the rest of Israel and the oPt and as such the water resources are considered as highly valuable in this arid region. Because of its height and the wide area that can be surveyed from military bases located there, it is also considered to be of vital military importance. In the early 1900s during the period of the First World War, in anticipation of the collapse of the Ottoman Empire and with the Zionist movement pressing for the creation of a Jewish homeland in Palestine, the water resources in the south of Syria and the north of Palestine were assessed. There were negotiations over whether Lake Tiberias and the sources of the Jordan River would be included in the French controlled northern areas or British mandate Palestine. Chaim Weizmann, a Zionist leader at the time of the Balfour Declaration, noted in a letter to British Prime Minister David Lloyd George:

The whole economic future of Palestine is dependent upon its water supply for irrigation and for electric power, and the water supply must mainly be derived from the slopes of Mount Hermon, from the headwaters of the Jordan and from the Litani river... [We] consider it essential that the northern frontier of Palestine should include the valley of the Litani, for a distance of about 25 miles above the bend, and the western and southern slopes of Mount Hermon...  

11 Lake Tiberias can also be referred to by its Hebrew name of Lake Kinneret and by its biblical name The Sea of Galilee. It is approximately 210 meters below sea level.
12 The highest peak of Jabal el-Shaykh occupied by Israel is 2,224 meters above sea level.
13 For a concise look at the Historical Development Plans of the Jordan River Basin see Appendix A.
This serves to illustrate that even at a time when the creation of the Palestinian state was being discussed, the value of the water resources of the Golan was recognised.

Figure 1: Map of the conflicting water projects in the Jordan Basin.

Sourced from Stephan Libiszewski, Water Disputes in the Jordan Basin Region and their Role in the Resolution of the Arab-Israeli Conflict (ENCOP: Occasional Paper No 13, August 1995.)
2.2 Run-up To the 1967 War

Since the establishment of Syrian independence and the creation of the State of Israel, on the land of mandatory Palestine in the aftermath of the Second World War, relations between the two states have been tense and often fraught with aggression.16 With the collapse of the Ottoman Empire in the aftermath of World War I, the region was divided into British and French mandates. The British assumed control over what is now seen as Palestine and Jordan and were in continuous negotiations with the Arab population and the Zionist movement over how the state would be governed. The Zionist movement consistently petitioned the British authorities to be permitted to establish a Jewish homeland in the region of Mandate Palestine. The British failed to be able to reconcile the Zionist desire for the land of the Palestinians with the rights of the Arab population and so handed the administration of the region over to the United Nations (UN). The Golan was included as part of the French Mandate in 1923 and became part of the newly formed Syrian Arab Republic in 1944, at the end of the French mandate.

In November 1947 the General Assembly voted to partition the area into a Jewish and a Palestinian state but the Arab states rejected the plan.17 After passing the resolution, fighting broke out between the Arab and Jewish populations within Palestine and Israel declared its independence on 14 May 1948. After the announcement, over the proceeding days and weeks, Arab armies from a number of neighbouring states, including Syria, entered into the war.18 In 1949, at the end of the war, Israel and Syria signed an Armistice Agreement, but tension between the two newly established states continued, involving skirmishes along the border (the Golan), Israeli relocation of Arab populations and settlement of demilitarised zones. As retired Israeli Brigadier General Aryah Shalev notes:

17 For more information on this war see Morris, Benny, 1948: The First Arab-Israeli War,Yale University Press, 2008.
In the first years of the armistice regime it was Israel that tried unilaterally to effect changes in the status quo in the DMZ.... [initiating] activity on the ground to change the status quo in its favor and secure full control of the area. Many of the ensuing incidents were triggered by Israel's attempts to extend the areas under cultivation on Arab-owned land, with the Syrians opening fire in response.\(^\text{19}\)

---

**Figure 2:** Golan border lines 1923, 1949 and 1967.

Sourced from [http://www.jewishvirtuallibrary.org/source/Peace/67line.html](http://www.jewishvirtuallibrary.org/source/Peace/67line.html)

\(^{19}\) Id. as quoted, p. 88.
One of the most contentious issues was the access to and diversion of water resources. The Armistice Agreement had not dealt with the issue of co-operative water policies and relations between the countries were not conducive to collaboration. Israel resumed its water development plan after the war had ended and in The Comprehensive All Israeli Plan released in 1951, provided for such projects as the draining and development of the Huleh swamp, the diversion of the Jordan River and the building of a water carrier system. Drainage of the swamp commenced in 1951 and because of its location within the demilitarised zone was a cause for consternation and clashes between Israel and Syria. As a result of this aggression the UN Security Council issued resolution 93 on the 18th of May 1951 calling on Israel to cease its operations in the demilitarised zone. It was also as a result of foreign policy concerns that the Jordan River diversion project was postponed and did not get underway until 1953.

In the early 1950s both Jordan and the United Nations Relief and Works Agency for Palestine Refugees in the near East (UNRWA) were also working on strategic water plans. One of these plans drawn up by Murdoch McDonald in 1951 involved diverting the Yarmouk River into Lake Tiberias as well as digging canals down both sides of the Jordan valley. Another plan drawn up by M.E. Bunger for the UNRWA provided for a dam on the Yarmouk River at Maqarin with a storage capacity of 480 million m$^3$. It was projected that the development would irrigate 435,000 dunums in Jordan, 60,000 dunums in Syria and provide 28,300 kWh in hydroelectric energy for Jordan and Syria. Israel asserted that its riparian rights were not adequately dealt with under this plan.21

---

20 Masahiro Murakami, Managing Water for Peace in the Middle East: Alternative Strategies, United Nations University Press, Tokyo, Appendix C.1 at http://www.unu.edu/unupress/unupbooks/80858e/80858E0m.htm#C%20Historical%20review%20of%20the%20political%20 riparian%20issues%20in%20the%20development (last accessed 1 July 2010)
21 Id.
Israel began its development of the diversion operation in July of 1953, at a site within the demilitarised zone at Jisr Banat Ya’coub. It was deemed to be the best available site in terms of elevation and water quality but the Syrian government complained to the United Nations Security Council who issued Resolution 100 requiring Israel to cease its operations in the area pending an investigation by the Security Council.

As a direct result of pressure from the United States, which included the cutting of aid, Israel ceased its construction operations in the demilitarised zone. Israel instead selected an alternative site on Lake Tiberias. By this time Jordan had already abandoned the Bunger Plan.

In October of 1953 Eric Johnston was appointed by US President Eisenhower to act as a mediator between the sides and was mandated to draw up a multilateral plan for the Jordan River System. In a similar way to the Marshall Plan in Europe it was intended to calm the tension by promoting cooperation and economic stability and it was based on a plan drawn up by Charles T. Main for UNRWA. As Murakami points out the main bargaining issues when considering a consolidated plan were:

1. the water quotas for the riparians;
2. the use of Lake Tiberias as a storage facility;
3. the use of Jordan waters for out-of-basin areas;
4. the use of the Litani River as part of the system; and
5. the nature of international supervision and guarantees.

---


24 Masahiro Murakami, Managing Water for Peace in the Middle East: Alternative Strategies, United Nations University Press, Tokyo, Appendix C.1 at http://www.unu.edu/unupress/unupbooks/80858e/80858E0m.htm#C%20Historical%20review%20of%20the%20political%20riparian%20issues%20in%20the%20development (last accessed 1 July 2010)

25 Id.
Provisional quotas from the Main Plan gave Israel 394 million m³, Jordan 774 million m³ and Syria 45 million m³. Both the Arabs and the Israelis responded claiming they each should receive a larger portion of the water and put forward conditions more favourable to them, the former with the Arab League Plan and the latter with the Cotton Plan both released in 1954. After extensive and prolonged bargaining, the final version of the Johnston Plan was decided upon and accepted by both Israeli and Arab Technical Committees. The Arab League Council however, decided not to ratify the Plan although they would adhere to its technical provisions. Unfortunately the problem of how to monitor the Plan was never fully determined.

Although the Plan was not ratified by all the parties, Israel and Jordan decided to abide by it and two projects commenced; the Israeli National Water Carrier and Jordan’s East Ghor Main Canal. An Arab summit decided to frustrate Israel’s plans by diverting the Hasbani and Banias rivers and the Arabs commenced work on the diversion project in 1965. Israel viewed these actions as being in contravention of their sovereign rights and it has been noted “according to estimates, completion of the project would have deprived Israel of 35% of its contemplated withdrawal from the upper Jordan, constituting one-ninth of Israel’s annual water budget.”

Israel attacked the development with force, including an air strike deep into Syrian territory in April 1967. Hostilities finally broke out again in 1967 as a result of escalating conflicts over water supply, the demilitarised zones and on-going security issues.


27 Masahiro Murakami, Managing Water for Peace in the Middle East: Alternative Strategies, United Nations University Press, Tokyo, Appendix C.1 at http://www.unu.edu/unupress/unupbooks/80858e/80858E0m.htm#C%20Historical%20review%20of%20the%20political%20riparian%20issues%20in%20the%20development (last accessed 1 July 2010).

28 Id. at Appendix C.4
2.3 Arab-Israeli War of 1967 and the Pre-1973 Situation

War broke out between Israel and a number of neighbouring Arab states at the beginning of June 1967 and resulted in a defeat for the Arab armies and a significant loss of territory. The war lasted only six days and resulted in Israel controlling the Egyptian Sinai Peninsula; the Palestinian areas of the Gaza Strip, the West Bank, and East Jerusalem; and the Syrian region of the Golan. The war directly involved Egypt, Jordan and Syria with support from a number of other Arab states.29

The result of this war has affected the geopolitical situation in the region up to the present day, including on-going peace talks between the states of Syria and Israel.  

Before the war the population of the 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. 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). During the war the Israeli army captured 70% of the land mass of the Syrian Golan and the vast majority of the population, of the occupied areas of the Golan, was displaced. 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. After the war of 1967, only 7,000 of the original Arab population remained in the Golan.

---

31 Sakr Abu Fakhr, Voices from the Golan, Institute for Palestine Studies, Vol. 29 No. 4, Autumn 2000, pp. 5-6.
32 Id.
33 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 (last accessed 1 July 2010).
Due to natural family growth, this number now stands at 20,000 Syrian individuals living in five towns Ghajar, Masa’da, Buq’ata, ‘Ein Qinyeh, and Majdal Shams, the vast majority of these people are followers of the Druze faith. Moshe Dayan, who was Israeli Minister for Defence at the time of the Arab-Israeli War 1967, has stated that the decision to capture the Golan was one of his biggest political mistakes and has stated that one of the important factors in the decision to attack the Golan was the desire of the settlers of the Jordan Valley for the land.35

Almost immediately after the end of the war, the Israeli government issued military orders placing the area under the control of a military commander, who would be in charge of administering the region. They began building settlements in the area almost immediately. Only one month after the end of the war, on the 10 July 1967, concessions to begin the building of settlements in the Golan were granted by the Israeli government and four days later construction started.36

It has been stated that the Jewish Agency Settling Department prepared schemes to have 50,000 settlers living in the Golan before 1979.37 This target has not yet been reached, it is estimated that there are somewhere in the region of 20,000 Jewish settlers currently residing and setting up industries in the Golan in 33 illegal settlements.38 Their main areas of economic activity are tourism and agriculture, although there are also a number of industrial zones.39

36 Sakr Abu Fakhr, Voices from the Golan, Institute for Palestine Studies, Vol. 29 No. 4, Autumn 2000, p. 7.
38 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/64/339, 9 September 2009, ¶ 89.
39 Id.
Dr. Nazeh Brik a local architect, and regional and urban planner in the Golan has noted from his research:

“The Israelis began to steal the water in the Golan Heights directly after the occupation. The Israelis made reservoirs all over the Golan Heights to steal the water and to ensure the water doesn’t flow to the Syrian side. They created a new reservoir near Quanytra only three years ago. There was a water line from Beit Jan [Orchard, a Syrian Village] to Quanytra and the line was still working, the Israelis were stealing the water so the Syrians cut the line to stop the water. At the end of 1967 directly after the occupation the Israelis made satellite photographs of the Golan and they found about 100 springs in the Golan. A few months after the occupation, the Israeli settlers came to the Golan Heights and they started to use 40,000 dunums for agriculture. The value of the produce reached 5 million Israeli Lira at that time. In 1974 the Israelis established a water company called Mei Golan and they made three water reservoirs.”

2.4 Arab-Israeli War of 1973

On the 6th of October 1973, war between the neighbouring Arab nations and Israel broke out again. Egypt and Syria launched a surprise attack on Israel on the Jewish holiday of Yom Kippur, with the aim of retaking the lands lost to Israel in the 1967 war. In the early stages of the war the Arab armies had some successes and they managed to advance into the Sinai and Golan regions but after initial gains they were pushed back by the Israeli army. The retention of the Golan by the Israelis was considered a priority in the war and as Minister for Defence Dayan stated:

> the Golan Heights is another home, and if the front there collapses, they [the Syrians] would be in the Jordan Valley and in one form or another in the country, whereas in the [Suez] Canal, if our soldiers must maintain their positions, without advancing or without immediately repelling the Egyptians, this is not as an immediate a danger as that in the Golan Heights.⁴¹

Dayan also directed that there would be “No withdrawal at any cost. We fight until the last man remains and don’t withdraw even an centimetre.”⁴²

The Israeli government, despite early losses in the war, refused to agree to a ceasefire while they were at a territorial disadvantage, with the Egyptians on the Israeli side of the Suez Canal and the Syrians present in the Golan. The Prime Minister stated that “Israel would not agree to a cease-fire until the status quo was returned.”⁴³

Ultimately, at the end of the war, the Israeli army were in a better military situation than before the war started. Syria and Israel signed an Armistice Agreement in 1974 and Israel returned some territory occupied by them during the 1967 war including the town of Qunaytra, which the military destroyed before pulling out. A UN monitored zone was set up along the eastern edge of the occupied Golan, with the United Nations Disengagement Observer

---

⁴¹ As quoted from the Agranat Commission Report, Vol. 2, p. 478 in Shmuel Tzabag, Termination of the Yom Kippur War between Israel and Syria: Positions, Decisions and Constraints at Israel’s Ministerial Level, Middle Eastern Studies, Vol. 37 No. 4, October 2001, p. 188.
⁴² Id. as quoted from, Braun, Moshe Dayan and the Yom Kippur War, p. 118.
⁴³ Id. as quoted from, Braun, Moshe Dayan and the Yom Kippur War, p. 118.
Force (UNDOF) established to supervise the implementation of the agreement and monitor the demilitarised zones. The on-going occupation of the Golan is often said to be for military purposes to prevent Syria having a stronghold from which it can attack northern Israel. However in the present day, with the advancement in arms technology, this argument can be deemed to be less pertinent.

