

# FORGOTTEN OCCUPATION

LIFE IN THE SYRIAN GOLAN AFTER  
50 YEARS OF ISRAELI OCCUPATION



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**The occupied Syrian Golan is a mountainous region in southwest Syria that borders Lebanon to the north, Jordan to the south, and Israel to the west. During the 1967 Arab-Israeli War, Israel occupied over two-thirds of the Syrian Golan. Approximately 130,000 Syrians were forcibly transferred or displaced. Today, 26,000 Syrians remain. These are the stories of those living under occupation.**

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Finally, Erin McKay, Emily Walker and Brónagh Carvill provided invaluable assistance to this project.

# Timeline

**1967** July

Israel builds its first settlement in the occupied Syrian Golan

**June 1967**

Arab-Israeli War. Israel occupies the Syrian Golan. Hundreds of villages and farms are destroyed and 130 thousand Syrians are forcibly transferred or displaced

**1973**

Arab-Israeli War. As part of the Armistice Agreement, Israel concedes 50km<sup>2</sup> of occupied territory to Syria. It destroys the city of Quneitra while withdrawing

**1981**

Israel annexes the Syrian Golan, ending military law and replacing it with civilian law

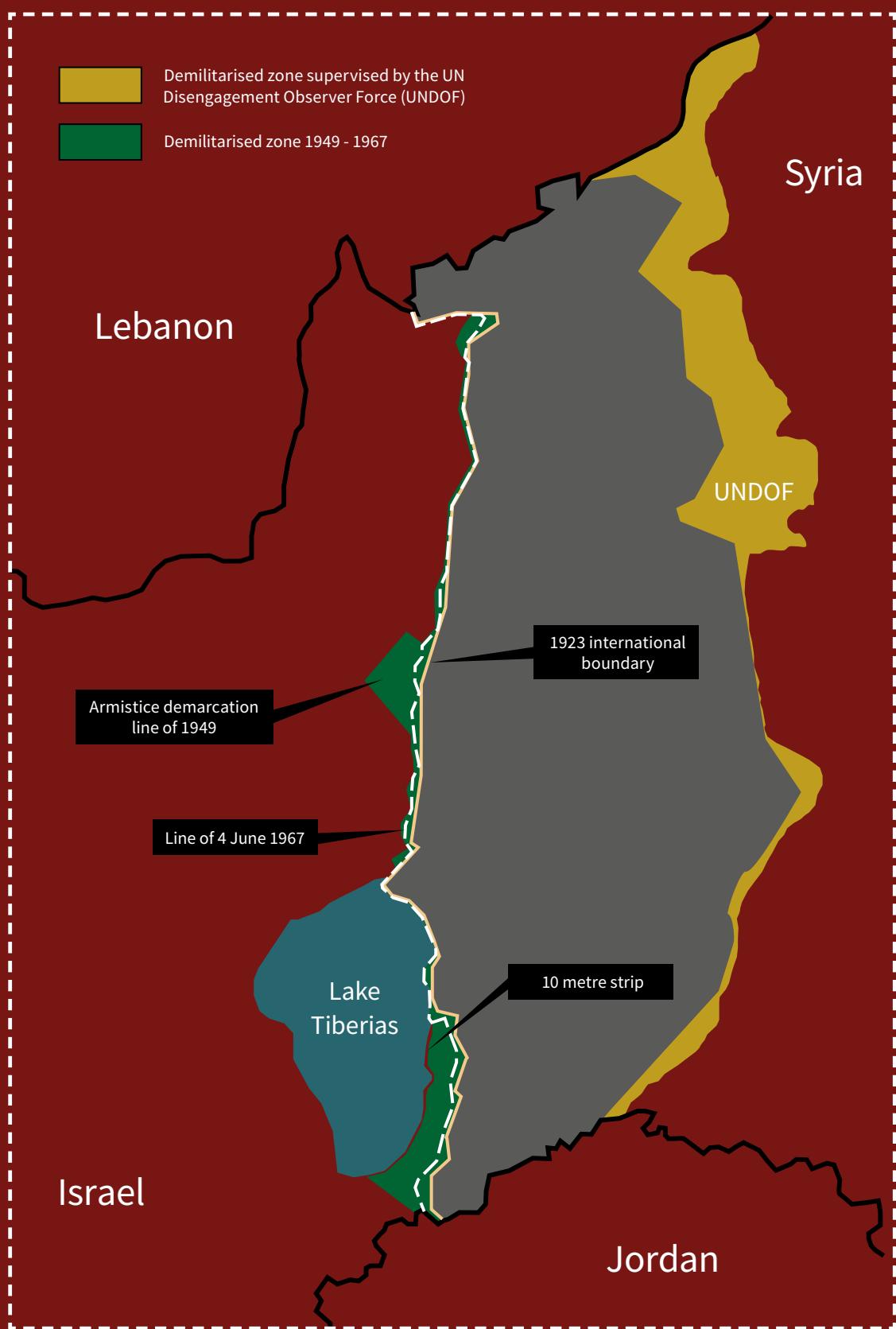
**1982**

Syrians in the occupied Syrian Golan strike for six months to protest the annexation

**2011**

Start of the war in Syria

# Map of the occupied Syrian Golan





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# Introduction

By Dr Nizar Ayoub, Director of Al-Marsad - Arab Human Rights Centre in Golan Heights

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The occupied Syrian Golan is often referred to as the forgotten occupation. More than fifty years after it was occupied by Israel in 1967, the plight of the Syrian population is unknown to many. Occupied at the same time as Palestine, its Syrian population suffers from many of the same discriminatory Israeli policies. In addition, the current war in Syria has led to more pain and suffering for Syrians in the Golan, who are cut off from friends and family in the rest of Syria and are forced to witness the horrors of the conflict taking place on their doorstep. Meanwhile, the number of illegal Israeli settlers in the Syrian Golan is increasing, as Israel seeks to profit from the conflict and tighten its grip on the region.

Following the 1967 Arab-Israeli War and occupation of the Syrian Golan, more than 95 percent (130 thousand) people of the Syrian population was forcibly transferred or displaced. The Israeli military destroyed their homes, demolishing 340 villages and farms, leaving only five

villages standing. Destroyed homes were replaced by illegal Israeli settlements, often using the same stones. In 1981, Israel annexed the Syrian Golan, similar to East Jerusalem – a move which was rejected by the international community and is considered illegal.

In this book, Al-Marsad aims to give a voice to the voiceless. It tells the story of the native Syrian population in the occupied Syrian Golan, who have been separated for half a century from friends and family in the rest of Syria. It describes how Syrians have been treated as second-class citizens in their own country by a foreign occupier, and how they have fought to maintain their dignity and sense of identity, despite fifty years of oppression.

The book is divided into nine chapters, which describe different aspects of life under occupation, such as family separation, housing restrictions and the dangers of landmines. Every chapter consists of an interview with a member of the Syrian population, explaining how they have been affected by that particular issue, as well as a legal analysis by an international expert.

This book is produced by Al-Marsad – Arab Human

Rights Centre in the Golan Heights, of which I am the proud Director. We are an independent non-governmental organisation which was established by members of the Syrian population in the occupied Syrian Golan in 2003. Al-Marsad monitors, documents and litigates human rights violations committed by Israel in the occupied Syrian Golan.

This book would not have been possible without the hard work and commitment of all the contributors. Thank you for helping to shine a light on this forgotten occupation. I also wish to thank the supporters of Al-Marsad for their crucial assistance, which allows us

to carry out our work.

Finally, and most importantly, I wish to thank those who have shared their stories – often at great personal cost – with Al-Marsad. This book is dedicated to them, and to all our friends and families here, in the rest of Syria and beyond, who are struggling during this difficult time.

Dr Nizar Ayoub, Director of Al-Marsad



Above: Graffiti on concrete blocks close to an Israeli military base in the occupied Syrian Golan. Photograph © 2017 Al-Marsad.

# Changing the Landscape





# Hail Abu Jabel

I was born in Majdal Shams in 1942. The village looked different then. There were fewer people and everyone used to be a farmer. I wanted something different and so I became a minibus driver. I would drive people all over Syria, from Majdal Shams to Damascus and Aleppo or even further. I was 25 years old when the war broke out and Israel occupied the Syrian Golan. We were cut off from the rest of our country and Israel forced most of the people living in the Golan to leave. Israel destroyed many Syrian villages and farms, and used the stones from the houses to build fortifications to keep the Arabs out. They took our lands. The area around Jabel al-Sheikh, a big mountain next to Majdal Shams, was taken and turned into a ski resort. A lot of Israeli and foreign tourists go there now, not realising it is stolen land.

When the occupation started, I became part of the resistance movement. We would not comply with the Israeli policies. For example, I would not pay tax, and I refused to participate in the Druze religious courts that they tried to enforce on us. I was arrested many times. Then, one night in January 1973, my cousin was shot dead by Israeli soldiers when he tried to cross the ceasefire line. He was carrying papers with names on it of people in the resistance movement, including mine. I was arrested that same night and sent to prison for seven years. I think they saw it as an opportunity to punish me for my resistance to the occupation. The prison was near Tel Aviv, so it was difficult and expensive for my family to come visit me. When I was released, everything looked different to me. Before I went to prison, there were less than ten Israeli settlements. When I was released, there were more than thirty. The landscape had changed completely.

I am very sad about the war in Syria, but it does not change the situation in the occupied Golan. I support the liberals who started the revolution against the regime in 2011, but their revolution was stolen from them by religious extremists. The war in Syria effects everyone here as we all have family and friends there. I hope that Syria is liberated soon and that the Golan can be returned.

# Changing the Landscape

*Israel's Gross Violations of International Law in the Occupied Syrian Golan*

By Dr Ray Murphy & Declan Gannon

The area known as the Golan Heights or simply 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. Its overall landmass is 1,860 km<sup>2</sup>, which is approximately one percent of the total landmass of Syria.<sup>1</sup> Since 1967, reference to the area called the Golan Heights has typically described the portion of the region that was occupied by Israel beginning in 1967.<sup>2</sup> This area encompasses approximately 1,230 km<sup>2</sup> and is referred to as the occupied Syrian Golan or occupied Golan throughout this chapter and the rest of the book.

Successive Israeli Governments have adopted numerous policies to control and contain the Syrian population since Israel began its occupation of the Syrian Golan in 1967. They have destroyed hundreds of villages, driven thousands from their homes,

expropriated private and public property, prevented the remaining Syrian villages from expanding and actively stopped the free movement of people. In 1981, Israel enacted legislation that purported to annex the territory.<sup>3</sup> This move was widely condemned by the international community<sup>4</sup> and from the perspective of international law, the Syrian Golan remains an occupied territory to which the laws of occupation apply.

This chapter examines the background to this occupation and the consequences for the local population. It examines the actions of the Israeli authorities and argues that certain practices by the Israeli occupying authorities constitute war crimes, which in some cases, may amount to grave breaches of the Fourth Geneva Convention governing the protection of civilians.

## Background

The occupied Syrian Golan is important for a number of reasons. From a military perspective, it offers exceptional geo-strategic value with commanding positions, overlooking southern Lebanon, much of southern Syria and also northern Israel. The mountainous terrain peaks at 2,224 meters above sea level at what is known in Israel as Mount Hermon or Jabal al-Sheikh in Syria.<sup>5</sup> From an agricultural perspective, the Syrian Golan is a rich volcanic plateau. The disintegration of volcanic rocks has produced an extremely fertile soil. Prior to the 1967 occupation, the Syrian Golan produced grain, vegetables, milk, wool, honey, meat, eggs and fruit for the local population.<sup>6</sup> Following Israel's colonisation of the territory, Israeli agricultural settlements have been established and are producing wine, beef, fruit, vegetables and mineral water for the Israeli domestic and export market,<sup>7</sup> generating considerable wealth for the Israeli economy. Finally, and probably the most important factor today, the Syrian Golan is a rich source of water for the region.

Located in the mountain ranges are the headwaters of the Jordan River, considered 'the lifeblood of Israel in terms of water capacity'.<sup>8</sup> Israel harvests all the water from the Banias River, estimated at 121 million m<sup>3</sup> per year.<sup>9</sup> Exploitation of water resources by Israeli companies, Tahal and Mekorot, has led to the drying up of springs that supply the Syrian villages with water. This is having a drastic effect on the livelihoods of the Syrian population and their agricultural yields.<sup>10</sup> According to reports, the occupied Syrian Golan is now supplying Israel with a third of its water consumption.<sup>11</sup>

The history and politics of Israel's occupation and eventual annexation of the Syrian Golan is complex.<sup>12</sup>

Border disputes involving the Israel-Syria border and access to water from the Jordan River and Lake Tiberias have played into the struggle between Syria and Israel.

The struggle for access to water in the Syrian Golan region combined with other sensitive issues provided a mix of factors that escalated tensions between Israel and Syria, which would spread throughout the region leading up to 1967.

A further factor in compounding the tensions was the belief of Israel's former prime minister Ben-Gurion (who stepped down in 1963) that the Golan Heights and parts of south-western Syria were parts of biblical Palestine and ought to be restored by historical and religious right to the state of Israel.<sup>13</sup> Moreover, because of the physical location and geography of the Syrian Golan, from which Israel claimed it could not adequately defend itself from Syria, the Syrian Golan was viewed by Israel as a Syrian military stronghold that presented a serious threat to Israel's security.<sup>14</sup> Outside forces in the context of the Cold War era also played a role in the escalating tension in the Middle East in the run up to 1967.<sup>15</sup>

Following six days of war, Israel emerged victorious and the occupant of Arab territory, including the Syrian Golan. Israel's occupation of the Syrian Golan in 1967 resulted in the establishment of an armistice line and almost immediate Israeli military control and settlement of the region.

After the 1967 Arab-Israeli War, tensions remained high in the Middle East. Then on 6 October 1973, to Israel's surprise, both Syria and Egypt launched a co-ordinated attack.<sup>16</sup> Syria's attempt to recapture the occupied Syrian Golan ultimately proved unsuccessful and in 1974, Syria and Israel signed an armistice agreement.<sup>17</sup> In the negotiations that

followed, Israel, despite winning the war, conceded some territory captured in the 1967 Arab-Israeli War, including Quneitra, which the Israelis destroyed as they withdrew.<sup>18</sup>

A demilitarised zone that runs north – south along the eastern edge of the occupied Syrian Golan was also established and a United Nations peacekeeping force deployed to monitor the disengagement agreement.<sup>19</sup>

The most serious impact suffered by the people of the Syrian Golan subsequent to Israel's occupation in 1967 was the 'uprooting and expulsion of the local Syrian population.'<sup>20</sup> According to reports, it is estimated that up to 130 thousand<sup>21</sup> people were forcibly transferred or displaced as a result of the conflict and that along with their descendants, they now number in the region of 500 thousand.<sup>22</sup> Thus, it is evident that the vast majority of Syrians and their families, who were expelled or displaced in 1967, did not return to the occupied Syrian Golan.

Today, roughly 26,000 native Syrian people remain in the occupied Syrian Golan, mostly members of the Druze faith who have retained Syrian nationality. Retaining Syrian nationality has led to a number of unfortunate outcomes for these people. For example, students who, prior to the conflict in Syria, travelled to Damascus to attend university (which was facilitated by the International Committee for the Red Cross), trained mostly in the areas of law, pharmacy or medicine, yet such disciplines hold little employment opportunity in the occupied Syrian Golan. Opportunities within the Israeli Administration are also limited.<sup>23</sup>

The occupied Syrian Golan also contains a

large population of Israeli settlers. According to Israeli Government figures, there are currently 26,261 Israeli settlers living in 34 settlements in the occupied Syrian Golan, next to 26,590 native Syrians in five remaining Syrian villages.<sup>24</sup>

Following the capture of the region in 1967, the Israeli Government handed all necessary power to its military commanders to control and administer the occupied territory. In 1981, Israel ended military rule with the enactment of the Golan Heights Law. This legislation purported to annex the occupied territory to the state of Israel, a move comprehensively denounced by the international community.

