

**Breaking Down the Fence:
Addressing the Illegality of Family
Separation in the Occupied
Syrian Golan**

*Hannah Russell LLB; LLM – Legal
Researcher Al-Marsad – The Arab
Centre for Human Rights in the
Occupied Syrian Golan*

AL-Marsad

**The Arab Centre for Human Rights in the
Occupied Syrian Golan**

April 2010

Al-Marsad, the Arab Centre for Human Rights in the Occupied Syrian Golan
Majdal Shams, 12438,
Golan - Via Israel P.O.BOX 9
Tel: +972 (0) 4 687 0644
Fax: +972 (0) 4 687 0645
Email: marsad@golan-marsad.org
Website: www.golan-marsad.org

Any quotation of up to 500 words may be used without permission provided that full attribution is given. Longer quotations or entire chapters or sections of the study may not be reproduced or transmitted in any form or by any means, electronic mechanical, photocopying, recording or otherwise, or stored in any retrieval system of any nature, without the express written permission of Al-Marsad.

The cover photo was taken at the Qunaytra checkpoint. The woman in the photo is reacting to being told that she is prohibited from crossing over the ceasefire line into Syria proper to see her family. (Sourced from Atef Safadi)

Design :  **ALQALAM**
MARKETING • COMMUNICATIONS • MEDIA

Printing : Al Qalam Print Co.

Acknowledgements

The author would like to thank all of the staff and Board of Al-Marsad for their tireless work and guidance, without which this report would not have been possible.

Special thanks to Abulker Abu Jabal, Nizar Ayoub, Salman Fakher-Aldeen, Munir Fakher Eldin, Michael Kearney, Jalaa Marey, Areen Sabag, Atef Safadi and Majdolin Safadi.

A very special thanks to all the interviewees throughout the Golan who opened their hearts and homes.

Finally, the author would like to express sincere gratitude towards the people of Majdal Shams who made the stay throughout this research extremely pleasant and helped to create the sense of a “home away from home”. This report is dedicated to those families, of whom there are many, who have to live with the pain and injustice of forced separation from their loved ones.

Table of Contents

Introduction	8
Section 1 : Setting the Scene	11
1.1 Historical Context	12
1.1.1 Israeli-Syrian Clashes	12
1.1.2 The Historic and Strategic Value of the Golan	15
1.2 Occupation and Annexation: A Gateway to Oppression	18
1.2.1 The Occupation	18
1.2.2 Annexation	21
1.2.3 Acts of Racism: Nationality and Entry into Israel Law (Temporary Orders)...	30
1.2.4 Occupation By Name, Occupation By Nature	34
1.3 Illegality of the Occupation	38
1.3.1 Demographic Make-Up of the Golan: 1967 - 2010	38
1.3.2 Israel: The Belligerent Occupier	41
Section 2 : Human Impact of Israel's Illegal Occupation of the Golan	48
2.1 Prohibition on Family Access and Reunification	49
2.2 Mitigating the Effects of the Occupation: The Uphill Battle for	52
2.2.1 Official Papers and ICRC Messages	52
2.2.2 Valley of Tears	53
2.2.3 Modern Communications	58
2.2.4 Visiting Tent	60
2.2.5 Marriage	62
2.2.6 Limited Syrian Visits	64
2.2.7 Visiting Abroad	78
2.2.8 Summary	85

Section 3 : Family Separation – A Violation of International Law	86
3.1 International Humanitarian Law	87
3.2 Human Rights	89
3.2.1 Derogation from Human Rights	90
3.2.2 Rights to Equality and Non-Discrimination	92
3.2.3 Right to Self-Determination	97
3.2.4 Right to Culture	99
3.2.5 Right to Nationality	100
3.2.6 Freedom of Movement	102
3.2.7 Right to Family	105
3.2.8 Right to Privacy	109
3.2.9 Right to Property	111
3.2.10 Right to Education	114
3.2.11 Right to Health	118
3.2.12 Summary.....	124
Section 4 : Recommendations	126
4.1 Paving the Path to Peace: An End to Family Separation	127
4.2 Alleviating the Suffering	129
4.2.1 Putting an End to Discrimination	131
4.2.2 Reinstating the Right to Freedom of Movement	133
4.2.3 Reintroduce the Visiting Tent	134
4.3 Revoke Illegal Laws	135
4.4 Increase International Pressure	136
Conclusion	139

Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
DMZs	United Nations Demilitarised Zones
ICCPR	International Covenant on Civil and Political Rights
ICESC	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
OPTs	Occupied Palestinian Territories
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHRC	United Nations Human Rights Committee
USA	United States of America

“Each time a man stands up for an ideal or acts to improve the lot of others or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance”

Robert F. Kennedy

Introduction

The issue of territory has been the basis for many disagreements and wars over the years. The conflicts between Israel and its surrounding states, such as Syria and Lebanon are no exception. Since the 1948 Arab-Israeli war Israel has been in constant negotiations and skirmishes with surrounding states over the issue of territory. This report will explore the territorial conflicts which exist between Israel and Syria over an area of land known as the Occupied Syrian Golan¹ and the impact that these conflicts have had upon its indigenous population.² The Syrians of the Golan are subjected to discrimination, restriction of movement, land expropriation, planting of landmines, restrictions on planning and housing, and restriction of freedom of expression and opinion. One of the most heartbreaking and pressing matters that remains unaddressed by the Israeli authorities, and which incorporates all of these issues, is the issue of family separation.

Following the 1967 Arab-Israeli war the Golan was occupied by Israel and divided from Syria. Due to Israel's illegal actions 130,000 people were displaced; a situation that persists.³ This resulted in families being torn apart and an insurmountable amount of heartache for those affected. After a number of years an application process for permits to visit Syria was introduced. However, this process has proven to be discriminatory and unpredictable. At present only selective categories of 'religious Druze men', 'students', 'non-Druze men over 35', 'women over 70' and 'apples' are eligible to cross the ceasefire line. Even then those who are eligible are not guaranteed passage. The Israeli authorities have been unable to provide any valid justification for treating the people of the Golan in this

1 Hereafter referred to as the Golan, the Occupied Golan, or the Occupied Syrian Golan.

2 Hereafter referred to as the indigenous Syrian population, natives of the Golan, Golan people, the indigenous population, the indigenous people, Syrian population, or Syrians.

3 Internal Displacement Monitoring Centre, Syria: Forty Years On, People Displaced From the Golan Remain in Waiting (2008), available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29849034/F5D9701005C12575A60052E7D5/\\$file/GO_08_israel-syria.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29849034/F5D9701005C12575A60052E7D5/$file/GO_08_israel-syria.pdf) (Last visited 2 February 2010).

way. Their actions not only amount to grave violations of human rights and international humanitarian law, but have caused parents to miss their child's graduation, mothers to miss their daughter's wedding, grandparents unable to see their grandchildren grow up and children unable to attend their parents' funerals.

The aim of this report is to address the issue of family separation in the Golan and highlight the importance of resolving this issue, which continues to drastically affect the indigenous population of the Golan on a daily basis.

Section one explores the historical context of Israel's occupation of the Golan and looks at events which have led to the current illegal and oppressive situation in the Occupied Golan. It illustrates the strained relations that have existed and continue to exist between Israel and Syria, and sets out Israel's motivation for occupying the Golan. It also looks at Israel's purported annexation of the Golan and the illegality of the occupation of this region under international law.

Section two investigates the human impacts of Israel's illegal occupation of the Golan. It illustrates past and present attempts to mitigate the effects of the occupation in relation to family separation. It highlights how despite the International Committee for the Red Cross's best efforts, these attempts have been hindered by Israel's oppressive, discriminatory and illegal policies.

Section three addresses the ongoing violations of international human rights and humanitarian law that are occurring due to Israel's persistent enforcement of family separation. It emphasises that Israel's actions constitute a violation of domestic and international law. This section touches upon the rights to equality, non-discrimination, self-determination, culture, nationality, freedom of movement, family, privacy, property, education, and health.

Section four considers a number of recommendations which would assist in addressing the issue of family separation which affects so many of the indigenous people of the Golan. The most important of these

recommendations and the only one which is viewed as a solution to the problem, is for Israel to end its occupation of the Golan and for an effective Israeli-Syrian peace agreement to be negotiated and implemented.

The Syrians of the Golan and their families' "hearts are on fire."⁴ If Israel is to fulfil its obligations and duties under national and international law it must remedy the situation of family separation and take immediate steps to eradicate this issue. This report aims to set out the immediacy of this demand and recommends the best ways for this to be achieved.

4 Quote taken from an interview with Nahie Saeed Saab as conducted by Al-Marsad, Arab Centre for Human Rights in the Golan Heights on 3 February 2010.

Section 1 :

Setting the Scene

1.1 Historical Context

1.1.1 Israeli-Syrian Clashes



Figure 1 : Sourced from Middle East Insights

The Israeli-Syrian conflict can be traced back to the Arab-Israeli War of 1948.⁵ During this war Syria captured a small amount of contested land. Israel claimed that this advance by Syria was unprovoked. Syria alleged that its advancement was in response to Israel's displacement of hundreds of thousands of Palestinians in 1947. Whatever the reason behind the advancement, in an attempt to reach an agreement with Israel, Syria agreed to take 500,000 Palestinian refugees in return for access to Lake Tiberias and the Jordan River which were important water resources. Nevertheless, due to Israel's reluctance to make concessions in relation to water and land rights this agreement never reached fruition.⁶

In 1949 Israel and Syria finally negotiated an Armistice Agreement. As part of this agreement the United Nations monitored demilitarised zones (DMZs) were created between Israel and Syria. These zones amounted to an area less than 100 square miles running from the southern banks of Lake Tiberias to the top of Lake Huleh. The idea behind these zones was to create an area of neutral ground between Israel and Syria in a bid to ease tensions. In 1951 Israel began to exercise sovereignty over the DMZs when the Israeli authorities launched a process of removing Arab residents from the DMZs and replacing them with illegal settlers.⁷ Former Israeli Minister of Defence, Moshe Dayan explained that at least 80% of the clashes in the DMZs were started by Israeli troops sending:

a tractor to plough someplace where it was not possible to do anything, in the demilitarised area, and knew in advance that the Syrians would start to shoot. If they did not shoot, we would tell the tractor to advance further, until in the end the

5 Jerome Slater, "Lost Opportunities for Peace in the Arab-Israeli Conflict: Israel and Syria, 1948-2001" (2002) 27(1) *International Security* 79, at 82.

6 Dr Ray Murphy and Declan Gannon, *Changing the Landscape: Israel's Gross Violations of International Law in the Occupied Syrian Golan* (Al-Marsad, the Arab Centre for Human Rights in the Occupied Golan, November 2008), at 16.

7 Slater, note 5, at 88.

Syrians would get annoyed and shoot. Then we would use artillery and later the air force also.⁸

As Dayan illustrated, these illegal Israeli policies caused Syria to be forced to react leading to continuous clashes between Syria and Israel during the 1950s. As a result of these clashes the status of the DMZs were disregarded. Syria took control of the northeastern bank of Lake Tiberias and the eastern bank of the Jordan River, while Israel gained the western banks of Lake Tiberias and the River Jordan. Clashes continued into the 1960s but this de facto border remained until the Arab-Israeli War of 1967.

8 Avi Shlaim, *The Iron Wall: Israel and the Arab World* (WW Norton and Company, 2001), at 236-237.

1.1.2 The Historic and Strategic Value of the Golan

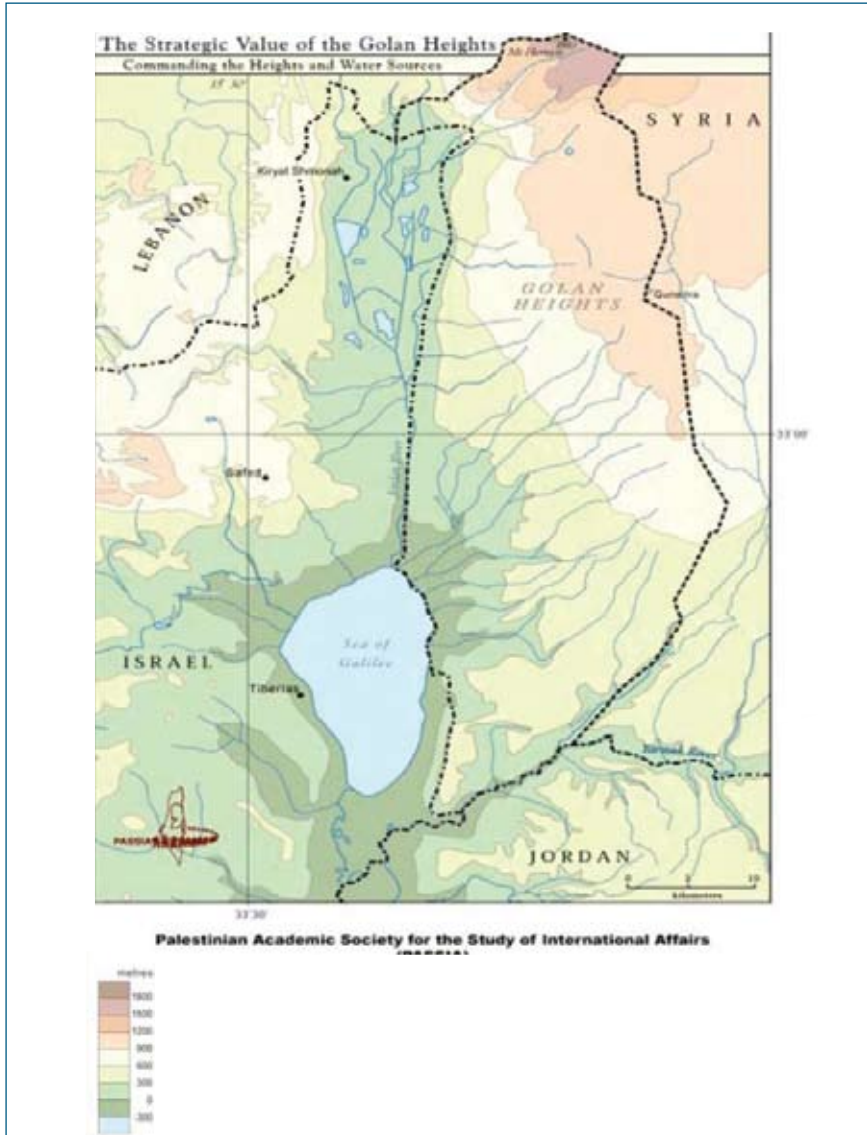


Figure 2 : Sourced from
<http://www.reliefweb.int/rw/rwb.nsf/db900LargeMaps/SKAR-64GBL?OpenDocument>

There are a number of reasons why Israel is interested in the Golan. From a historical point of view, Israel's former Prime Minister Ben-Gurion believed that the Golan and parts of south-western Syria were parts of biblical Israel and ought to be restored by historical or religious right to the State of Israel.⁹ Consequently, Israel commenced its racial colonization of the Golan through occupying the region and building illegal Jewish settlements. It is estimated that the number of illegal Jewish settler population based in the Occupied Golan will increase by 15,000 by 2012.¹⁰ This will see the illegal settlers' population in the Golan becoming double that of the indigenous Syrians.

Strategically, the Golan is a mountainous region and plateau in southwest Syria that borders Lebanon to the north, Jordan to the south, and Israel to the west.¹¹ The physical location and geography of the Golan has caused Israel to view this region as a Syrian military stronghold that presents a serious threat to Israel's security.¹² Additionally, it is claimed that the Cold War played a role in escalating the tensions in the Middle East. The Soviet Union, which had previously shown support for Israel, changed its allegiance to Egypt and Syria in the 1960s, providing the two States with "generous economic, political and military support" which would greatly assist in a strike against Israel.¹³ Consequently, Israel's desire to occupy the Golan for strategic reasons was increased.

Proponents of Israel's occupation of the Golan claim that the occupation is for purely defensive reasons. They submit that as long as the Golan remains in the hands of Israel or its allies it is of "little military importance",

9 Moshe Shemesh, "Prelude to the Six Day War: The Arab-Israeli Struggle Over Water Resources" (2004) 9(3) *Israel Studies* 1, at 2.

10 Jonathan Molony, Michelle Stewart and Nancy Tuohy-Hamill, "From Settlement to Shelf: The Economic Occupation of the Syrian Golan" (Al-Marsad, the Arab Centre for Human Rights in Occupied Syrian Golan, 2009), at 48.

11 Murphy and Gannon, note 6, at 9.

12 Mitchell Bard, "The Golan Heights" (Jewish Virtual Library 2008), available at http://www.jewishvirtuallibrary.org/jsource/Peace/golan_hts.html (Last visited 31st January 2010).

13 Galia Golan, "The Soviet Union and the Outbreak of the June 1967 Six Day War" (2006) 8(1) *Journal of Cold War Studies* 3, at 5.

otherwise the area has the potential to be a strategic threat to Israel.¹⁴ However, there have been claims that following the 2006 Israel-Hezbollah conflict this argument has little weight due to the development of advanced missile and rocket systems.¹⁵ Further question was raised with regard to the Golan's strategic importance with the release of Dayan's statement that he regretted not having stuck to his initial opposition to storming the Golan as "there really was no pressing reason to do so... many of the firefights with the Syrians were deliberately provoked by Israel, and the kibbutz residents who pressed the Government to take the Golan Heights did so less for security than for the farmland."¹⁶

Dayan's statement also hints at the economic benefits of occupying the Golan. The region contains a huge variety of natural resources, including rich fertile land. Israel's occupation of the region has enabled it to exploit the Golan's natural resources for economic gain with these resources being used by the illegal Jewish settlements for agriculture and industry.¹⁷ In addition, the Golan is an affluent source of water. The mountains of the Golan provide the source of the "life blood of Israel in terms of water capacity," the Jordan River.¹⁸ It is believed that the Golan now supplies Israel with one-third of its water consumption and in order for this to continue Israeli occupation of the Golan is required.¹⁹

The reasons behind Israel's occupation of the Golan have no legal basis. Its occupation of the region is illegal under international humanitarian law and constitutes a violation of human rights. In particular Israel's occupation on the basis of 'security' is a pretext for territorial expansion, racial discrimination and economic domination; all of which are illegal.

14 Bard, note 12.

15 Murphy and Gannon, note 6.

16 Serge Schmemmann, "General's Worlds Shed a New Light on the Golan", *The New York Times*, 11 May 1997.

17 Molony, Stewart and Tuohy-Hamill, note 10, at 55.

18 David W Lesch, *The New Lion of Damascus: Bashar al-Asad and Modern Syria* (Yale University Press, New Haven and London, 2005), at 20.

19 United Nations General Assembly Economic and Social Council Report, A/62/75-E/2007/13, 3 May 2007, at para 72.

1.2 Occupation and Annexation: A Gateway to Oppression

1.2.1 The Occupation



Figure 3 : Israeli Soldiers Watch Over Majdal Shams, Occupied Syrian Colan. (Sourced from Hannah Russell's Archives)

In 1967 another Arab-Israeli War broke out between Israel and Syria. Israel emerged triumphant and the occupant of Arab territory, including the Golan, despite Syria having the backing of Jordan,²⁰ Russia,²¹ Egypt²² and eleven

20 In 1966 King Hussein of Jordan declared that if Israeli troop attack Syria, Jordan would open a separate (eastern) front against Israel. See Martin Gilbert, *Israel: A History* (Black Swan, Israel, 1999), at 362.

21 On 12 October 1966 the Soviet Union declared support for Syria in the event of an Israeli attack.

22 On 4 November 1966 Syria signed a mutual defence pact with Egypt. See Martin Gilbert, *Israel: A History* (Black Swan, Israel, 1999), at 362.

other Arab states.²³ As a result the Golan fell under Israeli military control. Almost immediately, Israel began a process of moving Jewish settlers into illegal settlements that it was building across the occupied region.²⁴



Figure 4 : Arab-Israeli War, 1967. Israeli tanks advancing through the Golan. (Sourced from The State of Israel Government Press Office. Photo taken by Assaf Kutin)

To reverse this situation, Syria and Egypt launched a co-ordinated surprise attack against Israel on 6 October 1973. Following this attack Israel conceded the Syrian town of Qunaytra which had been occupied since 1967, but Syria's quest to regain the Golan was unsuccessful and Syria and Israel signed an armistice agreement in 1974.

23 Following the killing of three Israeli soldiers in a cross border skirmish between Israel and Syria, it was expected that Israel would attack Syria. As a result eleven Arab states declared their support for Syria. See Martin Gilbert, *Israel: A History* (Black Swan, Israel, 1999), at 362.