2.5 ‘Annexation’ of the Golan in 1981

In the years following the 1973 war, the Israeli authorities continued to enforce Israeli military control in the area of the Golan and continued its settlement plans. All through the following decades, settlement creation and expansion continued, with somewhere in the region of 17 new settlements being built in the 1970s and a further 9 in the 1980s. This settlement expansion indicates that, unlike land taken by the Israelis from Egypt, the Israeli administration did not intend returning the Golan to Syria. Indeed, it was after the 1973 war that the electric fence was constructed along the ceasefire line. This fence, which is also in many places surrounded by minefields, currently separates the Golan from the rest of Syria.

This theory is reinforced by the fact that, in 1981, Israel declared that it was officially, albeit illegally, annexing the Golan. In 1977, after the Likud party had come to power, there was a definite policy of attempting to force Israeli citizenship on the Syrian population of the Golan. Basic activities such as travelling around Israel and obtaining a driver’s license required a person to have an Israeli citizenship ID. There were also added bonuses in the form of lower taxes and higher water quotas for those that accepted these

In 1980, the Minister of the Interior amended the Israeli Law of Nationality so that the state could grant citizenship on a person where it was deemed to be in the “special interest of the state.” Serious civil unrest resulted from Israeli attempts to enforce citizenship on the Golani people and a general strike by the Arab population of the Golan was launched following the declaration of annexation, issued by the Israeli authorities on the 14th of December 1981. This strike lasted for three days with the villages coming to a complete standstill.

On the 14th of February 1982, another general strike was declared, following the arrest of a number of local leaders. The strike lasted for almost six months, during which time the Israeli administration imposed a blockade on the Arab villages, denying them basic provisions including food, water, electricity and medical supplies. At the beginning of April 1982, a massive contingent of Israeli forces attempted to push Israeli citizenship on the population, by confiscating their old military issued IDs and issuing each individual with a new Israeli citizenship ID. The Golani population collectively rejected these new ID cards and the Israelis ultimately relented instead issuing individuals with travel documents which declared the beholder’s nationality to be ‘undefined’. The Israeli authorities also stated that the people of the Golan would not be required to serve in the armed forces, would be allowed to visit Syria and their lands would not be confiscated; the latter two promises were not honoured.

The early years of the Israeli occupation of the Golan not only stripped 130,000 people of their homes, land, livelihoods, traditions, and social networks but also, for the few that remained, their water resources were expropriated and then exploited for the benefit of Israel and particularly the Israeli settlers in the Golan. According to a World Zionist Organization (WZO) Report, “during 1973-74, 1,900 Israeli settlers in the Golan Heights were supplied with 7.59 million cubic metres, Jewish water use thus being seventeen times that of the local Syrians.”\(^5^2\)

This discrimination against the local Arab population continues unabated and with little choice for the indigenous population who are forced to operate under the control and administration of the Israeli occupying power. Israel’s denial of the fundamental human rights of the Arab population in the Golan runs contrary to a myriad of international law conventions.\(^5^3\)

\(^{52}\) Uzi Gador, Tokhnit Pituah Hagolan 4 [Plan for Developing the Golan], WZO Settlement Division, Galilee Region, 1975

\(^{53}\) Uzi Gador, Tokhnit Pituah Hagolan 4 [Plan for Developing the Golan], WZO Settlement Division, Galilee Region, 1975
3. Illegal Israeli Practices Concerning Water Extraction and Supply in the Golan

3.1 Importance of the Golan to Israeli Water Problems

The Golan as previously stated, is a vital source of water for 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.\textsuperscript{54} The majority of this water evaporates back into the atmosphere, leaving about 30\% (2,400 million cubic meters) to flow into the water systems.\textsuperscript{55} Much of this rain occurs in the northern region of the Golan, with the levels becoming less and less the further south you go.

\textbf{Figure 6: Average annual precipitation 1961-1990- from the Meteorological Service.}
Sourced from http://www.emwis-il.org/EN/Water_context/context_05.htm#5._Rainfall_.
There are two major surface water systems connected to the Golan. One in the west consisting of the drainage basin of the Jordan River and its tributaries the Banias, the Dan and the Hasbani, and another in the south draining to Lake Tiberias and the Yarmuk River. The Banias River is sourced in the north west of the Golan, the Dan rises within Israel, while the Hasbani flows through the area on its way from its source in Lebanon to where it joins the Jordan River in Israel. Part of the southern border of the Golan is demarcated by the Yarmuk River, which flows from the Syrian-Jordanian border, along the Israeli-Jordanian border and into the Jordan River between Lake Tiberias and the Dead Sea. It is one of the Jordan River’s largest tributaries.

Part of the south eastern border of the Golan also runs alongside the north eastern corner of Lake Tiberias (although to what extent has been hotly debated).  

The combination of all of these significant water reserves, in a region where water is one of the most precious commodities, makes the Golan a valuable treasure for Israel.

The water situation in Israel has always been a burning 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 the state. 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. The most recent report has stated that there is 15.2 billion cubic meters of water lacking in Israeli reserves and that this is more water than can be replenished even with a succession of particularly wet years. 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.

---

57 To what extent is subject to debate. In the negotiations between France and Britain, after the First World War, as to where the border between their two mandates would run Lake Tiberias was eventually located within Palestine with the border in some cases running only ten meters from the Lake shore. Any existing rights enjoyed by the Syrians with regard to the River Jordan were to be retained. Indeed the Syrians and the Jordanians were to have the same fishing and navigational rights, on Lakes Hula and Tiberias, as the Palestinians but with the Palestinian authorities responsible for policing the Lake (No. 565. — Exchange of Notes Constituting an Agreement between the British and French Governments Respecting the Boundary Line between Syria and Palestine from the Mediterranean to El Hammé. Paris March 7, 1923). However at the end of the 1948 war Israel had captured the eastern shore of the lake.


60 Id.
3.2 Illegal Exploitation of Water Resources in the Golan

In comparison with Israel the Golan has a high level of precipitation and as a result has much greater groundwater and surface water resources. There are over 200 springs in the Golan arising from different sources, some of which are seasonal and some of which flow all year round.61 There are also numerous streams, many of which run only in the wet season; the most important perennial streams are the Gilbon (Glibiney), the Meshushim (Wadi Hawa), the Zawitan (Wadi Hawa), the Yehuddia and the El Al, which are fed by rising springs and surface water.62 A number of these streams are captured by reservoirs in the Golan.

Before the occupation there was no real exploitation of the groundwater of the Golan, while the region contained a few shallow wells there were no deep wells. After the occupation the Israelis initiated a programme to gain access to the aquifers and 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. Wells have also been dug in Emeq Habachan 1 in the north-eastern Golan and the Mey Eden well near the Qazrin settlement. The Israeli authorities now extract more than 10 million m$^3$ of water a year from these deep wells.63

---


62 Id. p. 141

Figure 9: Map of strategic value of the Golan.

Lake Tiberias is the only fresh water lake that Israel can claim riparian rights to. Taking into account the line of 4th June 1967 these rights are not held solely by Israel, Syria should also be considered a riparian state. However, as a result of the illegal occupation of the Golan, Israel currently exercises exclusive control over this valuable resource. The lake and surrounding basin are estimated to supply 560 million m$^3$ of water a year to the Israeli water economy; that is approximately 33% of their annual fresh water consumption.\textsuperscript{64}

It is estimated that Israeli water consumption is somewhere in the region of 2 billion cubic meters annually, with the water balance derived from desalination plants and other sources.\textsuperscript{65}

Tiberias is the lowest lying fresh water lake in the world, at over 200 meters below sea level, it can hold up to 4.3 billion cubic meters of water and spans an area of approximately 165 km$^2$.\textsuperscript{66}

The water from the lake is drawn from a variety of sources, the primary one being the River Jordan and its tributaries, which are thought to supply 520 million cubic meters of water (250 million cubic meters from the Dan, 150 million cubic meters from the Hatsbani and 120 million cubic meters from the Banias).\textsuperscript{67}

It is noted that altogether the water entering the lake annually is 850 million cubic meters, the other 320 million cubic meters arriving as a result of rain water and minor tributaries flowing in from the surrounding catchment area.\textsuperscript{68} Of this water it is estimated that 50 million m$^3$ of water enters Lake Tiberias from streams in the Golan\textsuperscript{69} and that upwards of 30 million m$^3$ of water is retained in the

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{64} Yehuda Shevah, Israel, Irrigation and Drainage in the World-A Global Review, International Commission on Irrigation and Drainage, at http://www.icid.org/i_d_israel.pdf (last accessed 30 June 2010)
\item \textsuperscript{65} The Parliamentary Committee of Enquiry on the Israeli Water Sector, Report, Jerusalem June 2002, p. 31
\item \textsuperscript{67} Shmuel Kantor, The National Water Carrier, at http://research.haifa.ac.il/~eshkol/kantorb.html (last accessed 30 June 2010)
\item \textsuperscript{68} Id.
\item \textsuperscript{69} Frederic C. Hof, Mapping Peace Between Syria and Israel, United States Institute for Peace: Special Report 219, March 2009, p. 10 at http://www.usip.org/files/resources/mappingpeace.pdf (last accessed 1 July 2010), this does not include streams flowing into the upper Jordan River
\end{enumerate}
\end{footnotesize}
region annually, illegally captured by fifteen Israeli reservoirs. On average 300 million m$^3$ of this water evaporates. The national water carrier pumps 400 million, of the 550 million m$^3$ of water available, out of the lake to supply the rest of Israel.

Dr. Nazeh Brik a local architect and regional and urban planner in the Golan has noted from his research:

“The size of the basin of Tiberias Lake is 2,730 square kilometres, 660 square kilometres are in Lebanon, 1,158 square kilometres are in the Golan Heights, and just 900 square kilometres are in Israel, just 30%, 70% is located outside in South Lebanon and the Golan Heights… About 87% of the water in Tiberias comes from outside Israel, from South Lebanon and the Golan Heights.”

70 Id.
72 As stated in an interview with Dr. Nazeh Brik, conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 15th June 2010.
While the available numbers and facts can fluctuate wildly depending on the research it is in many ways superfluous. The undeniable facts are that there is a much higher level of rainfall in the Golan region than in the south of Israel, the majority of the precipitation in the Golan flows naturally either directly into Lake Tiberias or into its tributaries and as a result the water economy of Israel is dependent on the water of the Golan. There is no denying that the water resources of the Golan are essential for the viability of Israel and that the Israeli authorities realise this to be so.

Lake Tiberias was dammed in 1932 and since then the level of water in the lake is monitored and regulated. The maximum level of the water to prevent flooding in the areas around the lake is set at -208.9 meters below sea-level (mbsl), the minimum level which is infinitely more worrying is set at -213 mbsl which is known as the red line, but it has been lowered even further for limited periods of time. In 2000 it was dropped to -214 mbsl, in 2001 to a staggering -215.5 mbsl and in 2008 to -214.87 mbsl which was declared the black line, this is the line at which it is no longer possible to pump water from the lake. This over extraction by the Israeli Water Authority is devastating for the water quality, the ecosystems in the area and the sustainability of the Lake in general.

---

All the natural springs and rivers in the Golan are also under the control of the Israeli authorities. By way of example the Lake of Birket Ram is situated in the Northern Golan on the eastern side of Masada village. It contains 6.8 million cubic meters of water and has an area of 1 km².\(^{74}\) It was traditionally utilised by the Arab local population for irrigation and drinking water for livestock before the occupation, but since the Israeli settlement policies were initiated in the Golan, the water from the lake has been exploited by the Israeli water management companies of Mey Golan\(^ {75}\) and Mekorot. This has resulted in the native inhabitants of the Golan being forced to purchase the water for irrigating their farms from the Israeli authorities. The Israeli authorities have also changed the capacity and structure of the lake by piping water into it from other sources, which has resulted in the lake flooding some of the Arab owned lands in the immediate vicinity of the lake. Some of these farmers received compensation from the Israeli administration but a court case was also instigated on behalf of others which has been on-going for 30 years. As well as Birket Ram there are many other important springs in the Golan including the Ras an Naba spring, Ein Feet spring, Al Brgiat spring, Dardarah spring and Sae‘ade spring.

\(^{74}\) Birket Ram statistics on official website of Mey Golan at http://www.golan.org.il/9171935/.htm (last accessed 30 June 2010, original in Hebrew)

\(^{75}\) which translates into English as ‘Waters of the Golan’.
As Shhady Nasralla a local agronomist has stated:

“The capacity of lake Ram is 6.5 million cubic meters at its fullest. It’s important to tell that Ram Lake was more small and the Israeli and Mekorot authorities started to pump the water in the winter to Ram and it got bigger and all the farmers around the lake had their own fields then inside the water. The water is pumped from Sa’ar river, the river that is used in the summer. Ras an Naba is the springs name and Sa’ar is the rivers name that runs from the spring. There is a little river called Namra which is higher than the lake so they dam the river to make the water go down to the lake. Before the Israelis started pumping the water into the lake the capacity was 2.5 million cubic meters. It took a lot of land. Until now there is a judging between Mekorot and the farmers about this land. Some of them got compensation and some not. It has been going on for 25-30 years.”