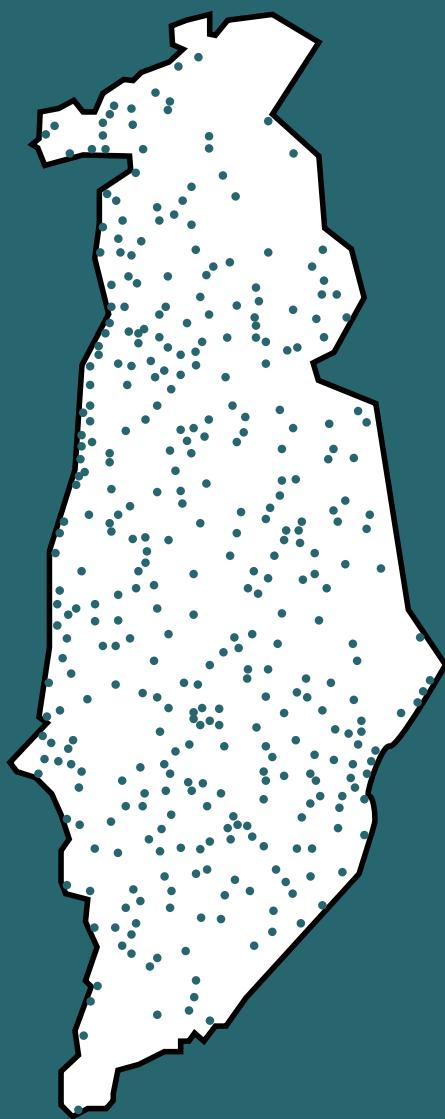
#### Israeli actions in the occupied Syrian Golan

Since Israel began its occupation of the Syrian Golan in 1967, it has carried out numerous actions that have violated a number of the basic norms of international law. These actions have deliberately and negatively impacted on the Syrian population. The forcible transfer of civilians and the destruction of property have led to the mass depopulation of Syrian citizens from the occupied territory. A foreign ethnic group, namely, Jewish-Israeli settlers, has gradually replaced the Syrian population.

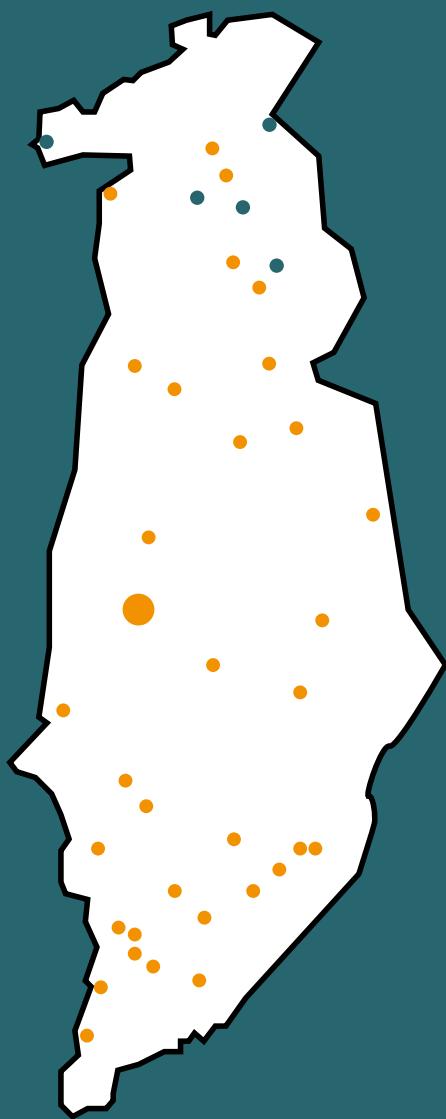
#### Forcible transfer of civilians from the occupied Syrian Golan

The depopulation of the Syrian Golan of its local inhabitants was the first major abuse conducted during and following the end of the 1967 Arab-Israeli War. Prior to 1967, 153 thousand people lived in the entire Golan region. Like Greater Syria,

1967



2018



Syrian village or farm



Israeli settlement

the Syrian Golan was somewhat ethnically and religiously diverse, with Syrian Arabs constituting the majority eighty percent of the population. Approximately five percent of the Syrian Golan population was Druze.<sup>25</sup> During the war, Israel successfully captured seventy percent of the Syrian Golan that contained approximately 345 villages and farms.<sup>26</sup> Approximately 130 thousand people were forcibly transferred or displaced to the rest of Syria and forbidden from returning.<sup>27</sup> The remaining population of Syrian inhabitants, mostly Druze,

military zones. Nobody was allowed to enter the villages listed without special permission. Anyone who violated this order was subject to a punishment of five years imprisonment or a fine of five thousand Israeli Liras, or both.<sup>28</sup>

Through such orders, Israel enforced the depopulation of the occupied territory of its native Syrian inhabitants by prohibiting Syrian citizens, who had been forcibly transferred, displaced or who had fled the conflict, from returning to their place of residence in the occupied Syrian Golan.

This chapter, for the purpose of simplicity, concentrates on one village called Jubatha El Zeit, which was situated in the far north of the Syrian Golan. Jubatha El Zeit had a population of between 1,500 and 2,000 prior to the 1967 Arab-Israeli War. By the end of June 1967, just weeks after the occupation had started, the Israeli occupying forces forcibly transferred the entire population of the village. Hamood Maray, a resident of the neighbouring town of Majdal Shams recall what happened to the people of Jubatha El Zeit:

‘During the war in 1967 roughly about half the people from Jubatha El Zeit left their village and came to Majdal Shams to hide because it was perceived to be a safe place, because it was high in the mountain. They had left Jubatha El Zeit because they were afraid of the war. After the war, the Israeli military occupied the village of Jubatha El Zeit and began to forcibly transfer the people who had remained. The people who had left Jubatha El Zeit and tried to return once they thought it was safe were also transferred. The Israeli army began shooting in the air and towards the people, all the time, to



remained in five villages located in the extreme north of the occupied Syrian Golan.

Israel succeeded in depopulating the occupied Syrian Golan through a number of means, including its regime of military orders that were introduced to administer the newly occupied territory. For example, a number of military orders declared that certain areas were closed military zones, effectively meaning that no one was permitted to enter the zone and anyone doing so was severely punished. Military Order 39 of 27 August 1967 ordered that 101 villages in the occupied Syrian Golan be declared closed

frighten the people of Jubatha El Zeit, to transfer the people from the village. After the transfer Jubatha El Zeit became a closed military area; nobody could return. Before the war the village of Jubatha El Zeit had about 1,500 - 2,000 people something like that, after the transfer nobody remained.'

#### The destruction of villages and farms

With an estimated 130 thousand people forced to leave the occupied Syrian Golan and unable to return, the Israeli military was, for the most part, unopposed in its administration of the newly occupied territory and began a widespread campaign to destroyed numerous villages and farms. According to recent research, 340 villages and farms were destroyed, leaving only Majdal Shams, Masada, Bqa'atha, Ein Qynia, and Ghajar, five small villages in the valley of Mount Hermon.<sup>29</sup> Israeli settlements were built over destroyed Syrian villages and farms, often using the same stones, and in so doing, control was taken of the land and resources.

#### Transfer of Israeli population into occupied territory

Israeli settlements have become a means for the Israeli Government to establish physical and demographic obstacles to an Israeli withdrawal from occupied territory. In other words, Israeli settlements create "facts on the ground". As early as 1969, Israeli Defence Minister Moshe Dayan spoke of his belief in developing Israeli possessions in the occupied territories:

'Israel should establish Jewish and Israeli possessions in the administered areas throughout, not just the Golan, and not just with the intention of withdrawing there. These should not be tent camps which are set up and taken down. With this in mind,

we should establish possession in areas from which we will not withdraw in accord with our view of the map.'<sup>30</sup>

Today, 26,261 Jewish-Israeli settlers live in 34 illegal settlements in the occupied Syrian Golan.<sup>31</sup> One of the largest settlements is Katzrin, with a population of 7,000 people. These settlements, and the use and exploitation of Syrian land and resources would appear to amount to what has been described by the United Nations as:

'[a] form of colonialism of the kind declared to be a denial of fundamental human rights and contrary to the Charter of the United Nations as recalled in the General Assembly's Declaration on the Granting of Independence to Colonial Countries and Peoples.'<sup>32</sup>

The presence of Israeli settlements and their continued expansion inside occupied territory, including that of the occupied Syrian Golan, represents one of the biggest obstacles to lasting peace in the Middle East. Israeli settlements further represent a clear violation of international humanitarian law and international human rights law.

#### The legal status of the occupied Syrian Golan under international law

Under the laws of occupation, occupation is considered a temporary condition, and the law places a legal obligation on the Occupying Power to act in a manner which has been described as 'fiduciary', that is to say, as administrator of public property and natural resources, and of the existing laws and form of government and penal system in the occupied region.<sup>33</sup> In keeping with the principle that occupation is intended to be temporary, customary international law prohibits unilateral

annexation of territory, particularly where a conflict is continuing, and even where the government of the occupied territory does not participate actively in military operations.<sup>34</sup>

In the case of the occupied Syrian Golan, it is undisputed that the area has been, for the purposes of applying international humanitarian law and the laws of occupation, occupied by Israel since 1967.<sup>35</sup> Despite the clear factual grounds for application of the laws of occupation in the Syrian Golan, Israel has thwarted these laws in two particular ways: first, by failing to recognise the *de jure* application of the Fourth Hague Regulations and Fourth Geneva Convention in the occupied Syrian Golan, and second, by its *de facto* annexation of the occupied Syrian Golan in 1981.<sup>36</sup>

Article 42 of the 1907 Hague Regulations provides an authoritative definition of occupation:

'Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to territory where such authority has been established and can be exercised.'<sup>37</sup>

Israel rejects the notion that the Syrian Golan is still an occupied territory, basing its claims to sovereignty over the region on a 1981 legislative act – the Golan Heights Law - which purported to annex the territory. This law, which has been legally deemed to be an annexation, placed the occupied Syrian Golan under Israeli civilian law, effectively extending Israel's laws and jurisdiction to the occupied Syrian Golan, and allowing the people residing there status as permanent residents of Israel.

On 17 December 1981, the United Nations Security Council categorically rejected Israel's passage of the

Golan Heights Law in UN Resolution 497. In this resolution, the Security Council reaffirmed 'that the acquisition of territory by force is inadmissible, in accordance with the United Nations Charter, the principles of international law, and relevant Security Council resolutions.'<sup>38</sup> The Security Council went on to declare that:

'...the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect [...] Israel, the Occupying Power, should rescind forthwith its decision [...] [and] all the provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 continue to apply to the Syrian territory occupied by Israel since June 1967.'<sup>39</sup>

Since 1981, the United Nations has continually refused to recognise Israel's claim to the occupied Golan and has issued a series of resolutions to this effect. A number of other bodies have also condemned Israel's occupation and annexation of the occupied Syrian Golan. The League of Arab States has on numerous occasions expressed its disapproval at Israel's efforts to change the legal, physical and demographic character of the occupied Syrian Golan. The League has stated that it sees such efforts as null and void under international law and in contravention of various UN conventions.<sup>40</sup> In a recent resolution, the United Nations Human Rights Council took a similar position. The Council stated Israel's annexation of the territory was illegal and called on Israel to refrain from 'changing the physical character, demographic composition, institutional structure and legal status of the Occupied Golan'.<sup>41</sup>



Israel's purported annexation of the occupied Syrian Golan is illegal and a violation of Article 2(4) of the UN Charter<sup>42</sup> and the principle of customary international law prohibiting the acquisition of territory by threat or use of force. The customary status of this principle was recently confirmed by the International Court of Justice in its Advisory Opinion on the Legal Consequences of the construction of a wall in occupied Palestinian territory.<sup>43</sup>

As occupied territory, the Syrian Golan enjoys a specific legal status in international law, governed by the law of belligerent occupation. The relevant provisions are enshrined in the Hague Regulations, the Fourth Geneva Convention and certain provisions of the Protocol I of 1977 Additional to the Geneva Conventions of 1949.<sup>44</sup> Israel has recognised the application of the Hague Regulations to some of the territories it occupies, but has never fully acquiesced to their application in the occupied Syrian Golan, which it has effectively annexed.<sup>45</sup> Nor has Israel recognised the application of the Fourth Geneva Convention in the occupied Syrian Golan.<sup>46</sup>

In contrast to Israel's position, there is agreement

amongst the international community regarding the applicability of the Fourth Geneva Convention in territory occupied by Israel since 1967. The International Court of Justice in its Advisory Opinion on the construction of the annexation Wall in the occupied Palestinian territory confirmed that it considered the Convention applicable in any territory occupied in the event of an armed conflict between two or more High Contracting Parties.<sup>47</sup> Both Syria and Israel were parties to the Convention when the armed conflict broke out in 1967 making the Convention applicable in the Syrian territory controlled by Israel in its aftermath. In this way, the Syrian Golan remains an occupied territory to which the Convention applies. Consequently, Israel has certain legal obligations as the Occupying Power that it must uphold and respect, while the peoples occupied (the Syrian population) are afforded the rights of protected persons according to the provisions enshrined in the Fourth Geneva Convention. International human rights law is also applicable to the occupied Syrian Golan.

### The war in Syria

The occupation of the Syrian Golan has been further complicated by the ongoing war in Syria, which started in March 2011. The Israeli Government has taken this as an opportunity to strengthen its grip on the region, stating that the ‘Golan can no longer be exchanged for peace with Syria because Syria no longer exists’.<sup>48</sup> However, this has been widely rejected by the international community. In 2015, the UN General Assembly and UN Security Council reaffirmed their commitment ‘to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic’.<sup>49</sup> In April 2016, the UN Security Council further agreed that the status of the Golan ‘remains unchanged’.<sup>50</sup> Similarly, European Union High Representative Federica Mogherini said in 2016 that ‘the EU recognises Israel within its pre-1967 borders, whatever the government’s claim on other areas, until a final settlement is concluded. And this is a common consolidated position of the European Union and its Member States’.<sup>51</sup> The US State Department also confirmed that ‘the U.S. position on the status of the Golan Heights is longstanding and is unchanged. Every administration on both sides of the aisle since 1967 has maintained that those territories are not part of Israel’.<sup>52</sup> These statements are in line with Article 2(4) of the UN Charter, which states that the territorial integrity of member states is a relevant element in international relations and it is recognised as a value to be preserved from the use of force of other state members.<sup>53</sup> Regardless of the situation in Syria, the occupied Golan remains Syrian territory and should be treated as such.