24 See Figure 1.



Figure 5 : Israeli Soldiers patrolling the Golan in 1973.
(Sourced from <http://img.photobucket.com/albums/v601/jogg/31.jpg>)

In 1981 Israel ended its military rule of the territory with the enactment of the 'Golan Heights Law'. This legislation purported to annex the occupied territory to the state of Israel. It extended Israeli law and administration throughout the region and attempted to make the Syrian population of the Golan renounce their Syrian citizenship and become Israeli citizens. This move continues to be denounced by the international community²⁵ and the indigenous Syrian population voiced their opposition with a six month general strike in 1982.

25 See United Nations Security Council Resolution 497 Relating to the Occupied Syrian Golan, 17th December 1981; United Nations General Assembly Resolution 61/120 Relating to the Occupied Syrian Golan, 15th January 2007; United Nations General Assembly Resolution 63/99 Relating to the Occupied Syrian Golan, 18th December 2008.

1.2.2 Annexation

The purported annexation of the Golan began with the commencement of Israel's occupation of the region in 1967. Once Israel had gained physical control of the region the authorities began to attempt to infiltrate Israeli policies and beliefs into the minds and lives of the indigenous Syrian people. These policies affected schools, local government, property and the daily lives of the Syrian population of the Occupied Golan.

The Syrian school curriculum which had been adhered to in the Golan before the occupation was outlawed and replaced with one that “disregarded the Arab identity and culture as well as the civilization and history of the local community.”²⁶ Teachers were vigilantly monitored with any teachers who showed too much political awareness being dismissed and replaced by teachers who accepted the occupation and its illegal policies.

Atef Saaed Sah’lan from ‘Ein Qinyeh, Occupied Syrian Golan AI-Marsad Affidavit:

Atef was displaced to Damascus, Syria during the 1967 Occupation leaving his wife and children behind. While in Damascus Atef took up a teaching post. After a successful family reunification application Atef returned to the Golan and continued teaching in a school there. However, due to his strong political views in favour of the Golan being returned to Syria, Atef was fired from his teaching post by the Israeli authorities.

During the occupation 130,000 Syrians of the Golan were forcibly displaced. Due to growing families this figure now stands at 433,000 displaced Golan natives. This forcible displacement which constitutes a violation of international human rights and humanitarian law has resulted in many people being unable to reclaim their land and the separation of families.

²⁶ AI-Marsad, “The Occupied Syrian Golan Background”, 2005, at 9. Available :
at <http://www.golan-marsad.org/pdfs/backgroundgolan.pdf> (Last visited 9 March 2010).

Israel has taken full advantage of the fact that individuals are not present to protect their land by expropriating land through declaring it 'abandoned'²⁷ or 'governmental' property.²⁸ This land has since been used for military use and to facilitate the creation and expansion of illegal Jewish settlements. In addition to this Israel has put in place a sustained process of controlling the Golan's rich water resources.



Figure 6 : South of Majdal Shams, Occupied Syrian Golan. An example of land expropriated by the Israeli authorities. To left of the picture are orchards owned by a Syrian national of the Occupied Golan. However, access to his land is prevented by a tank ditch and a stretch of land covered with landmines. (Sourced from Hannah Russell's Archives)

- 27 Military Order No. 20, 1967 deemed private movable and immovable properties as 'abandoned property'. Consequently, land and property which rightfully belonged to the Syrian government and the Syrian inhabitants who had been expelled from the Occupied Syrian Golan was placed under the control of the Israeli authorities.
- 28 Military Order No. 21, 20 July 1967 placed movable and immovable property in the Occupied Syrian Golan under the authorization of a prominent individual allied with Israel, who was then given the responsibility of administering and disposing of it.

Various Israeli government agencies began to carry out activities in the Golan and an Israeli civil court was set up in Masa'da village.²⁹ In 1976 five local councils were created by the Israeli authorities in each of the Occupied Syrian villages. These councils manage all the primary services including electricity, water, developmental projects, constructions and schools. Al-Marsad has noted that this management has been carried out in an “arbitrary manner which does not conform to civilised standards” and “does not meet the lowest standards necessary to ensure the security and welfare of the indigenous Syrian people” and as such have faced strong opposition from the Syrian population of the Golan.³⁰ In addition, the Israeli authorities began a process of distributing Israeli identity papers throughout Israel and the Occupied Golan. It was believed that if enough of the Syrian population accepted these papers that a de facto annexation of the Golan would be accomplished. This policy proved to be moderately successful within Israel proper but within the Golan, the indigenous population provided strong resistance.

Given the strong resistance expressed by the Syrians of the Golan to the adoption of Israeli citizenship, Israel began to literally take the law into its own hands and attempt to force citizenship upon the defiant. The first step in this approach was the fourth amendment of the Israeli Nationality Law 1952 which was ratified by the Knesset on 29 July 1980. This amendment alleviated the previous requirement that a non-Jewish person eligible for Israeli citizenship had to be in Israel between May 1948 and July 1952.

Despite the Israeli authorities best efforts, the vast majority of Syrians in the Golan continued their devout opposition to Israeli policies. As a result those individuals were deprived of their sources of income, restricted in their freedom of movement, threatened with dismissal from work, and denied access to medical, social and cultural services.³¹ In an attempt to

29 Al-Marsad, note 26, at 10.

30 *Ibid.*

31 *Ibid.*

intimidate the resisters to comply and accept Israeli citizenship the Israeli forces carried out house raids, job dismissals, cut off water resources intended for agricultural activities, and closed shops. The Israeli authorities were trying their best to bring the Syrians of the Golan to their knees through repressive measures. Believing that they had succeeded the next step was to make the purported annexation of the Golan official. This was achieved when the Knesset passed the 'Golan Heights Law' in 1981.³² This law claimed to terminate military rule in the Golan by replacing it with Israeli administration and domestic laws. It facilitated Israel's attempt to force Israeli citizenship upon the natives of the Golan, the majority of which to this day still view themselves as Syrian citizens. It was for this reason, despite the repressive actions of the Israeli authorities, that the indigenous Syrian people's resistance held strong.

Following the enactment of the 'Golan Heights Law' Israel's initial aim was for all inhabitants of the Golan to be Israeli citizens by 1 October 1982. On 17 January 1982 the Israeli Interior Minister began administrative procedures that would ensure this aim was accomplished. Nevertheless, this aim did not have the support of the Syrian inhabitants. The majority of the Syrian population opposed such measures and resisted through such means as organising demonstrations, with each lasting three days. On 9 February 1982 natives of the Golan gathered for a mass meeting in Majdal Shams. This meeting included residents from Majdal Shams, Buq'ata, 'Ein Qinyeh and Masa'da. The outcome of this meeting was for a memorandum to be sent to the Israeli authorities condemning and denouncing the annexation law and demanding its annulment. The Israeli government were given a fifteen day time limit in which to respond. The Israeli authorities ignored the memorandum instead opting to take more oppressive measures in an attempt to intimidate inhabitants to comply with their demands.

On 13 February 1982 the Israeli authorities arrested a number of anti-occupation political activists, placing them under administrative detention for six months. On that same night a second mass meeting was held by

³² 5742/1981, 14 December 1981.

the Syrian population of the Golan. The conclusion of this meeting was the commencement of a general strike for an unlimited period of time. The strike was to continue until Israel suspended the 'Golan Heights Law' and stopped trying to force Israeli nationality upon the Syrians of the Golan. It included boycotting Israeli goods and an active rejection of Israeli security cards.³³



Figure 7 : Photo taken in Majdal Shams, Occupied Syrian Golan during the 1982 strike. (Sourced from Fares Alwely's Archives)

The Israeli authorities retaliated against the strike by imposing a series of collective punishments against the Syrians in the Golan. Under Article 125 of the Defence (Emergency) Regulations of 1945 the Arab villages in the Occupied Golan were declared as a closed military zone. A curfew was imposed between 31 March and 2 April 1982 which effectively put

33 http://www.alternativenews.org/index.php?option=com_content&task=view&id=186&Itemid=70. (Last visited 10 February (2010)).

residents under house arrest banning them from their backyards and from opening their curtains to look outside. Thousands of soldiers were deployed to distribute Israeli identity cards to Syrians by hand with some even raiding houses. In addition, individuals working for Israeli companies and teachers who were involved in the strikes were dismissed without compensation. Within Israel's national courts these dismissals were classified as 'legitimate', but in reality they were a violation of international human rights law.

Despite Israel's methods of intimidation the Syrians maintained their opposition and threw the identity cards into the streets. They also commenced a boycott of Israeli goods. The Israeli forces finished distributing the identity cards on 3 March 1982 and withdrew from the villages. The indigenous population took the army's withdrawal as an opportunity to take to the streets with some burning their identity cards in the villages' main squares and others mailing them to the Knesset. On 20 July 1982 the strike came to an end after six months due to the Israeli authorities announcing that they would not impose Israeli nationality upon the population of the Occupied Golan.

The international community's response to these developments of illegal annexation, expropriation and displacement has been one of persistent condemnation, but little action. United Nations Security Council Resolution 497 affirmed that Israel is subject to The Hague Regulations 1907 and Geneva Convention IV: Relative to the Protection of the Civilians in a Time of War 1949 and that these laws apply to Israel's occupation of the Golan.³⁴ Under these international humanitarian laws the creation of Jewish settlements in any territory occupied by Israel and displacement of any portion of the population is illegal and amounts to a war crime. Resolution 497 unanimously called on Israel to rescind its de facto annexation of the Golan confirming that "the Israeli decisions to impose its laws, jurisdiction

34 United Nations Security Council Resolution 497, *The Golan Heights Law*, 17 December 1981 at para 3.

and administration in the Golan Heights is null and void and without international legal effect.”³⁵ In the last forty-three years seven resolutions have been adopted by the United Nations General Assembly and Security Council condemning Israel’s actions towards the Occupied Golan with the first in 1967 and the most recent in 2008.³⁶ Nevertheless, Israel refuses to recognise the position of the international community on this matter or to apply the relevant provisions of international humanitarian law. It attempts to justify such a move by claiming that the Golan is part of its sovereign territory. To this day the Golan continues to be Syrian territory occupied by Israel, over which Israel has no sovereignty, yet which it has demonstrated no intention of conceding.³⁷

35 United Nations Security Council Resolution 497, *The Golan Heights Law*, 17 December 1981 at para 1.

36 United Nations Security Council Resolution 446, 22 March 1979; United Nations Security Council Resolution 452, 20 July 1979; United Nations Security Council Resolution 465, 1 March 1980; United Nations Security Council Resolution 471, 5 June 1980; United Nations General Assembly Resolution 61/120 Relating to the Occupied Syrian Golan, 15 January 2007; United Nations General Assembly Resolution 63/99 Relating to Occupied Syrian Golan, 18 December 2008.

37 Barak Ravid, “Netanyahu: Israel Will Never Withdraw From the Golan”, *Haaretz*, 8 May 2009. Available at <http://www.haaretz.com/hasen/spages/1084194.html> (Last visited 10 February 2010).



Figure 8 : East Border of Majdal Shams, Occupied Syrian Golan. Just one of the many fences which deny freedom of movement and stand between the Syrians still based in the Golan and their families in Syria. (Sourced from Hannah Russell' Archives)

The current situation in the Occupied Golan is difficult for Syrians. Even though the 1982 strike was initially a success, the Israeli authorities have since imposed a form of Israeli nationality upon those who reject Israeli citizenship. The situation is similar to that experienced by the Palestinian Arab residents in Occupied East Jerusalem who have been given permanent residency under Israeli jurisdiction. Yet while Palestinian Arabs residing in East Jerusalem are permitted to have Jordanian nationality, the indigenous population of the Occupied Golan are recognised as having an 'undefined' nationality and are only awarded an Israeli Laissez-Passer. Those that have been assigned this status face daily challenges in terms of freedom of movement, discrimination and family separation which all amounts to a violation of international humanitarian and human rights law.



Figure 9 : Atef Saaed Sha'lan stands in his living room in 'Ein Quinyeh, Occupied Syrian Golan surrounded by photos of family members who he has been unable to see due to the strict regulations brought about by Israel's occupation of the Golan. As a result of these regulations he and his wife were prohibited from seeing their daughter on her death bed or to attend her funeral. (Sourced from Hannah Russell's Archives)

1.2.3 Acts of Racism: Nationality and Entry into Israel Law (Temporary Orders)

More recently the Israeli authorities have taken legalistic measures in the form of the Nationality and Entry into Israel Law (Amendment No 2) 2007 to reduce the Arab population within its Occupied Territories, including the Golan. This policy began in earnest in 2003 when the Knesset enacted the first Nationality and Entry into Israel Law (Temporary Order). However, it would be hard to classify this order as temporary since after several renewals and some minor amendments it has been in existence for the last seven years and looks set to continue to be enforced.³⁸ Initially, the temporary orders only applied to those in the Occupied Palestinian Territories (OPTs), by prohibiting the granting of any residency or citizenship status to Palestinians from the OPTs who are married to Israeli citizens.

According to Adalah, the Legal Centre for Arab Minority Rights in Israel, these temporary orders “inflict... violations of constitutional rights” and is of a “discriminatory nature”.³⁹ In *Adalah, et. al., v. Minister of Interior, et. al* Adalah argued that the Nationality and Entry into Israel Law (Temporary Order) 2003 violates the rights of equality, liberty and privacy, by limiting the ability of Arab citizens of Israel to exercise these rights based on the ethnicity of their spouses.⁴⁰

The Attorney General counter argued by stating that the law was necessary as Israel had failed to predict potential involvement in terror activity by those requesting family reunification. It further claimed that the ban on family reunification was justified and directed against all Palestinians, as they support the resistance against Israel, and are potential terrorists.

38 The Nationality and Entry into Israel Law (Temporary Order) 2003 was originally enacted for one year. It was extended by the Knesset for a six month period on 21 July 2004, and for an additional period of four months on 31 January 2005. On 27 July 2005 the law was extended until 31 March 2006 with some minor amendments. The most recent amendment was on 21 March 2007.

39 Adalah, ‘Special Report: Ban on Family Reunification’, 2009. Available at <http://www.adalah.org/eng/famunif.php> (Last visited 14 March 2010).

40 H.C. 7052/03, *Adalah, et. al., v. Minister of Interior, et. al*

Due to its retroactive application it was submitted by plaintiffs that the law violates the principle of due process. Adalah claimed the law was discriminatory and racist as it exclusively targeted Palestinians from the OPTs, the general policy for residency and citizenship status in Israel for all other 'foreign spouses' remaining unchanged and that the security concerns used by the Israeli authorities to justify the law could not justify such sweeping measures. Israel did attempt to justify the policy by claiming that an increasing involvement in terror activity by residents of the OPTs who had been granted status in Israel through family unification justifies the law. However, of a group of thousands of status-receivers the authorities could name only twenty-three people suspected of indirect involvement, none of whom was involved in any actual terror activity.⁴¹ Consequently, this information contributed to the plaintiffs' argument that the law is disproportionate. The plaintiffs requested that the Court cancel the law and instate alternative procedures for granting status in Israel for Palestinian spouses of Israeli citizens. Moreover, they asked that the implementation of the law be frozen pending the final decision. Neither of these requests were granted.

Three years later the Supreme Court reached its decision. With a close majority of 6-5 the petition was rejected. Justice Heshin who voted to dismiss the petitions held that "the right to human dignity does not include any constitutional obligation on the State to allow 'foreigners' married to Israeli citizens to enter the State."⁴² Chief Justice Aharon Barak who voted in favour of the petitions stated that "the issue concerns the right of Israeli citizens of the State to family life and equality, which derive from the constitutional right to human dignity, as espoused in the Basic Law: Human Dignity and Liberty... this violation of rights is directed against Arab citizens of Israel, As a result, therefore, the law is a violation of the right of Arab citizens in Israel to equality."⁴³ While this case did not achieve what it had

41 Adalah, note 39.

42 H.C. 7052/03, *Adalah, et. al., v. Minister of Interior, et. al*

43 H.C. 7052/03, *Adalah, et. al., v. Minister of Interior, et. al*

set out to do it did help to raise the profile of the issue of family separation. Furthermore, it was encouraging to see how close the vote, indicating that possibly with a bit more pressure Israel's discriminatory policies may be forced to come to an end.

However, the potential positivity that came out of *Adalah, et. al., v. Minister of Interior, et. al* was short lived. Ten months after the judgment, on 21 March 2007, the Knesset extended the Nationality and Entry into Israel Law (Temporary Order) once again, but this time its catchment area was expanded.⁴⁴ This new law maintained the ban on family reunification where one spouse is a Palestinian from the OPTs and adds a more rigorous denial of family reunification where one spouse is a resident or citizen of Israel's enemy states - Lebanon, Syria, Iran or Iraq – and/or is an individual defined by the Israeli security forces as residing in an area where activity that is liable to endanger Israeli security is occurring.⁴⁵ Furthermore, the Knesset included a clause which would allow an expansion of this ban without legislative oversight.

In practice, the catchment area of the prohibition of family reunification awarded by the 2007 law sees a total ban of family reunification for those from the Golan who have married a citizen of one of Israel's enemy states, including Syria. Many people from the Golan opt to study in Damascus, Syria with many marrying Syrians from Syria proper. This law prevents the native of the Golan moving back to the Golan with their spouse and children. Before this law was introduced family reunification under these conditions were already limited with only women being granted such permits and on very rare occasions. It is believed that Israel's main motivation for such policies is to minimize the Arab population within the Golan. Israel has adopted the same tactics towards Arabs in Palestine. At present the Arab population in the Golan is about level with the Jewish settlers who illegally inhabit the area. The introduction of this law limits the growth of the

44 Nationality and Entry into Israel Law (Amendment No 2), 2007.

45 Nationality and Entry into Israel Law (Amendment No 2), 2007.

Syrian population to natural growth of families who inhabit the area, while the illegal settlements are constantly being expanded by the State in both physical and population terms. This is another example of Israel's attempt to force annexation upon the region.

Following this development another petition was made to the Israeli courts to have these type of laws overruled. Under the Nationality Law 1952 other non-Jews who marry Jewish Israelis can apply for citizenship through a five year process, subject to individual security checks. Therefore, it is argued that the new law

constitutes racial discrimination as it bars certain individuals from family reunification solely on the basis of their nationality; the law has no parallel in any democratic nation. It also prevents Arab citizens from having contact with their families and members of the Arab nation and the Palestinian people, which violates international law and is extremely dangerous as the Arabs in Israel are an indigenous national minority.⁴⁶

Seven justices have been appointed to this case with three out of the seven having indicated their objection to this law in the past. Nevertheless, the judgment of the case is still pending.

With the Nationality and Entry into Israel Law (Temporary Order) now under its ninth extension and given the precedent that has been set it is likely that this law will be subject to indefinite renewal. Consequently, this law cements the permanent displacement and family separation which affects so many Syrians.

46 H.C. 830/07, *Adalah v. The Minister of the Interior, et al*

1.2.4 Occupation By Name, Occupation By Nature

Occupation is supposed to be a temporary condition that does not confer sovereignty or prejudice future arrangements.⁴⁷ Article 42 of The Hague Regulations, 1907 defines occupation as when a territory is “actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”⁴⁸ The definition of ‘occupation’ places no time limit on the application of this condition. However, it can be surmised that Israel’s forty-three year occupation and enactment of the ‘Golan Heights Law’ which implements Israeli administration and laws into the Syrian Golan has overstepped the mark.⁴⁹

Article 2 of Geneva Convention IV: Protection of Civilian Persons in Time of War, 1949 states:

In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

In 1967 both Israel and Syria were and remain high contracting parties to Geneva Conventions. The ruling of the International Court of Justice (ICJ)

47 Al-Haq, “Annual Report”, 2004, at 41. See also Dr Virginia Tilley (ed), *Occupation, Colonialism, Apartheid? A Re-assessment of Israel’s Practices in the Occupied Palestinian Territories Under International Law* (Human Sciences Research Council Library, 2009).

48 The Hague Regulations, ‘Convention IV - Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land’, 18 October 1907.

49 Dr Virginia Tilley (ed), *Occupation, Colonialism, Apartheid? A Re-assessment of Israel’s Practices in the Occupied Palestinian Territories Under International Law* (Human Sciences Research Council Library, 2009), at 97.

in *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* established that

The object of paragraph 2 is not to restrict the scope of application of the Convention, as defined by paragraph 1, by excluding them from territories not falling under the sovereignty of one of the contracting parties... This interpretation reflects the intention of drafters of the Fourth Geneva Convention to protect civilians who find themselves, in whatever way, in the hands of the Occupying Power.⁵⁰

This Article sets out that once a situation de facto constitutes occupation, the law of occupation applies; whether or not the occupation is considered lawful. This concept has been outlined by the International Committee for the Red Cross who have emphasised that the legality of an occupation is regulated by the United Nations Charter and law of *jus ad bellum*.⁵¹

In relation to the Occupied Golan:

1. Israel is exercising effective control and authority over the region through its continued military presence within the region and enactment of the 'Golan Heights Law';
2. The region is still a recognised part of Syria within the international community;
3. There is non-violent resistance, but no armed resistance by the Syrian population of the region.