76 Ras an Naba is the Arabic word term the source of the river, the local Arab population of the Golan use this term to refer to the spring which is the source of the Sa’ar River.
77 As stated in an interview with Shhady Nasralla, conducted by Al-Marsad: Arab Centre for Human Rights in the Occupied Syrian Golan, on 21 May 2010
It is worth noting that the Ras an Naba spring, that supplies the water of the Sa’ar river, is actually now located on the Syrian side of the border fence. The water was traditionally channelled from this location by the local population for irrigation and since the occupation they have continued to do so. The Israeli authorities have not attempted to confiscate this water from the locals or indeed charge them for it but this is probably on the basis that the water source is under Syrian control and if the authorities attempted to interfere with the locals use of this water then there is the possibility that the Syrian authorities would cease its supply. However, the Israeli authorities channel the water from this river to Lake Ram to be stored in the winter time. This in practice means that Israel expropriates the water of the local Arab population and then sells it back to them at a later date, at elevated prices, when they need it.

There are a small number of traditionally utilised springs within the occupied territory that Israel has allowed the Arab population to continue to access but these have also been directly affected by the drilling actions of the Israeli water authorities.

Madad Ewidat, a local farmer, has described one such instance where this has become apparent:

“There is a place where Mekorot are pumping water (Lemsherfy Spring) and it is very close to a spring we are using for the orchards for irrigation. At this place they have 2 digs there, an old one and a second one finished last year. It is actually very deep, maybe 500 meters or 600 meters into the ground, so we are talking about good water, after they started to pump from this the spring water got less. This spring was running all the year and now it is stopping in September after the pumping of the water. It’s so close, there are two places they are pumping from and both are very close to the spring, we are talking about 200 or 300 meters.”

78 As stated in an interview with Shhady Nasralla, conducted by Al-Marsad: Arab Centre for Human Rights in the Occupied Syrian Golan, on 21 May 2010
3.3 Israeli Control and Management of Golani Water Resources

The water exploitation in the 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 on obtaining the permit.”

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.

In addition, the Order bestowed upon the military commander the

---

80 Military Order 120, March 24th 1968, Section 45-.
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.  

Any contravention or violation of this order carried a potential sentence of up to one year in prison or 1,000 Israeli Lirot (100 NIS).

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 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.

In the late 1950s the Israeli authorities enacted the Water Law. This effectively abolished private ownership of water and placed all water resources within the Golan under Israeli state administration. Section 1 of the Law outlines the basic premise of the law stating that “the water resources of the State are public property; they are subject to the control of the State and are destined for the requirements of its inhabitants and for the development of the country.” Section 4 of the Law further elaborates on this point and states that “a person’s right in any land does not confer upon him a right in a water resource situated therein or crossing it or abutting thereon.” This legal provision is in contrast to a number of other jurisdictions, where the owner of the land has the right, to some degree, to utilise and exploit the water resources present on his own land, at the very least for personal consumption. Ownership of property does not include an express right to utilise water sources flowing through, or indeed under, the land possessed.

---

81 Military Order 120, March 24th 1968, Section 68-.
82 Id. Section 13.
According to the above mentioned law, the Israeli state serves only as custodian of the water and manages it for the use of its residents; they do this through the Governmental Authority for Water and Sewerage.

Any operation involving the use of a water source requires the individual to have a license issued by the Water Authority. These activities include "well drilling, extraction (production), supplying, consumption, subsurface recharging and water treatment." Private ownership of the means of production, treatment and supply of water is allowed, even though the ownership of the source itself is precluded. The Water Drilling Control Law reinforces the prohibition on the drilling and expansion of any well, in the absence of a license. All water supplied to the population whether it be for domestic, agricultural or industrial purposes is allocated, measured and charged for. The Director of the Water Authority enacts the policies dictated by the Minister for National Infrastructure and his office is responsible for formulating and implementing plans regarding the national water strategy, preventing pollution and flooding, development of new sources of water, utilisation of overflow and waste water and generally ensuring efficiency.

Since the mid-1980s, the Water Commission (now the Water Authority) has been enforcing cutbacks in the amount of water allocated to farmers and in 1993 a new policy was introduced whereby 70% of the annual allowance per agricultural consumer is prescribed in January and the rest is decided on depending on the projected water sources available at the end of the winter. In 1999 the Commissioner again decided on cuts for quotas allocated for agricultural operations by a 40% average, this was cut further to 50% in the years 2000 - 2002.

---


In response to the complex interdisciplinary and hence interdepartmental nature of the water issue in Israel, the Knesset voted in 2006 to amend the existing water management structures. The new system would incorporate a number of different powers and responsibilities from a variety of agencies and ministries, allowing the newly created Governmental Authority for Water and Sewerage to more efficiently deal with the Israel’s water issues. The Authority is headed by the Director who is a senior civil servant and is appointed by the Cabinet, serving a period of five years. He is assisted by the Council which is made up of senior representatives of the Ministries of Agriculture, Environmental Protection, National Infrastructures, Finance, and the Interior.

All of the Israeli operations in the Golan, all of the extraction operations and the distribution of the water to Israeli settlements in the region and indeed to Israel proper, are illegally exploiting the water of the Golan region, contrary to the laws of occupation contained in the Geneva Conventions, the Hague regulations and a host of human rights law instruments that will be discussed later. Israel’s prolonged occupation of the territory has enabled Israeli state actors to take control of the administration of the area and to exploit the water resources of the Golan. This has changed the Golan’s status quo and traditional irrigation infrastructure. Of all the water extracted, the vast majority of it is used to service the illegal settlements and their illegal industrial and agricultural operations. The indigenous Arab populations’ inability to monitor and manage their own water consumption to develop their own agricultural and industrial operations, is in contravention of Common Article 1(2) of the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights, which guarantees the rights of indigenous populations to control over their own resources.

Two companies are responsible for the extraction, treatment and supply of water in the occupied Golan. The national state owned company Mekorot and the privately owned Mey Golan.
3.3.1 Mey Golan and Mekorot

Mey Golan is a water management company in the occupied Golan, established in 1978 and run as a co-operative, supplying water and waste management services to the Israeli settlements in the Golan. As noted by Uri Shani, the Director General of the Governmental Authority for Water and Sewage, “Mey Golan successfully balances the water resource requirements of 2,000 households, 27 agricultural communities, and the demands of local industry, using an integrated approach to water management.”

The infrastructure created by Mey Golan is comprised of 14 flood and stream reservoirs and 4 deep wells. The company is responsible for maintaining somewhere in the region of 8,000 hectares (80,000 dunums) of agricultural land, in addition it also oversees wastewater and sewage systems. It has been reported that the Mey Golan reservoirs capture approximately 40 million m³ every year. The newest reservoir called the Bene Israel Reservoir can hold 7.5 million m³, it is located near the settlement of Ramat Magshimim in the south of the Golan. Mey Golan supply water exclusively to the settlements and operate in cooperation with the Israeli state water authority Merkorot. Not one single drop of water captured and supplied by Mey Golan is provided for the use or benefit of the indigenous Golani population.

Mey Golan has also been taking advantage of the land and geostrategic location of the Golan to develop wind energy sites. In 1992 they erected 10 turbines which generate 6 MW of electricity. This electricity is supplied to the settlements and their industries, including Mey Eden and the Golan Wineries, with about 20% being sold back to the national grid.

---

88 Mey Golan, Water resource management, Establishing and operating reservoirs, deep wells, and water management systems, at http://meygolan.co.il/telesite_33ol/bin/00-2/293-30-.pdf (last accessed 20 June 2010).
89 Translates as ‘children of Israel’.
90 Built on the land of the destroyed Arab village of Khisfin.
91 Mey Golan Water resource management, Establishing and operating reservoirs, deep wells, and water management systems, at http://meygolan.co.il/telesite_33ol/bin/00-2/293-30-.pdf (last accessed 20 June 2010).
In conjunction with the American energy company AES, Mey Golan has plans to erect a further 160 turbines with the production capacity of approximately 450 MW of electricity. The first seven of these are proposed to be built in 2011. The land acquired for this project has been leased from the local Golani population. This development is further evidence of the exploitation of the natural resources of the Golan by the settlement industries and the Israeli authorities.

Figure 14: Mey Golan water reservoir of Bnei Israel, the largest reservoir in the Golan holding 7 million m$^3$ of water. Sourced from Jalaa Marey’s Archives.

Water not supplied by the cooperative Mey Golan in the Golan region is supplied by the national Israeli water supplier Mekorot, who supply both Arab and settler customers. Mekorot was founded in 1937, by the Jewish National Fund and the trade union association Histadrut, to install water infrastructure projects for the Jewish community. They currently supply 70% of the overall water consumed in Israel and 80% of drinking water. Since the establishment of the State of

93 Ari Rabinovitch, Israel uses Golan to build wind energy industry, Reuters: Green Business, 29 April 2010.

Israel, the company is entirely owned and controlled by the Israeli authorities. As well as supplying water the company manages the pipeline system, the National Carriers, desalination plants and sewage treatment systems. The prices charged by Mekorot are dictated by the Ministers of National Infrastructures and Finance, subsequently they have to be approved by the Knesset’s Finance Committee. They are subject to amendment from time to time depending on fluctuations in inflation and costs of production.

The Israeli administration’s control over water extraction and supply severely restricts the Arab farmers. Their legal provisions ensure that they have complete control of all areas of water management. They can grant permission to companies, such as Mey Golan, to supply water to the settler population, while restricting the access of local Arab co-operative committees. Indeed the Jewish National Fund, an organisation that operates solely for the benefit of the Jewish nation, has constructed over 200 water reservoirs and dams in the State of Israel to assist the Jewish farmers; they have committed $100 million to the establishment of new treatment initiatives and the construction of an additional 40 reservoirs.95 While it remains unclear whether or not any of the reservoirs in the Golan were constructed with the backing of the Fund, this is further evidence of assistance that potentially can be availed of by the settler farmers that is unavailable to the indigenous population.96

96 Indeed one of the real life stories detailed on their website is about a Jewish settler farmer in the Golan and contains the statement “Your support can help JNF construct additional reservoirs to ensure that Israel’s agriculture industry survives” at http://www.jnf.org/work-we-do/our-projects/water/water-projects/personal-stories-of-farmers.html (last accessed 1 July 2010).
3.4 Discriminatory Policies Regarding Water Supply to Arab Farmers

As a result of the mass flight and forced deportation of the Syrian population during the 1967 war, the Israeli government were able to seize somewhere in the region of 80 per cent of the land of the Golan. The land around the villages that remained was, in many cases, not formally registered and the villages, fearing expropriation of their land, divided up collectively owned land and planted apple trees extensively, in the hope that the more developed the land was, the more difficult it would be for the Israeli authorities to expropriate it.

Before the occupation, the native population of the area 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 occupation, the farmers were cut off from their customer base. The local farmers had to alter the crops they grew, to cater to 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. In 1985/6 the first Arab co-operative of Birket Ram was set up and the local farmers began receiving water from Mekorot.

The occupation by Israel of the Golan cut the local farmers off from their support base in Damascus and halted the assistance they had previously received from the Syrian authorities.

98 Id. p. 85.
99 From an interview with Alam Edeen Khattar, conducted Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 16 June 2010.
Alam Edeen Khattar a local farmer in Majdal Shams has stated:

“Before the occupation my family had a lot of land in Ain-Altina (which is now on the other side of the ceasefire line). My father built a store of water there and was irrigating freely. The government of Syria was encouraging people to be involved in agriculture. They gave you the water for free, digging wells and using springs was free. No taxes had to be paid to the Syrian government. Last year I was in Damascus on a visit and I investigated the issue. The Syrian government give you the trees and they lend you money with easy conditions, they give you large amounts of money for low interest. In some cases the government will even release you from paying back the money. If you want to dig a well the government will do the geological study, provide the machinery and give you a license for free.”

Figure 15: Alam Edeen Khattar tending to his apple trees in his fields in Alwā‘aly in the northern Golan.

Sourced from Kathy Keary’s Archives.

100 As stated in an interview with Alam Edeen Khattar, conducted Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 16th June 2010.
Some of the farms planted had very little access to water and they were forbidden by Israeli law from digging wells, so in the 1980s the farmers started to erect large metal tanks on their farms, to catch the rain water in the winter to be used for irrigation when needed in the summer. These tanks were prohibitively expensive, costing $17-20,000 (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 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.

Shaddy Nasralla a local agronomist has noted:

“The Israelis got crazy because of the tanks. I don’t know why this reaction but it was very hard. All the farmers got papers from the judge and had to pay a big fine. They had to put a gauge on every tank so that they would pay for the rain water. It’s funny but it’s true… Two tanks that I remember were damaged by the authorities. They cut them down the side.”

---

101 As stated in an interview with Shhady Nasralla, conducted Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 21 May 2010.
Figure 16: Water holding tanks on Arab farms in the Golan.
Sourced from Al Marsad’s Archives.
The irrigation of the farmers land in the Golan is now organised on a collective basis. Mekorot started supplying water to the population of the Golan in the 1990s, pumping the water from the Ram Lake. Co-operative groups of farmers were established, to administer the water to the Arab farmers. There are currently seventeen co-operatives providing water to the Arab farmers in the area of Majdal Shams and, except for in a small number of exceptional circumstances, all farmers are members of a co-operative. These organisations are overseen and managed by members of the local Arab population. In the initial formative stages, the farmers had to buy into the cooperative. The amount paid depended on how much land they had or how many shares they wanted to purchase in the co-operative, this money was then used to install the infrastructural elements of each co-operative.