### Forcible transfer and deportation

The first real codification in international humanitarian law prohibiting the deportation or transfer of civilians was the Lieber Code of 1863. The Lieber Code provided that ‘private citizens are no longer [to be] carried off to distant parts’.<sup>54</sup> Following the mass deportation and forcible transfer of civilians from occupied territory during the Second World War, the drafters of the Geneva Convention set about creating a provision that would help protect civilians from such acts in the future. This provision is contained in Article 49 of the Fourth Geneva



Convention. According to David Kretzmer, an Israeli expert in international law, it is the near universal opinion of experts in international law that Article 49 places an absolute prohibition on deportations of residents of occupied territory.<sup>55</sup> Article 49 reads:

‘Individual or mass forcible transfers, as well as deportation, of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited regardless of their motive.’<sup>56</sup>

Using the village focused on in this chapter -

Jubatha El Zeit - evidently, the material element, or *actus reus*, of forcible transfer was satisfied in the forced displacement of the people from the village by the Israeli occupying forces. First, the Israeli soldiers participated physically in the displacement by shooting at the civilians of Jubatha El Zeit in an effort to frighten them and make them flee. In this way, the Israeli soldiers directly participated in the forcible transfer. Secondly, the people of Jubatha El Zeit were lawfully present in the area at the time of the displacement. Thirdly, those responsible for the transfer carried out this action using coercive means and by the use of force i.e. the Israeli military shooting at the civilians of Jubatha El Zeit to frighten them. Finally, the forcible transfer was unlawful because it was conducted against protected persons under international humanitarian law.

Furthermore, the people of Jubatha El Zeit were not permitted to return to their village after the perceived danger had passed, instead, the Israeli military razed Jubatha El Zeit village to the ground. The villages were forced to flee from the occupied Syrian Golan to other parts of Syria, most taking refuge around Damascus.

Israel's forcible transfer of the people from Jubatha El Zeit village was a clear violation of Article 49 of the Fourth Convention. The nature of the crime is so serious that it also constitutes a 'grave breach' of Article 147 of the Convention.<sup>57</sup>

#### Destruction of property

Following Israel's occupation of the Syrian Golan, the Israeli military forces began a widespread campaign of destruction, destroying 340 Syrian villages and farms. The protection of property has been a concern of international humanitarian law

for some time and this is reflected in provisions of the Hague Regulations and the Fourth Geneva Convention. However, international humanitarian law provides an exception to the prohibition on the destruction or confiscation of property, that is, if such destruction is justified by absolute military necessity.

Again taking the example of Jubatha El Zeit village, the Israeli forces had total and effective control in the region, there was little or no fighting taking place, and the village did not pose a security threat to the Israeli occupying forces. There were also no major military operations taking place that could have made the destruction of Jubatha El Zeit an absolute military necessity.

Israel's actions in destroying the village of Jubatha El Zeit while under its effective control, without any justification on the basis of absolute military necessity, violated Article 23(g) of the Hague Regulations and Article 53 of the Fourth Geneva Convention. The 'extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly' was also a violation of Article 147 and a 'grave breach' of the Fourth Convention.<sup>58</sup>

The way the destruction of Jubatha El Zeit was carried out indicated that the perpetrators acted with a premeditated intent to destroy the village, and they had the knowledge or were aware of the likelihood that the village would be destroyed when they began bombing it. It must also be noted that all the residential areas that were destroyed in the occupied Syrian Golan followed the same pattern. Residents were displaced from their homes and the residential area became a closed military zone before being destroyed by the Israeli military. Such a

systematic pattern indicates that Israeli officials had a premeditated plan in place for the occupied Syrian Golan including the forcible transfer of its citizens and the destruction of their villages and farms.

#### Transfer of Israeli population into occupied territory

Almost immediately after the conclusion of the 1967 Arab-Israeli War and the beginning of Israel's occupation of Arab territory, Israeli settlers began arriving in the occupied Syrian Golan. Merom Golan was the first Israeli settlement established in occupied Syrian territory.

Article 55 of the Hague Regulations points out



that an Occupying Power has an obligation not to make permanent changes in occupied territory:

'The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forest and agriculture estates belonging to the hostile State and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct.'<sup>59</sup>

While Article 49(6) of the Fourth Geneva Convention states that:

'The Occupying Power shall not deport or transfer

parts of its own civilian population into the territory it occupies.'<sup>60</sup>

Israeli settlements such as Neve Ativ, built on the destroyed village of Jubatha El Zeit, constitute a violation of both of these provisions of international humanitarian law. Israel has expropriated large quantities of land in the occupied Syrian Golan and transferred its own population into the occupied territory. The transferred population has since established large settlements and communities inconsistent with the intended temporary nature of occupation under international law. In a binding resolution, the United Nations Security Council condemned Israel's settlement policy in occupied Arab territory, highlighting that Israeli settlements were a flagrant violation of the Fourth Geneva Convention and an obstacle to a lasting peace in the Middle East.<sup>61</sup>

#### Conclusion

The Israeli settlement policy and its consequences remain major obstacles to finding a sustainable resolution to the conflict in the Middle East. David Kretzmer has described the settlement policy thus:

'According to the international law of belligerent occupation, the political status quo of the occupied territories must be maintained so that their ultimate fate can be determined by political negotiation. In contrast, the political aim of settlements is to create facts that will predetermine the outcome of any negotiations by making Israeli withdrawal from settled part of the Territories politically unfeasible. Furthermore, the existence in the Territories of a large number of settlers, who enjoy

the full democratic right of Israeli citizens and for whose benefit scarce land and resources have been harnessed, has made the regime there much closer to a colonial regime than one of belligerent occupation.<sup>62</sup>

In light of Israel's failure to recognise the applicability of the Fourth Geneva Convention in the occupied Syrian Golan, there is an added dimension to the responsibility of the other High Contracting Parties, who are obliged to act, in accordance with the UN Charter and international law, to ensure Israel complies with its obligations and that the protected persons under Israel's occupation receive the rights afforded to them by the Convention.

The International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in occupied Palestinian territory has also confirmed that High Contracting parties to the Convention have an obligation to ensure Israel implements and respects the provisions of the Convention in the occupied territory, including that of the occupied Syrian Golan.

Despite Israel's purported annexation of the occupied Syrian Golan in 1981, it remains occupied territory to which the laws of belligerent occupation apply. In the course of its period as an Occupying Power, Israel has committed numerous war crimes, notably the forcible transfer of much of the Syrian population from the occupied Syrian Golan, the destruction of protected property and the transfer of Jewish-Israeli settlers into the occupied territory. The most obvious consequence of these crimes is the change in the physical and demographic landscape of the occupied Syrian Golan.

While all of these acts constitute war crimes, two have attained the magnitude of grave breaches of the Fourth Geneva Convention, namely, the forcible transfer of the population and destruction of property. Grave breaches are considered the most serious of crimes that invoke their own special legal regime. As a High Contracting Party to the Convention, Israel is obligated to investigate and prosecute those responsible for grave breaches; however, such proceedings are unlikely to happen. Hence, the responsibility must shift to other High Contracting Parties to the Convention. It is the responsibility of other High Contracting Parties, in accordance with Article 146 of the Fourth Geneva Convention, to search for individuals alleged to have committed or to have ordered to be committed, grave breaches of the Convention, and initiate extradition proceedings to bring these suspects before a court of law. Regarding other war crimes committed by Israel such as the transfer of Israeli settlers into the occupied Syrian Golan, the High Contracting Parties to the Convention must also act with more authority to end this continuing violation of the Convention. Under customary international law, states have a duty not to recognise and not to assist a situation arising from or giving rise to violations of international law.<sup>63</sup> Pressure must be brought to bear on Israel to ensure it respects its obligation as a state party to the Convention and end settlement building in all occupied territory, including that of the occupied Syrian Golan. There are no circumstances where the acquisition of territory by force can be recognised or accepted. Such action poses an ongoing serious threat to regional and international peace and security.

# Family Separation





# Anonymous

I was born in Lebanon over seventy years ago. At that time, the Golan was still under the control of Syria and it was easy to travel between Lebanon and Syria. I met a Syrian man and married him in 1963. He came to pick me up in Lebanon and together we travelled by car to the Golan, to his home. I remember saying goodbye to my parents. I would only see them once more before they died. When the war happened four years later in 1967, it became impossible to travel to Lebanon or the other way around.

Communication was not possible. Letters would not arrive most of the time and my family did not have a phone. Every now and then I would receive a letter, but we had to be careful what we spoke about as letters were being read. A few years after the war, my uncle died and I was not able to go to his funeral. There were many funerals, weddings and other important events that I was forced to miss because of the war. It has been very painful.

I am in my seventies now with a family of my own and with grandchildren and great-grandchildren. I wish I would have been able to show my children to my parents but sadly my parents have already passed away. Only since recently I have been able to call my remaining family members in Lebanon on the phone. It used to be too expensive.

I miss my family very much. I know many people in the Golan suffer like I do, because they are separated from their family by the fence. At least the Syrians have the shouting hill, where family members used to stand on each side of the fence and see each other and shout messages. Lebanese people like me do not have this. No one should suffer like I do.

# Breaking Down the Fence

*Addressing the Illegality of Family Separation in the Occupied Syrian Golan*

By Dr Hannah Russell

Family separation has become a way of life for many in the occupied Syrian Golan and their wider families. This illegal policy was introduced by the Israeli Government after the 1967 Arab-Israeli War, when the Syrian Golan became occupied by Israel and separated from the rest of Syria. Initially no one was able to cross the ceasefire line from the occupied Syrian Golan to the rest of Syria, or vice versa. Gradually different ways of accessing family members were introduced, but these proved to be sporadic, discriminatory and unpredictable. As the current Syrian conflict has developed, the ways introduced to enable some form of access to family members have either stopped or become more difficult to navigate. This has created a graver situation than the one that already existed, particularly for those who are seeking family reunification in the occupied Syrian Golan in a bid to escape persecution in the rest of Syria.

This chapter will explain how Israel's policy of family separation constitutes a violation of human rights and international humanitarian law. Since 2010, Al-Marsad has conducted interviews with residents of Majdal Shams, Buqata, Masada and Ein Qynia on the issue of family separation. Throughout this chapter extracts from these interviews are used to illustrate the human impact of these violations.

## Origins of Family Separation and its Illegality

The part of the Syrian Golan now occupied by Israel was once inhabited by 136 thousand Syrians across one city and over three hundred villages and farms. Following the 1967 occupation, and forcible transfer and displacement of 130 thousand Syrian people, there are now only 26 thousand Syrians in the occupied Golan.<sup>64</sup> They live in five remaining villages.<sup>65</sup> With the passing of five decades, families have expanded and reports suggest that the number

of Syrians forcibly transferred and displaced from the occupied Golan stands at 500 thousand.<sup>66</sup> This forcible, permanent displacement has led to family separation. This policy and the means in which it is implemented amounts to a violation of international humanitarian and human rights laws.

#### International Humanitarian Law

The International Court of Justice has confirmed that humanitarian law applies to territory under occupation and that this category of international law is customary in nature.<sup>67</sup> Article 49(1) of the Geneva Convention VI: Relative to the Protection of the Civilian Persons in the Time of War 1949 sets out that the displacement of any portion of the population of an occupied territory is forbidden.<sup>68</sup> 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. Furthermore, Article 46 of the Hague Regulations 1907 sets out that ‘private property cannot be confiscated’.<sup>69</sup>

Israel has violated each of these laws through permanently displacing hundreds of thousands of Syrians from the occupied Golan, and expropriating their lands for military purposes and the construction of illegal Israeli settlements. Each of these policies has led to permanent, discriminatory and unjustified family separation.

#### International Human Rights Law

The policies of land expropriation, permanent displacement, restriction of freedom of movement

and discrimination have all amounted to violations of human rights and contributed to forced family separation.<sup>70</sup> These policies violate the rights to freedom of movement, equality, freedom from discrimination, family, property, marriage, privacy, health, education, nationality, culture, and self-determination.

These rights are contained in a number of treaties, which Israel is obligated to uphold. These are: the International Covenant on Civil and Political Rights 1966 (ICCPR); the International



Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Elimination of All Forms of Racial Discrimination (CERD); and the Convention on the Rights of the Child (CRC).

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’.<sup>71</sup> Israel has ratified the

ICCPR<sup>72</sup>; ICESCR<sup>73</sup>; CEDAW<sup>74</sup>; CERD<sup>75</sup>; and CRC<sup>76</sup>. The ratification process was the free choice of the state. By freely making the decision to ratify these treaties, Israel bound itself to respect, protect and fulfil the obligations contained within. Yet these commitments have become meaningless in practice. Israel's oppressive and illegal policies, which create and contribute to family separation, actively disregard such laws and obligations.

### Israeli Laws

In 1981, Israel enacted the Golan Heights Law. This purported to terminate military rule in the occupied Golan and imposed Israeli administration and laws on the region. The international community and the Syrian population of the occupied Golan continue to reject this attempted annexation. The occupied Golan is Syrian land which Israel is illegally occupying.<sup>77</sup> Yet, considering Israel's pretensions, an exploration of its domestic laws is required.

Israel has integrated human rights into its domestic laws, under the Basic Law: Human Dignity and Liberty, 1992. In theory, such legislation should protect against family separation, particularly in the discriminatory, disproportionate and unjustified fashion that affects members of the Syrian population in the occupied Golan. This was never the case in practice; a reality that was compounded by the enactment of the Nationality and Entry into Israel Law (Amendment No 2) 2007.

The initial version of the Nationality and Entry into Israel Law was introduced in 2003. It prohibited the granting of any residency or citizenship status to Palestinians in the occupied Palestinian territories who were married to Israeli citizens. Ultimately, it banned family reunification for Arab citizens on the

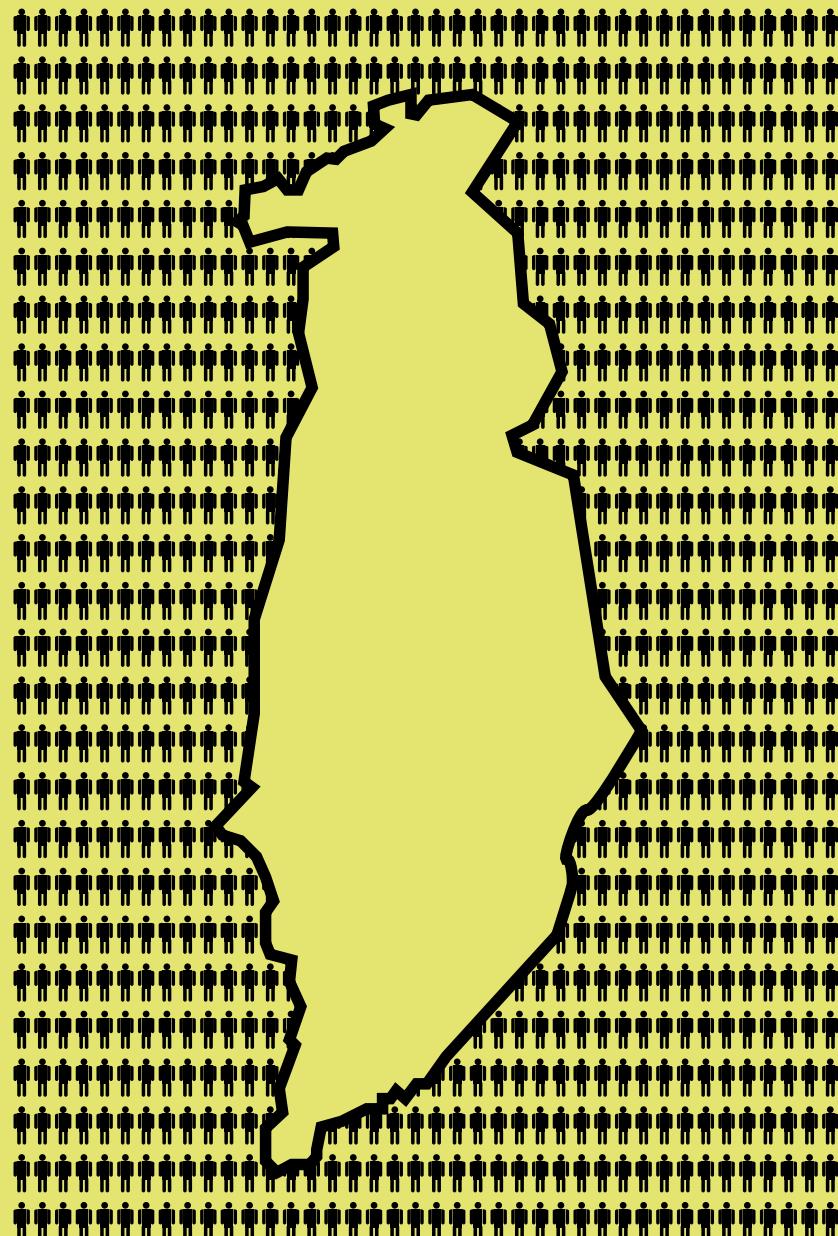
basis of their spouse's ethnicity. The 2007 version of this law expanded the ban to instances where one spouse was a resident or citizen of Israel's enemy states - Lebanon, Syria, Iran or Iraq – and/or if an individual was defined by the Israeli security forces as residing in an area where activity liable to endanger Israeli security was likely to occur. This prevented any form of family reunification for members of the native Syrian population in the occupied Golan.