Therefore, the current situation within the Golan clearly satisfies the criteria set out in The Hague Regulations 1907 and Geneva Conventions 1949 for an area to be classified as under occupation and subject to international humanitarian law.

50 *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004), at para 95.

51 International Committee for the Red Cross, "Occupation and International Humanitarian Law: Questions and Answers". Available at <http://www.icrc.org/Web/eng/siteeng0.nsf.html/634KFC> (Last visited 11th March 2009).

It should also be noted that Article 4 of Geneva Convention IV 1949 illustrates that the entire population of an occupied territory are protected by international humanitarian law during occupation.⁵² Consequently, the entire Syrian population of the Occupied Golan are awarded this protection. Persons protected by the Convention are “those who at any given moment and in any manner whatsoever find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.”⁵³ As Goodwin-Gill outlines, the protections accruing to a protected population living under foreign military occupation, through international law:

1. Prohibits the acquisition of territory by the use of force;
2. Prohibits the Occupying Power from changing the status of territory under occupation, either directly, through annexation or indirectly through colonisation;
3. Requires the Occupying Power to recognise and protect the rights of the indigenous population of the Occupied Golan; and
4. Requires all States to refrain from recognising the illegal .⁵⁴

This section has established that Israel is bound by and subject to international humanitarian law both through the application of customary law and its ratification of the relevant conventions. Yet Israel’s application of international humanitarian law is inconsistent and selective as a number of cases before the Israeli courts demonstrate. For example, the Israeli High Court of Justice, *in Hilu v Government of Israel, et al*, confirmed that customary international law is part of Israeli law, unless it is contradictory to

52 Jean Pictet (ed), *Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), at 46.

53 Article 4, Geneva Convention IV: Relative to the Protection of Civilian Persons in Time of War, 12 August 1949.

54 Guy Goodwin-Gill, “The Occupation in International Law in the Golan:Ending Occupation, Establishing Peace” (Report of the London International Conference on the Golan, June 2007), at 14.

another provision of internal law.⁵⁵ A later judgment by the Israeli Supreme Court in *Ayyoub v Minister of Defence* clarified this position.⁵⁶ The precedent set by these two cases is that it is within Israel's prerogative to pick and choose how it applies both treaty and customary international law, even if its approach contradicts the international community's interpretation of the law, which is presently the case.

To summarise, the Occupied Golan is internationally recognised as a region under occupation. Despite Israel's best efforts including the enactment of the 'Golan Heights Law', this region is not an annex to Israel proper. Consequently, Israel is under a number of obligations and duties to act in accordance with international humanitarian law and to adopt and implement its policies in ways that are in accordance with these laws. Furthermore, Israel is under a duty to respect the human rights of the protected persons – the indigenous Syrian population of the Occupied Golan. Taking into account Israel's policies of expropriation and displacement these obligations are not being adhered to and Israel's policies and actions amount to gross violations of both international human rights and humanitarian laws.

55 HCJ 302/72, 306/72, *Hilu v Government of Israel* PD 27 [2] 169.

56 HC 606/78, 610/78, *Ayyoub v Minister of Defence* PD 33 [2] 113.

1.3 Illegality of the Occupation

1.3.1 Demographic Make-Up of the Golan: 1967-2010

Before Israel's occupation of the Syrian Golan the region had a population of 153,000 Syrian nationals. Around 80% of the population was Arab and the majority of those remaining were from other Caucasian ethnicities such as Circassians, Chechens and Daghestani.⁵⁷ The Israeli authorities have a tendency to refer to the whole indigenous population as 'Druze'. Given that before 1967 only 6% of the Syrian Golan population were Druze⁵⁸ this generalisation of the Syrians of the Occupied Golan as a religious minority is inaccurate and ignores their national Syrian identity.

During the 1967 Arab-Israeli War Israel captured 70% of the Golan including 2 cities, 139 villages and 61 farms.⁵⁹ 130,000 of the Syrian Golan population were forcibly transferred during the occupation⁶⁰ and forbidden from returning. The remaining 7,000 natives inhabited six villages at the extreme north of the Golan – Majdal Shams, Buq'ata, Masa'da, 'Ein Quinyeh, Al Ghajar and Su'heita. Over the space of five years Su'heita was completely destroyed with its population being forcibly transferred to Masa'da.⁶¹

Today it is estimated that the indigenous population have retained control over as little as 6% of the Golan following the occupation.⁶² Only five of the Golan villages remain. Four of them are in full Israeli control with Ghajar split between Israel and Lebanon. Following the forcible transfers, the number of Syrians remaining in the Golan currently stands at 20,000

57 This minority were settled in the region by the Ottomans in the late nineteenth century, and have since become Syrian citizens.

58 Internal Displacement Monitoring Centre, note 3.

59 Sakr Abu Fakhr, "Voices of the Golan" (2000) 29(4) *Journal of Palestine Studies* 5, at 5.

60 Internal Displacement Monitoring Centre, *Syria: Forty Years On, People Displaced From the Golan Remain in Waiting* (2007), available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/11354A1A3BE82407C12573850037B6C6/\\$file/Syria_IDPs_Overview_Oct07.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/11354A1A3BE82407C12573850037B6C6/$file/Syria_IDPs_Overview_Oct07.pdf) (Last visited 2 February 2010).

61 Al-Marsad, note 26, at 6.

62 <http://www.jawlan.org/english/golanheights.htm> (Last visited 11 February 2010).

and is spread over the remaining five villages.⁶³ It is believed that by calculating those who were originally displaced and their descendants, 433,000 remain displaced.⁶⁴

The other villages and cities which once stood in the Golan have been completely destroyed with the Israeli authorities building settlements and military camps over their remains. It is estimated that between 17,000 and 20,000 Jewish settlers have been illegally relocated to the Occupied Golan. In order to accommodate them an estimated 33 illegal settlements have been built.⁶⁵ These actions have caused people to lose their livelihoods and homes, yet Israel has violated Article 3 of The Hague Regulations 1907 by not offering compensation to the people that it expropriated land from.⁶⁶

63 Sakr Abu Fakhr, note 59.

64 Internal Displacement Monitoring Centre, note 3.

65 United Nations Security Council, *Report of the Secretary General on the Middle East* (2006) S/2006/956, 11 December 2006, at para 39. Official reports differ on the number of illegal settlements within the Golan. Reports state between 33 and 39 illegal settlements exist within the region.

66 See Article 3 of The Hague Convention IV Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws of Customs of War on Land, 18 October 1907.

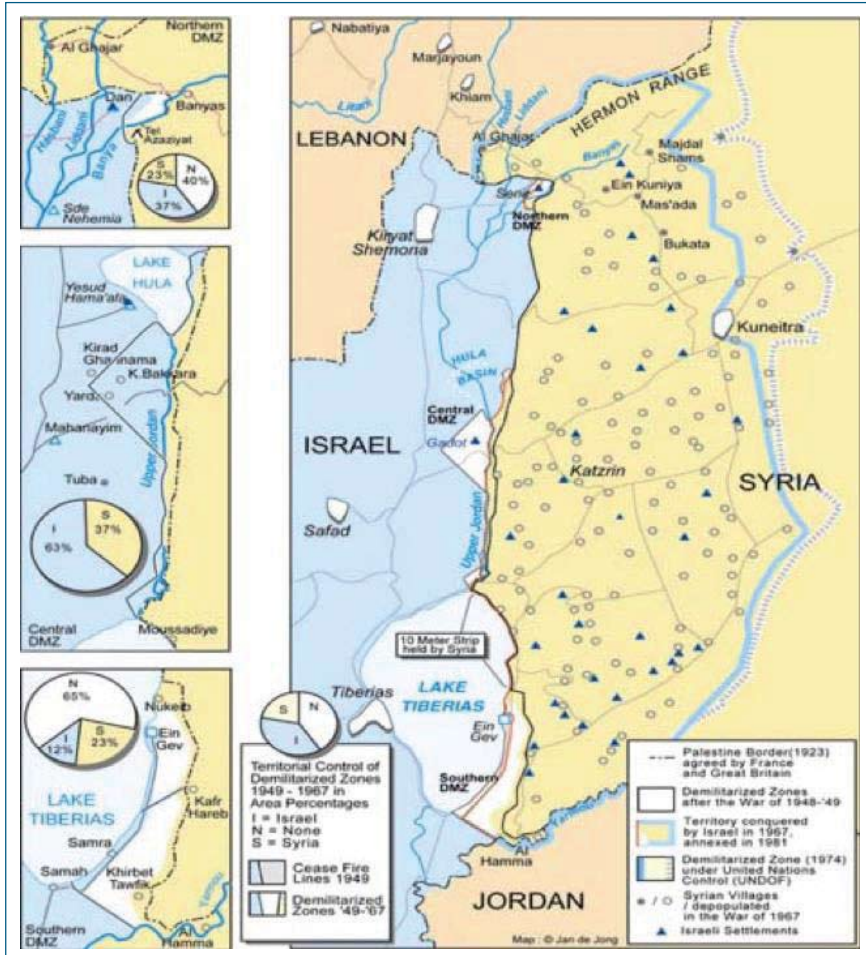


Figure 10 : Occupied Syrian Golan in 2010. (Sourced from http://www.damascus-online.com/history/Maps/golan_map.jpg)

1.3.2 Israel: The Belligerent Occupier

Israel is a belligerent occupier of the Golan. As such The Hague Regulations, 1907 and Geneva Convention IV, 1949 are applicable. These laws are a product of customary international law, meaning that all states, including Israel are bound by them and should respect and implement their rules.

Since Israel first occupied the Golan in 1967 there have been a number of resolutions passed by the United Nations to reinforce these customary international laws and to voice the international communities' rejection of Israel's claim to this region. For example, United Nations Security Council Resolution 497 (1981) determined that all the provisions of Geneva Convention IV: Relative to the Protection of Civilian Persons in Time of War, 1949 continued to apply to Syrian territory occupied by Israel since June 1967. The resolution also reaffirmed "that the acquisition of territory by force is inadmissible... the Israeli decision to impose its laws, jurisdiction and administration in the Golan Heights is null and void... demands that Israel... should rescind... its decision."⁶⁷ More recent resolutions have reiterated the message conveyed in Resolution 497 and have additionally called for "Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the Golan Heights and, in particular, to desist from the establishment of settlements."⁶⁸

Nevertheless, despite the classification of Israel's occupation of the Golan and the displacement of its inhabitants as illegal, Israel continues to occupy the area and to displace thousands of people. By doing so it is clear that Israel is defaulting on a number of its obligations set out under these international law instruments.

67 United Nations Security Council Resolution 497 Relating to the Occupied Syrian Golan, 17th December 1981.

68 General Assembly Resolution 61/120 Relating to the Occupied Syrian Golan, 15th January 2007; General Assembly Resolution 63/99 Relating to the Occupied Syrian Golan, 18th December 2008.

Hague Regulations, 1907

To reiterate, throughout Israel's occupation of the Golan a number of violations of The Hague Regulations have occurred. Article 46 of The Hague Regulations, 1907 sets out that "family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated." This Article incorporates a range of obligations which must be respected. However, from a number of interviews that have been conducted by Al-Marsad and an analysis of Israel's actions it is clear that a serious violation of these obligations and duties continue to occur. Some examples of the violations of Article 46 that Israel has committed include the permanent forcible transfer or displacement of 130,000 civilians from the Occupied Syrian Golan to Syria proper,⁶⁹ the destruction of hundreds of villages within the Golan,⁷⁰ and the transfer of approximately 20,000 Israeli-Jewish settlers into 33 illegal settlements in the Occupied Golan.⁷¹

The protection that is set forth in Article 46 is reinforced by Article 55 of The Hague Regulations. This Article provides that "the occupying States shall be regarded only as an administrator and usufructuary of public buildings, real estate, forests and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct." The rules of usufruct are set out in Article 46 and as the examples show have been clearly violated.

Geneva Convention IV : Relative to the Protection of Civilian Persons in the Time of War, 1949

Before the occupation the Golan had a population of 153,000 Syrians, today this figure stands at 20,000 Syrians and approximately 20,000 illegal

69 Internal Displacement Monitoring Centre, note 60.

70 Internal Displacement Monitoring Centre, note 3.

71 United Nations Security Council, *Report of the Secretary-General on the Middle East* (2006), at para 39.

Jewish settlers.⁷² During the occupation 130,000 of the Syrians were forcibly transferred.⁷³

Article 49(1) establishes that “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.” Yet States, as the Occupying Power, are entitled under customary international law to “...undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement.”⁷⁴ However, Article 49(2) continued “persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.”⁷⁵

Some may view Article 49(1) and Article 49(2) as contradicting one another, yet this is not the case. Article 49(1) sets out that the displacement of any portion of the population of an occupied territory is forbidden. Article 49(2) highlights the limited occasions where forcible transfer is temporarily permitted, though strongly discouraged, while also emphasising that displacement is not to be permanent and is to be remedied as soon as possible. Forty-three years after the occupation the expropriation of land and displacement of the Syrian population of the Golan continues. Israel’s authorities have made it clear that they do not view these illegal actions as a product of exceptional circumstances or a temporary solution. Israeli laws have been enforced and court judgments have been made which set out that Israel intends to continue their illegal activities and that it has the prerogative to do so.⁷⁶ It is clear that Israel’s approach to international law

72 Sakr Abu Fakhr, note 59.

73 Internal Displacement Monitoring Centre, note 60.

74 Article 49(2), Geneva Convention IV: Relative to the Protection of Civilian Persons in the Time of War, 1949.

75 Geneva Convention IV: Relative to the Protection of Civilian Persons in the Time of War, 1949.

76 For example, ‘Golan Heights Law’, 1981; Nationality and Entry into Israel (Temporary Orders) 2003-2009; H.C. 7052/03, *Adalah, et. al., v. Minister of Interior, et. al.*; HCJ 302/72, 306/72, *Hilu v Government of Israel* PD 27 [2] 169; HC 606/78, 610/78, *Ayyoub v Minister of Defence* PD 33 [2] 113.

is to interpret and take advantage of the laws which facilitate their plans and to discard those which do not suit their agenda.

Article 47 further illustrates the illegality of Israel's occupation of the Golan by providing that:

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexations by the latter of the whole or part of the occupied territory.⁷⁷

Israel has introduced many changes since it commenced its occupation of the Golan which have resulted in the "protected persons" being "deprived... of the benefits of the present Convention." For example, those Syrians who have chosen to remain in the Golan have been stripped of their freedom of movement and have been assigned "undefined" nationality. They are not awarded a passport and are forced to travel on an Israeli Laissez-Passer.

The issuing of Laissez-Passers, or travel documents, has caused the Golan's Syrian population to be subjected to discrimination. The extra scrutiny, both within Israel and abroad, that is given to those travelling in possession of a Laissez-Passer has left many feeling degraded. Many Al-Marsad interviewees stated that the treatment they receive while travelling on a Laissez-Passer has left them feeling like animals, not human beings.

The presence of Laissez-Passers restricted the Golan natives' access to their families and freedom of movement. The checkpoints at the ceasefire line between Israel and Syria have been closed and are only accessible by a permit process, the distribution of which is unpredictable, limited and discriminatory. Likewise, those who opted to remain in Syria are banned from returning to their home in the Occupied Golan. All of these examples illustrate Israel's continuous violation of Article 47 of Geneva Convention IV, 1949.

77 Geneva Convention IV: Relative to the Protection of Civilian Persons in the Time of War, 1949.



Figure 11 : Front Cover of an Israeli Laissez - Passer.

In addition, the creation of illegal Jewish settlements within the Occupied Syrian Golan creates a further issue with regard to the legality of Israel's occupation of the region. Article 49(6) states "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." In complete disregard for the obligations in this article, since 1967 33 illegal settlements have been constructed throughout the Golan for between 17,000 and 20,000 illegal settlers.



Figure 12 : Nimrod Settlement in Northern Occupied Syrian Golan built on the expropriated land without compensation for the rightful owners. There are plans to expand this settlement which would result in further expropriation of land which rightfully belongs to natives of the Golan.
(Sourced from Hannah Russell's Archives)

Israel's actions and oppressions towards the Syrians of the Golan amount to a system of discrimination against this group. One result of this system is that families have been separated with little hope of reunification and serious violations of the rights of the indigenous population, as entrenched within international human rights and humanitarian law, have occurred. Article 27 of Geneva Convention IV, 1949 highlights a further example of such laws that have been abused by Israel:

... Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

A more specific analysis of which rights are violated in relation to family separation will be discussed in the third section of this report.



Section 2 :

Human Impact of Israel's Illegal Occupation of the Golan

2.1 Prohibition on Family Access and Reunification

The 1967 occupation of the Golan resulted in the Israeli authorities segregating the Golan from Syria under the Military Order No. 57, 17 September 1967. This military order banned civilians who were forcibly displaced by the 1967 Arab-Israeli War from returning to their homes and properties in the Golan. In addition, the military order resulted in a prohibition and break down of all means of communications between the Syrians who remained in the Occupied Golan and their family members who were forcibly displaced to Syria proper.⁷⁸

After some time Syrians were given the opportunity to apply for family reunification. Between 1967 and the implementation of the 'Golan Heights Law, 1981' applications were submitted to the Military Governor, after the enactment of this law the power to decide who was granted a family reunification permit was transferred to the Ministry of Interior. There were no guarantees that, if applied for, family reunification would be granted by the Israeli authorities. For those applications that were successful family members either returned to the Occupied Golan or had members of their family join them in Syria proper. For those that opted to move from Syria to the Occupied Golan there was now the issue that if their application was successful it was under the condition that it was a 'one way ticket'. This 'one way ticket' could see many Syrian nationals who had married a resident of the Golan being permanently separated from their family in Syria proper. In recent years, under the Nationality and Entry into Israel Law (Amendment No 2) 2007, family reunifications have been stalled and are now prohibited for all Arabs in Israel and the Occupied Territories, including the Golan. The prohibition of family reunifications were only supposed to be temporary,

78 See also Military Order No. 1, 14 June 1967 which declared the whole of the Golan as a closed military zone and that no one was allowed to enter or leave, regardless of their identity. Military Order No. 13, 4 July 1967 declared that all houses in Al-Qunaytra, which were completely emptied, were deemed closed military zones, and that no one was allowed to leave or return to them without a written permit issued by the Military Commander. Military Order No. 39, 27 August 1967 declared all 'abandoned' villages in the Golan as a closed military zone with access only being allowed with a permit from the Military Commander.

however, the order continues to be renewed. With similar orders being in existence since 2003 this policy has been in operation for seven years and looks set to continue.

In practical terms the restrictions that have faced the indigenous population of the Occupied Golan for the last forty-three years mean that some people live less than twenty kilometres from their families and yet are faced with the prospect of never being able to see them again.

Roeda Nayf Hamd and Walida Nayf Hamd from Hadar, Syria Al-Marsad Affidavit:

Roeda and Walida are two sisters who moved to Masa'da in the Occupied Golan after marrying two brothers. As a result they have become separated from approximately thirty-four of their family members including their mother, three brothers and five sisters. They were permitted to visit Syria on one occasion due to the ailing health of their father who was dying from cancer. Aside from this they are only able to meet their family in Jordan once per year. As this map shows Roeda and Walida live less than twenty kilometres from their family in Syria. Yet to be able to see them they have to use their savings and make the approximately 200 kilometres trip to Jordan for a short period of time just once a year.

Even Palestinians in the OPTs, who Israel also discriminates against, have more access to their families than this. Palestinians have the opportunity to claim Jordanian citizenship which gives them access to a passport and more freedom of movement than Syrians of the Golan, who are only awarded an Israeli Laissez-Passer. This process is subject to its own system of harassment and restrictions, yet due to an open border and issuing of Jordanian passports, Palestinians have the opportunity to freely travel to Jordan which enables them to travel to any Arab country to visit their family. Syrians of the Golan on the other hand are subjected to a rigorous and discriminatory application process and unjustified scrutiny and restrictions while travelling on their Laissez-Passers.



Figure 13 : Map showing the distance between Masa'da, Occupied Syrian Golan where Roeda currently lives and Hadar, Syria where her family Syria are based. It is a distance of less than 20 kilometres. (Sourced from http://www.lib.utexas.edu/maps/middle_east_and_asia/golan_heights_rel89.jpg)

2.2 Mitigating the Effects of the Occupation: The Uphill Battle for Family Access and Reunification

The International Committee of the Red Cross (ICRC) has been present in the Golan since 1967 and has been a permanent fixture in the region as a neutral intermediary since 1988. Despite the strict Israeli policies that are in force concerning family separation the ICRC has negotiated a number of alternative options for Syrian families to maintain their family connection with displaced family members. These alternatives are insufficient and do not fill the void created by not being able to freely see ones family members, yet they do help to “mitigate some of the effects of the occupation.”⁷⁹

The alternatives have included the establishment of a visiting tent, use of the Valley of Tears, and visits to Amman, Jordan or further afield. The granting of authorisation by the Israeli authorities to individuals to benefit from these alternatives has proven to be inconsistent and discriminatory.