The way in which these organisations are run is not necessarily homogenous but they do have a number of crucial elements in common. The water is supplied by Mekorot, who decides, on the basis of a number of different criteria, how much water can be used per annum by each cooperative. This water is then provided to the farmers themselves, based on the number of shares they purchase in the co-operative, or the amount of land they own in the co-operative, depending on the structure. If the co-operative is administered in shares, generally speaking if a farmer has five dunums of land he is entitled to buy five shares in the co-operative; this is the maximum number of shares he is entitled to buy and if he so wishes he can buy less but not more. If the co-operative is organised on the basis of the amount of land owned then the allocation of water is tied to the amount of land.\textsuperscript{102}

\textsuperscript{102} Information gathered from interviews conducted with Shhady Nasralla, and Samera Said-Ahmed (Mdah), conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 21 May 2010 and 24 May 2010 respectively.
Figure 17: Map of the seventeen irrigation co-operatives surrounding Majdal Shams. Sourced from documents acquired from an interview conducted with Samara Said-Ahmed (Mdah), conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, carried out on the 26th May 2010.

17. Buq’ata (3)

* denotes illegal Israeli settlement
In the majority of cases the water is pumped by the co-operatives themselves, from the source at Lake Ram and piped to the relevant area. The cost of paying for all necessary infrastructures, including the construction of the pump house, the installation of the pumping system and the laying of the carrier pipes, are all borne by the co-operatives. In addition, the co-operatives must pay for the maintenance and upkeep of this infrastructure on an on-going basis, as well as bearing the cost of the electricity necessary for the pumping. According to Samera Said-Ahmed (Mdah), an administrator of five of the Arab co-operatives in the area of Majdal Shams in the northern Golan, the co-operatives are currently in negotiations with Mekorot to supply them with pumping and infrastructure facilities but the results of this remain to be seen.103

103 Information gathered from an interview conducted with Samera Said-Ahmed (Mdah), conducted Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on 24 May 2010.
There is also a section of the Israeli settler population of the Golan who have their water supplied by Mekorot. In contrast to the Arab farmers these 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. This obviously leaves the Jewish settler farmers at a distinct economic advantage.

3.4.1 Allocation of Water

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. They also have a greater choice in terms of the choice of what product to grow as a result of these higher water allowances. Some members of the Arab population of the Golan estimate that the disparity between the settler and Arab farmers is somewhere in the region of 4:1. One farmer from Majdal Shams Majid Maray, leases 180 dunums of land in the Israeli settlement of Dovev in the northern area of the Upper Galilee. He has stated that in the settlement farm he can use as much water as he needs, the quota of water is actually more than he uses. A brief consideration of the water consumed on the 180 dunums he rents and the 1,500 dunums in the co-operative of Birket Ram is illustrative of the situation. In the months of June and July 2009 the leased farm in the settlement used 77,920 cubic meters of water to irrigate its 180 dunums in the same two months the co-operative in Birket Ram used only 139,375 cubic meters of water to irrigate its 1,500 dunums. To break this down to comparable units the farm in the settlement used 433 cubic meters of water per dunum while the farmers of Birket Ram used only

104 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.
93 cubic meters per dunum that’s a consumption ratio of 4.5 to 1.  

According to Hasan Ghuttany the Director of the Agricultural Committee of Khawarit:

“For the 1,000 dunums of land administered by his committee they are allocated 92,000 cubic meters of water per annum by Mekorot who are the only source of water. This is not enough, 225,000 cubic meters are needed to properly cultivate the land. All the Isareli kibbutzim get 450 cubic meters per dunum per year. Every year we ask for an increase and it is denied, they say there is no more water, no reason is given as to why the settlers get more.”

As a result of the water allocations, settler land is also more productive than the land of the local Arab farmers. It is estimated that the average output of apples for the Arab farmers per dunum is 3-5 tonnes while the average for settler farms is 6-8 tonnes per dunum.

The settler farms on average produce twice as much fruit as the farms of the indigenous population, illustrating the negative economic impact of the discriminatory water allocations.

3.4.2 Price of Water

The Arab population also in practice pay more money for water than their Israeli counterparts. 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 depends on the volumes of water consumed and the quotas of water in each category are determined by Mekorot, although the initial allocation of water is decided by government authorities. The water allocated in category A is the cheapest at

105 Figures sourced from documents acquired from interviews conducted with Samara 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.

106 Sourced from an interview carried out with Hasan Ghuttany, conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on the 2 June 2010.

107 Sourced from an interview carried out with Majid Marey, conducted by Al-Marsad-The Arab Human Rights Centre in the Golan Heights, on the 24th May 2010.
1.363 NIS in 2009, then Category B at 1.575 NIS, and Category C at 2.058 NIS. The Arab farmers, because of 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. 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. In the co-operative of Sa’ar, the electricity costs alone are 0.25 shekels per cubic meter of water pumped and the cost of the electricity is 16% of the cost of the water. In interviews with local farmers and co-operatives, the general consensus seems to be that on average water costs 3 to 3.5 NIS per cubic meter for the local farmers, although the water rates set by Mekerot are only on average about 2 NIS. Also, the settlers who receive the water from the Mei Golan pay considerably less, some estimate that it is even as low as 0.90 NIS per cubic meter.

3.5 Corporate Involvement in the Exploitation of the Water Resources

There are a large number of settlement industries profiting from the occupation of the 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. As will be discussed in Section 4, individual legal entities, including corporations, are bound by various provisions of international law. Industries in the Golan such as Eden Spring, the Golan Heights Winery, the Golan Brewery, Biomor, Bendaplast, and Pigmentan, to name but a few, are all utilising the resources of the Golan for economic gain, in effect profiting from the occupation. The most involved of these companies with regard to the exploitation of water resources is Eden Springs.

108 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.
109 Id.
This is a multinational corporation with strong ties in Europe that is violating international law every day through its operations in an illegally occupied territory.

Eden Springs started trading in Israel and the occupied territories in 1982 and today turns over a profit of 144 million Euro. The multinational enterprise has expanded its operations to 15 European countries and has somewhere in the region of 450 million clients. It distributes 368 million litres of water a year.

111 http://www.infomat.net/1/focus/foci/eden_springs/about.asp (last accessed 26 June 2010).
112 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).
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 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 Golan and is considered by the Israeli authorities to be the region’s capital.\textsuperscript{114} The extraction, processing and selling of the natural water resources of the Golan are violations of international human rights and humanitarian law. The very existence of the settlements and all of their associated industries are illegal.\textsuperscript{115}

The Eden Springs parent company states its commitment to corporate social responsibility on its website in three key areas: sustainability, charity projects and community care. They establish their ethos by saying “we encourage our markets to support and help locally in the best way in order to build relationships of trust with the local players.”\textsuperscript{116} Eden France actually donate €1 per water cooler installed to an NGO called Solidarités.\textsuperscript{117} This NGO provides humanitarian assistance to victims of war.\textsuperscript{118} The stark reality of this is that the French branch of the company provides money to alleviate the effects of war, while their Israeli counterpart is benefiting from the spoils.

The case of Eden Springs however can be considered as an example of how successful actions can be taken against these settlement industries. In the United Kingdom, a boycott campaign was initiated against Eden Springs UK Ltd., the national branch operating under the parentage and control of Eden Springs Ltd. After the loss of a number of important contracts in Scotland, the company was forced to close its operations in the East of Scotland in 2008.\textsuperscript{119}

\begin{footnotes}
\item[114] Katzrin settlement is built on the land of the destroyed Arab villages of Alahmadia, Shqief, and Qesrin.
\item[115] For further information on the illegality of the settlements see Section 4.
\item[117] Id.
\end{footnotes}
local councils and universities, were cancelled. Although the water being sold in the UK did not come from the Golan, the profits made from doing business with Eden Springs UK Ltd. were going back into a company that profits from activities deemed illegal under international law.

Israeli actions in the Golan with regard to the water resources are considered to be contrary to international law on many levels. Both the State and private entities, including corporations, operating in the region, have obligations and duties under international law. However, as will be discussed in the next section, they have consistently shown a total disregard for the responsibilities dictated to them. International political and legal bodies have consistently called for the cessation of the creation and development of settlements and their related industries.

The exploitation of the water resources in the Golan, by the State of Israel, runs contrary to many international law instruments and provisions. Both human rights law and international humanitarian law include provisions that prohibit inherently discriminative and exploitative policies, such as those used by the Israeli government in the Occupied Syrian Golan. Many international institutions have also been vocal in condemning Israeli policies. For example, the UN Security Council and General Assembly, the UN treaty monitoring bodies, the International Court of Justice and the International Commission of the Red Cross, have all, to some extent, condemned Israeli policies in the Occupied Territories. They have also all recognised that Israeli obligations under the various international human rights treaties apply equally to the Occupied Territories and that the Israeli authorities have obligations in their role as belligerent occupiers.

An ILO report on the Situation of Workers of the Occupied Arab Territories has very succinctly quoted the Israeli position on the recognition of the Golan as occupied territory, the Israeli Authorities have stated that “it is the position of the Government of Israel that the Golan, to which Israeli law, jurisdiction and administration have been applied, is not now such an area.” This illustrates that, although it is universally accepted that the Golan is occupied territory and the purported annexation in 1981 was contrary to international law, Israel is not willing to accept this position and acts in direct contravention of it.

---


4.1 United Nations Regulations

As well as receiving consideration from the UN treaty monitoring bodies and other international legal bodies, the situation in the Golan has been the subject of on-going dialogue in the Security Council and the General Assembly of the United Nations. There have been hundreds of reports and resolutions commissioned and released by these institutions, consistently condemning Israeli occupation of the lands seized by them in 1967 and highlighting their illegal and discriminatory actions within these territories with regard to their indigenous populations. It would be an enormous and in many ways pointless effort to try and analyse all the relevant documents, it will serve better to highlight a selection of particularly pertinent ones.

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. It specifically called for the “termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every state in the area and their right to
live in peace within secure and recognized boundaries free from threats or acts of force."\textsuperscript{123} This resolution is consistently quoted and invoked to illustrate the illegal nature of the Israeli occupation. After the annexation 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."\textsuperscript{124} This is still the position of the international community and although very little action is being taken to rectify the situation, the annexation is still recognised as being illegal.\textsuperscript{125}

In 1962 the UN General Assembly issued a resolution establishing the "rights of peoples and nations to permanent sovereignty over their natural wealth and resources."\textsuperscript{126} Contravention of these rights should only occur in the interest of "public utility, security or the national interest" and any other violation of these rights should be viewed as being contrary to the Charter of the United Nations. This resolution was passed before the Israeli occupation of the Golan and applies to all member states of the UN.

The General Assembly has also issued specific resolutions condemning Israeli practices in the occupied Arab territories. Resolution 3336 (XXIX) of 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 decrees any Israeli actions contravening this statement as being illegal stating that they should be immediately halted.\textsuperscript{127}

Resolution 38/144 issued in 1983 addresses not only state parties but also "international organisations, specialized agencies, business corporations and all other institutions."\textsuperscript{128} 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

\textsuperscript{125} General Assembly Resolution A/Res/6626 ,19/ January 2012.  
\textsuperscript{126} General Assembly Resolution, A/Res/1803 (XVII), 14 December 1962.  
\textsuperscript{127} General Assembly Resolution, A/Res/3336 (XXIX), 17 December 1974.  
\textsuperscript{128} General Assembly Resolution, A/Res/3819 ,144/ December 1983.
any industry located on Arab territory or utilising the natural resources of occupied land.

One of the most recent statements regarding the exploitation of resources in the Golan is a General Assembly resolution adopted on the 21 December 2009 it:

> 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
> “Demands that Israel, the occupying Power, cease the exploitation, damage, cause of loss or depletion of, or endangerment of the natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan."

It also reaffirms a number of previous resolutions and reasserts the applicability of humanitarian and human rights law to the territory.

Reports are also frequently commissioned by the UN institutions for their consideration. By way of example, the Report of the Secretary General submitted to the General Assembly, pursuant to Resolution A/6397/, on “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan.” The report documents an intention on the part of the Israeli authorities to increase the number of settlers living in the Occupied Golan and calls on the Occupying Power to immediately cease expansion of settlements and to remove settlement outposts erected after March 2001. This demand however has also been ignored and settlement expansion continues in the Golan.

Despite the plethora of resolutions and dialogue surrounding the issue of the Occupied Territories, and the exploitation of the natural

---

129 General Assembly Resolution, A/RES/6429, 185/ January 2010
130 For a full chronological list of UN documents dealing with the Golan go to the UN online database athttp://domino.un.org/unispal.nsf/vSubject?OpenView&Start=1&Count=270&Collapse=39.239.2#(last accessed 1 July 2010).
131 General Assembly Resolution, A/646, 516/ November 2009
132 Id. ¶ 48 -49.
resources of the areas by the Israeli authorities, the problem persists unabated. The illegal policies and actions of Israeli governments continue regardless of the criticism of the international community. Condemnation by the United Nations of the Israeli occupation and their actions in their role as occupier has been consistently expressed. However, this has not in practice affected or constrained Israeli policies of settlement and exploitation of resources.

4.2 Humanitarian Law Provisions

The international community has consistently stated that Israel is obliged to comply with international humanitarian law provisions that apply to situations of belligerent occupation. The most important documents to be considered are the Fourth Hague Convention and Regulations annexed thereto and the Fourth Geneva Convention. Although it is a party to the Fourth Geneva Convention, Israel has consistently rejected the notion that it should apply to the Occupied Territories. Israel has not signed and does not recognise the de jure application of the Hague Regulations; however, Israel as a Member State of the UN is still obligated to abide by the standards set out therein as they are considered to be customary international law. Instead of full implementation Israel asserts that it compromises by applying the Hague Regulations and the ‘humanitarian’ provisions of the Fourth Geneva Convention although these provisions have never been enumerated.

Whatever Israel’s view of the application of these instruments, and whether or not they believe the territories to be annexed or occupied,

---

133 The Hague Convention (IV) respecting the Laws and Customs of War on Land (Hereinafter the Fourth Hague Convention) and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, adopted 18 October 1907, entered into force 26 January 1910, (Hereinafter the Hague Regulations).


the international community (including the various UN bodies, the International Commission of the Red Cross, and the International Court of Justice) has consistently reiterated that the annexations are illegal and will not be recognised, and that the areas are in fact occupied; as such the Fourth Geneva Convention and the Hague Regulations do apply. In a conference of the High Contracting Parties of the Fourth Geneva Convention in 2001 the applicability of the Convention to the Occupied Arab Territories was reaffirmed. The International Commission of the Red Cross has stated:

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.