The law does offer the opportunity for exceptions on the grounds of humanitarian issues, but the granting of such exceptions has been rare. The Syrian conflict has meant that such exceptions are now available in statute only, with no chance of such requests being granted, at least as long as the conflict persists. As interviewees have found:

In 2005, SQ from the village of Majdal Shams in the occupied Syrian Golan went to study in Damascus, the capital of Syria. He married a woman from Damascus and lived there with her until 2015. As a result of the Syrian war and fearing for their lives, they decided to move back to Majdal Shams. They travelled to Amman, Jordan. SQ continued to Majdal Shams but his wife had to remain in Amman to be processed. Her application for family reunification was denied by the Israeli authorities, and she was also denied permission to return to Syria. Consequently, she is living in a strange city on her own without access to her family.

There are also similar stories where family members have been forced to stay in Syria:

NK from Majdal Shams met and married his wife in Damascus. She is native to Damascus. When the Syrian war escalated, they made the decision to move back to Majdal Shams. NK returned home



Following the forcible transfer and displacement of 130 thousand Syrians after the 1967 Arab-Israeli War, today, taking into account their descendants, an estimated 500 thousand Syrians are unable to return to the occupied Syrian Golan

while his wife remained to await completion of the family reunification process. Her application was subsequently denied by the Israeli authorities. She is now still in Damascus fearing for her life and forcibly separated from her husband.

When pushed for justification for the restrictions on family reunification and visitations, the Israeli authorities cite ‘security reasons’. The Israeli Supreme Court (by a slim majority) has deemed this blanket justification to be constitutional.<sup>78</sup> Yet, the Court accepted that the majority of applicants for family reunification are not a security risk, and that their applications have been denied because there is no way to decipher who is a security risk and who is not.<sup>79</sup> Contrary to the findings of the slim majority of the Israeli Supreme Court, such a blanket response is discriminatory, disproportionate, unjustified and constitutes a violation of international humanitarian and human rights laws.

#### Mitigating Family Separation

A number of ways to enable access to family members have been introduced over the last five decades. Some have had more longevity than others, all have been unpredictable. These included: ceasefire line weddings; visitation permits to cross the ceasefire line; a visiting tent in the Valley of Tears; communicating via binoculars and megaphones across the Valley of Tears; passing messages through the International Committee for the Red Cross (ICRC); internet and/or telephone; and family reunions abroad.

#### Ceasefire Line Weddings

Weddings between Syrians from the occupied Golan and their partners from the rest of Syria were

once a common affair. Many of these weddings were between distant relatives, or couples that met while studying in Damascus. The wedding ceremonies, which took place in the demilitarised zone, at the Quneitra checkpoint, were facilitated by the ICRC. This arrangement, introduced in the nineties, enabled the families of the bride and groom to meet up for one hour at the checkpoint, before returning to their respective sides of the ceasefire line. In a typical case, the bride returned to the groom’s home after the ceremony. Whether this resulted in the bride crossing into the occupied Syrian Golan or into the rest of Syria, given the strict restrictions in crossing the ceasefire line, she relinquished her right and the right of her future children to return to or visit her birthplace. This was emotionally and financially very difficult, as one interviewee explains:

Alham Mahmoud Hassan and her sister Ahlam Mahmoud Hassan moved from Shahba in Syria to the village of Buqata in the occupied Syrian Golan on their wedding day in 1992. The separation from their family in Syria took its toll on this family emotionally, physically and financially. When interviewed in 2010, they explained that they spent all of their savings on the expensive telephone calls to Syria and visits to Jordan.

The situation was emotionally very hard for this family and every other family subjected to forced separation from loved ones. Alham explained: ‘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 Buqata 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 felt that they had to choose their husband over their family.

Ceasefire line weddings have been brought more or less to a halt under sections 4 and 8 of the Nationality and Entry into Israel Law (Amendment No 2) 2007. In effect, this law left couples only with the options of residing east of the ceasefire line or going their separate ways. They were no longer allowed to move back to the occupied Syrian Golan. As is typical of Israeli policies, there can be unexplained, rare exceptions. One of the last known weddings to occur at the ceasefire line was in 2011. It involved a bride crossing the ceasefire line to reside with her new husband in the occupied Syrian Golan.<sup>80</sup>

### Visitation Permits

From 1967 to 1981, and then 1991 to 1992, the ICRC was able to negotiate family visitations for every family in the occupied Golan for two weeks per year. However, these visits abruptly stopped without explanation.

In 1994, the ceasefire line checkpoints were opened to a select few: a selection that was determined by a rigorous and discriminatory application process. Anyone could apply to cross the ceasefire line to rest of Syria and many did in the hope that they would be successful. However, for the majority, the 160 shekels (\$45) non-refundable tax for each application submitted proved to be a waste of money. At its least restrictive, only religious Druze men; non-religious men over 35; students

studying in Syria; brides crossing to start a life with their husbands; women over seventy; and apples were permitted to cross the ceasefire line through the Quneitra checkpoint. There was no guarantee that the categories would remain eligible the next time that the checkpoint was opened for passage.

Jamela Nayf Ayoub and Hasan Saaed Ayoub from Majdal Shams had extensive experience of the discriminatory nature of the permit process. Due to being a devout older Druze man, Hasan was able to regularly visit his family in the rest of Syria between 1985 and 2010. However, he also had his fair share of failed applications prior to 1985. Over her lifetime, Jamela submitted a number of applications to visit the rest of Syria. Her requests were all denied until 2009, when the new regulations were introduced which allowed women over seventy to travel to the rest of Syria, pursuant to an application process.

Hasan had noticed that over the years, the amount of time that he had been permitted to visit became shorter and shorter. In October 1995, he stayed for two months after his son in the other part of Syria had a heart attack. In September 2009, when Jamela finally received a permit to accompany him, they were only permitted to stay six days.

The checkpoint was only opened a limited number of times per year and on the Israeli authorities’ timetable. The crossings were facilitated by the ICRC. There was the option for those that did not fall within the eligible categories to apply for a special permit. As an example of how rare such permits were, in 2009, only ten special permits were granted. These permits were offered on humanitarian grounds including access to medical treatment, visiting a dying parent and attending the funeral of a close relative. Even those who fell within these

specified categories found the application process to be selective, discriminative and inconsistent.

Roeda Nayf Hamd and Walida Nayf Hamd, originally from Hadar, a village across the ceasefire line, moved to the occupied Syrian Golan to marry. They applied for a special permit to visit their father after hearing that he was dying of cancer. Normally these applications were denied, but the two sisters' applications were accepted. In November 2009, the two sisters visited their father for one last time.

After their return to the occupied Syrian Golan, their father died. Roeda and Walida considered applying for a permit to cross the ceasefire line again for his funeral. When they contacted the Israeli Ministry of Interior to enquire about this application, they were told that because they had been given special permission for a visit only a short time ago, their application to attend their father's funeral would be unsuccessful and therefore a waste of time. Following this advice, they did not apply. Walida summarised their feelings: "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".

As the Syrian conflict developed and intensified, these visitation permits were stopped. The last permit was issued in 2012.

The cessation of the visitation permits has made it difficult for students who continue to study in the rest of Syria despite the conflict. The visiting permits enabled students to travel to the rest of Syria at the start of each academic year and return to the

occupied Syrian Golan for the summer. Now, their only option is to apply for a visa to travel via Jordan, from where they will continue their journey to the rest of Syria. This ad hoc process means that these students, if they return home at any point during their studies, are not guaranteed to be granted the required paperwork to make the journey back to finish their studies. As a result, students are now leaving the occupied Syrian Golan unable to return to their families until they graduate.



#### Alternatives to Visiting the Rest of Syria

Over the last fifty years, other options for remaining in contact with family beyond the ceasefire line were made available to Syrians in the occupied Golan under the watchful eye of the ICRC. These alternatives included: the erection of a visiting tent in the Valley of Tears and at the Quneitra checkpoint during the late seventies; communicating via binoculars and megaphones across the 200 metre divide of the Valley of Tears; and passing messages through the ICRC. While these

alternatives were welcomed, they could not make up for being able to freely see family members and on your own terms. As explained by interviewees:

#### Tent

Kmal Maziad Abu Saleh from Majdal Shams 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:

'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 Masada 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 Masada where we were checked by the security again before we returned home.'

Kamal recollects 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 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.

#### Valley of Tears

Saleh Salman Mdah from Majdal Shams used the Valley of Tears to communicate with his family in the rest of Syria on a number of occasions. Due to the regulations, Saleh and his family missed his

daughter's wedding and cousin's funeral. Saleh recalled 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.'

In more recent times, families have communicated via the internet and telephone, or by meeting up for short holidays in Jordan or other countries. As a result of the Syrian conflict, these more recent alternatives have become the only option. They have proven to be expensive and can be riddled with complications concerning visas. Those who have experienced these alternatives explain:

#### Telephone

Naser Hasan Sabagh from Majdal Shams explained that he kept in touch with his family in the rest of 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'.

#### Visiting Abroad

Nasiba Fares Ayoub from Majdal Shams is married with four sons, four daughters and 22 grandchildren. She has four sisters. After the 1967 occupation, Nasiba became separated from her sister, Ward Elsham, who moved to Damascus. 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 seventies. Between 2003 and 2010, Nasiba visited Ward Elsham in Amman, Jordan three times.

On the second day of the first 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. The stayed for a further four days and mourned their sister. Due to the restrictions on visiting her family in the rest of 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, the family believe this may not have been the case.

Nasiba's third visit to Jordan cost approximately \$6,000. She felt 'Jordan is very expensive. I am lucky that my family can afford it, other families are not so lucky.'

Visits to other countries are especially complicated for Syrians from the occupied Golan. The vast majority of Syrians have rejected Israeli citizenship and hold a form of permanent residency status similar to Palestinians in occupied East Jerusalem. However, whilst Palestinians in occupied East Jerusalem are permitted to have Jordanian nationality, Syrians are categorised by Israel as having an 'undefined' nationality and are only awarded an Israeli Laissez-Passer travel document. Many interviewees stated that the discriminatory treatment they received while travelling on a Laissez-Passer left them feeling like animals, not human beings.

### The Future

Not having the freedom to be able to enjoy your family's company, to see your daughter get married, to attend your father's funeral, or to see your grandchildren grow up is an emotionally painful existence and prevents meaningful family relationships. Though the work of the ICRC is appreciated, all alternatives that have been offered to date have proven inadequate when it comes to nurturing the bond between family members and respecting an individual's human rights.

In recent years, Al-Marsad has had some success in challenging restrictions on family reunification:

AF was born in Damascus. His father was from Majdal Shams in the occupied Syrian Golan and

his mother from Damascus. His parents met and married in Damascus. In 1998, when he was nearly one year old, AF and his parents moved to Majdal Shams. AF was granted a temporary residency status for one year. This enabled AF to live in Majdal Shams, but he had to have his residency renewed every year. His siblings who were born in Majdal Shams did not have to go through the same process.

In 2004, AF's parents stopped renewing his residency permit, but he continued to live in Majdal Shams. In 2015, AF reapplied for residency status, but his application was rejected. AF came to Al-Marsad to seek help. After writing a number of letters to the Ministry of Interior, some that went unanswered, AF was granted temporary status for one year. He now must renew his residency every year.

FS from Majdal Shams moved with his wife to Damascus to study. While in Damascus, his wife had a baby. After graduation, FS, his wife and young child returned to Majdal Shams. However, the child was denied residency status by the Israeli authorities. FS and his wife sought assistance from Al-Marsad, who highlighted the humanitarian issue to the Regional Court of Nazareth. The Court eventually ordered that the child be granted residency status.

These success stories are, however, few and far between. In addition, the resolutions that were reached do not address the precarious positions that these individuals find themselves in long-term, or the forced separation that they are subject to in relation to their family members in the rest of Syria.

The prolonged and escalating conflict in Syria highlights more than ever the need for a fair, non-

discriminatory and consistent family reunification process. Regardless of this added element, international humanitarian and human rights laws prohibit the forcible displacement that has created widespread family separation in the occupied Golan and the discriminatory, disproportionate and unjustified measures that facilitate this displacement. Israel is failing in its international obligations by creating and implementing these policies and measures.



The brave accounts of those interviewed highlight the real and human impact of these policies and measures. As one interviewee eloquently stated: "our hearts are on fire" as a result of family separation. It is time that the fire was extinguished. This will only be achieved by the Israeli authorities taking immediate steps to eradicate forced and unjustified family separation, and refocusing its efforts on a fair, non-discriminatory and consistent family reunification process.

Above: An Israeli-issued 'Laissez-Passez' travel document for Syrians in the occupied Golan, which states nationality as 'undefined'.

# Landmines





# Fandi Abu Jabel

**M**y wife and I had a son called Amir. He was a very smart and playful boy. At four years old he could recite all the capitals in the world. On 31 May 1989 he was playing outside with his friend, Yasmin. I was at work that day and came back home to see a large group of people standing close to my house. Some children told me that a cow had stood on a landmine. This happens sometimes, because we do not have much space to keep our cattle. As I got closer, someone told me that in fact it was Amir, but that he was okay and I should not worry. I saw a helicopter approach and realised it was serious. The helicopter flew over but did not land, and then I knew that my son had died, as the helicopter was not even going to try to save him and bring him to a hospital.

I heard he had been playing with his friend, Yasmin, when they started chasing a butterfly into the minefield on the hill near our house. There was no fence separating the minefield. Amir and the other children knew they were not supposed to go there and that it was dangerous, but they were playing so they probably did not realise what they were doing. Yasmin survived, although she lost several fingers in the explosion.

I tried protesting to the Israeli police, but it did not help. No one listened. Israel laid the mines and they should be responsible for removing them. There are mines everywhere and it is very dangerous for people, especially children. It is only since two years that Israel has started removing some mines. However, many still remain and in some places fences are broken. However, in the Israeli settlements close to minefields, not even a mouse could get through the fences. We are treated differently.

My wife was heartbroken when Amir died and barely left the house for five years. She does not want to speak about it now because it hurts too much. It is difficult for me too, but I think it is important to tell the world what happened to my son. I want to make sure no one else has to experience what I experienced.