2.2.1 Official Papers and ICRC Messages

Over the last forty-three years important communications between the separated families have been transported through mail sent via the ICRC. The ICRC transfers official papers such as powers of attorney; birth, death certificates and marriage certificates; and property documents between the Occupied Syrian Golan and Syria proper. In addition, the ICRC receives and distributes ‘Red Cross messages’ which enable Syrians to exchange news with their relatives on the other side. According to the ICRC “this service constitutes an essential lifeline, reinforcing family unity across the separation line and helping Syrian Arab families living in the Occupied Golan to deal with a complicated legal situation.”⁸⁰

79 <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/israel-golan-update-020310> (Last visited 3 March 2010).

80 *Ibid.*

2.2.2 Valley of Tears

In 1974, following the 1973 Arab-Israeli War, a disengagement agreement was made between Syria and Israel in which a DMZ was set up between the two states.⁸¹ Following this agreement, as one local recalls, family members from both Syria proper and the Occupied Golan were able to meet at the ceasefire line fence.

Kamal Maziad Abu Saleh from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit :

Kamal, who was born in 1947, has lived in Majdal Shams all of his life. His mother is from southern Syria and his father from Majdal Shams. Following the occupation Kamal became separated from his mother's family in Syria and his two brothers, Jada-ala and Suliman.

Jada-ala was a member of the Syrian army and left for Syria during the 1967 occupation, however, he was granted a permit for family reunification and returned to the Golan in 1969 with his wife and children.

Suliman left the Golan to further his studies and in search of a better life in Syria. He settled down in Damascus, Syria and refused to attempt to return to the Golan until peace was achieved. Suliman died in 1993 without seeing his dream become a reality. Before his death Kamal and his family met Suliman a few times, one of these meetings took place at the fence.

"After the end of 1974, when the ceasefire agreement between Syria and Israel was made, families from both sides came and met at the fence. This was before the introduction of the visiting tent. We were able to touch and talk to each other. This continued until the Israeli army kidnapped one person."

⁸¹ Israel-Syria Separation of Forces Agreement, 1974. Available at <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israel-Syria+Separation+of+Forces+Agreement+-+1974.htm> (Last visited 3 March 2010).

Following this an area 200 metres was marked out by Israel with the use of fencing and landmines. This area has become known as the Valley of Tears. It is located at the Syrian ceasefire line along the east side of Majdal Shams in the Golan. It is here that families meet and communicate with each other with the aid of megaphones and binoculars.



Figure 14: Majdal Shams, Occupied Syrian Golan. A man watches his family on the Syrian side of the Valley of Tears. (Sourced from Hannah Russell's Archives)



Figure 15: Valley of Tears, March 2010. A woman from Majdal Shams, Occupied Syrian Golan waits her turn to communicate with her family by megaphone. (Sourced from Hannah Russell's Archives)

For family members, such as those in Damascus, Syria, who have to travel up to 60 kilometres each way, visiting the Valley of Tears can be a time consuming exercise. Moreover, in the early days it was reported that the army intentionally drove along the middle of the Valley of Tears using their vehicles to create a dust storm and sounding their alarms to make

debilitating noise so as to disrupt the brief meetings between families. There were even instances of people being escorted to the police station for questioning without any justification during these peaceful meetings with their families.

Jamil Saleh Abu Saleh from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Jamil lives in Majdal Shams with his wife, three sons and one daughter. He is separated from his father, step-mother and two half-brothers who all moved to Damascus, Syria following the occupation. The family never applied for family reunification because Jamil's father was a soldier in the Syrian army and they believed Syria to be more stable than the Occupied Golan. Jamil remained in Majdal Shams "because I was married and someone needed to take care of the orchards, the land and the house." Jamil's step-sister and the children from his step-mother's first marriage also remained in the Golan.

Jamil has made a number of applications to visit his family in Damsqus, the majority of these applications have been denied, including one placed that would have enabled Jamil to attend his father's funeral. He has only been able to afford one visit to Amman, Jordan which took place in 2007.

Other ways that Jamil has stayed in contact with his family include the telephone, internet and the Valley of Tears. Jamil recalled one particular time that he visited the Valley of Tears:

"One of the times that I visited the Valley of Tears with my half-sister we were both removed by the Israeli police shortly after arriving for no reason. We were taken to the police station in Masa'da and held for one or two hours. By the time we were released our family had returned to their homes in Syria. "

Jamil also told of further disruptions at the Valley of Tears:

“The army would drive to the middle of the Valley of Tears. They would listen to the conversations and make noise with their alarms so that it is difficult for each side to talk and to hear messages.”

Jamil also explained that “due to the distance and poor infrastructure it takes up to one hour and thirty minutes each way for those on the Syrian side to travel to the Valley of Tears. Once they arrive they also face time consuming security checks. This limits the time that they have to talk to their family.”

Locals have also recalled how the Valley of Tears is inadequate for those members of the community who are in poor health.

Saleh Salman Mdah from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

A number of Saleh’s family are based in Syria. Due to the regulations Saleh and his family have missed his daughter’s wedding and cousin’s funeral. Saleh recalls the impact of the current situation on his mother: “My mother died without the opportunity to see Samiea anywhere other than the Valley of Tears and the visiting tent. Even the Valley of Tears was of little comfort because my mother was deaf in the latter years of her life.”

Meetings at the Valley of Tears have been a long standing tradition and even though the regularity of the meetings have decreased due to the introduction of telephones and internet to the Golan, such meetings continue on special occasions and where families are required to arrange marriages and funerals.



Figure 16: 14 February 2010, Majdal Shams in the Occupied Syrian Golan. Locals and their family members in Syria gather at the Valley of Tears at an annual demonstration to commemorate the 1982 strike. (Sourced from Hannah Russell's Archives).

2.2.3 Modern Communications

Even the telephone and internet face problems in the Occupied Golan. The telephone was introduced in the late 1980s and starting in the 1990s, the internet was gradually introduced to the whole of the Golan. The internet connection is quite strong within this region, however locals have experienced problems concerning expense and poor connection in relation to the telephone as there is no direct telephone line between the Golan and Syria. However, no amount of contact via the telephone or internet can offset or replace human and physical contact, and the strength that such contact gives to relationships.

Roeda Nayf Hamd from Hadar, Syria
Al-Marsad Affidavit:

Speaking about using the telephone to communicate with her family Roeda said “the situation is very difficult. The Israeli companies do not discount telephone calls to Syria, but they give very good discounts to all other countries. The main idea behind a discount for telephone calls to Syria is that it would make family connections easier.”

Naser Hasan Sabagh from Majdal Shams, Occupied Syrian Golan
Al-Marsad Affidavit:

Naser has three brothers and two sisters based in the Occupied Golan. He is married with four daughters, one son and one grandson. Naser had one brother, Aadel and four cousins based in Syria. Aadel was a soldier in the Syrian army and moved to Syria before the occupation. He married and had six sons and five grandsons. He died in 1998 and forty days after his death his wife died leaving his children orphans, homeless and in need of help.

Naser was permitted to visit Syria once in 1996 and that was the only time Naser met Aadel and his family. Following Aadel’s death Naser applied to attend Aadel’s funeral and to support his family, he was denied permission. The death of Aadel and being unable to provide the support to his sons that was needed was very hard on Naser and his family. “This is all about emotions... separation creates great heartache. Even though we sent over a small amount of money for them to build a house to live in it was not enough.”

In 2007 Naser gained permission to visit Syria with a number of his family. However, enroute a member of his family, Afef who had opted to travel in a family car instead of the bus was involved in a car accident and died. Due to these turn of events Naser and his family returned to the Golan before they reached Syria. They were unable to transfer their visit to another time.

Naser has kept in touch with his family in Syria by attending the Valley of Tears and speaking on the telephone. However, Naser explained “I did not have a telephone until 1996. When you phone Syria there can be long delays in connecting and the calls are very expensive.”

Alham Mahmoud Hassan from Shahba, Syria Al-Marsad Affidavit:

Alham and her sister Ahlam are married with children and based in Buq'ata in the Occupied Syrian Golan. Alham's ten brothers and sisters and mother still live in Syria. The family have visited each other in Syria and Jordan. Due to regulations and financial constraints the family are only able to make these visits every few years. In between visits they keep in contact via the Valley of Tears, telephone and internet.

When speaking about using the telephone to keep in contact with her family in Syria Alham explained “I talk to my mother every two days. It is very expensive, too expensive. There are no discounts available for telephone calls to Syria, yet there are very good discounts available to those ringing America. This makes it cheaper to ring America than Syria.”

2.2.4 Visiting Tent

Between 1976 and 1979 two tents were erected, one in what would later be called the ‘Valley of Tears’ and one at the Qunaytra checkpoint, enabling families to reunite for a very short period of time. This option was subject to an application process and it was the Israeli Military Governor of the Occupied Golan who decided whose application was successful or not. Following a number of people’s accounts of the visiting tent it has become clear that the Israeli Military Governor’s decision making process was inconsistent and discriminative and many people were denied this limited opportunity without justification.

Kamal Maziad Abu Saleh from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Kamal made a number of applications to visit the tent between 1976 and 1979. He was not granted a permit to visit the tent until 1979 when he, his brother Jada-ala and their families visited their brother Suliman in the tent.

Kamal explained the procedure for making a visit to the tent:

“We submitted an application to visit the tent. Our application was successful and we were granted a permit. On receiving the permit, we travelled to Masa’da to be searched by security. Once we cleared security we were given a security pass and waited for a bus which transported us to the tent in the Valley of Tears. The time limit on visiting the tent was one hour. After our visit was over we returned on a bus to Masa’da where we were checked by the security again before we returned home.”

Kamal recollected that “while we were permitted to visit the tent for one hour our visit with Suliman lasted for less than half an hour. There was very bad weather on that day which caused the bus to be delayed.” No concessions were made for this delay which meant that Kamal’s visit was less than half of the already limited time that he and his family were allocated.

Saleh Salman Mdah from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Saleh’s sister Samiea and his cousins Ziad, Emad and Kifah live in Syria. Three of Saleh’s six children and three of his grandchildren also live in Syria. Saleh has applied on a number of occasions to visit Damascus, Syria. He has only received permission to visit Syria twice. One of these occasions was for his daughter’s wedding. However, on the day of the visit he was hospitalised and unable to attend. He was unable to transfer the visit to a later date. Saleh was also denied a visit to Syria for Kifah’s funeral in 2009. Saleh has visited Syria once, he regularly visits his family in Jordan and in 1987 he went to Germany to see his sister. Throughout

1978 and 1979 Saleh was given permission to visit the tent on a number of occasions.

“During 1978 and 1979 my mother, my three sisters and I were allowed to visit the tent. My father was not allowed to visit because he had previously signed a petition against the occupation. The visits in the tent were limited to one hour. I saw my sister Samiea, brother-in-law and their children.”

Meeting your family for a limited period of time in a tent or over a 200 metre divide with your messages being heard for miles around and being carefully watched by the army is no replacement for being able to freely meet your family privately in a location of your choice.

2.2.5 Marriage

For more than twenty years weddings have been taking place between Syrian nationals of the Golan and their partners from Syria proper. Many of these weddings have taken place between distant relatives, or suitors that met while studying in Damascus, Syria. The ICRC facilitate the wedding ceremonies which take place in the DMZ at the Qunaytra checkpoint and assist with the practicalities including obtaining security clearance for the wedding guests. The two families are allowed to meet up for an hour at the checkpoint. In a typical case the bride returns to the groom’s home after the ceremony. Whether this results in the bride crossing into the Golan or into Syria, given the strict restrictions currently in operation concerning crossing the Syrian ceasefire line she relinquishes her right and the right of her future children to return to or visit her birthplace. Taking into account what the bride is giving up and the limited time the families have together at the checkpoint this restriction seems all the more cruel. A bride’s wedding day is supposed to be the happiest day of her life, however, these restrictions result in a marriage ceremony on the day, time and place of the Israeli authorities choosing. In addition, the bride has to deal with the fact that given other regulations which are highly discriminatory against women this may be last time that she will see her family. That does not paint the picture of a dream wedding to remember.



Figure 17: Qunaytra Checkpoint, 12 March 2007. Arwad Abu Shahin, a bride from the Occupied Syrian Golan standing beside her Syrian groom, Muhannad al-Harb after she crossed over the ceasefire line into Syria. (Sourced from http://farm1.static.flickr.com/13243/49026309_420009991.jpg)

Furthermore, it has emerged that women who have married Israeli citizens have even less chance of gaining access to visit their family in Syria because of not only their gender but also their choice of husband.⁸²

One woman who has been subjected to these regulations gave their thoughts on the process:

**Walida Nayf Hamd from Hadar, Syria
Al-Marsad Affidavit:**

Walida's sister Roeda married a man from Masa'da in the Occupied Syrian Golan in 1999. Two years later Walida followed Roeda to Mas'ada by marrying her brother-in-law's brother. Speaking about the separation from her family brought about by the marriage Walida stated "I had mixed feelings on my wedding day. I was very sad to leave my family, but happy to join my husband and start a family here in the Golan. It is hard because this [Golan] is my land and there [Syria] is my land. This is my family and there is my family. Yet I cannot benefit from the two because of Israeli policies."

2.2.6 Limited Syrian Visits

In the past the ICRC ran a family visit programme. This programme allowed family members to meet in Syria once a year for two weeks. This programme was abruptly stopped after one year in 1992. The ICRC has made several appeals for these visits to resume but the authorities have yet to satisfy their wishes. According to the ICRC "the severing of social, cultural and family ties has had an immense effect on Syrian Arabs of the Golan" and it "considers the resumption of this programme to be a priority."⁸³

82 "Druze Cross Into Syria for Pilgrimage", *Jerusalem Post*, 24 September 2009. Available at <http://www.jpost.com/Israel/Article.aspx?id=155894> (Last visited 7 March 2010).

83 <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/israel-golan-update-020310> (Last visited 3 March 2010).

Following the 1991 Madrid negotiations which aspired to achieve a political settlement between the parties in the Middle East conflict, the Israeli authorities authorised some categories of natives of the Golan to make short trips to Damascus, Syria at specified times in the year. The decision of who is authorised to make such trips is left up to the General Director of the Interior Office in Safad and in cases of 'exceptional circumstances', the Minister of Interior. Andena Agmoun, the current General Director of the Interior Office in Safad, explained that "under Israeli law visits to Syria are forbidden. That is with the exception of religious Druze men and students."⁸⁴ These authorisations do not satisfy the demands of the ICRC but they are better than nothing. These categories have been expanded in recent years. Currently, those who are eligible to receive a permit following an application process are religious Druze men, students enrolled in Syrian universities, non-Druze men over thirty-five, and women over seventy years of age.



Figure 18: Qunaytra Checkpoint, 24 September 2009. Religious Druze men are checked before crossing the ceasefire line into Syria. On this day 560 religious Druze men were permitted to cross. (Sourced from ICRC Archives)

84 "140 Applications Were Rejected in Last 10 Days", Baniyas, 10 September 2008. This article is available in Arabic at <http://archive1.baniyas.net/nuke/html/modules.php?name=News&file=print&sid=5025> (Last visited 29 March 2010).

Students have been travelling to Syria with the help of the ICRC since 1994. This process was initially introduced in 1977, but was only in operation for a short period of time. The students travel across to Syria at the start of the academic year and return at the start of their summer holidays. Initially they are permitted to do so for three years, but if their degree is longer than this they can apply to have their access extended to the duration of their studies. Once their studies are finished they then have to make the choice of whether to remain in Syria or to return to the Occupied Golan.



Figure 19: February 2010, Qunaytra Border in the Occupied Syrian Golan. Students enjoy an emotional reunion with family after returning home from studying in Damascus, Syria. (Sourced from Hannah Russell's Archives)

1994 saw the introduction of religious pilgrims being able to visit Syria subject to an application process. It is the Israeli-recognized spiritual leader of the Druze community in Israel, Sheikh Muwafaq Tareef's responsibility

to decide who can be classified as religious in this context.⁸⁵ At specific times throughout the year the checkpoint is opened to allow male Druze pilgrims to visit Syria for a limited period of time. Reports indicate that initially the length of these visits were open with some pilgrims staying months at a time. However, in recent times these visits have been limited to a few days.

Hasan Saaed Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Hasan's eldest son Ezat has lived in Damascus, Syria since 1960. Ezat is married to a woman from Damascus and has four sons, one daughter and one grandson. Unlike his wife Jamela, Hasan has had a number of successful applications to visit Damascus since 1985.

In October 1995 Ezat had a heart attack and Hasan was permitted to visit him. He stayed for two months. However, Hasan stated that over the years the amount of time that he has been permitted to stay in Syria has become shorter and shorter. On his last trip in September 2009 when Jamela was finally permitted to accompany him, they were only authorised to stay for six days.

Many religious pilgrims use these visits as an opportunity to visit their family. The Israeli authorities are in full control of when these visits are to take place and for how long. In 2009 303 students and 524 religious men made the trip to Syria.

85 *Ibid.*



Figure 20: Jamela Nayf Ayoub and Hasan Saaed Ayoub in their home in Majdal Shams, Occupied Syrian Golan. Due to being a devout Druze man, Hasan has been able to regularly visit his family in Syria since 1985. However, he has also had his fair share of failed applications. Jamela has submitted a number of applications to visit Syria, but her request was denied until 2009 when the new regulations were introduced which allowed women over seventy to travel to Syria, pursuant to an application process. (Sourced from Hannah Russell's Archives)

In 2008 women were allowed to cross the ceasefire line for the first time without the need to prove a humanitarian reason for such a visit. At the time it was stated that “accepting women is a privilege for one time only, it is a gift in celebration of the sixtieth anniversary of Israel.”⁸⁶ However, in subsequent years Israel has taken the welcomed move to extend the eligible categories. For the first time, 2009 saw women over seventy years old and non-Druze men over thirty-five years old able to cross the Syrian ceasefire line, subject to a successful application. In

86 *Ibid.*

September 2009 forty-three women and seventeen men who satisfied these categories were permitted to cross into Syria to see their family for a short trip.⁸⁷ Whether the Israeli authorities will continue to facilitate these categories remains to be seen. It is hoped that they will remain and be expanded. Ultimately it is hoped that categorisation will be removed and equal access will be guaranteed.



Figure 21: Hannah Salem Ajamy in her home in Majdal Shams, Occupied Syrian Golan. Hannah hopes to one day have the chance to visit her sister Nifajey in Syria. (Sourced from Hannah Russell's Archives)

Everyone can apply for a permit to Syria at the cost of 160 shekels (\$45) non-refundable tax per application. Nevertheless, generally those people who do not fall within the scope of these categories are prevented from being granted permits.

87 "Druze Cross Into Syria for Pilgrimage", *Jerusalem Post*, 24 September 2009. Available at <http://www.jpost.com/Israel/Article.aspx?id=155894> (Last visited 7 March 2010).

There have been very limited cases of special permits being granted on humanitarian grounds to people who do not fall within the scope of these categories. They have been granted due to the ill-health and imminent death of a parent, death of a close family member, or to obtain medical treatment. Official documents, such as medical notes or a death certificate, must be provided to prove the exceptional circumstances of each case.⁸⁸ In the cases of ill-health or death of a relative, it is Israeli policy that only family member of the first degree will be granted a special permit.⁸⁹ In 2009 the ICRC recorded ten occasions when these special permits were issued.⁹⁰ There are a number of people who fall within these special categories however not all special permit applications are successful and there is no justification given for why some applications succeed over others. These special permits also come with their own sacrifices as one local recalls:

Roeda Nayf Hamd and Walida Nayf Hamd from Hadar, Syria Al-Marsad Affidavit:

The two sisters have applied a number of times to visit Syria, but these were all denied and so they make annual visits to Amman, Jordan. On hearing that their father was dying of cancer the two sisters applied for a special permit to visit him before he died. Normally these applications are denied, however Roeda and Walida's applications were accepted. In November 2009 the two sisters visited their father for one last time.

On their return their father died. Roeda and Walida considered applying to visit Syria for his funeral. When they contacted the Ministry of Interior to enquire about this application they were told that because they had been given special permission to visit Syria only a short time ago that their application to attend their father's funeral would be unsuccessful and therefore a waste of time. Following this advice they did not apply and

88 "140 Applications Were Rejected in Last 10 Days", Baniyas, 10 September 2008. This article is available in Arabic at <http://archive1.baniyas.net/nuke/html/modules.php?name=News&file=print&sid=5025> (Last visited 29 March 2010).

89 *Ibid.*

90 <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/israel-golan-update-020310> (Last visited 3 March 2010).

consequently had to make a choice between seeing their father one last time and attending his funeral.