4.2.1 Hague Convention and Regulations

Section III of the Hague Regulations deals with duties owed by an Occupying Power to the inhabitants of territory it has occupied and limits the situations in which land or natural resources can be controlled and utilised by the occupying forces. It is explicitly stated in Article 46 that “private property cannot be confiscated”. Public property on the other hand can be confiscated and utilised by the Occupying Power in some instances. The extent to which confiscation of state owned property can legally occur will depend on whether the property in question is military or civilian in nature and in turn whether it is considered as being moveable or immovable property.

More protection is afforded to state property that is intended for

---


138 The Hague Regulations, Section III.
the benefit of the general population as is evidenced from Article 56 which confers the protection afforded to private property to property of municipalities to safeguard the interests of the civilian population.

Where an occupying power does occupy an area and assumes the role of administrator of the resources of the occupied state they must “safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.”139 This is understood to mean that the occupying forces can continue to exploit the resources to the extent that they had been utilised before the occupation but initiating new projects or increasing the operations in place is forbidden.140

Occupying states are also under obligation, unless absolutely prevented, to respect the laws of the state under their control and administration.141 The only limited instances in which an occupying force can appropriate goods or services from the population of the occupied zone is if it is necessary for the occupying army, it is proportionate to the resources available in the country and adequate compensation is given or promised.142

It should be noted that the exploitation of water is not specifically mentioned and water will not necessarily fall into the category of private civilian property but it is a vital natural resource for the population and as such their traditional use of the resources should be respected especially considering the laws in force in the state before occupation. Control of the water could be considered as being jointly owned by the population and the state and is therefore protected from unnecessary exploitation. The very essence of the protection of civilian property provisions of the Hague Regulations is that, while occupying forces are controlling and administering an area, they are permitted to utilise the resources of that area only for the public good and military necessity.143 In general, protections are

---

139 The Hague Regulations, Article 55.
141 The Hague Regulations, Article 43.
142 Id. Article 52.
143 For Example: Articles 46, 47, 49, 52, 53 and 55.
afforded to private property so that civilians are not unnecessarily adversely affected by military actions of states. The expropriation and control of water supply in the Golan and the building of related infrastructure cannot be construed as being in the interest of military necessity. Indeed, the water extraction and exploitation cannot be said to be used for the benefit of the population under occupation, considering the vast majority of the water is supplied for the benefit of the settler population, whose very presence is illegal.
Figure 21: Sign from the Kibbutz Settlement of Mevo Hamma in southern Golan. The kibbutz is built near the destroyed Arab town of Kfar Harib.

Sourced from Jalaa Marey’s Archives.
4.2.2. Geneva Conventions

One of the most important aspects of the Fourth Geneva Convention with regard to the regions of the Occupied Arab Territories is that it overtly and explicitly prohibits the establishment of settlements on occupied land. The relevant provision states that “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies” and as well as that proscribes the transfer of protected persons out of the territory occupied.\textsuperscript{144} The destruction of property, both private and public, is also forbidden “except where such destruction is rendered absolutely necessary by military operations.”\textsuperscript{145} In fact unlawful and wanton destruction and appropriation of property in the absence of military necessity is considered to be a grave breach of the Fourth Geneva Convention.\textsuperscript{146}

Additional Protocol I to the Geneva Conventions, relating to the Protection of Victims of International Armed Conflicts\textsuperscript{147} states that:

> it is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive.\textsuperscript{148}

The commentaries of the International Committee of the Red Crescent (ICRC) on the Convention specifically state that the concept of rendering objects useless was inserted into Article 54(2) mainly to protect irrigation works and installations.\textsuperscript{149}

\textsuperscript{144} Fourth Geneva Convention, Article 49.
\textsuperscript{145} Id. Article 53.
\textsuperscript{146} Id. Article 147.
\textsuperscript{147} Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (hereinafter Additional Protocol I), adopted 8 June 1977, entered into force 7 December 1978.
\textsuperscript{148} Id. Article 54 (2).
4.2.3. The Rome Statute

The Rome Statute of the International Criminal Court includes a list of what constitutes war crimes and has been agreed upon to a large extent by the international community. In the particular case of the occupation of the Golan, two of these crimes can be seen to be particularly relevant. Article 8 (2)(a)(iv) states “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”, and Article 8 (2)(b)(viii) provides “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory”. These crimes are considered to be particularly egregious when committed systematically and on a large scale.

It should be noted that Israel is not a party to the Rome Statute and therefore these provisions cannot be enforced against members of the Israeli administration. However, it does serve to illustrate that policies of this nature are considered to be particularly heinous by the international community and as such warrant prosecution. There is also the outside possibility of a case being referred to Court by the UN Security Council for cases that otherwise fall outside the Court’s jurisdiction.150

If a case is referred to the International Criminal Court (ICC) by the Security Council all UN states are required to cooperate with the Court. It is highly unlikely that any case involving the prosecution of Israeli officials will be referred to the ICC because of the strong political links between Israel and the United States. The United States’ power of veto within the Security Council effectively protects Israeli leaders and decision makers from the reach of the ICC.

The aforementioned provisions of humanitarian law are put in place to protect the civilian population of occupied territories. This does not only include protection of their lives but also protection of their property, their cultural traditions and their livelihoods. The general ethos is that the status-quo should remain in place and the local

150 Article 13, The Rome Statute
population should only be affected by the occupation in so far as it is necessary. There is no military necessity for the alteration of traditional irrigation methods or access to local water resources in the Golan region.

4.3 Human Rights Law Provisions

The positions of the Israeli government and international human rights monitoring bodies have been diametrically opposed on the issue of the application of human rights treaties to the areas under occupation by Israel. Israel has stated that the application of international humanitarian and human rights law are mutually exclusive and if provisions are to be applied it is those of international humanitarian law. This position has been categorically rejected by the UN treaty monitoring bodies. For example, the Committee on Economic Social and Cultural Rights (CESCR), in its concluding observations on Israel’s second periodic report, repeated its concern that Israel did not recognise the application of the Convention to all areas and populations under its effective control. Furthermore the CESCR pointed out that, even in a situation of armed conflict, fundamental human rights must be respected and that “basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law.” Considering the Golan region is under the control of Israel, as a result of the occupation and the subsequent illegal annexation, Israel is under the obligation to ensure the rights of the Golani population are promoted and protected.

There are 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),

152 Id. ¶ 31.
153 Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with Article 27.
the Convention on the Elimination of all forms of Racial Discrimination (ICERD),\textsuperscript{154} and the International Covenant on Civil and Political Rights (ICCPR).\textsuperscript{155} These enumerate and guarantee the fundamental human rights of all human beings, including the basic concepts of self-determination and non-discrimination.

\textbf{4.3.1. Right to Water}

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)\textsuperscript{156} and the Convention on the Rights of the Child (CRC).\textsuperscript{157} There are also a number of provisions that have been interpreted as including this right. The ICESCR has been interpreted as inferring a right to water which is necessary for achieving other rights expressly provided for therein including “adequate food, clothing and housing, and to the continuous improvement of living conditions” and health.\textsuperscript{158}

The CESCR has issued a General Comment concerning the right to water; in it the Committee notes that states are obliged not only to respect the right to water of the people in their care but also to

\textsuperscript{154} Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969, in accordance with Article 19.

\textsuperscript{155} Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49.

\textsuperscript{156} 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 14(2h) provides for the right “To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications”.

\textsuperscript{157} 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”.

\textsuperscript{158} Articles 11 & 12.
protect and fulfill those rights where necessary. 159 States must not interfere either directly or indirectly with a person’s right to water and must refrain from “engaging in any practice or activity that denies or limits equal access to adequate water” or “arbitrarily interfering with customary or traditional arrangements for water allocation.”160 State parties must also prevent third parties from interfering with or contravening the rights of the population. Third parties can include “individuals, groups, corporations and other entities as well as agents acting under their authority” and the obligation includes adopting a legal framework to ensure that all parties abide by the regulations.161 In particular where water services are administered by third parties, the state has an obligation to ensure that these services are provided in a non-discriminatory manner. This includes adopting independent monitoring offices and in the event of non-compliance some form of sanction is to be imposed.162


160 Id. ¶21
161 Id. ¶23
162 Id. ¶24
The CESCR has also considered and discussed the particular case of Israeli actions and policies with regard to the occupied territories. They have stated in their concluding observations 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.”

---

4.3.2. Self determination

The issue of exploitation of water can also be considered and analysed in terms of self-determination, which is one of the fundamental tenets of international human rights Law. In the United Nations Charter of 1945 it is listed as one of the four basic purposes of the United Nations. The right to self-determination is also recognised at the outset of both the ICCPR and the ICESCR. Common Article 1(2) of these documents states that:

all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Both the Human Rights Committee and the International Law Commission have reiterated and reaffirmed the self-determination guarantee set out in Common Article 1 of the two conventions. The Human Rights Committee has stated that the provision includes duties and obligations on State parties to not only guarantee these rights as set out, but also to report on any obstacles or failures in terms of realising them in practice.

The water resources of an area are vital for the development and wellbeing of a population, especially in a region that relies heavily on agriculture as a source of income. The alteration of traditional methods, as a result of coercion by outside forces whether intentional or not, can be severely damaging to the society. It is especially egregious when the state removing the rights of a population, to access and utilise their own local water assets as they have traditionally done, is an Occupying Power, as is the situation in the Golan.

164 Adopted 26 June 1945, entered into force on 24 October 1945, Chapter I, Articles 1.2
4.3.3. Non Discrimination

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.  

The principle of non-discrimination is provided for in a variety of UN treaties including the CRC, CRC, Article 2.1 & ICESCR, Article 2.2. the CEDAW, CEDAW, Article 2. the ICCPR, ICCPR, Article 2.1. and the ICESCR. ICESCR, Article 2.2.
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.\(^\text{172}\)

Non-discrimination provisions can proscribe not only direct discrimination but also indirect discrimination. Equality should be assured not just in law but also in fact, which means that even if a policy is not expressly discriminatory, but in effect it causes or indeed perpetuates inequality in practice, it can be considered to be in contravention of anti-discrimination provisions. States have both positive and negative obligations when implementing such provisions. Not only are states forbidden from discriminating against certain sections of society they are also expected to actively promote equality and “ensure” that these rights are realised.\(^\text{173}\)

The International Labour Organisation also has a convention that can be deemed to be relevant. The Convention concerning Discrimination in Respect of Employment and Occupation 1958 deals with equality amongst workers and forbids “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.”\(^\text{174}\)

Discriminatory water policies particularly with regard to agriculture could be considered to come under the auspices of this Convention. The indigenous Arab farmers have been, and are continuing to be, discriminated against in terms of access to resources vital for their livelihoods. This places them at a distinct disadvantage when compared to the position of the settler farmers whose very presence is illegal.

\(^{172}\) ICERD, Article 1.
\(^{173}\) Id. Article 2.
Although states are the subjects of these international covenants there is also an onus on them to curtail the actions of private legal persons within their sphere of influence that violate human rights within the state. The Human Rights Committee has reiterated this position and in a General Comment has stated that “the right to equality before the laws and freedom from discrimination, protected by article 26, requires states to act against discrimination by public and private agencies in all fields.”\(^{175}\) There is an express provision in ICERD that places a responsibility on the state to eradicate and prevent discriminatory practices and policies “by any persons, group or organization.”\(^{176}\)

### 4.3.4. Derogation from International Human Rights Law

State parties can only renege on their obligations under international human rights law treaties in exceptional and specific circumstances and indeed some rights are considered to be non-derogable. By way of example, Articles 4 and 5 of the ICESCR and the ICCPR provide for these extraordinary circumstances where a state may temporarily waive their responsibilities in some instances. The ICESCR allows for these derogations only where they are provided for by law, compatible with the basic principles of human rights and for the purpose of guaranteeing the welfare of the society.\(^{177}\) The ICCPR is even more rigid and allows for the waiving of rights only “in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed” and to only to an extent “strictly required by the exigencies of the situation”.\(^{178}\) Even in these limited situations, the measures taken cannot be contrary to states’ other obligations under international law and cannot be discriminatory in nature. These derogations from the ICCPR must be declared to the other State parties to the treaty, explaining which provisions are to be affected and the reasons the actions taken are necessary, they must also communicate the instance at which

---

176 ICERD, Article 2.1(d)
177 ICESCR, Article 4.
178 ICCPR, Article 5.
the derogation in question is rescinded.\textsuperscript{179} Article 5 of both treaties forbids the use of these derogations for the purpose of eroding of any of enumerated rights or to curtail them further than expressly provided for in the previous articles.

The Israeli policies with regard to water supply to the Arab population in the Golan as discussed previously are clearly in contravention of a number of human rights instruments. The loss of control over their local water resources has had a serious effect on the way in which the Arab population cultivate their lands. Arab farmers are also at a severe disadvantage with regard to the allocation and price of the water and although the authorities do not expressly state this policy, it is clearly evident in practice. There is also no pressing overarching reason that these human rights should be derogated from as is provided for in a number of treaties. Taking all of the available information into consideration it is clearly evident that the Israeli authorities are in gross violation of a wide range of human rights and humanitarian law provisions.

4.4 Corporate Complicity in Human Rights Violations

Whether and how multinational corporations can be found liable for their participation in human rights violations under international law has been a much discussed and hotly contested subject. The power, influence, and amassed wealth of large multinational corporations is in many cases sufficient to have a strong effect on government decision making, and their actions on a global scale can have a very serious impact on the daily lives of people and their enjoyment of their rights. The presence of corporate entities in the settlements of the Golan is fundamental to their existence and progress. They provide the population of the settlements with employment and vital services. As with any state involved in repressive and illegal practices they are enabled by the willingness of corporations to be complicit in these practices in return for a profit. In reaction to the power wielded by corporate entities in the global economy there must be a strong accountability mechanism in place to curtail this influence and

\textsuperscript{179} ICCPR, Article 4.
ensure that these legal entities are not violating the human rights of people in states where they operate. Oliver Williams cites in one of his articles that a key finding of a study of the Sullivan Principles in South Africa is that “an independent oversight monitoring function is an absolute necessity.”