# Danger! Mines!

*Landmines in the occupied Syrian Golan*

By Thijs Maas

Paul Jefferson, one of the earliest humanitarian de-miners, described landmines as the ‘perfect soldier: ever courageous, never sleeps, never misses’.<sup>81</sup> Often concealed or underground, these explosive devices are designed to indiscriminately destroy from the presence, proximity or contact of a person or vehicle.<sup>82</sup> They can be classified in two main groups; anti-personnel mines and anti-tank mines. Unfortunately, landmines tend to outlast the conflicts in which they are used, and often becoming remnants of war, injuring and killing people for many years after the conflict has ended and rendering areas unusable for decades - as is the case in the occupied Syrian Golan.<sup>83</sup>

Landmines do not distinguish between combatants and civilians. As such, they are a serious and ongoing threat to civilians living in or nearby (former) conflict areas, instilling fear in communities which are surrounded by minefields.<sup>84</sup>

Landmines often prevent people from fulfilling their agricultural needs by rendering land unusable, as well as inhibiting a people’s freedom of movement.<sup>85</sup> For this reason, the International Campaign to Ban Landmines was launched in 1992 to advocate for a ban on anti-personnel mines.<sup>86</sup> This movement subsequently led to the Ottawa Convention, also known as the Mine Ban Treaty.<sup>87</sup> To date, more than three-quarters of the world’s states (164 out of 195) are party to the convention, agreeing to be bound to its terms, including the prohibition of the use, stockpiling production and transfer of anti-personnel mines.<sup>88</sup>

## Israeli Landmine Policy

Although Israel has not acceded to the Mine Ban Treaty, it has declared that it supports its humanitarian goals.<sup>89</sup> In October 2000, Aaron Jacob, Deputy Permanent Representative of Israel to the

UN, explained the logic behind these seemingly contrasting positions as follows: '(...) Israel shares the concern of the international community regarding the indiscriminate use of anti-personnel mines, but in view of its security situation it is unable to subscribe to a total ban on their use'.<sup>90</sup>

Israel has also abstained from voting in all UN General Assembly resolutions calling for full implementation of the treaty since 1996, but is at

Israel has made substantial efforts to fortify the region. It has constructed anti-tank ditches, and established settlements and military outposts along the length of the ceasefire line to act as the first line of defence.<sup>91</sup> In addition, it has laid extensive minefields throughout the occupied Syrian Golan. These minefields have remained in place and are concentrated in the area around the 1973 ceasefire line that was established following the 1973 Arab –



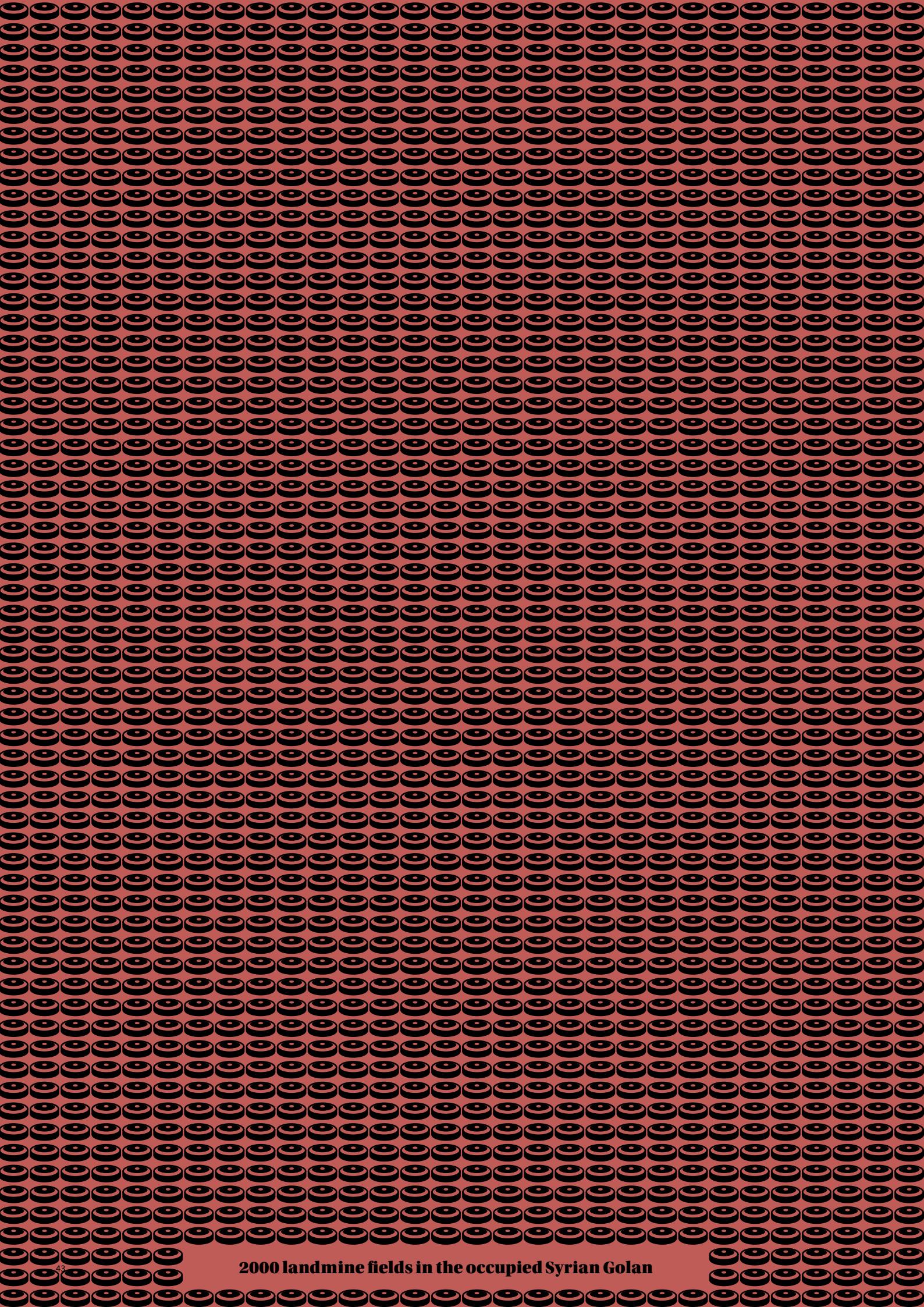
the same time a signatory to the 1983 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its Amended Protocol II on Mines, Booby Traps and Other Devices. Although the protocol does not contain a complete ban on mines, it does set some regulations on the use of the devices.

#### The Landmine Problem in the occupied Syrian Golan

Since its occupation of the Syrian Golan,

Israeli War.<sup>92</sup> The region also contains the remnants of minefields laid by Syrian and French forces during their control over the territory. Consequently, minefields are located all over the occupied Syrian Golan.<sup>93</sup> It is estimated that the region contains up to 1.2 million landmines.<sup>94</sup>

Today, more than 36 km<sup>2</sup> of land in the occupied Syrian Golan are suspected to be mined, distributed over 2000 minefields that vary greatly in size.<sup>95</sup> This number significantly contrasts the 80 minefields reported in the 1999 Israeli State Comptroller's Report.<sup>96</sup> One of the most contaminated areas



**2000 landmine fields in the occupied Syrian Golan**

is found between the destroyed villages of Ein Al-Hamreh and Al-Mansurah, where approximately 19 km<sup>2</sup> are filled with landmines.<sup>97</sup>

Minefields are mostly found in grazing areas, agricultural land, along the ceasefire line and in nature reserves.<sup>98</sup> However, most concerningly, they are also located within or close to Syrian villages, representing significant danger to the Syrian population. This danger is magnified when snow and heavy rainfall causes mines to become dislodged.<sup>99</sup> For example, in January 2000, such natural conditions caused mines surrounding an Israeli military base in Majdal Shams to move downhill. They fell into people's backyards and caused damage to houses. In 2008, Haifa's Magistrate Court ordered compensation to be paid to two people for damage to their property for this reason.<sup>100</sup> The mines, however, still surround the military base and locals regularly hear them explode due to natural movements.<sup>101</sup> The Israeli army has installed concrete blocks in places to prevent landmines sliding into people's gardens. However, due to landslides the blocks are redundant in many places.<sup>102</sup>

Despite the dangers posed by landmine fields, the exact number of landmines, their type and location are not publicly known, as this data is considered an Israeli state secret.<sup>103</sup> In addition to the existing minefields, in August 2011, the Israeli army laid new anti-personnel mines along the ceasefire line fence separating the occupied Syrian Golan from the rest of Syria.<sup>104</sup>

#### Accidents since 1967

Since 1967, many civilians have become victims of landmines in the occupied Syrian Golan.<sup>105</sup> It is difficult to measure exact numbers, as there is

no official record of landmine casualties in Israel and the occupied territories.<sup>106</sup> In its reporting, the Israeli authorities instead include landmine casualties in the umbrella category of "Victims of Hostile Activities".<sup>107</sup> A report by Al-Haq, a Palestinian human rights organisation, estimates that between 1967 and 2000, 66 Syrians were victim of landmines.<sup>108</sup> Of those, 16 died and fifty were seriously injured.<sup>109</sup> Israeli civilians, soldiers and tourists have also been victims of mines. However, as discussed, Israel does not make official records of mine injuries public.

A staggering 77 percent of the 66 Syrian mine-victims were under the age of 18, while 39 percent were under the age of ten. No less than eight children died, and 43 were seriously injured as a result of mines.<sup>110</sup> The high number of children affected can be explained by several factors.

In the occupied Syrian Golan, like conflict zones in general, children are less aware of the dangers of landmines and often do not receive formal mine risk education.<sup>111</sup> Children have also been traditionally responsible for grazing cattle and helping on the land. Cattle occasionally graze in or close to mined areas, as there is a shortage of usable land due to the appropriation of land by the Israeli authorities and minefields in the region. Children are therefore exposed to mined areas on a frequent basis. Furthermore, as discussed, minefields are also located in Syrian residential areas – sometimes just a few hundred metres from schools.<sup>112</sup> One tragic example is the case of 4-year-old Amir Abu Jabel, who was killed by a landmine while playing a mere few metres away from his house.<sup>113</sup>

Many accidents have also happened in areas which are considered to be risk-free. Safe areas are

rendered dangerous due to the displacement of landmines by forces of nature such as rain, snow or earth movements.<sup>114</sup> Warning fences are not designed to stop this occurrence, and as such, mines often slide downhill. Further, warning fences are at times broken or insufficient to prevent people entering minefields.

### **Syrian landmine victims in the occupied Syrian Golan**

Between 1967 and 2000,	<b>16</b>	Syrians died from landmines
Of them,	<b>8</b>	were children
In addition,	<b>50</b>	Syrians were seriously injured
Of them,	<b>43</b>	were children

### Other consequences of mines

A large number of minefields threatening Syrian villages and farming land were laid on land appropriated by the Israeli Government from the native Syrian population.<sup>115</sup> This includes grazing and other agricultural land, which severely reduces the amount of land available to Syrian farmers. As a result, Syrians are forced to allow their cattle to graze close to minefields, which results in cattle being killed by landmines and subsequent economic losses. One Syrian farmer estimates that he has lost more than fifty cattle due to landmines since 1967.<sup>116</sup> The loss of farm land has also impacted other types of agriculture practised by the Syrian community, and subsequently the local economy. In rare cases,

farmers have received some compensation for appropriated land, but these were the exception to the rule and the compensation offered was far below market value.<sup>117</sup>

Landmines have also impeded Syrians in the occupied Syrian Golan from constructing new houses and infrastructure. This is significant given the growth of the Syrian population. Following the forcible transfer and displacement of 95 percent of Syrians living in the Syrian Golan following the occupation in 1967, the population was decimated from 130,000 to 6,000 people. Today, this number has grown to about 26,000 people.<sup>118</sup> The mines in and around the villages restrict the amount of land available for expansion to match the increasing population. Moreover, as mines are found in residential and agricultural zones, they serve as an impediment to the free movement of the Syrian people and create a constant sense of fear among the community.<sup>119</sup> Israeli settlements in the region have not been affected by the minefields in the same way. In fact, minefields have been cleared in order to make room for settlements in the occupied territories.<sup>120</sup>

### Mine Clearance

In 1998, the Israeli State Comptroller's Report found that at least 350 minefields in Israel and the occupied territories serve no security needs.<sup>121</sup> This was confirmed in 2002 by a report published by the Knesset Research Unit.<sup>122</sup> However, Israel did not start clearing mines in the occupied Syrian Golan until 2011, when the Mine-Free Israel Campaign petitioned the Prime Minister and Members of Knesset to support a draft bill.<sup>123</sup>

The result of the successful campaign was the

Mine Field Clearance Act, commonly known as “Danny’s Law”, named after an Israeli boy who sustained serious injuries due to a landmine in the occupied Syrian Golan.<sup>124</sup> Following the incident, Ervin Lavi, Director of the Defence Ministry Mine Clearance Authority stated that ‘these landmines are not essential for the security of the state’.<sup>125</sup> The Act established the Israeli National Mine Action Authority (INMAA), responsible for planning, coordinating, supervising and implementing the civilian de-mining operation in Israel.<sup>126</sup>

Despite the concentration of landmines in Syrian residential and agricultural zones and repeated requests for removal by Syrian residents and non-governmental organisations, the 2011 landmine clearance program prioritises locations around Israeli settlements and agricultural land.<sup>127</sup> The INMAA has cleared a minefield on a hill in Majdal Shams that once served as an outpost for the Israeli army, and that over the years caused a number of accidents.<sup>128</sup> It reports that all the mines have been cleared and there is no immediate danger.<sup>129</sup>

However, some local people believe that there are still mines on the hill – hidden below layers of ground after decades of rain and earth movements. In addition, there are other more dangerous minefields in Majdal Shams which have been left untouched. According to civil society groups and local people, the Israeli authorities have made multiple promises to clean the remaining minefields in Majdal Shams. Indeed, the Israeli authorities wrote to Al-Marsad in 2017, stating that all remaining minefields will be removed by July 2018. However, these commitments have been repeatedly broken. Further, the letter

does not commit to removing minefields in and close to the other Syrian villages and agricultural land.

Between 2011 and the end of 2015, the INMAA cleared just under 5 km<sup>2</sup> of land.<sup>130</sup> This sets the yearly average amount of land cleared at slightly less than 1 km<sup>2</sup>. That means that, at its current pace, it will take the IMNA approximately 36 years to clear the 36 km<sup>2</sup> of minefields in the occupied Syrian Golan.



#### Mine Education

According to Article 9 of the Amended Protocol II to the Convention on the Use of Certain Conventional Weapons, there is a legal obligation for parties to record all information concerning minefields, including maps indicating their locations, perimeters and extent.<sup>131</sup> All such records shall be retained by the parties to a conflict, who shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures to protect civilians from the effects of minefields, mined areas, mines, booby-traps and other devices

in areas under their control.<sup>132</sup> Thus, in order to fulfil this legal obligation to participate in mine-risk education, the Minefield Clearance Act requires the INMAA to promote, plan and conduct activities to raise public awareness to mine safety, especially for people living in areas near minefields.