Roeda spoke of “when I was visiting my father I missed my family here. This is the misery of the current situation, I cannot enjoy the visits that I am given.”

Walida continued “I am sometimes willing the death of a family member so that I can see my family and place where I was born. Or sometimes I am willing to be seventy years old for the same reason. These are terrible things to be wishing.”



Figure 22: Hana Muhamad Aramoon-Shaer from Sweida, Syria in her marital home in ‘Ein Quinyeh, Occupied Syrian Golan in February 2010. She clutches a photo of her brother who died two weeks before this photo of Hana was taken and a photo of her mother who still lives in Syria. Due to the regulations she was unable to attend her brother’s funeral. However, in late March 2010 her application for a special permit to see her mother and her brother’s family in Syria was accepted. (Sourced from Hannah Russell’s Archives)

The application process for a permit to Syria comes with no guarantees of success, even for those who fall within the three eligible categories, it has proven to be a lengthy and for some expensive process. It is very rare for reasons to be given for why an application was rejected, but where they are provided they are generalised and vague. There is no mechanism available to appeal a rejected application; the only available option is for applicants to submit a new application in the hope that they will be granted a permit the next time. Nadia Didsy, a spokesperson for the ICRC explained the unpredictability of the process by using the crossing of September 2009 as an example:

Nadia Didsy from the ICRC

Extract from “Druze Cross into Syrian for Pilgrimage”, *Jerusalem Post*, 24 September 2009:

“There was an initial list of 495 male elders and religious leaders, which had been approved by the Israeli government and which was transferred to the Syrian Interior Ministry through our office in Damascus. While that list was also approved by the Syrians, we received an additional list two days ago that included 43 women and 17 more men, which the Israeli government had also approved. That list was again transferred to the Syrian authorities, who replied that it had been received with ‘too short notice’, and that they could not take the additional measures for their passage. However, in the end, we were able to secure the approval for those pilgrims as well, and everyone crossed over this morning.”

Some locals told of their experience regarding the application process for visits to Syria:

Moustafa Kasim Mahmoud and Samiea Thoukan Mahmoud from Majdal Shams, Occupied Syrian Golan

Al-Marsad Affidavit:

Husband and wife, Moustafa and Samiea, have five children. They are separated from their two sons Nabil and Walid. Nabil left Majdal Shams

in 1985 after he escaped to Damascus, Syria from the Israeli police. He was on trial for demonstrating against the occupation. Nabil currently lives in Damascus with his Syrian wife, two sons and two daughters. Walid left Majdal Shams in 1987 under similar circumstances to Nabil. He lived in Damascus, Syria with his wife from Majdal Shams and their three sons and one daughter until his death in February 2009.

The first time the family met after Nabil and Walid moved to Damascus was in 1998 in Amman, Jordan. Since then Moustafa has visited Damascus ten times. He described how “the first five applications to visit were accepted straight away. In 2003 my applications were refused. In 2004 they were accepted. In 2005 and 2006 my applications were refused. Between 2007 and 2009 they were accepted.” Samiea despite making many applications was not permitted to visit Damascus until September 2009 when Samiea and Moustafa attended the wedding of their grandson.

When explaining why their daughter Amal Moustafa Mahmoud had not applied to visit Syria, they stated “she is not crazy. She has was involved in demonstrations and served time in prison. She is also too young at forty-nine years old. We believe that she has no chance of her application being successful.”

Moustafa explained “the application for a permit to visit Syria is put into the Ministry of Interior. Applicants have to pay a non-refundable tax of 160 shekels (\$45) with no guarantee that their application will be successful. When an application is unsuccessful no explanations are given for why it was rejected.”

In Moustafa’s first five years of visiting Syria there was no limit on how long he stayed. He was able to stay ten days at a time. Moustafa stated that the permits are now limited to six days, including the time it takes to travel. He emphasised that if those with permits do not adhere to the timetable set by the authority for the visit, the individuals will be punished by being banned from being granted a permit for three years.

Moustafa and Samiea find the application process very expensive, especially when they have no guarantees that their applications will be successful or any indication as to why their applications are successful or not.

As many locals affirm, there is no justification for the inconsistent and discriminatory nature of the application process for permits to Syria. The only justification that the Israeli authorities have given is ‘security reasons’ a vague term that is bandied around without any clarification. For example, what makes women under seventy any more of a security threat than students or women over seventy; or what makes religious men any less of a security threat than non-religious men?

**Jamela Nayf Ayoub from Majdal Shams, Occupied Syrian Golan
Al-Marsad Affidavit:**

Jamela and her husband, Hasan have made a number of applications to visit their son Ezat in Syria. When Hasan applies on his own he is usually granted permission as he is a religious Druze man. However, when they place applications together their applications are denied. As one letter from the Israeli authorities in response to an application made by Jamela indicated “she did not make meet the criteria set out for religious visits.” The implication of this response is that Jamela was denied a permit to visit Syria in the past because she was a woman.

Now that she is eighty-one and following the introduction of the new criteria allowing woman over seventy years of age, Jamela made her first visit to Damascus, Syria to visit Ezat in 2009.

**Alham Mahmoud Hassan from Bukata, Occupied Syrian Golan
Al-Marsad Affidavit:**

“If the Israeli authorities can accept permission for religious men then this should include religious women.”

Nasiba Fares Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

“Women have as much right to visit Syria as students and religious men... it is a basic human thing to be able to see loved ones.”



Figure 23: A copy of a letter informing Jamela Nayf Ayoub her application to visit Syria for religious reasons in 2009 was denied. Following a later application in the same year Jamela received a permit allowing her to make her first visit to Syria. She has been waiting forty-three years to be able to do so. (Sourced from Jamela Nayf Ayoub’s Archives)

There is also the issue that once a year for the last five years Golan apples have been permitted to cross the Syrian ceasefire line. In 2010 10,000 tons of apples were transported to Syria over two months.



Figure 24: 2 March 2010, Qanytra Checkpoint in the Occupied Syrian Golan. An ICRC truck loaded with Golan apples about to cross from Israel Occupied Territory, into the DMZ, to then continue its journey into Syria. (Sourced from Hannah Russell's Archives)

According to the ICRC “apple exports give the local economy a major boost. They also provide an important economic and humanitarian link between Syrian Arab farmers in the Golan and markets elsewhere in Syria.”⁹¹ This process is a circus in itself with the apples having to move trucks three

91 *Ibid.*

times, from Golan to Red Cross to Syrian, all within a few yards due to 'security issues'. Consequently, the process takes two months. However, it is a step forward and illustrates some progress in relations between Israel and Syria. It also raises the issue of why apples are given permits to cross the ceasefire line and yet people who simply want to see their family are not. These people cause as little a security risk as apples. The authorities have found a way of working around any security issue that they have had with apples crossing the ceasefire line, why can the same not be done for separated families?

Walida Nayf Hamd from Hadar, Syria
Al-Marsad Affidavit:

Walida finds the permit process for visiting Syria "selective and unjust." She raised the issue that "if they allow apples, students and religious people it shows that it is easy to open the checkpoint, but to have the right to visit my family I have to be an apple. Why are only women denied? I would be willing to discuss this with the authorities and try to come to some agreement. We have a right to visit Syria. I will steadily demand this right until my last breath. This will be my demand during my last breath."

This question is particularly important now that it has been exposed that out of all of those who apply for family reunification only 8% are rejected on security grounds.⁹² It should be noted that family reunification is only one component of the issue of family separation. However, this statistic illustrates Israel's overuse and abuse of the term 'security reasons' as a form of justification for their illegal actions and policies. For the amount that 'security reasons' are used as an excuse for rejecting a family reunification application or refusing to grant a permit for visiting Syria, these figures do not add up. An even more troubling revelation in relation to family reunification applications is that the Israeli authorities have been forced to

92 H.C. 7052/03, *Adalah, et. al., v. Minister of Interior, et. al*

admit that the majority of applicants who apply are not a security risk. The Attorney General's justification for such measures is that there is no way to decipher who is a security risk and who is not.⁹³ The Israeli authorities' attempt to justify such measures is unsatisfactory. To condemn a whole population based on paranoia and suspicion of the minority is unjust, discriminatory and amounts to grave violations of international human rights and humanitarian law.

2.2.7 Visiting Abroad

Due to the discriminative and inconsistent policies surrounding visits to Syria many families have been forced to seek other alternatives for visiting the loved ones who they have become separated from due to the occupation. The most popular alternative is for families to visit Amman, Jordan. However, these visits are very expensive and are never long enough. Some locals gave their opinions of visiting Amman, Jordan:

Moustafa Kasim Mahmoud from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

Moustafa was reunited with his family for the first time in Jordan in 1998. When speaking about this experience he explained that an advanced visa is required to visit Jordan. He feels that "visiting Jordan is not perfect as it is very expensive and there is always the risk that even with a visa you will be denied access at the border for 'security reasons'."

Nasiba Fares Ayoub from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

Nasiba is married with four sons, four daughters and twenty-two grandchildren. She has four sisters. After the 1967 occupation Nasiba became separated

⁹³ H.C. 830/07, *Adalah v. The Minister of the Interior, et al*

from her sister, Ward Elsham who moved to Damascus, Syria. She was also separated from her husband for two years as he was serving in the Syrian army. He returned in 1969. She chose not to follow him because she had two young children at the time and her family support was in Majdal Shams.

Ward Elsham still lives in Damascus. She is married with six sons and two daughters. Until 1995 Nasiba had no contact with Ward Elsham, except for a brief meeting with Ward Elsham's husband and son in the visiting tent in the late 1970s. Since 1995 Nasiba has visited Ward Elsham in Jordan three times.

The first time Nasiba visited Ward Elsham in Amman, Jordan was in 2003. On the second day of the visit Nasiba's husband rang to say that their other sister, Salma had died. They were unable to delay Salma's funeral and so Nasiba and Ward Elsham finished their visit in Amman. They stayed for a further four days and mourned their sister. Due to the restrictions on visiting her family in Syria Nasiba missed the death and funeral of her sister.

Their other sister is suffering from Alzheimer's and even though she joined her sisters in Amman, Jordan in 2005 she did not recognise Ward Elsham or enjoy the trip. If she had the chance to visit Ward Elsham before and often this may not have been the case.

Nasiba's last visit to Jordan cost approximately \$6000. She feels "Jordan is very expensive. I am lucky that my family can afford it, other families are not so lucky."

Alham Mahmoud Hassan and Ahlam Mahmoud Hassan from Shahba, Syria

Al-Marsad Affidavit:

Two sisters, Alham and Ahlam, try to visit their family from Syria every two years in Amman, Jordan. For the last five years before his death, their father was unable to visit Jordan due to his poor health.

Alham says that “visiting Jordan adds more sorrow. You have to save for two years and spend all the money you have saved on that one visit.”

Ahlam has mixed feelings about visiting Jordan. “I enjoy seeing my family, but it is harder to deal with the separation after every visit. I miss my family more the distance feels greater after every visit.”

Jamela Nayf Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Jamela is married with three sons and one daughter. Her daughter died shortly after birth. Jamela and her family moved from Majdal Shams to Damascus, Syria in 1960. In 1970 following a successful family reunification application Jamela, her husband and two of her sons returned to Majdal Shams. Her eldest son, Ezat remained in Damascus. He was in the Syrian army at the time. He is now a retired teacher married to a Syrian woman with four sons, one daughter and one grandson.

Jamela’s husband, Hasan has had the opportunity to visit Ezat in Damascus every year since 1985 under the guise of religious reasons. Despite years of submitting applications Jamela has only recently been given permission to visit Damascus. She was even denied permission to visit Ezat after his first heart attack in 1995, while Hasan was allowed to visit and stay with Ezat for two months. In 2009 at the age of eighty-one she was granted permit to visit her son in Syria. Before this Jamela had only met Ezat a handful of times. In the late 1970s she was granted permission to visit the visiting tent and in 1999 she received a visa to visit Amman, Jordan.

During her visit to Jordan in 1999 one of her other sons, Faiez died. As a result Jamela had to cut short her visit to return home in time for Faiez’s funeral. Ezat was not permitted to accompany her and attend his brother’s funeral.

Speaking of this experience Jamela says “I lost my visit with Ezat and I lost my other son, Faiez at the same time. It is emotionally very hard to deal with that.”

Visiting Jordan is not an option available to everyone. This option has been made even more unattainable for some people due to the introduction of new regulations by the Jordanian authorities for Syrians from the Occupied Golan. These new regulations have made the process even more expensive and difficult. Some locals explain what the new regulations entail and how they have impacted their visits to Jordan:

Sameeh Hasan Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Sameeh’s eldest brother Ezat lives in Damascus, Syria with his family. Sameeh is forbidden from meeting Ezat in either Syria or Jordan because he served time in prison for ‘security reasons’ during the late 1970s. Every year Sameeh appeals to the Israeli courts to allow him to visit his brother in Jordan, but to this date he has always been forbidden. The reasoning the judge has given is that wanting to visit Jordan to see his brother is not a sufficient reason to allow him entry to Jordan.

Sameeh went on to describe how the new regulations for those wishing to visit Jordan from the Golan have made the visits more expensive and difficult for his family. “It is very expensive to visit Jordan and the military experience at the checkpoint can be very distressing.” It is especially distressing when Sameeh is prohibited from continuing into Jordan with his family.

Sameeh continued, “Before the new regulations it cost \$5000 for my family to visit Jordan for just a few days. I earn only \$1000 per month and that is to feed my family and pay the bills. Now that the restrictions for visiting Jordan are tougher it increases the cost. You must have a hotel booked

for the duration of your stay and must travel through a travel agency. One room costs \$120 per night and to accommodate my family three rooms must be booked.”

Ibrahim Shehada Nasralla from Majdal Shams, Occupied Syrian Golan

Al-Marsad Affidavit:

Ibrahim is part of the biggest separated family in the Occupied Golan. Not including children Ibrahim has forty-one relatives based in Syria. Ibrahim has been permitted to Damascus, Syria three times - for his son's funeral, for a cousin's funeral and for a general family visit. Each of these visits was very short and his wife was only permitted on the visit for a cousin's funeral. The family try to meet up once a year in Amman, Jordan. These visits last between five days and one week. Due to the size of their family, the family in Syria usually rotate when they join the visit in Jordan. During their last visit in February 2010 twenty-one family members came from Syria.

Ibrahim described the expense of having to visit Jordan to see your family:

“To meet in Amman is very expensive. For example, on our last visit I took \$5000 and came back without any spare change. This was not due to me spending excessively; I have to be careful with the money I take and make sure it lasts the visit. We have to stay in a hostel because we cannot afford to stay in a hotel. It takes all the money that we can conserve to pay for each visit. We arrange credit with the travel agent which we pay back monthly.”

In relation to the new regulations Ibrahim stated:

“We hoped that the new regulations would make the trip easier, but it has made it more difficult and more expensive. Before the regulations a taxi cost 30 dinars (\$45), but now it costs 85 dinars (\$120). The hostel prices have also increased by 20%. Also due to the new regulations which

demand that at least five people travel together, in order to be permitted to Jordan we have to travel with another family in the village. On our last visit in February 2010 the other family chose to travel in the snow and even though we would not have chosen to travel at this time we had to or neither could visit Jordan.”

Those that have been unable to visit Jordan have opted to meet their family elsewhere. This alternative route comes with many complications including expense and visa issues as some locals explain:

Saleh Salman Mdah from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Saleh became separated from his sister Samiea during the 1967 occupation. Aside from visiting each other at the Valley of Tears Saleh did not see Samiea until 1987. Samiea’s son Zied was studying in Poland. The two families arranged it that they visit Ziad at the same time.

Saleh, his wife and younger brother Hamad travelled to Germany with the intention of crossing over into Poland. However, there was a delay with their Polish visas and they spent the first seven days of their journey touring Germany while waiting for their visas to come through. Yet after this time Saleh was informed that their Polish visas were denied. As a result Samiea and her husband travelled to Germany to meet Saleh.

Speaking about the expense of trip Saleh said “It was costing more than 700 German marks (\$485) per day to live the way we were in Germany. That was too expensive so we all moved to a hostel and spent ten days together.”

Salman Faris Ibraheem from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

Salman has two brothers, Ghalib and Azat based in Syria. Ghalib is the eldest at seventy-one years old and is married with four sons. Azat is sixty-two years old and married with two daughters and one son. Salman also has two sons studying in Damascus, Syria.

Salman visited his brothers in the visiting tent in 1977 when he was a child. He has never visited Syria, but his mother and two younger sisters have been permitted to visit Syria one time each during the late 1980s and early 1990s. No member of Salman's family has been permitted to visit Syria since 1993. Consequently, Salman's family have been forced to visit each other in either Jordan or further afield.

Salman's family have tried to visit each other every two years in Amman, Jordan since 2000. Before these regular trips took place Salman's family from the Golan and Syria travelled to Turkey to meet up in 1996. This was the first time Salman had physically seen his family in Syria as an adult. The family booked their trip through a tourist agency which removed some of stress over gaining visas to Turkey but increased the expense. The trip to Turkey lasted for ten days and cost \$8000 for just Salman and his wife. For Salman that is the equivalent of two or three years of savings.

Salman also spoke of experiencing excessive interrogation upon returning to Israel from Turkey. This discriminative treatment is typical for Syrians from the Golan who are travelling due to their 'undefined nationality' status.

2.2.8 Summary



Figure 25: Qunaytra Checkpoint in the Occupied Syrian Golan. Family members wait anxiously for the return of their relatives from Syria as an Israeli soldier looks on. Is this really how families who simply want to see each other should be treated? (Sourced from Hannah Russell's Archives)

A number of welcomed measures have been taken over the last twenty years in relation to families gaining access to Syria. However, this process remains discriminatory, inconsistent, unpredictable and ultimately unsatisfactory. Putting aside the emotional turmoil and torture that such regulations and policies are putting families through on a daily basis, this process is causing gross violations of international human rights and humanitarian law. These violations and the best ways to remedy and prevent similar violations in the future will be explored in the next sections of this report.

Section 3: **Family Separation – A Violation of International Law**

3.1 International Humanitarian Law

As discussed in the first section of this report, the laws and policies that Israel has enacted to facilitate its purported annexation and illegal occupation of the Golan have caused grave violations of international humanitarian law. The forced displacement of natives of the Golan, expropriation of their lands, and the creation and expansion of illegal Jewish settlements have all amounted to gross violations of The Hague Regulations 1907⁹⁴ and Geneva Convention IV 1949.⁹⁵

In relation to family separation specifically, Israel is guilty of violating Article 46 of The Hague Regulations 1907 which emphasises the duty of Occupying Powers to respect an individual's right to family and property, and Article 49(2) of Geneva Convention IV which protects against permanent displacement.

The illegal actions and policies which have been unashamedly adopted by the Israeli authorities have exacerbated the issue of family separation in many ways. In addition to violating international humanitarian law and leaving families having to deal with the emotional and practical impacts of separation, Israel's treatment of the issue of family separation also triggers a number of active and consistent violations of human rights.

94 Articles 46 and 55 of The Hague Regulations, 1907.

95 Articles 27, 47 and 49 of Geneva Convention IV: Relative to the Protection of Civilian Persons in the Time of War, 1949.



Figure 26: Valley of Tears, March 2010. A woman from Majdal Shams, Occupied Syrian Golan becomes very upset while watching her family on the Syrian side of the Valley. (Sourced from Hannah Russell's Archives)

3.2 Human Rights

“Human rights are separate from conflict between two states... they should always be protected, no matter what.”⁹⁶

Israel has committed itself to a number of human rights instruments. By signing up to the Barcelona Declaration Israel undertook to “act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law.”⁹⁷ In addition, Israel has ratified the International Covenant on Civil and Political Rights (ICCPR),⁹⁸ the International Covenant on Economic, Social and Cultural Rights (ICESC),⁹⁹ the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),¹⁰⁰ Convention on the Elimination of All Forms of Racial Discrimination (CERD),¹⁰¹ and the Convention on the Rights of the Child (CRC).¹⁰² Though Israel has

96 Quote taken from an interview with Nahie Saeed Saab as conducted by Al-Marsad, Arab Centre for Human Rights in the Golan Heights on 3 February 2010.

97 Barcelona Declaration, 1995.

98 Israel signed the ICCPR in 1991 and ratified this Covenant in 1996. It did so with a reservation about Article 23 of the ICCPR which deals with family rights. Israel stated that “matters of personal status are governed in Israel by the religious law of the parties concerned. To the extent that such law is inconsistent with its obligations under the ICCPR, Israel reserves the right to apply that law.”