There is however no legally enforceable international legal regime for holding multinational corporations to account for their actions. Regulation of the harmful activities of corporations can be established and examined in two broad ways. The first is corporate responsibility which attempts to elicit corporate compliance with human rights provisions on a voluntary basis through a system of self-regulation. The second is corporate accountability which requires corporations to abide by a legal framework of human rights provisions or face some form of sanction for non-compliance.

4.4.1. Legal Personality of Corporations in International Law

Traditionally only states who were party to a treaty could be considered to be subject to its provisions. International treaties by their very nature are based on agreements among states and are intended to regulate the obligations and duties of states and not necessarily individual personalities, be they natural or legal. This situation has been changing and developing and it is now recognised that, in some cases at least, individuals can be held accountable for international crimes.

For example in the draft Statute of the International Criminal Court presented to delegates at the beginning of the Rome Conference contained the proposed section “the Court shall also have jurisdiction over legal persons, with the exception of states, when the crimes committed were committed on behalf of such legal persons or by their agencies or representatives.”

The proposal did not survive the drafting process and was abandoned in the interest of time.

This is not to say that there are no international treaties that attempt

---

to regulate and condemn legal persons and hence corporations for violations of its provisions. Some international conventions such as the Council of Europe Criminal Law Convention Against Corruption, the UN Convention against Corruption, the UN International Convention on the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime directly address corporate entities. Under these conventions the onus remains with the State parties to legislate, as befits their existing national legal framework, to condemn the actions of legal persons for the various actions laid out within the conventions. However, they do illustrate that, at least to some extent, explicit regulation of multinational corporations is possible under international law.

4.4.2. State Regulation of Multinational Corporations

In general however the responsibility for regulation falls to states. There are a number of problems that can be identified when examining state regulation of multinational corporations and the absence of an international regulatory body. One of the most obvious problems is the multi-territorial nature of these corporations. States and their governments by their very nature operate within very definite territorial borders and corporations do not.

In many cases the states where human rights violations are taking

---

183 Strasbourg, 27 January 1999. Article 1(d) states „legal person“ shall mean any entity having such status under the applicable national law, except for States or other public bodies in the exercise of State authority and for public international organisations.

184 Adopted by the General Assembly 31 October 2003, entered into force 14 December 2005. Article 26(1) states „Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention“.

185 Adopted by the General Assembly 9 December 1999, entered into force 10 April 2002. Article 5(1) states „Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative“.

186 Adopted by the General Assembly 15 November 2000, entered into force 29 September 2003. Article 10(1) states „Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention“.
place may even be ignoring these violations to encourage the multinational corporation’s investment in their country, actively aiding them in carrying out these violations. Moreover, in some cases the state may be the primary perpetrator of the crime with the corporation acting in partnership with them. It is also obvious from looking at the fluctuating and diverse levels of adherence states show for international human rights instruments that bind them, that states are not the appropriate monitors of any entities’ compliance with human rights norms. In Israel for example the states’ adherence to international human rights and humanitarian law provisions is abysmal; in a situation such as this how can the state be relied on to ensure corporate compliance when they are clearly responsible for similar violations themselves. In recognition of this inability of states to individually control the actions of corporations, a number of international initiatives have been introduced, in the attempt to provide a global regulatory standard.

4.4.3. ILO Tripartite Declaration

The International Labour Organisation Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (hereinafter Declaration) was adopted in 1977. The Declaration addresses both national and multinational enterprises as well as governments, employers and workers organisations, who are recommended to adopt and abide by the principles as laid out on a voluntary basis. Although the nature of the Declaration is voluntary, as Clapham points out “it may also be seen as an authoritative interpretation of some of the International Labour Conventions and recommendations on which it is based.”

It should be noted that many of the international agreements for

---

187 See for example the case of Unocal in Myanmar and indeed the cases surrounding the Wall in the Occupied Palestinian Territories.
example the ILO Conventions and the United Nations Human Rights treaties mentioned in the Declaration are considered binding on the State parties.\(^{190}\) The first paragraph of the section entitled General Policies, states that all the parties addressed by the Declaration “should respect the sovereign rights of states, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards.”\(^{191}\) They also expressly mention the Universal Declaration of Human Rights, international conventions adopted by the General Assembly and the Constitution of the International Labour Organisation.

There are three main implementation processes for the Declaration. The first is entrusted to the Sub-Committee on Multinational Enterprises which conducts a periodic survey based on information provided by the actors addressed by the Declaration, and their experiences with the implementation of it.\(^{192}\) The information is then summarised and analysed by the Committee and published.\(^{193}\) The second course of action is a form of dispute resolution mechanism whereby governments and in some cases national and international workers’ and employers’ rights organisations can submit a request for an interpretation of the Declaration based on a disagreement arising from an actual situation.\(^{194}\) The third process for implementation is promotion of the Declaration. It has been noted however that in the absence of any real remedy or sanctions the Declaration can have no real and substantial effect.\(^{195}\)

---

190 ILO, Tripartite Declaration of Principles, Text, ¶ 8, p. 3.
191 Id.
4.4.4. OECD Guidelines

The Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises (hereinafter Guidelines) were introduced in 1976. It was one of the first international legal documents to attempt to regulate corporate responsibility. It has subsequently been reviewed and updated a number of times most recently at a Ministerial Meeting in 2000. \[196\] The Guidelines have been adopted by the 30 Organisation for Economic Cooperation Development (OECD) member states\[197\] plus 11 others, including Israel. They apply not only to all corporations acting within these 41 countries but also to all companies registered in these states, operating within the territory of states not party to the Guidelines,\[199\] and they are applicable not only to the parent companies but to “all the entities within the multinational enterprise.”\[200\] In terms of human rights the Guidelines stipulate in the chapter on General Policies that enterprises should “respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments.”\[201\] This provision however is extremely vague and it remains unclear which human rights obligations corporations must adhere to and to what extent.

---


197 Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States from www.oecd.org (last accessed 30 June 2010).

198 Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Peru, Romania and Slovenia from www.oecd.org (last accessed 30 June 2010).

199 Working Party on the OECD Guidelines for Multinational Enterprises, The OECD Guidelines for Multinational Enterprises: Text, Commentary and Clarifications DAFEE/IME/WPG(2000)15/FINAL, 31 October 2001, at http://www.oecd.org/LongAbstract/0,3425,en_2649_34889_4873591_1_1_1_1,00.html (last accessed 25 June 2010), §I.2, p. 8, states “Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country”.

200 Id. §I.3, p. 8.

201 Id. General Policies, §§I.2, p. 11.
The first paragraph of the first section of the Guidelines expressly establishes that the “observance of the Guidelines by enterprises is voluntary and not legally enforceable.”202 There is a complaints mechanism for overseeing the implementation of the Guidelines although the procedure is not akin to any form of official legal complaint. The arrangements could be better described as consultative and conciliatory and they are overseen by two different structures namely the National Contact Points and the OECD Investment Committee.

National Contact Points (NCP) are to be set up in each of the states that are party to the Guidelines for the purpose of “undertaking promotional activities, handling enquiries and for discussions with the parties concerned on all matters covered by the Guidelines.”203 The National Contact Points are also intended to be accessible for actors from all levels of society including not only the business community and employee organisations but also non-governmental organisations and the general public.204 The other complaints mechanism is through the Committee on International Investment and Multinational Enterprises (now known as the Investment Committee) which is empowered to oversee issues pertaining to the Guidelines and issue clarifications where appropriate.205 The Investment Committee cannot however issue a statement on the conduct of any particular enterprise; their role is simply to clarify the general application of the guidelines.206

A number of the shortcomings of the OECD Guidelines and its implementation mechanisms are highlighted by OECD Watch, a network of civil society organisations which aims to assist NGO

---

203 Id. Decision of the OECD Council, June 2000, §I.1, p. 44.
204 Id. Procedural Guidance, §I.B.3, p. 46.
activities with regard to the Guidelines. The organisation also works closely with OECD bodies, governments and businesses in furtherance of its goal to achieve a corporate accountability framework. It notes in its 2008 Review of National Contact Points and the Implementation of the OECD Guidelines that “[t]he continuing disappointing experiences with NCPs and the procedures have contributed to a widespread perception among NGOs that the Guidelines can never become truly effective.” This report highlights a number of particular problems with the OECD Guidelines and the National Contact Points in particular. It notes that the National Contact Points should be “independent, informed and authoritative” and that their location within government ministries can present serious problems for effective implementation. As John Ruggie, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, points out in his report to the Human Rights Council “[t]he housing of some NCPs primarily or wholly within government departments tasked with promoting business, trade and investment raises questions about conflicts of interest.” This can lead to a narrow interpretation of the Guidelines, an inconsistent treatment of parties to a complaint and as a result the feeling that the NCPs are predominantly acting in the interest of the business community and not the Guidelines. The lack of any effective oversight committee exacerbates this problem. The OECD Watch report also emphasises inadequate promotional and informational activities and the problem of transferring cases between NCPs in cases concerning multiple jurisdictions. All in all the report notes

207 See www.oecdwatch.org (last accessed 30 June 2010)
208 Id.
210 Id. p. 23-.
“there are very few positive experiences in 2008 among NGOs with the handling of their complaints.”

4.4.5. Repercussions for Settlement Industries

It is worth considering what the international regulatory bodies, mentioned could do in reaction to the exploitation of the waters of the Golan by Eden Springs and in general what implications there may be for corporate entities illegally operating in occupied territory. As Israel is a party to the ILO Tripartite Declaration and the OECD Guidelines, Eden Springs, as well as all other settlement industries are subject to the standards and obligations set out therein. The problem, which has already been highlighted, is that in practice this means very little in terms of accountability or recourse to justice.

The only potential action that could be taken is through the Israeli National Contact Point for implementation of the OECD Guidelines. In Israel this role is vested in the Trade Policy and Administration Division which comes under the auspices of the Foreign Trade Administration. Considering these offices are situated within the government Ministry of Industry, Trade and Labour and the political nature of the alleged violations, it would be unlikely to produce any satisfactory results. OECD Watch has issued a report in the attempt

213 Id. Pg. 5.
214 List of contact details for National Contact Points at http://www.oecd.org/dataoecd/17/44/1900962.pdf (last accessed 1 July 2010).
215 Id.
to help parties interested in bringing a complaint to a National Contact Point under the Guidelines. This report points out that although the process is not a legal course of action it can be quite costly and lays out a number of issues that should be considered before proceeding with a complaint. One of the most important of these is whether or not it can be proven that the corporation has in fact contravened the Guidelines. In the case of Eden Springs or indeed any other corporate entity illegally operating in the Golan, a complaint could be instigated on the basis of Article 2 of the section on General Policies, which as previously noted, encourages corporations to take into consideration the obligations of the states in which they operate regarding human rights and to have regard for the effects their actions may have on the rights of individuals. The corporate entities complicity in Israel’s illegal action is clear but while this process could be undertaken, the gains to be achieved by doing so remain unclear. The process focuses on mediation between the parties and considering the desired outcome of the dialogue from the complainant’s point of view would more than likely be cessation of operations within the Golan, it appears highly unlikely that anything substantial could be achieved.

In general, Israel’s occupation of the Golan expressly contravenes fundamental tenets of international human rights and humanitarian law. Israel’s violations of international legal standards, with regard to its treatment of the Arab population of the occupied territories, are also undeniable. The way in which the State has consistently ignored resolutions, rulings, declarations and the outright condemnation of the international community is evidence of the Israeli authorities’ total disregard for international law. This is not to say that engaging with the available institutions is futile, on-going discourse with international political institutions and legal bodies is vital to continue the struggle to end illegal actions by Israel and complicit corporate entities.

---


217 Id. p.10.
5. Transboundary Water Sources and International Law - Israeli - Syrian Negotiations

Water security and water shortage problems are a major issue for the Israeli authorities. How these problems are dealt with is of fundamental importance to ensure the survival and viability for the State of Israel. As noted above, water has been an issue at least to some extent in Israel’s relations with its neighbours since the inception of the state and is a major issue to be considered in any bilateral agreement to be established between Syria and Israel concerning the return of the Golan to Syria. Former 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…”218 The water rights of the Syrian Arab Republic frequently appear to be considered secondary to the needs of the State of Israel.

Since the birth of the State of Israel the availability of water and indeed the quality of the water have been major concerns. These problems have been exacerbated by the steady increase in population coupled with industrial and agricultural development. Israel’s Water Authority established in 2007 (taking over from the now defunct Water Commission) has noted that “diminished natural replenishment coupled with increased consumption has led to a major water deficit.”219 By way of example, in 2008 the fresh water supply was only 725 million m$^3$ which is just 62% of the average annual rain fall of the previous 15 years, 675 million m$^3$ less than the 1,400 million m$^3$ demanded.220 The Israeli authorities are consistently trying to introduce new initiatives to improve the water deficit. Some of their programmes have included recycling waste water, building desalination plants and promoting more efficient agricultural irrigation systems. Even with all these initiatives the Israeli water

220 Id.
crisis, it is feared, would be manifestly worse if they were to relinquish access to the water sources of the Golan. It is with the added challenge of a water crisis that the peace initiatives between Israel and Syria must occur. Syria seeing no compromise on the return of the Golan and Israel seeing no alternative water sources to make up for those they would lose. Although Israel’s occupation of the Golan is illegal and Syria are legally entitled to sovereign control over both the territory and its precious water resources, it seems apparent that Israel will not consider any agreement in which they lose all access to these hydro assets.