This educational plan is supposed to provide information regarding mine awareness to the civilian population. However, as of yet, no such education is provided in the Israeli-run schools in the occupied Syrian Golan, even though the area clearly qualifies as one of increased risk.<sup>133</sup> This is particularly poignant considering the mine awareness education program that Israel funds in Kosovo, as well as the mine survivor training and rehabilitation programs it provides in Guatemala.<sup>134</sup>

Since 2002, maps containing clear markings regarding the topographic location of minefields have been developed and issued by the Israeli Mapping Centre (IMC).<sup>135</sup> They are reportedly available to the public, but so far, Syrians have not been able to obtain these maps. A number of hiking trail maps do mark the locations of most non-operational minefields and other areas suspected of containing mines.<sup>136</sup> However, all the maps indicating minefields are in Hebrew.<sup>137</sup> Maps in Arabic are not available, even though it is one of Israel's official languages and the main language in the occupied Syrian Golan.<sup>138</sup>

#### New Placement of Mines

Any new placement of landmines is arguably illegal under customary international law as mines are, by their nature, indiscriminate and cause

superfluous injury or unnecessary suffering.<sup>139</sup> Furthermore, the Israeli ratified Amended Protocol II on the Use of Mines, Booby Traps and Other Devices sets a number of regulations on the use of the landmines.<sup>140</sup> Some of these regulations were violated by Israel in August 2011, when the Israeli army laid new anti-personnel mines along the ceasefire line in the occupied Syrian Golan.<sup>141</sup> The mines were laid in reaction to the developments on Nakba Day, the annual day of commemoration of the displacement of Palestinians at the time of the Israeli Declaration of Independence.<sup>142</sup> During this day on 15 May 2011, mass demonstrations were held across the ceasefire line.<sup>143</sup> In an unprecedented development, braving live fire from Israeli soldiers and existing landmines, hundreds of Syrian internally displaced persons and Palestinian refugees climbed the ceasefire line fence and crossed into the occupied Syrian Golan.<sup>144</sup>

The Israeli army reported that the mines were placed beyond the ceasefire line security fence but within the Alpha Line, which marks the start of the buffer zone between the occupied Syrian Golan and the rest of Syria.<sup>145</sup> The president of the 10th Meeting of State Parties to the Mine Ban Treaty expressed his deep concern and the International Campaign to Ban Landmines (ICBL) denounced the new placement of mines, describing it as 'shocking' and 'disgraceful'.<sup>146</sup>

The creation of minefields in 2011 by the Israeli army has been one of the very few instances of new mine placements by Amended Protocol II signatories in many years.

Article 5.2 of the Convention on the Use of Certain

Conventional Weapons requires any signatory to share details on steps taken to ensure the effective exclusion of civilians from mine areas. Remarkably, not a single other signatory state has remarked upon this development and Israel did not disclose any further information in its subsequent Annual Report to the Convention.<sup>147</sup> It is not surprising that Israel did not include any information about the deployment of mines in 2011 in its annual report. After all, the placement of mines is illegal, as it is aimed directly at civilians.<sup>148</sup> The fact that no other signatory state has made a statement or inquiry regarding the matter displays a definite lack of transparency and accountability concerning Amended Protocol II.

### Fencing

Amended Protocol II on the Use of Certain Conventional Weapons further contains provisions imposing a set of minimum precautions in order to protect civilians from mines. For example, Israel is bound under Article 3(10b) to undertake any possible measures, including proper fencing, signs, warning and monitoring, to protect civilians from unknowingly entering a minefield. Israeli efforts in this area have resulted in most minefields in the occupied Syrian Golan now being fenced off and indicated with warning signs.<sup>149</sup> However, many fences are broken, fallen down or display warning signs that facing the wrong way.<sup>150</sup> Furthermore, Amended Protocol II requires that signs should be



placed around minefields or mined areas at sufficient distance to ensure their visibility at any point by a civilian approaching the area: a person should be able to recognise the existence of a minefield regardless of their position to it.<sup>151</sup> However, this requirement is often not fulfilled, even though it is crucial to the objective of Article 3.

Certain Conventional Weapons. The new placement of mines along the ceasefire line fence in 2011 has constituted a definite breach of these restrictions as the mines were placed in anticipation of civilian protesters crossing them. Furthermore, many of the measures implemented by Israel related to mine-awareness, education, fencing and mine



### Conclusion

Israel has a legal obligation to protect the native Syrian civilian population of the occupied Syrian Golan from any harm or life to person under both international humanitarian law and international human rights law. Moreover, Israel has committed to restrictions on the use of landmines found in Amended Protocol II of the Convention on the Use of

clearance fall short of achieving their ultimate goals. Therefore, while considering the physical, psychological and economic damage caused by the minefields in the occupied Syrian Golan since 1967, Israel needs to accede to the Mine Ban Treaty and refrain from any further mine placements in order to fulfil its obligations under international humanitarian and human rights law.

It must further prioritise clearing mines inside and around the Syrian villages and agricultural land in the occupied Syrian Golan in order to guarantee the safety of the population; fulfil its obligations under Article 3(10b) of the Convention on the Use of Certain Conventional Weapons and the specifications found in Section 4 of its Technical

accessibility and availability of maps containing clear markings regarding the topographic location of minefields issued by the Israeli Mapping Center in order to comply with Article 9 of the Convention on the Use of Certain Convention Weapons and Section 1 of its Technical Annex. Further, it should provide mine-risk education for schools in the occupied



Annex to undertake any possible measures, including proper fencing, signs, warning and monitoring, to protect civilians from unknowingly entering a minefield. It needs to continue to monitor and maintain the fencing and marking of mine-contaminated areas in accordance with the relevant Amended Protocol II provisions embodied in the military regulations, as well as increase the

Syrian Golan to increase mine-awareness and decrease mine-related incidents. In addition, Israel should increase the INMAA's annual budget in order to increase the overall speed of mine clearance, and provide for transparency in the INMAA's priorities by requiring the authority to publicly publish the protocols related to the matter.



# Agriculture



# Moaddad Awidat

Farming is in my blood. My father was a farmer, and my grandfather a farmer before him. When I was little, my brothers and sisters and I used to help our parents on the farm all the time. I loved it. My grandfather grew wheat, barley, grapes and different vegetables. In his generation, most people relied on farming as their main source of income. This changed after the war in 1967. A lot of land was confiscated by the Israeli authorities, which made it more difficult to farm. The Israeli army also laid a lot of landmines near to and in the fields. When the ceasefire line fence was built after the war in 1973, it cut right through our lands. Fifty percent of my family's land is now on the other side of the fence. I can see it, but I cannot go there.

Nowadays, almost no one here can rely on just farming for their income. We do not have enough land to farm, because of the confiscations, the ceasefire line fence and the landmines. This means we have had to change our crops to apples and cherries, which need less space. However, unlike wheat and barley, they do need access to irrigation. We have to buy water from an Israeli company, which charges us higher prices than the Israeli settlers. On average we pay four or five times more for our water than the Israeli settlers. The company also sets us a different quota, which means we are not able to buy enough water to properly irrigate our lands.

Twenty years ago, my father would sell one kilogram of apples for 3.5 shekels (about \$1). Nowadays, I am lucky if I get 1.5 shekels (about \$0.40) a kilogram for my apples. Israeli settlers produce apples as well so there are too many apples on the market.

I cannot survive on farming alone, so I have another job working for a local water cooperative. The last two years, I have spent more money on my farm than I have made from it. It is becoming a hobby instead of a job. I love farming and if I had a choice, I would farm all the time. However, I am afraid that if things will continue, farming will disappear from the Syrian villages in the occupied Golan.

# Uprooted

*The Struggles of Syrian Farmers in the Occupied Syrian Golan*

By Lorenzo Barella

Agriculture has always been an essential part of life for the people of the occupied Syrian Golan, both as a source of livelihood and as part of their identity. The population of the occupied Syrian Golan has traditionally been active agriculturally, and until recently cultivation was the main source of income in almost every family. Before Israel occupied part of the Syrian Golan in 1967, about 60 percent of the local working force was involved in agriculture, while only 20 percent worked in the industrial sector.<sup>152</sup> The main products were cereals: the Golan produced about 180 thousand tons of wheat and 140 thousand tons of barley per year. Other popular types of produce included apples, olives, figs and pomegranates.<sup>153</sup> Besides growing crops, the large quantity of pastures also made the Golan suitable for raising livestock, such as sheep, cows, goats, and horses.<sup>154</sup>

Traditionally, in the Golan, land has stayed

within the same family for generations. Boundaries were common knowledge, so there was no need for ownership certificates. This tradition survives today, with family property being handed down from father to son. If there are multiple sons, they divide it equally, causing a progressive fragmentation of the land into small units.<sup>155</sup>

Agriculture in the occupied Syrian Golan has seen significant change over the past decades. Aside from the global development in moving away from the first to the second and third sector, agriculture in the Syrian Golan has also been severely affected by the Israeli occupation and policies applied by Israel. Whereas until 1967 almost two-thirds of the Syrian population in the Golan relied on agriculture as their main source of income, today less than one percent (10 to 15 families out of the 6000 families living in the occupied Syrian Golan) is able to do so.<sup>156</sup>

The majority of Syrian families still own small fields for personal use, but they rarely make money from their land. Crops, far from providing a large income, are now mostly considered a financial bonus which can help the family, but cannot sustain it. During years with lower yields, maintenance of the land often costs more than is made from revenue, creating agricultural deficits rather than surpluses.<sup>157</sup>

One of the ways in which the agricultural sector in the Syrian Golan has adapted to global trends and challenges faced by the occupation is through a change in produce. The fields of wheat and barley were replaced with apple and cherry trees, which are cheaper and require less space and maintenance.<sup>158</sup> The occupied Syrian Golan is famous for its apples, which, thanks to favourable environmental conditions, are of a high quality, but there is an overproduction in relation to the small available market in Israel, which has caused a drop in prices.

The move away from agriculture has not only had an effect on the financial wellbeing of Syrian families; it has also affected their identity. Land, in the culture of the native Syrian population, is much more than just a source of income: there is an emotional attachment to the land that has been in their families for generations. This is one of the reasons why most people generally maintain small pieces of land, even if it is not economically viable and costs more in maintenance than it generates.<sup>159</sup>

#### Agriculture after the occupation

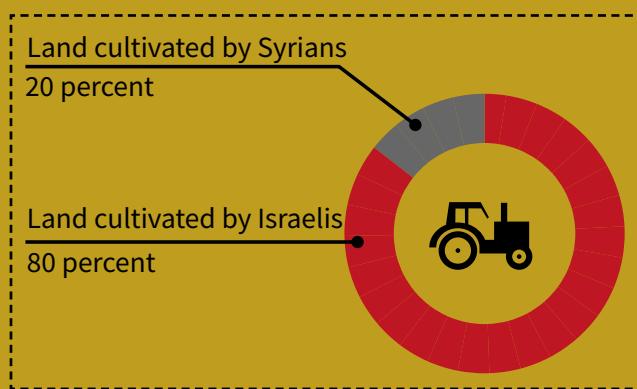
The occupation of the Syrian Golan by Israel

in 1967 severely affected every aspect of the life of the native population, including agriculture. At the time, agriculture was by far the most important source of income for Syrian families. However, the land loss suffered by the Syrian population in 1967 meant that growing crops became nearly impossible, and rearing cattle inviable. Shortly after the occupation, Israel issued Military Orders No. 20 and No. 21, in which the Israeli authorities defined all property of the expelled or displaced inhabitants as abandoned property, to be placed under the full control of a custodian appointed by the Israeli army.<sup>160</sup> In effect, Israel seized more



than two-thirds of the Golan region ( $1,230 \text{ km}^2$  out of the total  $1,860 \text{ km}^2$ ).<sup>161</sup> The land expropriation not only affected the expelled or displaced Syrians, but also the Syrians who managed to stay, and in many cases, lost significant amounts of their land. Israel expropriated much of the land for military purposes – even though in several cases this land remained abandoned by the Israeli military for years – and laid landmines, making many areas impossible to

be cultivated.<sup>162</sup> A local farmer from Majdal Shams, Salman Ibrahim, said that up to 30 percent of his land was lost due to landmines, and that many other families experienced similar losses.<sup>163</sup> In other cases the mines were laid close to fields, with evident risks to the civilian population and local farmers.



Syrians who were able to remain in the occupied Golan also lost part of their land due to the ceasefire line which was established between Syria and Israel after the war in 1973. In Majdal Shams, the largest of the remaining Syrian villages, the hills on the other side of the subsequently erected fence were owned and used by the population of the village. Once the ceasefire line fence was erected, around ten thousand dunams<sup>164</sup> of land were lost as they were now located east of the fence.<sup>165</sup> Considering that the whole area cultivated by the local Syrian population today amounts to 21 thousand dunams, it is clear how relevant the loss of this land was for farmers.<sup>166</sup> None of the farmers ever received compensation for the land lost.<sup>167</sup>

Aside from the loss of land, the occupation also impacted local agriculture in several other ways. Before 1967, only part of the land was cultivated, notably the part that could be irrigated. For example,

Al-Marj, the area surrounding Majdal Shams, was cultivated because it received water from the Ras Al-Nabi' spring, which is now located east of the ceasefire line. In addition, the area around Lake Ram received water directly from the lake. Following the occupation, less than two thousand dunams of land had access to irrigation. The rest of the fields were collectively owned and used for cattle rather than crops. In the years after the war, irrigation did not improve but many inhabitants started cultivating land even if they did not have access to irrigation. They feared their land would be confiscated, a fear which was fuelled by warnings coming from Arabs living in Israel who had already experienced large land confiscations.<sup>168</sup> According to Israeli law, if a piece of unregistered land – which constitutes the majority of land in the occupied Syrian Golan – has not been used for a period of time, the owner can lose his right to the land. Afraid that their land could be confiscated because it was not being cultivated, Syrians divided up the collectively owned fields and started growing apples and other products even in non-irrigated areas.<sup>169</sup> Without proper irrigation, the productivity of the fields and quality of the produce was very low, which meant families lost a considerable amount of money. However, they did protect some of the land from further expropriation.<sup>170</sup>

After the occupation, Syrian farmers were also completely cut off from Syrian Government assistance from Damascus. Prior to 1967, local collective committees in every village coordinated with the Syrian authorities regarding agricultural development, receiving several kinds of support,

such as loans, free fertiliser and tree saplings.<sup>171</sup> This ended with the occupation, and was not replaced by a similar programme from the Israeli Government.<sup>172</sup>

The type of crops changed as well following the occupation. Due to land confiscation, the establishment of closed military areas and the presence of landmines, the size of fields reduced drastically, necessitating a change in crops. Field crops such as cereals, which need large spaces and many working hands, disappeared from the occupied Syrian Golan and were replaced by apple and cherry trees, which are more profitable and need fewer farm workers. More so than cereals, however, apple and cherry trees need a lot of water

to grow, which is a problem in fields which do not have access to irrigation.<sup>173</sup> Meanwhile, the Israeli Government started carrying out agricultural studies and building wells, pumps, artificial basins and water pipes in the occupied Syrian Golan in order to supply water to the illegal settlements that had been established in the years after 1967, as well as to the rest of Israel.<sup>174</sup> This new infrastructure was aimed at supporting the Israeli population only, while the native Syrian population did not receive any help or funding to improve its existing facilities.<sup>175</sup>

Without government support from either Syria or Israel, and with Israel expropriating the land and water of the occupied Golan, Syrian farmers had



to develop their agricultural sector autonomously. They built a completely new irrigation system in 1974, to replace the old one and improve efficiency. Another project involved building community-owned cooling houses for storing apples, which are still used today and keep the fruit fresh for longer, so it can also be sold off-season, when the market is

lengthy bureaucratic process to obtain permits and permission.<sup>179</sup> The construction of new water tanks was prohibited.<sup>180</sup>

#### Creation of cooperatives

Given the structural shortage of water and the failure of the water tank project, in 1985, some Syrian farmers approached an Israeli water company, Mekorot, to request to buy some of the water it was extracting from Lake Ram. The Israeli Government had recently stepped up its water exploitation of the occupied Syrian Golan, setting up new investments and projects to more efficiently connect water resources with illegal settlements.<sup>181</sup> The development of a modern water system also meant that Mekorot had a surplus of water, leading them to accept the proposal to sell water to the Syrian population.<sup>182</sup> In order to buy the water, sold in high quantities, the Syrian farmers created a cooperative so they could purchase it jointly.<sup>183</sup> Many other farmers followed this example and several cooperatives developed in the nineties, giving the farmers the possibility to irrigate their fields and produce more and better quality products.<sup>184</sup>

more favourable.<sup>176</sup>

In order to find a solution to the shortage of water, in the eighties, Syrians in the occupied Golan started to build large water tanks to collect rainwater, so they could use it to irrigate their fields. In the end, the tanks proved too expensive for broad use.<sup>177</sup> The Israeli Government also destroyed multiple tanks on the basis that all water resources were to be controlled by the state.<sup>178</sup> After long negotiations, the existing tanks were allowed to remain, but only if they were regulated by the state, which involved a

Today, there are 21 cooperatives in operation, and almost every Syrian farmer is a cooperative member, as it is the only way to have sufficient access to water.<sup>185</sup> The cooperatives are controlled by the farmers themselves: they elect a committee that deals with negotiations with Mekorot, and also maintains the necessary infrastructure to pump the purchased water to the members' agricultural fields.<sup>186</sup> Apart from the first cooperative, Mekorot has always sold the water without pumping it,



Above: A girl picks cherries on a farm in the occupied Syrian Golan. Photograph © 2016 Filippo Menci.

leaving all the expenses related to the extraction of the water to the cooperatives themselves.<sup>187</sup> This treatment contrasts with that afforded to Israeli settlers, who have their water pumped directly to their fields. The cooperatives have to build the pump houses and pumping systems, lay the water pipes, and maintain all the infrastructure at their own cost. The farmers, when they pay for their quota of water, pay the price of the water itself plus an extra amount which covers the expenses related to the cooperatives, from the infrastructure to the committee salaries.<sup>188</sup> Despite the arrangement, the quota of water that Mekorot sells Syrian farmers has always been much lower than the basic requirement to maintain agricultural production, meaning the Syrian farmers still struggle with a lack of adequate irrigation.