99 Israel signed the ICESC in 1991 and ratified this Covenant in 1996.

100 Israel signed the CEDAW in 1980 and ratified this Covenant in 1991. It did so with reservations about Articles 7(b) and 16. Article 7(b) of the CEDAW deals with gender equality in the formulation and implementation of policy, including holding public office and performing functions at all levels of government. The reservation states that “other than in the area of religious courts, the article has been fully implemented in Israel, and that the reservation concerns the inadmissibility of appointing women judges in religious courts where this is prohibited by the communal laws applicable to a particular community.” Article 16 of the CEDAW relates to gender equality in family law. Israel’s reservation for Article 16 stated “to the extent that the laws on personal status which are binding on the various religious communities in Israel do not conform to the provisions of that article.”

101 Israel signed the CERD in 1966 and ratified the Convention in 1979. Israel does not consider itself bound by Article 22 of the CERD which provides “any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.”

102 Israel signed the CRC in 1990 and ratified it in 1991 without reservations.

maintained reservations about some of the articles contained within these human rights instruments, it has signed up to and thus is obliged to honour and protect the human rights set out in these documents. In theory, Israel has shown its commitment to the protection of human rights through integrating human rights into its domestic laws under the Basic Law: Human Dignity and Liberty, 1992. Yet Israel has forfeited on its duties under domestic and international laws. Israel's actions with regard to the Golan have amounted to grave violations of human rights, especially where displacement and the separation of families is concerned. The violations concerning family separation that have been brought about due to Israel's illegal occupation of and discriminatory policies towards the indigenous Syrian population of the Occupied Golan will now be discussed in-depth.

3.2.1 Derogation from Human Rights

By nature human rights are interdependent, indivisible and inalienable which means that States should refrain from being selective and strive to respect, protect and implement every one of its human rights obligations. Israel has failed to fulfil its duty in this respect through consistently violating a number of the indigenous population's human rights since 1967. Israel claims that the justification for doing so is an issue of national security. However, there is no evidence to show that the Syrian population, who are simply trying to get on with their lives and express the human rights that they are entitled to, extend a risk to Israel's national security. Furthermore, there is no evidence to show that the indigenous population of the Golan pose more of a security risk than Palestinians. Natives of the Golan have opted for the peaceful route with strikes, protests and boycotts in their opposition towards the occupation, while a minority of Palestinians persist with an armed struggle. Nevertheless, Palestinians are given more freedom of movement than natives of the Golan. Palestinians are allowed to travel to any Arab country, including Syria. Assessing Israel's security argument at a basic level, Palestinians pose more of a threat than Syrians from the Golan and yet they are given more freedom. This is not

calling on Palestinians' rights to be limited further or to be limited at all, Al-Marsad supports the full vindication of everyone's human rights, but it highlights how Israel's 'security' argument for limiting the rights of Syrians is inconsistent, disproportionate, weak and unjustified.

Where derogation of human rights is concerned, generally human rights are non-derogable under any circumstances, as Article 5 of the ICESCR sets out:

- (1) Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
- (2) No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

However, under Article 4(1) of the ICCPR the exception of "public emergency which threatens the life of the nation and the existence of which is officially proclaimed" has been introduced allowing State Parties to "take measures derogating from their obligations... to the extent strictly required by the exigencies of the situation." Yet this provision is only justified in very limited circumstances. In order for this provision to be applied such measures should not be "inconsistent with the [State Parties'] other obligations under international law" and the measures must "not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin." In relation to the issue of separated families the Occupied Golan has not been officially proclaimed as in a state of "public emergency that threatens the life of the nation," nor has Israel been able to prove that the separation of these families is "strictly required by the exigencies of the situation." The issue of separated families is one which affects the

Syrian population and given the fact that a state of public emergency has not been declared and that these people are simply seeking free access to their families without any ulterior political motive, the separation of these families is unnecessary and discriminatory. Therefore, it does not satisfy the exceptions set out in Article 4(1) of the ICCPR and as a result is disproportionate and “inconsistent with the [State Parties’] other obligations under international law” and as set out in Article 5 of the ICESCR, is illegal.

3.2.2 Rights to Equality and Non-Discrimination

According to Weil “equality is the public recognition, effectively expressed in institutions and manners, of the principle that an equal degree of attention is due to the needs of all human beings.”¹⁰³ However, the discriminatory and unjust policies towards the Syrians of the Golan show that the Israeli authorities have failed to vindicate the rights to equality and non-discrimination.

The rights to equality and non-discrimination “are fundamental norms of international human rights law.”¹⁰⁴ The principles proclaimed in the United Nations Charter recognise the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. These principles have been reflected in a number of human rights instruments to which Israel is committed to. Article 1 of the UDHR proclaims “all persons are born free and equal in dignity and rights.” Article 26 of the ICCPR recognises the right to non-discrimination as an autonomous human right and the correlative obligation of States to realise this right. According to the Equal Rights Trust, “the right to non-discrimination is a free-standing, fundamental right,

103 Simone Weil, “Draft for a Statement of Human Obligation: Profession of Faith”, 1943. Available at <http://www.pbs.org/wgbh/questionofgod/voices/weil.html> (Last visited 17 March 2010).

104 The Equal Rights Trust, “Declaration of Principles on Equality”, 2008, at 1. Available at <http://www.equalrightstrust.org/ertdocumentbank/Pages%20from%20Declaration%20perfect%20principle.pdf> (Last visited 17 March 2010).

subsumed in the right to equality.” In a bid to emphasise the importance of non-discrimination in guaranteeing the right to equality a number of human rights instruments dealing specifically with non-discrimination have been incorporated into international law. These include the CEDAW and CERD. These set out the right to non-discrimination as the prohibition of discrimination where it is based on

the grounds of race, colour, ethnicity, descent, sex, pregnancy, maternity, civil, family or carer status, language, religion or belief, political or other opinion, birth, national or social origin, nationality, economic status, association with a national minority, sexual orientation, gender identity, age, disability, health status, genetic or other predisposition toward illness or a combination of any of these grounds, or on the basis of characteristics associated with any of these grounds.¹⁰⁵

Israel is a party to all of the human rights agreements that have been mentioned in relation to the right to equality and the right to freedom from discrimination. As a result Israel’s state actors and non-state actors are compelled to vindicate the rights held therein. To be effective the right to equality and the right to non-discrimination require positive action. This positive action includes a range of legislative, administrative and policy measures to overcome past disadvantage and to accelerate progress towards equality.¹⁰⁶ Israel believes that it delivers these requirements and has given the enactment of the Basic Law: Human Dignity and Liberty 1992 as one example. The Israeli courts have also been vocal in pledging commitment to the right to equality and right to non-discrimination.¹⁰⁷ However, for a State to fulfil its obligations set out in human rights law

105 *Ibid.*

106 *Ibid.*

107 HCJ 11163/03, *The High Follow-up Committee for the Arab Citizens in Israel et. al. v. The Prime Minister of Israel*; HCJ 4112/99 *Adalah and the Association for Civil Rights in Israel v. The Municipalities of Tel-Aviv, et. al.*; H.C.J 1113/99 *Adalah, et. al. v. The Minister of Religious Affairs, et. al.*

it must do more than commit itself on paper, it must implement these obligations in practice. It is Israel's failure to fulfil the latter requirement that has caused the Committee on Economic, Social and Cultural Rights to conclude that Israel's "domestic legal order does not enshrine the general principles of equality and non-discrimination."¹⁰⁸

Since Israel's occupation of the Golan its range of legislative, administrative and policy measures have strengthened and expanded past disadvantage and accelerated progress towards inequality. Israel's enforcement of 'undefined' nationality, expropriation of land, permanent displacement of Syrians of the Golan, unjust visitation applications, subjecting Arabs to a lack of housing access and higher unemployment rates, and implementation of the Nationality and Entry into Israel Law (Amendment No 2) 2007 are just some examples of Israel's disregard for the right to equality and right to non-discrimination.

In relation to the issue of family separation which the Syrians of the Golan are subject to, Israel's violations of the right to equality and the right to non-discrimination is particularly evident. Non-Arabs based within Israel and the Occupied Territories are given the freedom to marry who they want, live where they want and visit who they want with very little restrictions. Under the same circumstances this freedom does not exist for those of Arab descent, which consequently amounts to discrimination based on many of the grounds illustrated above. The Nationality and Entry into Israel Law (Amendment No 2) 2007 has removed the freedom for Arabs, Palestinians and nationals of Israel's enemy states to marry who they want and has prohibited families separated by Israel's occupation from being reunited. The few policies Israel has introduced enabling some individuals to briefly visit family in Syria are discriminatory on the basis of age, gender and religion. For example, religious Druze men are eligible to be granted a permit while non-religious Druze men under 35 or women under 70 are

108 Committee on Economic, Social and Cultural Rights, "Report on Thirtieth and Thirty-First Sessions: Annual Report 2004", E/2004/22 and E/C.12/2003/14, at 46.

not. It is emphasised that even those who fall within the eligible categories are exposed to a discriminatory and inconsistent process and are not guaranteed a permit. Despite thousands of applications being submitted per year, from both those who satisfy the eligibility requirements and those seeking a special permit, only a small number are granted passage. For example, less than one thousand Syrians made the journey in 2009.¹⁰⁹

Locals are particularly effected by and angry about gender discrimination in relation to the application process. Why is the age limit for men half that for women and why are religious women not given the same consideration as religious men? Many feel that women are specific targets of Israel's discriminatory laws and are being exposed to a violation of their rights under CEDAW. In particular, Article 2(d), "to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation" and Article 2(f), "to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."

109 <http://www.icrc.org/web/eng/siteeng0.nsf/html/israel-golan-update-020310> (Last visited 3 April 2010).



Figure 27: Mother, Hendeya Muhamed Khatteb and daughter, Najah Faris Khatteb from 'Ein Qinyeh, Occupied Syrian Golan. Hendeya has only been permitted to visit Syria once to attend her son's funeral. She believes she is being discriminated against because she is a woman. In order to see her family she has to travel to Jordan. Hendeya has ailing health and all that she wishes is to see her family from Syria one more time before she dies. She fears that this may not happen. (Sourced from Hannah Russell's Archives)

3.2.3 Right to Self-Determination

The right to self-determination is a fundamental principle of international law. It is regarded as *jus cogens* – a peremptory norm of international law. Consequently, it can only be modified by a subsequent norm of international law of the same nature.¹¹⁰ Under common Article 1 of the ICCPR and ICESCR “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” The International Court of Justice has endorsed the right to self-determination recognising it as “the need to pay regard to the freely expressed will of peoples.”¹¹¹ The right to self-determination is particularly important for indigenous peoples because for them it is a guarantee that they will be treated like everyone else.¹¹²

Indigenous peoples have been defined as:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.¹¹³

110 Article 53, Vienna Convention on Law of Treaties, 1969.

111 Advisory Opinion on Western Sahara, International Court of Justice Reports, 1975.

112 International Work Group for Indigenous Affairs, “Self-Determination” (2001) 3 *Indigenous Affairs* 1, at 4.

113 E/CN.4/Sub.2/1982/2/Add.6, Special Rapporteur José Martínez Cobo, “Study of the Problem of Discrimination Against Indigenous Populations”, 20 June 1982.

Some additional factors which help to establish who falls within the scope of being defined as an indigenous people are:

1. Occupation of ancestral lands, or at least part of them;
2. Common ancestry with the original occupants of these lands;
3. Culture in general, or in specific manifestations;
4. Language;
5. Residence in certain parts of the country, or in certain regions of the world;
6. Other relevant factors.¹¹⁴

The 153,000 that lived in the Golan before Israel's occupation of the region in 1967 and their descendants satisfy these criteria and have as a result been referred to as the indigenous population of the Occupied Golan throughout this report.

In relation to whether the Syrians of the Golan have reaped the benefits of the non-derogable right of self-determination, the answer is no. Due to the oppressive and discriminative Israeli policies towards these indigenous peoples, their right to self-determination is constantly under threat or being actively violated. In particular, the declaration of those from the Golan who have rejected Israeli nationality as 'undefined' is a calculated violation of the right to self-determination. It infringes the very core of this right by not permitting the Syrians to officially declare their national heritage. The implication is that Israel is trying to force the indigenous population into submission in a bid to annex the Golan with Israel. Whatever the motive, this particular policy is unjustifiable, degrading and is nothing more than a grave violation of the right to self-determination.

Where the issue of family separation is concerned the Syrians are either prohibited or severely restricted in terms of maintaining connections with their homeland or relatives. Thousands have been permanently and forcibly displaced from their homes. In addition, their land has been expropriated

¹¹⁴ *Ibid.*

and given to approximately 20,000 Jewish settlers who have entered the territory illegally. These are not the actions of a State that upholds and respects the essence of international law. Instead these are actions which intentionally discriminate against an indigenous population and erode the indigenous peoples' right to self-determination.

3.2.4 Right to Culture

The right to culture is about the celebration and protection of creativity and traditions. It is the right of an individual to enjoy culture and to advance culture and science without interference from the State.¹¹⁵ This right is made up of a number of components; the one most relevant to the situation of family separation is the right to take part in cultural life. This right is protected under Article 27(1) of the UDHR and Article 15(1) of the ICESCR. The majority of the natives of the Golan view themselves as Syrian Arabs. Through Israel's oppressive policies including creating a status of 'undefined nationality' and endorsing a process of family separation this right is under threat. With the existence of regulations which restrict the Golan natives' freedom of movement many are unable to exercise their right to culture. The ability to freely visit your native country and to build a relationship with family assists in a person's celebration and development of their culture. Yet under the current regime many are prevented from openly and freely asserting this right. The importance of allowing individuals to freely express their right to culture was stressed by a number of interviewees:

Alham Mahmoud Hassan from Shahba, Syria
Al-Marsad Affidavit:

"To visit Syria is not just about visiting your family, it is about going back to your roots and remaining connected to your childhood."

115 Asmita Naik, "Right to Culture" (Human Rights Education Associates, 2003). Available at http://www.hrea.org/index.php?base_id=157 (Last visited 23 March 2010).

Saleh Salman Mdah from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

“To allow unrestricted access to Syria would improve family contacts and the nation’s contacts, especially for the new generation.”

Atef Saaed Sah’lan from Ain Kinia, Occupied Syrian Golan AI-Marsad Affidavit:

“All people on this land [the Golan], except illegal Jewish settlers are Syrians. We all have relations in Syria – personal, religious, social and natural. These need to be realised. If we ignore our history, we will lose our future.”

There are the few who fall within the categories of those eligible to travel to Syria, however, even the eligible are not guaranteed and the selectivity of who can and cannot cross the ceasefire line has proven to be unjustified and disproportionate.

3.2.5 Right to Nationality

Under Article 15 of the UDHR:

- (1) Everyone has the right to nationality
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

During the 1982 strike the Syrians of the Golan opted to reject Israeli nationality and to retain their Syrian nationality. However, instead of accepting their Syrian nationality the Israeli authorities opted to classify these people as of ‘undefined nationality’. This is a blatant violation of Article 15(2) of the UDHR and has resulted in a number of other human rights violations including right to equality, right to non-discrimination, and right to freedom of movement.

The right to nationality is closely linked with the right to culture and right to self-determination. Through rejecting the Syrian nationality of the natives of the Golan people lose part of their identity and sense of belonging which makes the situation of family separation even harder. There is no justification for Israel's denial of the right to nationality for the Golan people, yet the Israeli authorities continue to actively violate this right and do so in a discriminatory and disproportionate way.



Figure 28: Valley of Tears on 14 February 2010. A group of boys from Majdal Shams, Occupied Syrian Golan celebrate their Syrian heritage with their counterparts on the Syrian side of the Valley. (Sourced from Hannah Russell's Archives)

3.2.6 Freedom of Movement

The UNHRC established that “freedom of movement is an indispensable condition for the free development of a person.”¹¹⁶ The right to freedom of movement, which covers the right to travel, is a widely protected right. This right was introduced by Article 13 of the UDHR.¹¹⁷ Article 12 of the ICCPR more extensively protects this right by setting out:

- (1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
- (2) Everyone shall be free to leave any country, including his own.
- (4) No one shall be arbitrarily deprived of the right to enter his own country.

This right applies to citizens, legal aliens, and residents. It has been established by the United Nations Human Rights Committee (UNHRC) that this right covers the right to obtain necessary travel documents.¹¹⁸ Article 12(3) does provide for some exceptional circumstances where this right may be suspended:

The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

However, the UNHRC clearly state that “the permissible limitations which may be imposed... must not nullify the principle of liberty of movement, and are governed by the requirement of necessity... and by the need for consistency with the other rights recognised in the Covenant.”¹¹⁹

116 UNHRC, “General Comment No 27: Freedom of Movement”, 2nd November 1999, at para 1.

117 “(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.”

118 UNHRC, “General Comment No 27: Freedom of Movement”, 2nd November 1999.

119 *Ibid*, at para 2.

Consequently, the limitations must be governed by the principle of proportionality.¹²⁰ Yet Israeli policies and laws are far from proportionate and have resulted in the issue of family separation becoming a constant source of heartbreak and anguish for the indigenous people of the Golan.

Israel's policies and laws discriminate on the basis of age, religion, ethnicity and gender. Israel has a tendency to indefinitely prolong originally temporary laws which facilitate these policies, for example the Nationality and Entry into Israel Law (Amendment No 2) 2007 is now in its third year. This has caused family members of Arab descent to face the prospect of permanent curtailment of their freedom of movement and permanent separation from their family based in the Occupied Golan. One local summarised the impact that this curtailment has on the people of the Golan and their families:

**Jamil Saleh Abu Saleh from Majdal Shams, Occupied Syrian Golan
Al-Marsad Affidavit:**

"We are now in the 21st century, everyone else has the right to travel. It is very hard and harsh for Israel to keep us locked in a big jail like this. It is our right to be able to see our family."

There is a clause within the 2007 law which confers the power to issue special permits on to the Minister for the Interior. However, through analysing the inconsistent approach towards special permits for visits to Syria, even with this option, the 2007 law is a disproportionate curtailment of the right to freedom of movement.

120 *Ibid*, at para 14.



Figure 29: Qunaytra Border, Occupied Syrian Golan. Laws, regulations, soldiers, fences and landmines stand in the way of the freedom of movement of the natives of the Golan. (Sourced from Hannah Russell's Archives)

Furthermore, the issuing of Israeli Laissez-Passers stating 'undefined' nationality has resulted in unjustified scrutiny and at times refusal of passage for their possessors. Only 'religious Druze men', 'non-religious men over 35', 'women over 70', 'students' and 'apples' are permitted to cross the Syrian ceasefire line. Even those who fall into these categories are not guaranteed a permit and are subjected to a discriminatory and selective application process. Israel's justification for such policies is that this group poses a security risk. However, the case *Adalah, et. al v Minister of Interior et. al* exemplifies Israel's tendency to an unjustifiable 'better safe than sorry' approach.¹²¹ Consequently, Israel's treatment of the natives

121 H.C. 7052/03, *Adalah, et. al v Minister of Interior et. al*.

of the Occupied Golan has caused them to either be completely denied their right to freedom of movement or to have this right disproportionately curtailed. Thus Israel's introduction and continuation of such policies have caused a grave violation of the right to freedom of movement.

3.2.7 Right to Family

The family is “the fundamental and natural unit of society and requires the full protection of the State.”¹²² The right to family is protected under Article 16 of the UDHR, Article 10 of the ICESCR, Article 23 of the ICCPR, and Articles 10 and 22 of the CRC. The right to family can be split into six different categories, each of which requires the full protection of the State:

1. Right to marry and found a family
2. Equal rights of men and women in the family
3. Right to give full and free consent to marriage
4. Right to family planning
5. Rights of children to parental care
6. Right to family reunification¹²³

In relation to separated families two of these unenumerated rights apply.

Right to marry and found a family

Weddings have taken place between Syrians of the Occupied Golan and their partners from Syria proper for over twenty years. These types of weddings are facilitated by the ICRC and take place in the DMZ of the Qunaytra checkpoint. Due to the strict restrictions currently in operation concerning crossing the Syrian ceasefire line the bride relinquishes her right and the right of her future children to return to or visit her birthplace in order to join her groom.

¹²² Naik, note 115.

¹²³ *Ibid.*

Two women who have been subjected to such an experience described the impact that it had upon them and their families.

Alham and Ahlam Mahmoud Hassan from Shahba, Syria Al-Marsad Affidavit:

Alham and her sister Ahlam moved to Buq'ata in the Occupied Syrian Golan on their wedding day in 1992. The separation from their family in Syria has taken its toll on this family emotionally, physically and financially. They spend all of their savings on the expensive telephone calls to Syria and visits to Jordan.

During their last visit to Jordan in December 2009 their brother, Ghassan, died while in Jordan. Following this event their trip was cut short and the members of the family had to return to their respective homes. Due to it taking one week for Alham and Ahlam to be given permits to visit Syria under the special circumstances the two sisters missed their brother's funeral. It is very rare for such permits to be granted and despite the whole family placing an application only the two sisters were permitted to visit their family on Syrian soil.