There have been on-going peace talks between Israel and Syria since the beginning of the occupation, centring on the return of the occupied Golan to Syria. Other Arab states whose territory was occupied by Israel in 1967 have negotiated agreements; the Israeli-Egyptian conflict was resolved with the signing of the Camp David Peace Treaty in 1979 and Israeli-Jordanian peace was officially established in 1994. In the years since the war Israel and Syria have come close on a number of occasions to finding a mutually acceptable agreement but for varying reasons these talks have collapsed.

The negotiations surrounding the water resources of the Golan consistently highlight the water needs of Israel; however, this is not a justifiable or reasonable point of departure. According to international law Israel’s occupation of the Golan and its expropriation of the natural resources are illegal. Syria has the sovereign right to exercise control over the territory and resources of the Golan. Yet this yet has not been honoured and Syria is also suffering from water shortage problems. Any peace agreement that is to take place will have to consider not only the riparian rights of the two states concerned but also where exactly the border between the two states will run, the security needs of the states of Israel and Syria and

222 Id.
223 See Section 4 of this report for more details.
indeed how to initiate and develop diplomatic relations between the two states. As with the other issues, the negotiations concerning a comprehensive water agreement between the two states should not take as its point of departure the needs of the Israeli state over and above the needs and rightful access of the Syrian state.

Having established that Israel’s exploitation of the water resources of the Golan are illegal under international human rights and humanitarian law, it is important to consider how the international community has attempted to regulate conflict between states over their shared water resources. With Resolution 51/229 of 21 May 1997, the General Assembly, on the recommendation of a working group, adopted the Convention on the Law of the Non-navigational Uses of International Watercourses. For the purposes of this convention an international watercourse is defined as being “a system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus…parts of which are situated in different states.”

Article 5(1) states that:

> Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.

The Convention also includes a list, albeit a non-exhaustive one, dealing with relevant factors for determining what constitutes an “equitable and reasonable manner”, including amongst other things, taking into consideration the economic and social needs of affected states and needs of dependent populations. It also deals with issues of pollution and arbitration of conflicts between states. While the Convention can be seen as reflective of international standards, it has no binding authority, because although the Syrian Arab Republic is a

---

227 Id. Article 6
228 Id, Part IV and Annex
party to it, Israel is not and in any case the treaty has not acquired the
35 necessary signatures to enter it into force. The International Court
of Justice also noted in a previous decision that states have a “basic
right to an equitable and reasonable sharing of the resources of an
international watercourse.”

Since the year 2000, the United Nations International Law Commission
has been developing the issue of shared natural resources (Law of
Transboundary Aquifers). Most recently in 2008, the Commission
adopted the draft articles on the Law of Transboundary Aquifers on
its second reading, together with commentaries, and recommended
it to the General Assembly. The General Assembly in turn took
note of the draft articles and encouraged states “to make appropriate
bilateral or regional arrangements for the proper management of
their transboundary aquifers, taking into account the provisions
of these draft articles.” The draft law again provides for the
“equitable and reasonable utilization” of water resources (in this
particular instance specifically transboundary aquifers) and again
lists a number of factors to be taken into consideration. Article 3
of the draft law states that “each aquifer State has sovereignty over
the portion of a transboundary aquifer or aquifer system located
within its territory. It shall exercise its sovereignty in accordance with
international law and the present articles”. While these draft articles
are not legally enforceable either, they do provide the context for
the current mind set of the international experts. As such it can be
viewed as persuasive authority and as an illustration of the way the
international community believe transboundary water issues should
be administered.

230 International Law Commission, Shared natural resources (Law of transboundary aquifers) docu-
231 Draft articles on the Law of Transboundary Aquifers, with commentaries, Text adopted by the Inter-
lish/commentaries/8_5_2008.pdf (last accessed 1 July 2010).
Complex negotiations on different levels have been encouraged and facilitated by the international community. Throughout the 1990s the US attempted to broker a deal between the two sides including high profile talks held in Wye, Maryland in the US in 1996. In the year 2000, the Clinton administration delivered a draft agreement to the Israeli and Syrian governments. While it was not legally binding in any way it would serve as an illustrative guide to show how far the parties had come and what still needed to be examined and mediated. The document includes the withdrawal of Israeli troops back behind unspecified lines, yet to be determined and in terms of security provides for demilitarised zones and an early warning monitoring station on Mount Hermon. The particulars of these issues are not established but the requirements from each side as stated are interesting to consider.

In terms of the water issue the document contains some important provisions. In Article V the requests from the different parties are made evident with Israel calling for access to “all [emphasis added]… the surface and underground waters” from which the Israeli force evacuate and also for arrangements to be put in place to prevent the “contamination, pollution or depletion” of the water supply. This in effect appears to mean that Israel would retain access to and control of the water systems currently under its administration, namely the water of the Golan. Syria on the other hand calls for “mutually agreeable arrangements” subject to “relevant international principles and practices”, which would mean that it would have at the very least a degree of control over the water in its sovereign territory, to be further negotiated with Israel. The draft document also provides for the establishment of a co-operative administrative body to oversee

235 d. Article V.1.
236 Id.
the management of shared water sources. This proposal illustrates the excessive demands of the Israeli authorities regarding the water resources of the Golan. As mentioned international law concerning transboundary water systems consistently refers to the “equitable and reasonable” sharing of water resources, the desire of the State of Israel to retain control of all of the water resources currently under its management runs contrary to all such documents.

One of the suggested solutions to the on-going dispute between Israel and Syria over territory, water and security is a national park covering some areas of the Golan and parts of the Jordan Valley. Frederic C. Hof who has written a number of articles and proposals attempting to find an amenable solution for both sides has proffered that the solution might be in the concept that “Syria gets the land and regulated access to the water, and Israel gets the water and regulated access to the land.” While sovereign rights over the territory would revert back to Syria, the Syrian authorities would have to agree to only extract water from the most important water sources for the Israelis (the Hasbani River, the Banias River, the Jordan River, the Sea of Galilee, and the Yarmouk River) for the needs of the local populations. Hof acknowledges in his report that it is difficult to assess the water needs of the Golan once it has been returned to Syria because it would be hugely dependent on how many Syrians returned to live in the area. The Syrian press has previously speculated that this could be in the region of 400,000 people. This is a huge increase in population if one considers that presently there are only somewhere in the region of 40,000 people currently inhabiting the Golan, a statistic that consists of almost 50:50 Arabs and Jews. Before the occupation of 1967 there were somewhere in the region of 150,000 residents.

---

237 Id. Article V.2.
239 Id. p. 11.
241 Sakr Abu Fakhr, Voices from the Golan, Institute for Palestine Studies, Vol. 29 No. 4, Autumn 2000, pp. 5-6.
Nevertheless the draft treaty drawn up by Hof for the International Crisis Group attempts to mediate the problems inherent in the negotiations for peace; most importantly water, security, and borders. Article II(6) of the draft treaty states that:

In order to facilitate good neighborly relations, the parties agree that the following special provisions shall apply to land and water resources in close proximity to their common boundary:

(A) Jordan Valley Nature Preserve (hereinafter “the Preserve”), covering Syrian territory within the Jordan River Valley up to an elevation of zero meters above sea level, shall be established under Syrian administration. Within the Preserve all permanent human habitation, except for Syrian residents of Al-Hamma and Syrian conservation and law enforcement personnel and their families, shall be excluded. Syria shall refrain from establishing border and customs posts within the Preserve.

(b) The Preserve shall be accessible to visitors from both sides without restriction, except for Syrian rules and regulations within the Preserve designed to protect the ecology of the Jordan River Valley and to maintain law and order…

(d) The recreational access of Syrian citizens to bodies of water adjacent to the boundary shall likewise be unrestricted, except for Israeli rules and regulations for Kinneret/Lake Tiberias [the Sea of Galilee] and the Jordan River pertaining to boat safety, fishing, and the like.242

The exact size and dimensions of the proposed park have not necessarily been decided on but a map included in the International Crisis Group report anticipates that it could be situated in the north eastern corner of Lake Tiberias, thereby allowing Syria access to the part of the Lake they had access to prior to 1967 and still allowing Israeli citizens access to all the shores on the circumference of the Lake.243

Figure 26: One proposed location for the Jordan Valley Peace Park.
The draft agreement also contains a specific section on water management. While this proposal is in no way binding and has not been endorsed or perhaps even considered by the parties involved, it can be viewed at most as a guide for the creation of a future agreement or at the least an indicator of some of the important points to be considered concerning the water management issue. As in the previously mentioned draft agreement presented by the US administration to the governments in Tel Aviv and Damascus, this proposal encourages the establishment of a cooperative water authority to monitor and administer the water in the area according to the agreement in mutually beneficial manner.\textsuperscript{244}

In specific terms the proposed treaty sets out that Israel will leave the current water infrastructure in the Golan intact when it is returned to Syrian control. In return Syria will then take into consideration the potential effects its resettlement programme in the Golan could have on Israel’s water sources. Regarding the Banias and Hasbani Rivers, the Syrian authorities will commit to using the water to service only the residents in the immediate vicinity of the rivers and the balance of the majority of the water will be allowed to flow unimpeded into Israeli territory. With respect to the Yarmouk River the Syrians will agree to respect the riparian rights of Israel and Jordan while taking into consideration their previously agreed bilateral treaty. Under the treaty Israel would also be obliged to provide water from Lake Tiberias and the Jordan River to maintain the proposed Jordan Valley Nature Preserve.\textsuperscript{245}

These proposals highlight the complexities of the issues involved in the negotiations surrounding the return of the territory of the Golan to the Syrian Arab Republic. As mentioned previously, the international community directs that access to shared water resources should be

\textsuperscript{245} Id. Article V(3).
established subject to bilateral or indeed multilateral agreements. Although Israel’s presence and operations in the Golan are illegal, in reality it seems expected that Syria will have to make massive compromises with regard to its sovereign rights. According to international law Syria has sovereign rights to the Golan and all of its natural resources. A peace settlement should be achieved and separately the riparian rights of both Israel and Syria should be addressed according to the relevant international law provisions. The negotiations surrounding transboundary water issues should involve the relevant riparian states coming together equally to reach an agreement, not one state holding the land of the other to ransom.

An important fact to establish is that whatever the governments of the two sides decide the water of the Golan should remain at the disposal of the indigenous population for their agricultural and industrial needs. The livelihoods and traditional water rights of the Arab population should not be brokered for peace. In any peace treaty considered by the Syrian authorities the sovereign rights of Syria over the Golan and its resources and the rights of access of the Syrian population should be expressly assured. The Golan region should not be permitted to be used as a bartering tool by the Israeli administration.

247 As discussed in Section 4 of this report.
6. Recommendations and Concluding Remarks

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 on a number of occasions,\textsuperscript{248} 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. Due to the complexity of the situation, multilateral agreements need to be negotiated so that all of the people of the region are provided for.

In legal terms the Israeli settlements and their accompanying industries should be dismantled and removed from the occupied Syrian Golan. The infrastructure that has been installed over the past 40 years to exploit local water should be handed over to the Syrian authorities to be either dismantled or used for the benefit of the Syrian population. In the interim period while the governments are negotiating the final agreements the Israeli administration has an onus on it to ensure adequate access to the water resources of the Golan for its indigenous population. At the very least the native Arab farmers should have free access to their water resources.

There are a number of actions that the State of Israel and the international community need to take to ensure the enjoyment of basic human rights for the Arab population of the Golan. They are obliged by common decency and international law to take all possible measures to guarantee the people of the Golan can live in peace and prosperity, and freely enjoy their natural resources without discrimination or interference from Israeli administration. Ideally many of the problems experienced in the Golan would be solved by an agreement between Israel and Syria to embrace peace, and for Israel to return the Golan region to Syrian control. The terms and complexities of this agreement have been discussed throughout this report. Seeing an end to the Israeli occupation is clearly the most

\textsuperscript{248} 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).
desired solution, however, achieving this solution is proving to be a lengthy process. In the interim there are a number of other actions that should be taken.

**The International Community should:**

- Continue to exert pressure on the Israeli Authorities to negotiate an agreement with the government of Syria, to end the occupation;
- Maintain its stance calling for an end to Israeli settlement expansion in the 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; and
- Impose economic sanctions on the products of the State of Israel and the settlements in particular until Israel recognises its obligations enshrined in international law and takes real practical steps to atone for past violations of human rights and develop new non-discriminatory plans and policies.