#### Discrimination in agriculture

The first illegal Israeli settlement in the occupied Syrian Golan was built just weeks after the occupation in June 1967. Today, there are 34 illegal settlements with a population of 26 thousand people.<sup>189</sup> In contrast, the remaining Syrian population, which numbers a few hundred more, lives in just five villages.<sup>190</sup> Agriculture has always been an integral part of the construction of settlements in the occupied Syrian Golan, as cultivation of the soil not only generates value but also strengthens settlers' symbolic hold over the land.<sup>191</sup> The Syrian population has suffered from clear discrimination in the area of agriculture due to the occupation.

In the early years of the occupation, the illegal Israeli settlements were still developing their agricultural industry, as a result of which Syrian

farmers were able to sell their products on the Israeli market without strong competition.<sup>192</sup> For example, 70 percent of the apples sold in Israel in the seventies was grown by Syrian farmers in the occupied Golan.<sup>193</sup> Over the following decades, the Israeli Government prioritised the agricultural development of the Golan settlements – most recently in 2014 with a 108 million dollar investment.<sup>194</sup> As a result, settlement farms expanded and began to encroach on the markets of Syrian farmers.<sup>195</sup> Since the nineties, Syrian farmers have been competing with Israeli settlers who are being subsidised by the state and have access to many more resources. This has had a dramatic impact on the local Syrian economy, with apple prices dropping and many families being unable to survive on agriculture as their main source of income.<sup>196</sup> In particular, the Syrian farmers have faced discriminatory policies related to agriculture in the following areas:

#### Land

The Syrian population estimates that, of the land used for cultivation in the occupied Syrian Golan, 80 percent is in the hands of Israeli settlers, while Syrians cultivate only 20 percent.<sup>197</sup> Considering that they compete within the same market and the size of the population is roughly the same, the sizeable difference in land available for agriculture gives settlers a considerable advantage: they can produce higher yields and more varied products, like vegetables, almonds, tropical fruits, grains, cotton and wine. As a result, they represent a significant proportion of Israel's domestic market and even export 20 percent of their products to Europe, the US, Australia and Canada.<sup>198</sup> The native Syrians, on the other hand, are limited to apples and cherries.

## Water

The Golan is known for its water. Compared to Israel, which is a relatively arid country, the Golan has a high level of rainfall, supplying many groundwater and surface water resources.<sup>199</sup> In order to establish control over these resources, Israel issued Military Order No. 120 in 1968, giving the Israeli army commander the authority to appoint an official in charge of the management of water resources, and forbidding any water-related work without the permission of the Israeli authorities.<sup>200</sup> After the purported annexation of the Syrian Golan in 1981, Israel applied its Water Law in the occupied territory.<sup>201</sup> According to this law, all water resources are public property under the administration of the state, and every operation involving the use of water sources must be authorised by the Water Authority.<sup>202</sup>

Through the creation of cooperatives, the Syrian population has managed to gain some access to the Israeli controlled water resources by purchasing water from Mekorot. However, the pricing policy used by Mekorot is clearly biased towards Israeli settlers. The company divides the price of water for agricultural consumption on three levels, based on the amount of water used.<sup>203</sup> Level one is cheapest and level three most expensive. If a farmer uses more water than the quota available at the first level, all water used above that will be charged at the second level's price, and so on.<sup>204</sup> The exact total price depends on consumption, but on average, the price paid by Syrian farmers is between 1.5 and 2 shekels per m<sup>3</sup>.<sup>205</sup> Added to this is the price Syrian farmers have to pay to cover the expenses related to the irrigation infrastructure and the cooperative's costs. In total, the price per m<sup>3</sup> of water comes to about 4.5 shekels.<sup>206</sup>

Compare that to the situation of the Israeli settlers. Even though the prices set by Mekorot are the same, the settlers only pay for the water, because the company itself directly pumps the water to their fields. The settlers neither have to build the infrastructure nor pay for its maintenance.<sup>207</sup> In addition, while Syrians can only buy water from Mekorot, Israeli settlers can use two other sources. They can buy from Mey Golan, a water management company that is run as a cooperative and provides water only to Israeli settlements; and they can use their own reservoirs, which are paid for with the support of the Israeli Government and of the World Zionist Organisation.<sup>208</sup> Local Syrian experts estimate that, on average, Israeli settlers pay between 1 and 1.5 shekel per m<sup>3</sup> of water – about a quarter of what Syrian farmers pay.<sup>209</sup>

Similarly, Syrian farmers are limited in the amount of water they can buy from Mekorot.<sup>210</sup> The quotas vary from cooperative to cooperative, with the biggest and oldest ones being allocated the highest amounts. On average, a Syrian farmer can buy about 250 m<sup>3</sup> of water per dunam. This is more than a Syrian farmer was able to buy from Mekorot in the nineties – around 100 m<sup>3</sup> per dunam – but it is still far less than required.<sup>211</sup> According to the Israeli Minister of Agriculture, one dunam of apple trees should be irrigated with 700 m<sup>3</sup> of water to receive a satisfactory yield.<sup>212</sup> Syrian farmers can only buy a third of that, and as a result their produce suffers. On the Israeli side, settlers have unlimited access to water. This means their fields provide better produce, both in quality and in quantity. It is estimated that, because of the differences in water usage, one dunam cultivated by a Syrian farmer will produce 2.5 tons of apples per year, while the same

land cultivated by an Israeli settler will produce between 6 to 7 tons.<sup>213</sup>

In addition, the Syrian farmers are only able to buy water for five and a half months of the year – from May to the middle of October.<sup>214</sup> The rest of the year they have to rely only on rainfall and on the Ras Al-Nabi' spring on the other side of the ceasefire line fence, which only irrigates a small part of the agricultural fields. This causes huge problems: at the end of October, after the apples have been harvested, the trees need a lot of water for the fertilisation process, so they grow high quality apples the next year. As a result of the interruption in water supplies in October, the richness of the soil cannot maintain its balance, leading to poor harvests the following year.<sup>215</sup> The Israeli settlers, on the other hand, have water pumped directly to their land and, combining the three sources to which they have access (Mekorot, Mey Golan and their own reservoirs), they can use water throughout the year without restriction.<sup>216</sup> They can fully fertilise the soil when needed, resulting in higher quality produce.

### Market

Due to the discriminatory agricultural policies faced by the Syrian farmers, the cost of production has gone up while the quality of the harvest has gone down. As a result, many farmers struggle to compete with settlement produce.

The first problem is that there is only one small market to be shared by the two groups. The expansion of the settlement agricultural sector has caused a significant increase in products, which has not been met by a proportionate rise in demand.<sup>217</sup>

This over-production, mostly of apples – which is the main crop cultivated by Syrian farmers – has resulted in a dramatic drop in price and therefore profitability. Whereas ten years ago one ton of apples would be sold for about 3,000 shekels, the same amount nowadays is worth 1,200 shekels, less than half of the original price.<sup>218</sup> This has had a dramatic effect on the livelihood of Syrian farmers.

To a certain extent, Israeli settlers have also been negatively impacted by the drop in price, although their situation is different for two reasons. First, given the difference in water resources, Israeli



settlers spend significantly less on their produce and have higher quality yields. Therefore, they make a higher profit on their apples than the Syrian farmers, which means they are less affected by the drop in price. Second, apples are just one of the many types of product which are cultivated by Israeli settlers: they also grow tropical fruits, cotton, vegetables, cherries, almonds and grains.<sup>219</sup> This diversity leads to flexibility, meaning they can better absorb price fluctuations and are less affected by any drop in apple profits. In addition, Israeli settlers, in the

## Farming in the occupied Syrian Golan



occupied Syrian Golan as well as in the occupied Palestinian territories, receive financial incentives and tax breaks from the Israeli Government which significantly reduce costs related to agricultural activities.<sup>220</sup>

In 2005, following an agreement between the Israeli and Syrian Governments, Syrian farmers in the occupied Golan were able to start selling part of their yield of apples in the rest of Syria. The International Committee of the Red Cross dealt with transportation and distribution. The set-up provided benefits for all the parties involved: the Israelis were happy to reduce the competition in their small internal market, the Syrian Government could renew its attachment to the occupied Golan, and the Syrian farmers in the Golan could sell their apples at a higher price set by the authorities of Damascus.<sup>221</sup> For more than 8 years, 20 percent of the apples produced by Syrian farmers in the occupied Golan were sold in the rest of Syria at

very favourable rates.<sup>222</sup> Sadly, the conflict in Syria put an end to the scheme in 2013 after the fighting intensified in the area close to the ceasefire line, making it close to impossible to deliver the apples.<sup>223</sup> Since then, Syrian farmers have had to rely only on the small Israeli market, once again reducing their income.

The second problem relating to the market is the difference in access to the sales process between Syrian farmers and Israeli settlers. Israeli settlers have access to a wider network of companies and connections in Israel than Syrian farmers. As a result, they manage to negotiate more favourable agreements with the companies in Israel through which their products are sold. Syrian farmers, on the other hand, sell their products to middlemen from Tel Aviv, who come to the occupied Golan and negotiate prices with farmers on an individual basis.<sup>224</sup> To address this, over the past few years some Syrian farmers have started selling their

apples together, through the community owned cooling houses, in order to negotiate better prices<sup>225</sup> No long-term agreement has been reached so far, but the process is ongoing and people have started to recognise that a higher level of unity could benefit the whole community.

#### Recent developments

In recent years, several developments have impacted the agricultural sector in the occupied Golan. One of the most important ones has been price negotiation with Mekorot. After years of negotiations between the Syrian cooperatives and the Israeli water company, an agreement was reached according to which Mekorot will start sharing part of the costs related to the agricultural infrastructure and pumping of water, and that it will increase the amount of water allocated to the Syrian farmers.<sup>226</sup> At the time of publication, the quota has not yet been increased, but the company has started partly financing some infrastructure projects over the last two years.<sup>227</sup> The criteria according to which projects are approved or denied are not transparent and rely mostly on the discretion of the company, but the policy has the potential to decrease some of the costs which used to be borne only by Syrian farmers.<sup>228</sup>

Mekorot also benefits from the agreement. It is currently the only water company which sells to both Israeli settlers and the Syrian population – rival company Mey Golan only sells to the Israeli settlers. Considering that nowadays, most of the water delivered to Israeli settlers is sold by Mey Golan, it has become economically lucrative for Mekorot to broaden its business with the Syrian population.<sup>229</sup> In addition, the policy can also be viewed as part

of a broader strategy by the Israeli Government to appease - at times - the Syrian population in the occupied Golan.

#### Future perspectives

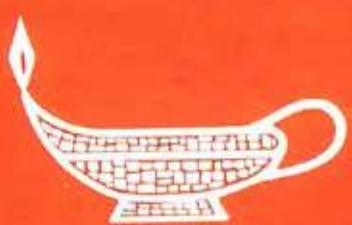
As a result of land expropriation, discriminatory policies towards Syrian farmers and global change in the sector, agriculture in the occupied Syrian Golan is not as profitable as it used to be. Families have small pieces of land, which become smaller and smaller over the years as it handed down from generation to generation. In the vast majority of cases, people cannot make a living from agriculture, as a result of which they have to get other jobs. Cultivating the fields has become a secondary activity for some extra money. Syrian farmers are not optimistic about the future. The general feeling is that young people will abandon agriculture, investing their time in more profitable jobs, and that the fields will be abandoned or used only for family gatherings.<sup>230</sup>

On the other hand, some more wealthy Syrians (such as doctors and lawyers) are buying land from other Syrians to enlarge their fields to be able to compete with Israeli settlers, whose fields are on average much bigger in size.<sup>231</sup> This new phenomenon could create incentives to modernise the sector: many units of land nowadays are too small to be profitable at all, and therefore there is little interest to invest in them.

Some farmers are also exploring the idea of diversifying their crops. The cultivation of kiwis, building of greenhouses and development of agricultural tourism are all ideas which could reshape the agricultural economy in occupied Syrian Golan and give it a renewed future.<sup>232</sup>



# Settlement Industries



יקבי רמת הגולן

• אֶרֶץ הַיִן •

כרם "עין זיוון"

עֵין זִיווֹן



960 מטר מעל פני הים

# Mufeed Al Wili

**M**ost of the Israeli projects in the Golan are subsidised. Land is given for free to Israeli settlers. As Syrians, we have a problem: if we want more land, we must buy it or rent it from the Israeli authorities. And we cannot recognise the Israeli occupation, so we cannot buy or rent land from the Israelis because we don't consider them the owners of the land. This is a moral and political issue.

In Buqata, where I live, there is an apple company of which one part belongs to Syrians and the other to a settlement. The distance between the two fields is ten metres of road. They contain the same trees, the same systems, and the same people work in both. However, in the Syrian field, we yield 40 percent of what the Israeli settlers yield. The main difference is the water: the Israelis receive much more than the Syrians, so their yield is better. The main source of water for irrigation here is Ram Lake. It's our water, it's our lake. But, it was confiscated by the Israeli national water company Mekorot.

The production of meat and milk is flourishing in the settlements. The places we used to graze our flocks became agricultural fields for the settlers. They deal with the land like thieves. I do not differentiate between settlement products and Israeli products. They are the same. Their products compete with ours: we produce apples, they produce apples. This causes problems for us in the market. We also need to buy Israeli products, because there are no alternatives.

If there were no settlers, it would be easy for Israel to withdraw from the Golan. The settlements are an obstacle for peace. The suffering of the Syrians and the existence of the settlements are two sides of the same coin.