The situation is emotionally very hard for this family and every other family subjected to forced separation from loved ones. Alham emphasised this by explaining "my mother becomes sadder with each visit to Jordan and that is very hard to deal with. I have always missed my family, but it has increased with the death of our father and brother. It does not get any easier even though I have now created my own family in Buq'ata with my husband and three children." Alham continued "my children have met their family in Syria in Jordan, but now that my children are older they want more contact. I cannot guarantee that and that is very hard."

Alham and Ahlam very much feel that they have had to choose their husband over their family.

These two women were willing to take the brave step to leave their family in Syria behind and join their husbands in the Golan. Yet this does not take away from the fact that the presence of the restrictions that force such a decision to be made illegally obstruct the free choice to marry who you want under the right to marry. Furthermore, within this unenumerated right is the right to found a family and this right is impeded by the current restrictions. Another important element of founding a family is to allow children to have access to not only their parents, but also their extended family and the new restrictions have made this access next to impossible. The reality of the situation is three-fold. There are those who are absolutely prohibited from visiting family in either Syria or abroad, those who are limited to visiting Syria proper when the Israeli authorities feel like granting a permit, or those who are only permitted to make the expensive trips abroad to visit family. Due to the discriminatory and inconsistent applications of the restrictions the situation for each family is never the same. Whatever the situation the existence of these oppressive restrictions violates the right to marry and found a family as protected within human rights law.



Figure 30: Ahlam and Alham Mahmoud Hassan with some of their children in their home in Buq'ata, Occupied Syrian Golan. They believe that their children are missing an important part of growing up by not being able to have free and frequent access to their maternal side of the family who are based in Syria proper. (Sourced from Hannah Russell's Archives)

Right to Family Reunification

The Israeli authorities have been gradually chipping away at the vindication of the right to family reunification since they became an Occupying Power within the Golan in 1967. It began with the permanent displacement of 130,000 people from the Golan and the closure of the ceasefire line between Syria and Israel. Initially families were allowed to apply for family reunifications. Though these applications tended to be for a one way ticket and the granting of permits to do so proved to be discriminatory and unpredictable. One example of a successful application is Hasan Saaed Ayoub:

Hasan Saaed Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Hasan, his wife and three sons moved from Majdal Shams to Damascus, Syria in 1960. Following a successful application Hasan returned to Majdal Shams in 1970 with his wife and two of his sons. His third son, Ezat, opted to stay in Damascus, Syria to get married and have a family with a Syrian woman.

As already discussed, in 2007 the introduction of the Nationality and Entry into Israel Law (Amendment No 2) placed an absolute prohibition on family reunification where one spouse is a resident or citizen of one of Israel's enemy states, including Syria. Under these new regulations Hasan's son Ezat and his family are prohibited from being reunited with Ezat's homeland and his family. Even before the enactment of this law the limited options that families had for being reunited with their families, such as brief visits to Syria or the visiting tent, amounted to a violation of the right to family reunification. The importance of protecting the right to family as a whole is illustrated by a rulings in South Africa during the 1990s. Due to the scale of the negative impact that such a law would have on the right to family the

South African courts refused to approve similar orders to that currently in operation under Israeli law.¹²⁴

Israel's blatant disregard for the requirement that laws need to be proportionate has resulted in family reunification and unobstructed family access for those who have been forcibly displaced from the Occupied Golan being unequivocally ruled out, and the right to marry and found a family being unnecessarily curtailed. All of this amounts to a grave violation of the right to family reunification as protected under the scope of the right to family.

3.2.8 Right to Privacy

Article 12 of the UDHR and Article 17 of the ICCPR establish “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” Yet due to the situation of family separation facing the Syrians of the Occupied Golan this human right is being eroded. Any form of communication that occurs between families affected by family separation is subject to scrutiny from the Israeli authorities and has to take place in a very public forum. Those applying to visit Syria must give reasons for their visit, meetings at the Valley of Tears take place for all to hear, messages through the radio via the ICRC can be accessed by anyone, and meetings in Jordan must take place in hotels and public restaurants.

The Israeli authorities' main reasoning for infringing this right in such a way is that the actions of the indigenous population pose a security risk. However, as Furm and Perle emphasise, “law-abiding citizens value privacy. Terrorists require invisibility. The two are not the same, and they should not

124 *Dawood v. Minister of Home Affairs*, CCT 35/99; 2000 (3) SA 936 (CC); *Makinana v. Minister of Home Affairs*, (Cape of Good Hope) Case No 339/2000, 8 February 2001, unreported; *Booyesen v. Minister of Home Affairs*, CCT 8/01; 2001 (4) SA 485 (CC).

be confused.”¹²⁵ It has come to light that Israel’s regulations are imposed on the basis that the authorities are unable to decipher who is a security risk and who is not.¹²⁶ This amounts to disproportionate discrimination which has been used as a basis to introduce policies which cause unjustified and unbalanced violations of the right to privacy.



Figure 31: Valley of Tears, March 2010. A woman sends messages across the Valley of Tears to family for all to hear. (Sourced from Hannah Russell’s Archives)

125 David Furm and Richard Perle, *An End to Evil: How to Win the War on Terror* (Random House Publishing Group, 2004), at 71.

126 H.C. 7052/03, *Adalah, et. al v Minister of Interior et. al.*

3.2.9 Right to Property

In Robinson's opinion there is a "strong institutional basis for demanding that governments provide all men and women broad access and secure rights to property."¹²⁷ This strong institutional basis is derived from a number of sources. Article 17 of the UDHR clearly sets out:

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

In addition, the United Nations 2005 World Summit Outcome Document emphasises the importance of "property contract enforcement and respect for property rights and the rule of law."¹²⁸ The obligations that have been bestowed upon governments in relation to the right to property is clear and yet the Israeli authorities have managed to openly and continuously violate every element of this right all while attempting to claim that their actions are valid.

Since occupying the Golan in 1967 Israel has implemented a number of controversial policies in an attempt to make the region an annexation of Israel. Following the occupation thousands became permanently displaced causing the indigenous population to be severely depleted, leaving only 7,000 who were pushed into the far north of the region to protect their lands. The Israeli authorities took advantage of the situation and began a process of expropriating 'abandoned' land. Yet this land was not 'abandoned', those that were forcibly displaced were prohibited from returning. Furthermore, the remaining indigenous population were prevented from accessing this land by either landmine fields or through the Israeli forces employing tactics of intimidation, including the destruction of

127 Mary Robinson, "Property Rights Are Human Rights", *El Pais*, 1 June 2007. Available at <http://www.undp.org/legalempowerment/pdf/EI%20Pais.6.1.English%20version.pdf> (Last visited 21 March 2010).

128 A/60/L.1, United Nations General Assembly, "2005 World Summit Outcome", 15 September 2005, at 7.

crops. The Israeli authorities also began a process of expropriating land under the guise of military purposes. Not only was the land expropriated but the Israeli forces destroyed the cities, towns, villages and farms that stood on such land as they went along. Consequently, the Israeli forces inaccurate spin on the situation and dishonourable use of their weaponry resulted in the Golan people having 70% of their land illegally taken by force and without compensation.



Figure 32: Majdal Shams, Occupied Syrian Golan. Concrete blocks have had to be placed at the bottom of a hill expropriated by the Israeli forces for military purposes in the middle of Majdal Shams. This hill is covered in landmines which have been shifting their positions due to natural erosion and heavy rainfall. These concrete blocks are necessary for preventing the landmines from sliding into civilian homes and gardens. (Sourced from Hannah Russell's Archives)

Once the Israeli authorities had launched their policy of expropriation they immediately increased their efforts and just five weeks after occupying the

Golan the first illegal Jewish settlement was established.¹²⁹ Over the last forty-three years the Israeli authorities have built thirty-three settlements. The international community has openly condemned and called for the end to such activities.¹³⁰ Most recently United Nations Chief Ban Ki-Moon publically declared “Israeli settlement building anywhere on occupied land is illegal and must be stopped.”¹³¹ Yet the Israeli Prime Minister Netanyahu has shown he is committed to his statement that “Israel will never quit settlements” by persistently authorising the expansion of existing settlements and continuing to draft plans for new settlements.¹³²

Israel’s actions in relation to property are severe violations of Article 17(2) of the UDHR as they have seen thousands arbitrarily deprived of their right to property. A further consequence of the violation of this right is that it has made the situation of family separation harder for all involved. Families have lost their homes and cherished memories of loved ones in the worst of circumstances, which increases the pain of being separated from family members. In addition, based on Neff’s statement that “with the first settlement in the Golan, Israel chose land over peace,”¹³³ Israel’s persistent expropriation of land and building of settlements makes peace impossible. Without peace the possibility of the Syrian ceasefire line being opened to free passage for families is an unattainable fantasy.

Though Israel has tried its best with these tactics and will claim the contrary, due to the dedication of the Golan people and support from the

129 Donald Neff, “With the First Settlement, Israel Chose Land Over Peace”, *Washington Report on Middle East Affairs*, July/August 1993 31, at 31.

130 United Nations Security Council Resolution 446, 22 March 1979; United Nations Security Council Resolution 452, 20 July 1979; United Nations Security Council Resolution 465, 1 March 1980; United Nations Security Council Resolution 471, 5 June 1980; United Nations General Assembly Resolution 61/120 Relating to the Occupied Syrian Golan, 15 January 2007; United Nations General Assembly Resolution 63/99 Relating to Occupied Syrian Golan, 18 December 2008.

131 Associated Press, “UN Chief: Settlements Must Be Stopped”, *The Jerusalem Post*, 20 March 2010.

132 “Benjamin Netanyahu: Israel Will Never Quit Settlements”, BBC News, 25 January 2010. Available at <http://news.bbc.co.uk/2/hi/8478022.stm> (Last visited 21 March 2010).

133 Neff, note 129, at 31.

international community, annexation has not been achieved and the region remains occupied by Israel. With this occupation Israel's illegal policies are continuing and are causing dire effects for the vindication of the right to property for the Syrians of the Golan.

3.2.10 Right to Education

The right to education, as a fundamental human right which is essential for the exercise of all other rights, is extensively protected within human rights law. It was established in Article 26 of the UDHR and Article 14 of the ICESCR, and has been reaffirmed in United Nations Educational Scientific and Cultural Organisation (UNESCO) Convention Against Discrimination in Education 1960 and Article 10 of the CEDAW. UNESCO states that “these instruments promote and develop the right of every person to enjoy access to education of good quality, without discrimination or exclusion... It is for governments to fulfil their obligations both legal and political in regard to providing education for all of good quality and to implement and monitor more effectively education strategies.”¹³⁴ However, the right to education has been violated on three counts where the issue of family separation is concerned.

First there is the issue that those who opted to avail of successful family reunification applications prior to finishing their education in Syria are denied permission to return to Syria for the purposes of education, which is a blatant violation of the right to education. One local's denial of this right under these circumstances summarises the extent of the violation:

134 United Nations Educational, Scientific and Cultural Organisation, “The Right to Education”. Available at <http://www.unesco.org/en/right-to-education/>

Hana Muhamad Aramoon-Shaer from Sweida, Syria Al-Marsad Affidavit:

Hana met her husband who is from the Golan when they were both studying in Damascus, Syria. They had two children while they were in Syria. In 1999 Hana and her family moved to Masa'da in the Occupied Syrian Golan. Since then they have had two more children.

Hana married her husband before they were finished their degrees. They stopped their education to start a family. Hana completed four out of five years of her law degree and her husband has one year of study left in his degree. Since moving to the Golan Hana and her husband wish to complete their education to give their family a better life. Hana and her family have applied for permits to continue studying in Syria.

Hana and her family moved to the Golan for three reasons – she was optimistic that peace would be achieved, even though she was leaving her own family behind she wanted her children to get to know her husband's family, and she believed that she would be able to continue her studies in Damascus when she was ready.

Hana's permit to return to Syria for studying purposes was initially denied because she and her two children who were born in Syria were classed as 'temporary residents'. This residency had to be renewed every six months. With this status if Hana and her two children were granted a permit to travel to Syria it would be under the condition that they would not be allowed to return to the Golan. The family wanted to stay together so decided to wait until everyone would have the chance to be granted permission that would allow all of them to return to the Golan. In 1996, after five years in the Golan, Hana and her two children were granted permanent residency. However, during the wait to become permanent residents too much time passed for Hana and her husband to still be considered as students. Therefore, they have lost the opportunity to finish their studies.

Hana has considered moving her family back to Syria. "I think Syria can offer a better future for me, my husband and my children. It would mean that I could be close to my mother and it would be good for my career, but I am no longer considering it. To move back to Syria would mean that we would then be separated from my husband's side of the family. We are divided on both sides of the coin."

In addition, students are put off studying in Syria because those that opt to study there have to forgo free and frequent contact with their family in the Occupied Golan. Those that are permitted to study in Syria leave their family home at the beginning of the academic year and are not permitted to return until their holidays. This causes them to be subjected to prolonged separation from family support and contact. The most contact that they will have with their families during this period of separation will be via the Valley of Tears and telephone or internet. One example of the extremities of the situation can be witnessed every Mother's Day at the Valley of Tears in Majdal Shams. Students are able to make the journey to the Syrian side of the Valley of Tears to wish their mothers a Happy Mother's Day. The event lasts for around three hours with each child only getting a few minutes to talk with their mother. It is a very emotional and distressing event, but one that families have come to cherish because they have no other choice. It is in witnessing such events when the reality of the situation for these separated families becomes apparent and it is no surprise that due to not wanting to go through this heartache that many students are put off attending educational institutions in Syria proper.

The popular view within the Golan is that education in Syria is superior to Israeli universities and it is also an opportunity to strengthen ties with their heritage and family members that live in Syria proper. Within the right to education is the right to freedom of education, which includes the right to choose where you are educated without constraints or discrimination. This interpretation of the right was introduced by the American case *Brown v Board of Education*.¹³⁵

135 347 U.S. 483 (1954).



Figure 33: Mother's Day 2010. A woman and her daughter on the Occupied Golan side of the Valley of Tears try to locate their relatives on the Syrian side.
(Sourced from Hannah Russell's Archives)

Thirdly, a number of people are being prevented from continuing their studies in Syria on the basis of 'security reasons'.

Sameeh Hasan Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

Sameeh was sent to prison shortly after finishing school in 1974 for 'security reasons'. Sameeh wished to travel to Syria to continue his studies, but the Israeli authorities have forbidden him from doing so on the basis of his time in prison.

Using Sameeh's story as an example, the Israeli authorities are fond of using a person's time in prison as a way to prevent them from living a

normal and free life. It has been used as a reason for preventing people from accessing the visiting tent, crossing the Syrian ceasefire line, leaving Israel and the Occupied Territories, and accessing their chosen university. There is also the issue that the majority of Syrians from the Golan who were incarcerated were sent to prison for speaking out against the occupation in a peaceful way which constitutes a violation of the right to freedom of opinion and expression,¹³⁶ and the right to freedom of assembly.¹³⁷ Sameeh served his sentence and was released; he served his time. So under the principles of due process and equality Sameeh should be allowed to continue his life as normal and this includes availing of the right to freedom of education. However, Israel's discriminatory and unjust policies are standing in the way of that.

The issue of family separation and the attached distress places a disproportionate obstacle in the way of students' which clearly denies the right to freedom of education. Furthermore, the permit system and Israel's questionable interpretation of security reasons, which intensify the issue of family separation, violate the right to education as a whole due to its unjustified and inconsistent nature.

3.2.11 Right to Health

The right to health was first articulated in the Constitution of the World Health Organisation, 1946 which stated that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."¹³⁸ The right to health was implemented into Article 25 of the UDHR as part of the right to an adequate standard of living. It is recognised as a standalone right under Article 12 of the ICESCR, which

136 Article 19 of the UDHR; Article 19 of the ICCPR.

137 Article 20 of the UDHR; Article 21 of the ICCPR.

138 Preamble, Constitution of the World Health Organisation, 1946.

incorporates the right to health care and a right to health conditions.¹³⁹ It is not the right to be healthy, but the right to enjoyment of a variety of facilities and conditions which the State is responsible for providing as they are necessary for the attainment and maintenance of good health. Despite the necessity for the right to health to be respected and protected, Israeli policies have caused this right to be under constant attack.

In 2009 a number of the special permits granted for humanitarian reasons were based on access to health care. Sheikh Suliman Ahmad Almaqt's story illustrates why such a journey is necessary:

Sheikh Suliman Ahmad Almaqt from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

“According to the Israeli law to be hospitalised at the expense of the State you have to be insured. To be insured you have to be a member of an Israeli Workers’ Group. I applied for this status and was rejected. To pay for the treatment on my own would cost \$1300 per night that I was in an Israeli hospital. I could not afford that.

I demanded that the ICRC arrange the operation that I needed in Israel. They were unable to do so. I then demanded that the ICRC help with me getting treatment from Syria. It took two years for my permit to come through. The ICRC was able to negotiate a permit for me to enter Syria on the basis of humanitarian grounds, but they could not guarantee that I would be allowed to return to the Golan. My return to the Golan either alive or in a coffin is something that I would not sacrifice.

A year later I was granted a permit which included the condition that I would be able to return to the Golan. I travelled to Damascus in December 1984 and had my operation in the best hospital under an expert surgeon.”

139 E/C.12/2000/4, Committee on Economic, Social and Cultural Rights, “General Comment No 14: The Right to the Highest Attainable Standard of Health”, 4 July 2000.

Where Suliman's story is concerned Israel violated the right to health on two counts – health care in Israel was denied on unjustified discriminatory grounds and due to the delay caused by the application process Suliman was left in a situation where there was a serious risk that his health would deteriorate unnecessarily.

Israel's violation of the indigenous population's right to health does not stop there. A number of family members have suffered ailing health due to the stress and heartbreak brought about by family separation.

Nahie Saeed Saab from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

Nahie's son went to Damascus, Syria to study. He has since finished his studies and after marrying a Syrian girl is now based in Syria. Nahie's son has had two children so far. Nahie's applications to visit Syria to see her son, his family or her husband's two sisters and one brother who are also based in Syria have all been denied.

In the late 1970s Nahie's family went to the visiting tent to visit her husband's two sisters. Nahie has met her son and his family once in Jordan in 2005.

Nahie believes that her father-in-law has not been the same since he made a visit to see his family in Syria. "The shock of seeing his family after all that time has affected his mind and has had a very negative impact upon his health."

Salman Faris Ibraheem from Majdal Shams, Occupied Syrian Golan AI-Marsad Affidavit:

Salman has two brothers and four sisters. His two brothers live in Syria. Salman's father died in 1988 without seeing his sons after they left the Golan. His mother visited the visiting tent and was given permission in 1989 to visit Syria for one month. These were the only times she saw her sons before her death in 1993.

Salman finds the separation from his family to be “a very painful and tragic situation.” He finds the relationships that he has with his family in Syria to be “inhuman”. The situation had grave repercussions for Salman’s parents’ health.

“My father died missing his sons and grandchildren. He was emotionally distressed all of the time... After my mother returned from visiting Syria in 1989 she became mentally ill. She did not want to be at home and was constantly demanding to go to the Valley of Tears because she thought our family would be there. She was physically healthy, but mentally broken.”

Hana Muhamad Aramoon-Shaer from Sweida, Syria
AI-Marsad Affidavit:

“When my mother realised that I would not be permitted to visit Damascus, Syria or to return to Syria to continue my studies she developed heart problems. The separation has had a negative impact on my mother’s health.”

Alham Mahmoud Hassan from Shahba, Syria
AI-Marsad Affidavit:

“My father died young, he was only sixty years old. I believe that his health began to deteriorate when my sister Ahlam and I moved to the Golan.”

Kamal Maziad Abu Saleh from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:

Kamal’s mother was from southern Syria. She moved to Majdal Shams to marry in the 1950s and after the occupation she lost contact with her family. Kamal has three sisters and three brothers. Two of his brothers, Jada-ala and Suliman, moved to Syria during the occupation.

In 1975 Suliman visited the Valley of Tears. He sent a message with a local to go and fetch his family in Majdal Shams. "All the family ran to the Valley of Tears when we received the message. As we greeted each other my mother raised her white handkerchief. Suliman began to talk to us using a megaphone, but when my mother heard his voice she collapsed and died on the spot. Due to all the commotion and not wanting to upset Suliman we wanted to wait until later to tell him what happened, but he heard of her death over the village's loudspeaker [when a local dies their name is announced to the village through a loudspeaker]. Suliman refused to visit the Valley of Tears for four years."

Due to the amount of people whose health has declined and the surrounding circumstances in which this poor health took a hold it is not simply a coincidence or down to natural cause. People are suffering mentally and physically due to family separation imposed by the Israeli authorities. It is true that the right to health does not include the right to be healthy. However, it is linked to the right to an adequate standard of living and has been recognised as nurturing "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."¹⁴⁰ The physical and mental suffering brought about due to Israel's enforcement of family separation is no way to live, as the declining personal health of many proves.