**The State of Israel should:**

- Make an honest and concerted effort to engage in peace negotiations with Syria, and immediately cease the occupation;
- Recognise the application of international law, including humanitarian and human rights provisions, to the occupied Golan;
- Immediately halt Israeli settlement expansion in the Golan, including the exploitation of the natural resources and the development of industry;
- Until such time as the occupation has ended, ensure adequate access to natural resources for the Arab population in the region; and
- Promote and protect the human rights of the indigenous population of the Golan.
Appendix A: Important Dates in the Conflict Over Control of the Water Resources of the Jordan River Basin

Reference: With the Authors
Dr. Shaddad Attili: sattili@nsu-pal.org
Dr. David Phillips: dphillips@iway.net
Eng. Adla Khalaf: adlakhalaf@yahoo.com
This work has been done at the Negotiation Support Unit

| Historical Developmental Plans of the Jordan River Basin |
|---|---|---|---|
| **Year** | **Plan** | **Commission** | **Main Aspects** |
| 1901 | Abraham Burkart develops proposals for the use of the regional water resources | | |
| 1913 | Frangia Plan | Ottoman | • Transferring Yarmouk River flows to Tiberias  
• Storage of 100 MCM in Tiberias  
• Generating electricity |
| 1919 | Pinhas Rutenberg works on the regional water development | | |
| 1922-1948 | **British Mandate commences** | | Change of the northern borders of Palestine, through which the Zionist movement was given potential access to the Jordan River headwaters  
Agreement reached between the Zionists and the British Authority regarding water resources  
70 year concession to the Rutenberg Co. to exploit the Jordan and Yarmouk Rivers and generate electricity  
Concessions to Jewish companies to exploit the inland rivers of Palestine and drain Lake Huleh |
| 1922 | Mavromatis | British | • Transferring Yarmouk River flows to Lake Tiberias  
• Transferring water to the east and west banks to the south of Tiberias  
• Generating electricity |

Sourced at: http://www.nad-plo.org/nego/permanent/water/related/Howb.pdf (Last
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Authority</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1926</td>
<td>Rutenberg Concession</td>
<td>British</td>
<td>• Generating electricity</td>
</tr>
<tr>
<td>1928</td>
<td>Henrique</td>
<td>British</td>
<td>In addition to the Mavromatis proposals, the plan proposed:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• the irrigation of the Yarmouk Triangle;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• transferring Yarmouk River flows to Tiberias</td>
</tr>
<tr>
<td>1939</td>
<td>Ionides Plan</td>
<td>British</td>
<td>• Diversion of a portion of the Yarmouk flow to irrigate 45,300 dunums in the East Ghor area</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Storage of surplus water from the Yarmouk River in Lake Tiberias, and pumping to irrigate 300,000 dunums of the East Ghor area</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The secured irrigation waters of the Jordan River System, estimated at 742 MCM, were to be used primarily within the Jordan Valley Basin</td>
</tr>
<tr>
<td>1943-1944</td>
<td>Walter Clay Lowdermilk</td>
<td>USA</td>
<td>• Diversion of the waters of the Litani River and the Upper Jordan catchment in Lebanon to historical southern Palestine</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Use of the Jordan and Yarmouk Rivers to create hydropower system</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Construction of a canal to connect the Mediterranean Sea with the Dead Sea</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Development of an authority similar to the Tennessee Valley Authority to control all activities concerning water resources</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Control over the proposed project should be solely in the hands of Israel, with limited input from the United Nations</td>
</tr>
<tr>
<td>1947-1948</td>
<td>Hays (The World Zionist Organization)</td>
<td>Zionist</td>
<td>• Use of the water resources in Jordan River Basin, ignoring Arab water rights</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Diversion of Yarmouk River flows into Lake Tiberias to replace water diverted from upper Jordan River</td>
</tr>
<tr>
<td>1947</td>
<td>United Nations Partition Plan</td>
<td>UN General Assembly</td>
<td>• Palestine to be divided into two States, one Jewish and one Arab</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Jews own less than 7% of the land; make up 30% of the population</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Jews are to receive 55% of the land</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The State of Israel will receive the upper Jordan in the north and thereby the opportunity to carry out the basic concepts of the Lowdermilk-Hays project.</td>
</tr>
<tr>
<td>1948</td>
<td>End of the British Mandate; Jews launched the 1948 war; Israel was created</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1948</td>
<td>James B. Hays</td>
<td>Israeli</td>
<td>• TVA on the Jordan; proposals for irrigation and hydro-electric development in Palestine</td>
</tr>
<tr>
<td>Year</td>
<td>Event</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1949</td>
<td><strong>Amistice Agreements with Egypt, Lebanon, Jordan and Syria</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1950</td>
<td>Murdoch MacDonald&lt;br&gt;<strong>Jordan / UNRWA</strong>&lt;br&gt;- Use of the Jordan River for irrigation (435,000 dunums on the east side; 60,000 dunums in Syria)&lt;br&gt;- Storage of Yarmouk waters in Lake Tiberias&lt;br&gt;- Constructing canals on both banks of the lower Jordan River</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1951</td>
<td>- 21 January: The Jewish National Fund of the World Zionist Organization agrees to help finance a $250 million development project that includes drainage of the 15,000 acre Huleh Marshes. The drainage channels would impinge on Syrian territory within the central demilitarized zone&lt;br&gt;- Israel closes the gates of an existing dam south of Tiberias Lake and begins draining the Huleh Swamp. An attempt commences to divert the river to irrigate the Negev desert and the coastal area&lt;br&gt;- 18 May: UN Security Council Resolution 92 calls on Israel to stop draining the marshes of Lake Huleh and allow the return of the Palestinians; Israel prevents all but 350 from returning&lt;br&gt;- Jordan announces a plan to irrigate the East Ghor area of the Jordan Valley by tapping the Yarmouk&lt;br&gt;- June: Syria and Jordan agree to share the Yarmouk, but Israel protests that its riparian rights were not recognized</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1952</td>
<td>Bunger&lt;br&gt;<strong>UNRWA / Jordan / Syria</strong>&lt;br&gt;- Storage dam along the Yarmouk River at Maqarin (480 m3)&lt;br&gt;- Diversion dam at Addasiya: direct gravity flow along the East Ghor of the Jordan Valley&lt;br&gt;- Jordan agrees that Syria will receive 23% of the hydropower (28,300 kw/hr) in exchange for Jordan receiving 78% of the natural flow of the river offering resettlement for 100,000 refugees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1953</td>
<td>- Israel launches, on an urgent basis, a diversion project on a nine mile channel mid-way between the Huleh Marshes and Lake Tiberias in the central demilitarized zone. The plan was to divert enough water to help irrigate the coastal Sharon Plain and eventually the Negev desert. Syria claimed it would dry up 12,000 acres of Syrian land. The UNTSO Chief of Staff Major General Vagn Bennike of Denmark noted that the project was denying water to two Palestinian water mills; was drying up Palestinian farm land; and was of substantial military benefit to Israel against Syria. The US cut off aid to Israel. The Israeli response was to increase work&lt;br&gt;- UN Security Council Resolution 100 required Israel to stop work pending an investigation. Israel finally relented and for the next three years the US kept its economic sanctions in effect by insisting on tying aid to Israel’s actions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1953</td>
<td>Israeli Seven Year Plan&lt;br&gt;<strong>Israeli</strong>&lt;br&gt;- Drainage of Huleh Lake&lt;br&gt;- Northern Galilee schemes&lt;br&gt;- Jordan Valley schemes&lt;br&gt;- Western Galilee schemes&lt;br&gt;- Auja (Yarkon)-Western Negev scheme&lt;br&gt;- Auja (Yarkon)-Eastern Negev scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td>Plan</td>
<td>Origin</td>
<td>Details</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------</td>
<td>--------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 1953 | Johnston Plan (commencement) | USA    | Based initially on the Main Plan  
• Proposed construction of a dam on the Hasbani River to irrigate Galilee lands  
• Drainage of Huleh Lake  
• Proposed construction of two dams on the Banias and Dan Rivers  
• Proposed construction of the Maqarin dam on the Yarmouk River  
• Proposed construction of a diversion dam near Addasiya  
• Proposed dam construction at the outlet of Lake Tiberias to increase storage |
| 1954 | Arab League Plan             | Arab   | Water usage for irrigation of Arab lands and generating electrical power  
• Objection to Israel transferring Jordan River flows outside the Jordan Basin  
• All riparian states have the right to irrigate their land inside their borders |
| 1954 | Cotton Plan                 | Israeli | Comprehensive plan for all water resources in the Basin  
• Irrigation of 260,000 dunums  
• Included Litani River |
| 1955 | Baker-Harza Plan            | Jordan | Master plan for the development of the Jordan Valley  
• Based on the use of the lateralvalley flows and about 155 MCM from the upper Jordan to develop the Jordan Valley |
| 1955 | Johnston Plan (final)       | USA    | 19 February: Preliminary understanding concerning major elements of the proposed plan with Jordan, Lebanon, Syria and Egypt. Tentative agreement reached on a 300 MCM dam at Maqarin on the Yarmouk River and diversion at Addasiya.  
10 March: Discussion with Israel on the agreement. Johnston reassures Israel about its main concern, the nature of the neutral authority which would be established to oversee the allocations of water  
14 March: Meeting between Assistant Secretary of State Allen and Ambassador Eban of Israel. Eban reports that Allen threatened to withhold aid from Israel if the Israelis did not come to terms with Johnston  
June: Israel agrees to the basic elements of the Johnston Plan  
August: Johnston returns to Middle East for talks with representatives from the Arab States  
August: Lebanon expresses concern over allocation of the Hasbani flows  
August: Jordan states that it would accept the Johnston proposals on economic grounds given certain modifications, but that a political decision would have to be taken by a subcommittee of Arab states  
October: Johnston Plan fails to win approval by the Arab League |
<table>
<thead>
<tr>
<th>Year</th>
<th>Event/Agreement</th>
<th>Location/Participants</th>
<th>Details</th>
</tr>
</thead>
</table>
| 1956  | Ten Year Plan   | Israeli               | Diversion point for the National Water Carrier shifted to Eshed Kinort at the northwest corner of Lake Tiberias
|       |                 |                       | Allegedly designed in accordance with Israel's water allocation in the Johnston Plan |
| 1957  | Soviet-Syrian Aid Agreement | Soviet Union/Syria | Provisions for a hydroelectric project in the Yarmouk Basin |
| 1958  | Israeli National Water Carrier | Israeli | Israel begins construction of the National Water Carrier |
| 1964  |                  |                       | The Arab leaders gathered in Cairo to issue a final communiqué. The National Water Carrier was considered an aggressive plan to divert the course of the River Jordan, endangering the riparian rights of the Arab nations. The Israelis completed the project on May 1964
|       |                  |                       | In retaliation for Israeli projects the Arabs vowed to draw water from the Banias in Syria and send the water east through Syria and Jordan to the south of Lake Tiberias. They began construction, but the Israelis destroyed their equipment by artillery fire
|       |                  |                       | The concept of a dam on the Yarmouk River was reaffirmed at the First Arab Summit in Cairo, and again at subsequent summits. Construction begun on a lower dam at Mukheiba
|       |                  |                       | Israel laid claim to the River Dan, a reservoir, and all the springs in the area (the headwaters of the Jordan River)
|       |                  |                       | Syria claimed several of the springs and part of the reservoir, and pointed out that the road Israel had built to patrol the area intruded on Syrian territory |
| 1965  | Syrian diversion of Jordan River headwaters | Syria | Construction of dams to divert water from the Banias and Dan Rivers
<p>|       |                  |                       | Threatened reduction in Israel's ability to access Jordan River waters |
| 1966  |                  |                       | UN Security Council Draft Resolution (S/757/Rev.1) supported by the USA requesting Syria &quot;to strengthen its measures for preventing incidents that constitute a violation of the General Armistice Agreement&quot; and &quot;inviting&quot; Israel to cooperate fully with the Israeli-Syrian Mixed Armistice Commission. The Soviets vetoed the Resolution on 4 November 1966 because it equated the actions of Syria to those of Israel |
| 1967  | June 1967 War; UN Security Council Resolution 242 |                | |
| 1973  | UN Security Council Resolution 338 |                | |
| 1974  | Separation of Forces Agreement between Israel and Egypt |                | |
| 1975  | Jordanian Seven Year Plan | Jordan | A dam at Maqarin with a storage capacity of 486 MCM which would generate 20MW of power |
| 1978  | Israel’s invasion of Lebanon, giving Israel temporary control of the Wazzani spring/stream feeding the Jordan |                | |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>In the absence of an agreement, Syria begins construction of a series of small impoundment dams on the headwaters of the Yarmouk within Syrian territory. By August 1988, 20 dams were in place with a combined storage capacity of 156 MCM. That capacity has since grown to 27 dams with a combined capacity of approximately 250 MCM, and is projected to grow to a total storage of 366 MCM by 2010. Israel, meanwhile, increases its Yarmouk withdrawals from the 25 MCM allocated in the Johnston negotiations to 70100- MCM/yr.</td>
</tr>
<tr>
<td>1987</td>
<td>Syria and Jordan reaffirmed their mutual commitment to a dam at Maqarin in 1987, whereby Jordan would receive 75% of the water stored in the proposed reservoir and Syria would receive all of the hydropower generated.</td>
</tr>
<tr>
<td>1988</td>
<td>Agreement signed by Jordan and Syria - Jordan will receive 75% of the stored water, while Syria will receive 25% of the flow and all 46 MW of hydropower to be generated. The World Bank insists that all riparians agree to project before funding is provided; Israel refuses.</td>
</tr>
<tr>
<td>1993</td>
<td><strong>Declaration of Principles on Interim Self-Government Arrangements (Israel/Palestine)</strong></td>
</tr>
<tr>
<td>1994</td>
<td><em>Israel/Jordan Peace Treaty</em></td>
</tr>
<tr>
<td>1994</td>
<td><em>Israel/Jordan</em></td>
</tr>
</tbody>
</table>
| 1994 | • Water from the Yarmouk River  
  …Summer Period: May 15th to October 15th of each year, Israel pumps 12 MCM and Jordan gets the rest of the flow.  
  … Winter Period: October 16th to May 14th of each year, Israel pumps 13 MCM and Jordan is entitled to the rest of the flow.  
  • Water from the Jordan River  
  …Summer Period: May 15th to October 15th of each year, Israel concedes to transfer to Jordan in the summer period 20 MCM in return for the additional water that Jordan concedes to Israel in winter  
  … Winter Period: October 16th to May 14th of each year, Jordan is entitled to store for its use a minimum average of 20 MCM of the floods in the Jordan River.  
  Jordan is entitled to an annual quantity of 10 MCM of desalinated water from the desalination of about 20 MCM of saline springs now diverted to the Jordan River.  
  • Additional Water  
  …Israel and Jordan shall cooperate in finding sources for the supply to Jordan of an additional quantity of 50 MCM/yr of water of drinkable standards.  
  • Storage  
  …Israel and Jordan shall cooperate to build a diversion/storage dam on the Yarmouk River directly downstream of the Adasiya Diversion  
  …Israel and Jordan shall cooperate to build a system of water storage on the Jordan River, along their common boundary |
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
</table>
| 1995 | *Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip (Oslo II)*  
Article 40: *Does not include the Jordan River*  
Israel recognizes the Palestinian water rights in the West Bank. During the interim period, a quantity of 7080- MCM should be made available to the Palestinians |
| 2001 | *The Wazzani conflict between Lebanon and Israel* |
| 2003 | *The Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict is released by the Quartet* |