Having analysed the locals' interpretation of events surrounding family separation it is clear that Israel is directly and indirectly violating the right to health. This violation threatens peoples' lives and in that regard is unacceptable and requires immediate remedy.

140 Preamble, Constitution of the World Health Organisation, 1946.



Figure 34: Valley of Tears, Mother's Day 2010. A woman from Majdal Shams, Occupied Syrian Golan becomes so upset while being wished Happy Mother's Day via loudspeaker by her child on the Syrian side of the Valley that she has to be held up. (Sourced from Hannah Russell's Archives)

3.2.12 Summary

Israel's policies towards the natives of the Occupied Golan amount to multiple breaches of international human rights and humanitarian laws. These violations are intensified with current situation of family separation which is experienced by so many in the Golan and Syria proper. There is no justification for such breaches. The claim of 'security reasons' is disproportionate when assessed in relation to the individuals who are targeted by these violations and the sheer number of people that these violations impact upon.

It is arguable that by extending the eligible categories for crossing the Syrian ceasefire line Israel is compromising and moving forward. However, it is more a case of 'one step forward and two steps back'. Israel has the tendency to abruptly stop any positive policies that have existed, as the end to the annual family visits in 1992 showed. Due to the unpredictability of the Israeli authorities' moves people are in a constant indeterminate state as there is nothing to stop a retraction in current and future progress. The system as it stands, even with the extension of eligible categories, is inconsistent, discriminatory and unjustified. Israel's persistence in continuing with such regulations is negatively impacting upon people's lives. It is causing insurmountable heartache and distress for those involved. The cost for the individuals affected by family separation is far greater than the cost that it would have for Israel to effectively compromise or abandon the policy altogether.

Israel needs to reassess their approach to 'security' because their current policies and laws are violating human rights and humanitarian laws without just cause. It has been condemned by locals and the international community. By declaring itself a democratic State, Israel committed itself to customary international law and reinforced this commitment through ratifying further international law instruments and incorporating such obligations into its domestic laws. This is not something to be taken lightly, though Israel's

fickle attitude to fulfilling its international law obligations indicates that it is not taking its obligations seriously. This should not continue and should not be tolerated. The next section of this report will look at how to pressure Israel, the Occupying Power, into finally abiding by its international law responsibilities in a proactive and practical way.



Section 4: **Recommendations**

Following a number of interviews carried out by Al-Marsad a number of recommendations were made as to how the issue of family separation can be remedied. These included:

- Peace
- Respecting right to equality and right to non-discrimination
- Respecting the right to freedom of movement
- Reintroducing the ICRC visiting tent
- Revoking illegal laws
- More involvement from international community

4.1 Paving the Path to Peace: An End to Family Separation

“We need peace before we can move forward”¹⁴¹

Physical clashes between Israel and Syria on the Golan front may have ceased following the 1973 Arab-Israeli War, but tensions between Israel and Syria are still high. The persistent existence of these tensions has made peace between Israel and Syria and an end to family separation near impossible. There are conflicting reports as to what the status of the relationship between Israel and Syria is. In 2007 Bill Clinton was of the opinion that an Israel-Syria peace deal could be reached in thirty-five minutes, while Russian National Security Council Secretary Igor Ivanov warned that if the wrong choices were made Israel-Syria tensions could escalate into war.¹⁴² Syria and Israel have been involved in on/off negotiations for years, the results of which have been subjected to a ‘see-saw’ effect on the progression towards peace.

141 Quote taken from an interview with Sameeh Hasan Ayoub as conducted by Al-Marsad, Arab Centre for Human Rights in the Golan Heights on 22 February 2010.

142 Ze’ev Schiff, “Bill Clinton: Israel-Syria Peace Deal Could Be Reached Within 35 Minutes”, *Haaretz*, 16 April 2007.

Following the 1991 Madrid Conference Israeli and Syrian delegations met in Washington under the framework of the Madrid formula. These talks began in 1993 and continued into 1994 at an ambassadorial level with the discussions focused on security arrangements. Further meetings were carried out between 1994 and 1996 with the support of the United States of America (USA), including President Bill Clinton. At the close of these meetings it was felt that some progress was made.

At the end of 1999 Israeli-Syrian peace negotiations resumed after a three year gap. These negotiations once again took place under American sponsorship and continued into the start of 2000; however they did not amount to much.

Israel's definition of Syria as an 'enemy state' has hindered the Israeli-Syrian peace talks. In April 2007, Israeli Prime Minister Ehud Olmert emphasised that although Israel was interested in peace with Syria, an agreement could not be met while Syria "continues to be part of the axis of evil and a force that encourages terror in the entire Middle East."¹⁴³ This statement was reinforced with Israel introducing the Nationality and Entry into Israel Law (Amendment No 2), 2007.

Negotiations between Israel and Syria were re-launched in May 2008 with the initiation of indirect peace talks between the two States under the sponsorship of Turkey. Yet again very little came of these talks in way of reaching a peace agreement. Rifkind provided an accurate description of the Israeli-Syrian peace negotiations which have become riddled with deadlocks, dubbing the process as one "that suffers from fatigue and cynicism."¹⁴⁴

143 <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Israel-Syria%20Negotiations> (Last visited 25 March 2010).

144 Gabrielle Rifkind, "A Route to Resolution for Syria and Israel", *The Guardian*, 26 February 2010.

Ennals once said “without peace, there is little hope for human rights.”¹⁴⁵ Israel’s occupation and purported annexation of this region constitutes gross violations of The Hague Regulations 1907 and Geneva IV 1949 and blatantly disregards Israel’s obligations under the human rights instruments it is bound by. The catalyst for remedying the issue of family separation for the Syrian population of the Golan and Syria proper would be for an Israeli-Syrian peace agreement to be met and adhered to. As Salman Faris Ibraheem stated “peace is the only solution to family separation.”¹⁴⁶ Therefore, an Israeli-Syrian peace agreement must include the immediate withdrawal of Israel from the Golan and as such the implementation of such an agreement would put an immediate end to family separation.

Both States have indicated that they wish to reach a peace agreement, but a combination of mistrust, fear and misunderstandings are currently standing in their way. Under the Obama administration the USA has reignited its interests in the Israeli-Syrian conflict and is willing to sponsor further negotiations.¹⁴⁷ It is vital that full advantage is taken of this situation and that a solid agreement is finally settled upon and implemented. The transition from negotiations to action is long overdue. Peace needs to be agreed and Israel’s occupation of the Golan must end. Achieving these two demands is the most effective remedy in terms of addressing the issue of family separation.

4.2 Alleviating the Suffering

Although peace between the two States is attainable and should be achieved, realistically speaking given the extent of the Israeli-Syrian conflict such an agreement is going to take time. Time is not on the side of people who are experiencing family separation in the Golan and Syria proper:

145 Martin Ennals quoted in *International Alert “20 Years of Peace Building”* (2006), at 14.

146 Quote taken from an interview with Salman Faris Ibraheem as conducted by Al-Marsad, Arab Centre for Human Rights in the Golan Heights on 9 February 2010.

147 Barack Obama, “Barack Obama Speech to AIPAC”, June 2008. Available at <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=1032259> (Last visited 3 April 2010).

**Hendeya Muhamed Khatteb from 'Ein Qinyeh, Occupied Syrian Golan
AI-Marsad Affidavit:**

Hendeya is in extremely poor health and is unsure whether she will be alive for her family's next visit to Jordan.

"Missing my family upsets me every day. I want to see my family once more before I die. I am afraid that no matter how determined I am to see them again this may not happen."

**Sameeh Hasan Ayoub from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:**

"It is twenty-six years since I last saw my brother Ezat. Ezat has had two operations and yet I cannot meet him. Time is not on our side, I am fifty-six years old and he is sixty-two years old."

Relationships are suffering:

**Hana Salem Ajamy from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:**

"I am afraid that I will forget my sister. She is far from my heart by forty-one years."

**Adib Fares Assaf, from 'Ein Qinyeh, Occupied Syrian Golan
AI-Marsad Affidavit:**

"I have been divided from my family for forty-three years. We do not know each other."

Sameeh Hasan Ayoub from Majdal Shams, Occupied Syrian Golan Al-Marsad Affidavit:

“I have never met my nieces and nephews. If I bumped into them on the street I would not know them.”

There are three alterations that could be carried out by the Israeli authorities which would provide an immediate easing of the suffering experienced by those subjected to family separation. It should be noted that these alterations would only provide a short-term solution to the problem and in the long-run an end to Israel’s occupation of the region and peace between the two States is vital to ensure the vindication of international law in terms of family separation and rights in general.

4.2.1 Putting an End to Discrimination

Al-Marsad calls on unlimited visits to be allowed all year round. Visits should be open to all family members on an equal basis. The categorisation of those who are eligible should be removed and all discriminations based on gender, religion, ethnicity and age should be abolished. The Israeli authorities have been able to allow Palestinians to move between Jordan and other Arab countries, including Syria, without an application process. During these crossings security checks are deemed to be sufficient. The same process should be in operation for the indigenous population of the Golan who wish to travel to Syria.

Along with the discriminatory element of the current process there is also an inconsistency with regard to the permits that Israel chooses to grant. While Al-Marsad calls for a complete removal of the application process, these points must be addressed. In other words, if the Israeli authorities insist on maintaining an application process there must be a complete overhaul of the current system. Clear non-discriminatory and profoundly human guidelines should be established as to when the checkpoint will be open

and how many visits each individual is allowed. Each application should be decided on a case-by-case basis and on its own merits. Furthermore, the authorities should provide details in writing to any applicant whose application has been rejected of the specific grounds for the rejection of their individual case. An independent mechanism should be in place for those concerned to have the opportunity to put together a case and challenge the grounds for the rejection.

Roeda Nayf Hamd from Hadar, Syria
AI-Marsad Affidavit:

"I would like to see equal opportunity for those separated from their families in relation to family visits. It is a basic human right."

Nasiba Fares Ayoub from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:

"Visiting Syria is the easiest way, it is the cheapest way, and it is most importantly, in the interests of human rights."

As has been proven in this report there is no justification for such policies. There is no evidence to prove that a religious Druze man is any less of a security threat than a woman under seventy.

Kamal Maziad Abu Saleh from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:

"There is no reason to ban someone from seeing his family. There is no justification for this policy, no justification at all. It is a very basic thing to be able to freely meet your lover and relatives. It is a very simple dream. We are adults. This is ridiculous."

Furthermore, if the Israeli authorities can open the Qunaytra checkpoint and carry out rigorous security checks everyday for two months to allow 10,000 tons of apples across the ceasefire line the same can be done for human beings who wish, and have the right, to see their families.

4.2.2 Reinstating the Right to Freedom of Movement

The right to freedom of movement for the Syrians of the Golan has been impeded in many ways by the Israeli authorities – through assigning them the status of ‘undefined nationality’, landmine fields, restricting those who can cross the ceasefire line, and prohibiting individuals from travelling abroad. There are a number of actions that the Israeli authorities can take to assist the reinstatement of the native population’s right to freedom of movement.

By allowing the Syrian population of the Golan to officially declare their Syrian nationality and obtain a Syrian passport would reduce the administrative problems and degrading status that is awarded by an Israeli *Laissez-Passer*. Putting an end to the unjustified and discriminatory restrictions that are currently in place for the application process to visit Syria would introduce more freedom and consistency to the situation. Also opening the ceasefire line checkpoints to both natives of the Golan and their families based in Syria proper would assist in Israel fulfilling their obligation to guarantee the right to freedom of movement, enable those who are too ill to travel to Syria proper to see their family through their family travelling to them, allow those who cannot afford to travel abroad to see their family, and through increasing the frequency of visits it would help families to strengthen and normalise the bonds with family members and their homelands that they are entitled to.

**Saleh Salman Mdah from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:**

“The only solution is to allow freedom of movement. It is the best way to keep family contacts. It is cheap and is a basic human right. In Korea the regulations were changed, they have to change here too.”

4.2.3 Reintroduce the Visiting Tent

This has proven to be the least popular recommendation for easing the suffering of those subjected to family separation. When the tent was in operation during the late 1970s it enabled families to meet up for only one hour and depended on whether the Military Governor was willing to grant an individual a permit. The allotted time was too short and the process was unfairly inconsistent and discriminatory.

**Samiea Thoukan Mahmoud from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:**

“It was very nice to see families reunited in the tent, but it was upsetting when the time came to leave.”

**Jamil Saleh Abu Saleh from Majdal Shams, Occupied Syrian Golan
AI-Marsad Affidavit:**

“When you have no other way to see your family a reintroduction of the visiting tent would be welcomed, but it is not enough.”

**Adib Fares Assaf from ‘Ein Qinyeh, Occupied Syrian Golan
AI-Marsad Affidavit:**

“To open the checkpoints is more acceptable than the tent. The tent is not enough emotionally.”

Even though meeting your family in a crowded tent for a short period of time is not ideal it could provide a short-term alternative while waiting on Israel and Syria to negotiate something more permanent and appropriate. If the tent were to be reintroduced it would have to be open to everyone without disproportionate discrimination and facilitate a longer visit than one hour.

4.3 Revoke Illegal Laws

The Golan is occupied by Israel; it is not an annex of Israel. Therefore, as the international community have established time and time again, the 'Golan Heights law' is "null and void."¹⁴⁸ The Nationality and Entry into Israel Law (Amendment No 2), 2007 violates a number of laws including the right to family, right to equality, right to privacy and the right to freedom of movement. To reaffirm that this law violates international law the predecessor of this 2007 law, the Nationality and Entry into Israel Law (Temporary Order) 2003, was denounced by the United Nations Committee on the Elimination of Racial Discrimination.¹⁴⁹ These laws also amount to a violation of Israel's domestic law Basic Law: Human Dignity and Liberty, 1992. Yet Israel have shown blatant disregard for their obligations under international and domestic law by enacting these laws in the first place and continuing to implement them even after they have been declared unjustified and illegal. If an Israeli-Syrian peace agreement is going to be met and a necessary end to family separation is to be achieved Israel need to start to take responsibility for their actions, compromise, and honour their duties under domestic and international law. One step forward in achieving these aims would be to revoke their illegal domestic laws.

148 United Nations Security Council Resolution 497, *The Golan Heights Law*, 17 December 1981.

149 CERD/C/65Dec.2, United Nations Committee on the Elimination of Racial Discrimination, "Prevention of Racial Discrimination, Including Early Warning Measures and Urgent Action Procedures: Israel", 20 August 2004.

4.4 Increase International Pressure

“Silence in the face of injustice is complicity with the oppressor”¹⁵⁰

The international community became aware of the situation in the Golan due to the strength of the Syrians of the Golan standing up against Israel's laws and policies through strikes, boycotts, demonstrations, setting up local news websites, creating human rights and development centres, and getting on with their daily lives despite the oppression resulting from the occupation. In order for awareness to be raised within the international community even further, these actions which speak out against and highlight the illegality of Israel's laws and actions should continue. The younger and future generations should also be educated about the Golan's history and the oppression that they are suffering under Israel's occupation. The best way to raise awareness is by word of mouth, media reports and demonstrations. If the locals increase their efforts even more, the international community will have no choice but to do the same.

Given Israel's unwillingness to fulfil its international law obligations on its own, strong pressure is required from the international community. The onus is on both state and non-state actors. Dayan's statement on Israel's relationship with the USA summarises Israel's approach to previous encouragement from the international community – “Our American friends offer us [Israel] money, arms and advice. We take the money, we take the arms, and we decline the advice.”¹⁵¹ When the international community chooses to speak out against Israel's illegal laws and policies United Nations resolutions are passed and committees demand State reports. These moves are vital and should continue, nevertheless they are not enough.

150 Ginetta Sagan as quoted in Lawrence Joffe, “Ginetta Sagan: A Torture Victim, She Fought Back Against Oppression”, *The Guardian*, 14 September 2000.

151 Avi Shlaim, note 8, at 316.

Atef Saaed Sah'lan from 'Ein Qinyeh, Occupied Syrian Golan AI-Marsad Affidavit:

“My demand, as a parent who is denied from seeing his living, dying and dead children, is for all free States to examine the principle of democracy and freedom. The fact is that Israel is controlling other people and territory by force. There are other sufferings such as the expropriation of the land and trees, but we are talking about humans here.”

On many occasions the violations which are occurring in the Golan are placed under an umbrella of Palestinian issues, as the recommendations made in the most recent Universal Periodic Review of Israel illustrated.¹⁵² Furthermore, the fact that only two States, Egypt and South Africa, responded to the Human Rights Council's call for the profile of the human rights in the occupied Syrian Golan to be raised within the United Nations highlights the lack of recognition of the individual issues facing the Syrians of the Golan.¹⁵³ AI-Marsad fully supports the Palestinians' campaign against the oppression they suffer under Israeli occupation and there are many similar violations that Israel carries out against Palestinians and the people of the Golan. However, there are different elements to these violations that need to be addressed on a more case-by-case basis and it is time that the international community recognise this by starting to pay equal attention to the violations occurring in the Golan as those in the OPTs.¹⁵⁴

The international community, European Union and contracting State parties to the international law conventions need to abide by their commitments to protect and uphold international law obligations as enshrined in The

152 Office of the High Commission of Human Rights, “Universal Periodic Review: 3rd Session” (2008).

153 See A/HRC/10/15, Human Rights Council, “Human Rights Situation in Palestine and Other Occupied Arab Territories: Human Rights in the Occupied Syrian Golan”, 10th Session, 4 February 2009.

154 Another report which has touched upon the issues faced by the indigenous population of the Golan, but has failed to fully address them in its recommendations includes A/64/339, United Nations General Assembly, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People and Other Arabs of the Occupied Territories”, 9 September 2009.

Hague Regulations 1907, Geneva Convention IV 1949 and human rights instruments. In order to do so political pressure should be applied through:

- setting up meetings with the relevant officials to encourage peace and compliance;
- drafting reports concerning Israel's violations and making sure that these are widely circulated and publicised, and;
- if necessary taking legal action against Israel's illegal actions.

Furthermore, state and non-state actors should apply economic pressure in the form of boycotting Israeli products and boycotting companies which are engaged in investment within the illegal Jewish settlements.

Israel does not seem to be responding to simple declarations that their actions are illegal, so it is now time for stronger action from the international community. The longer Israel continues to implement policies which cause family separation, the greater the violation of the indigenous Syrian population's rights under international law and emotional suffering will be. Israel has persistently and disproportionately breached the principles and obligations set out in both its domestic laws and within international law. It is now up to the international community to highlight to Israel that illegal laws, policies and acts which violate human rights and humanitarian law will no longer be tolerated.

Conclusion

The suffering of the indigenous Syrian people of the Golan has gone on for too long. Rights are being abused, families are being torn apart and people are being subjected to insurmountable and unnecessary heartache on a daily basis. This is unacceptable and needs to end. Where family separation is concerned, the immediate need for change can be summed up in the words of one local - "it is a basic human right to be able to see loved ones. To still be dreaming about this is ridiculous; it should be a reality."¹⁵⁵

The ultimate solution is to put an end to Israel's occupation of the Golan and for an Israeli-Syrian peace agreement to be achieved. These measures would provide a solution for not only family separation, but many of the other issues that face the people of the Golan. It is the only solution that will guarantee a permanent end to the suffering that Syrians have been subjected to by the Israelis. The implementation of this solution would see an automatic end to Israel's discriminatory and disproportionate approach towards the natives of the Golan and would be a necessary step towards ensuring the vindication of all Syrians' human rights.

It would be naive to think that given the history of Israeli-Syrian relations that this solution would be agreed and implemented immediately, though the two States should work together to make it a reality as soon as possible. Therefore, in the interim there are a number of temporary policies that should be introduced to assist in Israel meeting its international law obligations to respect and protect human rights and humanitarian law. These include abolishing the discriminatory laws and regulations which have been set against the indigenous population, and allowing those who wish to visit their families in Syria proper to do so freely and without prejudice.

155 Quote taken from an interview with Nasiba Fares Ayoub as conducted by Al-Marsad, Arab Centre for Human Rights in the Golan Heights on 24 February 2010.

These changes are crucial. Israel has been implementing its illegal policies for forty-three years too long. It is time for individuals and the international community to increase their efforts and to pressure this belligerent power and indicate that under no circumstances will its illegal and unjustified acts be tolerated. Immediate action is required from all quarters to assist in breaking down the fence erected by the Israeli authorities which stands in the way of the full realisation of rights, peace and family relations in the Occupied Syrian Golan.

AL-Marsad

Al-Marsad, the Arab Centre for Human
Rights in the Golan

Majdal Shams 12438, Golan – Via Israel P.O. Box 9

Tel: +972 (0) 4 687 0644, Fax: +972 (0) 4 687 0645

E-mail: marsad@golan-marsad.org,

Website: www.golan-marsad.org