# From Settlement to Shelf

*The Economic Occupation of the Syrian Golan*

By Jonathan Maloney, Michelle Stewart and Nancy Tuohy - Hamill

The conflict and unrest in the Middle East have long been a focal point of international media coverage, to the extent that a diverse array of people possess at least a rudimentary awareness of the situation currently unfolding in places like the occupied Palestinian territories. Regrettably, many of the substantive issues pertaining to Israel's occupation of the Syrian Golan, whilst equally important, have been largely neglected on the international stage. The occupation has had substantial repercussions for the economy and landscape of the Syrian Golan. Accordingly, this chapter examines the economic occupation of the Syrian Golan, focusing on the illegality of Israeli settlements, their resultant industries and the international community's continued acquiescence regarding Israel's gross violations of international law in the region.

## The 1967 War and its Outcomes

The 1967 Arab-Israeli War had a devastating effect on the native population of the Syrian Golan. Immediately after the occupation, Israel began building settlements and transferring its population. The first Israeli settlement, Merom Golan, was established within just one month of the war.<sup>233</sup> Prior to 1967, the population of the now occupied Syrian Golan was approximately 136 thousand, living in the city of Quneitra, and approximately 345 villages and farms. Almost all of them were uprooted and expelled during and after the war, forced to relocate to refugee camps around Damascus and elsewhere in Syria. Following Israel's conquest, 340 of the 345 villages and farms were destroyed and replaced with Israeli settlements.

Common Israeli practice was to build on top of the ruins of destroyed villages and farms as an effective

method of hiding the evidence. To an untrained eye looking around parts of the occupied Syrian Golan, it is almost impossible to tell that Syrian villages and farms once existed. However, as the map below shows, there were dozens of villages and farms where now only barren land and settlements remain. Aside from the imposing skeleton of the village of Quneitra, there are very few traces left of these old villages and farms. In many cases, stones from the destroyed villages and farms were used to build new settlement homes, as well as military points.<sup>234</sup> Israel also enforced military orders regarding the allocation of land and water sources for the benefit of the settlers. Successive Israeli governments have all created plans and projects for settlements, despite their clear contradiction of international law.

#### UN Resolutions Relating to the Settlements

The United Nations Security Council has expressed strong criticism of settlement building throughout all the occupied territories. These resolutions include, but are not limited to:

United Nations Security Council Resolution 446 (22 March 1979) ‘Determines that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.’

United Nations Security Council Resolution 452 (20 July 1979) ‘States that the policy of Israel in establishing settlements in the occupied Arab territories has no legal validity and constitutes a violation of the Fourth Geneva Convention relative

to the Protection of Civilian Persons in Time of War of 12 August 1949.’

United Nations Security Council Resolution 465 (1 March 1980) ‘Deplores the decision of the Government of Israel to officially support Israeli settlement in the Palestinian and other Arab territories occupied since 1967, [and is] deeply concerned over the practices of the Israeli authorities in implementing that settlement policy in the occupied Arab territories, including Jerusalem, and its consequences for the local Arab and Palestinian population. Calls upon all States



not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories.’

United Nations Security Council Resolution 2334 (23 December 2016) ‘Expressing grave concern that continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution based on the 1967 lines [...] Calls

upon all States, bearing in mind paragraph 1 of this resolution, to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967.'

#### Economic Motivations Behind the Settlements

Strong economic motivations underpin the establishment of Israeli settlements in the occupied Syrian Golan. The area is a rich volcanic plateau with exceptionally fertile soil.<sup>235</sup> It is home to a huge variety of valuable natural resources, making it an ideal location for settlements and settlement industries. Shortly after the 1967 Arab-Israeli War, delegations of Israeli experts, including civil engineers, agricultural experts and hydrologists, visited the occupied Syrian Golan to evaluate its potential and establish how Israel could profit from the region's abundant natural resources.<sup>236</sup> Consequently, the Israeli authorities have implemented policies which control the valuable resources in the region, in particular the land and the water.

In recent times, this has manifested itself through Israel's encouragement of the establishment of industries and businesses in the region, which exploit these natural resources for commercial gain. In 2009, former UN Secretary General Ban Ki-moon stated that, in order to attract more settlers each year, the Israeli authorities are 'building new infrastructure and factories and creating various other economic opportunities'.<sup>237</sup> In 2015, Israeli Government ministers announced plans to encourage 100 thousand new settlers to move to the occupied Syrian Golan over the next five years.<sup>238</sup>

Today, the economy in the occupied Syrian Golan is dominated by settlers whose products – such

as beef, cherries, apples, vegetables, wine and mineral water – provide for a significant proportion of Israel's needs. Approximately 20 percent of the occupied Syrian Golan's settlement produce is exported to twenty different countries, including Canada, Australia, the United States and several countries in Europe.<sup>239</sup>

The natural beauty of the Golan region also lends itself to tourism, 'drawing 2.1 million visitors per year'.<sup>240</sup> The natural diversity of the area is remarkable; visitors can swim in Lake Tiberias, ski on Mount Hermon and visit hot mineral springs. The majority of the tourist industry in the occupied Syrian Golan is controlled by Israeli settlements<sup>241</sup>, and although some of the Syrian population work within the sector, this is often because little alternative employment is available to them.

#### The Settlement Industry

There are three forms of corporate involvement in settlement industries in the occupied Syrian Golan: settlement products, Israeli construction on occupied land, and services to the settlements.

The first category concerns Israeli companies located within the settlements, that make use of local land and labour. Companies in the occupied Syrian Golan range from small businesses which serve Israeli settlements to large factories which export their products to the global market, in particular to Europe and the United States. A number of settlements in the occupied Syrian Golan also produce agricultural goods like flowers and fruit, which are sold both in Israel and abroad.<sup>242</sup> The true origin of such settlement products is often deliberately obscured by circumvention of labelling and origin laws.

The second category concerns companies which are involved in the construction of settlements and the infrastructure which connects them to Israel. In the occupied territories, infrastructure and housing serves two purposes: to annex more land and resources for Israel while simultaneously excluding local residents. The construction industry in the occupied Syrian Golan includes real estate agents, planners, contractors and suppliers of materials.<sup>243</sup> Certain Israeli settlements in the occupied Syrian Golan, such as Neve Ativ, were constructed with the help of building contractors from Syrian villages like Majdal Shams. As in the occupied Palestinian Territories, this has resulted in the exploitation of the local Syrian population, who often have no choice but to engage in the construction of settlements and work on settlement farms due to a lack of alternative employment caused by Israel's economic policies in the region.

The third category consists of companies involved in the provision of services to the settlements.<sup>244</sup> This includes services which help connect the settlements to Israel, as well as those which are in some way discriminatory to local residents. The water company Mey Golan, which was set up exclusively for Israeli settlers in the region, is one example of such a company.

There exists a variety of incentives provided by the Israeli Government to encourage settlement production. These include special tax incentives, low rents, lax labour and environmental laws and extra governmental support.<sup>245</sup> Many Israelis have developed businesses and established homes in the occupied Syrian Golan due to the encouragement and incentives offered by the Israeli Government.<sup>246</sup> By setting up businesses and factories in an occupied

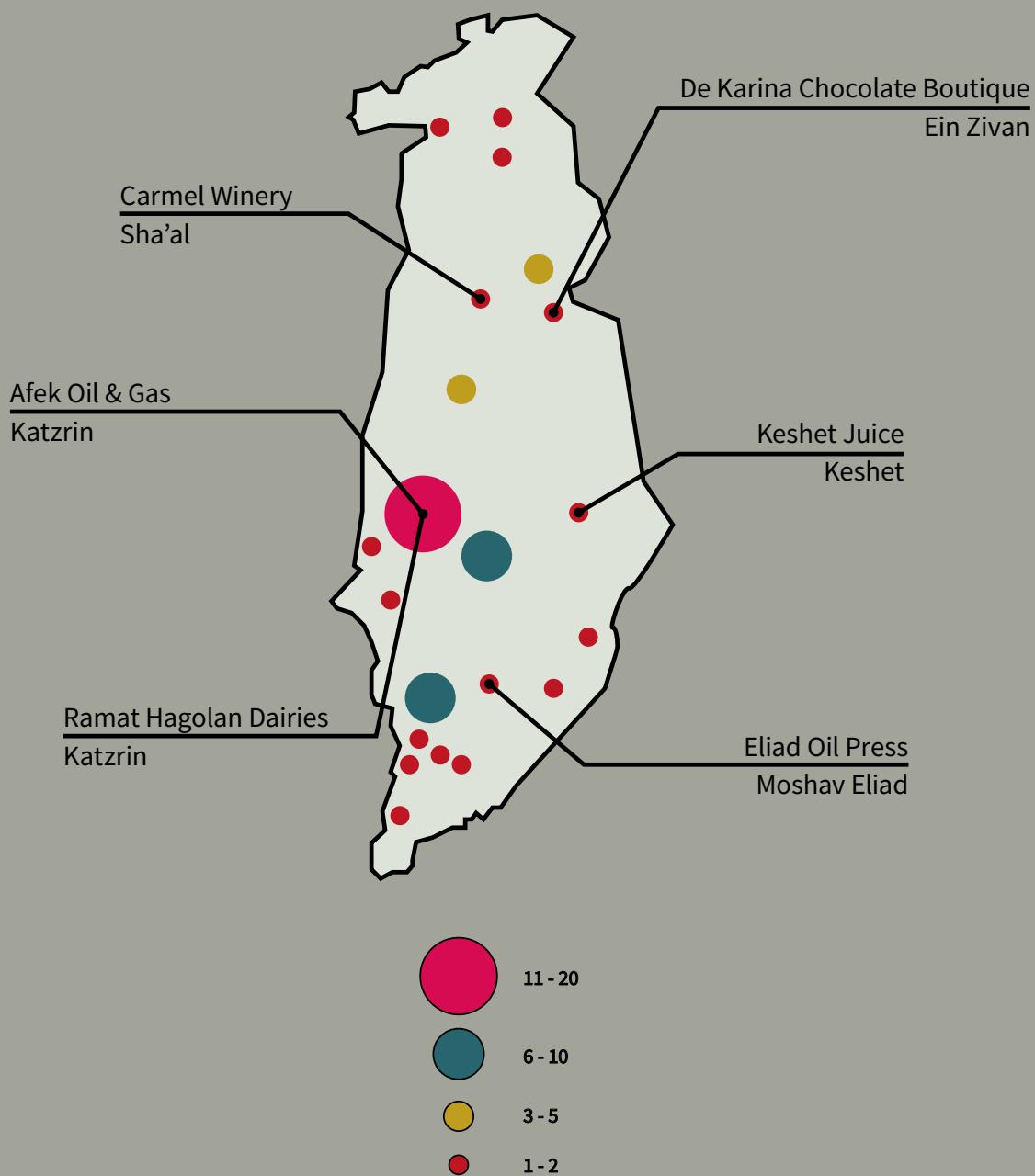
territory like the occupied Syrian Golan, the Israeli authorities have bolstered the view of many Israelis that the occupied Syrian Golan is 'an inherent, inseparable part of their sovereign territory'.<sup>247</sup> Moti Bar, owner of a microbrewery in the settlement Katzrin, illustrated this attitude when he stated that, 'We're living our life as if we'll be here forever'.<sup>248</sup> Such assured investment serves to both encourage and sustain the continuing occupation of the Syrian Golan.

#### Economic Sanctions and Restrictions

The success of the settlement industry in the occupied Syrian Golan must be viewed against the wider backdrop of the discriminatory economic practices Israel has instituted against the region's Syrian population since 1967. The thriving settlement economy only exists because of policies and practices which remove competition and distribute vital resources in an inequitable manner, stunting the growth of the local Syrian economy.

Prior to 1967, the inhabitants of the occupied Syrian Golan had an economy based primarily on agriculture and livestock, with 62 percent of the workforce engaged in this sector.<sup>249</sup> The industrial sector was less developed, accounting for 20 percent of workers.<sup>250</sup> Many Syrians in the occupied Syrian Golan who were able to remain, lost up to half of their agricultural land following the occupation.<sup>251</sup> As a result of the land expropriation, the production of field crops and dairy products was irrevocably damaged and in effect, disappeared completely. The Syrian population of the occupied Syrian Golan was therefore forced to depend on Israeli agricultural products and settlement products (in particular for dairy).<sup>252</sup>

# **Number of settlement companies in the occupied Syrian Golan**



Syrians were forbidden from accessing or utilising the local water resources for agricultural purposes, which had a devastating impact on the primarily agricultural economy. In contrast, unlimited amounts of water were provided to the settlements at a low cost.<sup>253</sup> Currently, the Israeli authorities provide settlers with up to three times the amount of water allocated to Syrian farmers, with the former receiving 700 to 1000 m<sup>3</sup> per dunam<sup>254</sup> of land while the latter are limited to 300 m<sup>3</sup> per dunam.<sup>255</sup> This is but one example of the blatant discrimination that exists with regard to both water quotas and costs for Syrians in the occupied Syrian Golan.

Several self-supporting community projects have been initiated by the Syrian population in the occupied Syrian Golan over the years. As in the occupied Palestinian territories, the Israeli authorities have failed to equip the Syrian villages with basic infrastructure and services, despite the taxes paid by the inhabitants. The existence of essential facilities, such as sewage, is often dependent on the initiative of the Syrian community rather than being provided by the Israeli authorities.

This plethora of restrictions and discriminatory policies imposed by Israel severely curtails the ability of Syrians in the occupied Golan to develop a strong and independent local economy. Such restrictions are in stark contrast with the incentives and financial support provided to businesses in the Israeli settlements of the occupied Syrian Golan, where settlement production flourishes.

### Corporate Complicity

Under international law, an Occupying Power

is entitled to utilise the economic resources of the territory it occupies, but it must do so in compliance with the rules of usufruct as stated in Article 55 of the Hague Regulations of 1907.<sup>256</sup> The Occupying Power is prohibited from exploiting the economic resources and capital of the occupied territory for the benefit of its own domestic requirements. Accordingly, ‘it is required to keep the occupied territory separate, politically as well as economically’.<sup>257</sup>

Notwithstanding Israel’s continued contravention of international humanitarian and human rights law, many multinational corporations are keenly involved in illegal settlement activities in the occupied Syrian Golan and Palestinian territories. As a corollary, these corporations are either involved in or indirectly facilitating activities that result in the violation of fundamental human rights.

### Water

Eden Springs Ltd (also known as Mey Eden and Mayanot Eden) is a water company which was founded in Israel in and began its activities in the occupied Syrian Golan in 1982. It was recently acquired by the Canadian Cott Corporation for €470 million.<sup>258</sup> Eden Springs extracts water from the Salukia spring in the occupied Syrian Golan. Once it has extracted the water, Eden Springs bottles it in Katzrin, the largest illegal settlement in the region. It then sells it in Israel, as well as in the UK, France, Germany and fifteen other European countries.<sup>259</sup> The company therefore profits directly from its illegal exploitation of the water resources in the occupied Syrian Golan. Articles 28 and 47 of the

Hague Regulations declare that ‘pillage is formally forbidden’, prohibiting the use of natural resources in the occupied Syrian Golan for commercial gain.<sup>260</sup>

In addition, Article 55 of the Hague Regulations places limits on the rights of an Occupying Power to make use of the water sources of an occupied territory, of which privatisation is a breach.<sup>261</sup> As Eden Springs bottles, markets and distributes water from the illegally occupied Syrian Golan, the company is in violation of international law and also complicit in Israel’s illegal occupation of the Syrian Golan.

Meanwhile, Eden Springs’ corporate social responsibility policy places importance on ‘community care’ and states that ‘we encourage our markets to support and help locally in the best way in order to build relationships of trust with the local players’.<sup>262</sup>

### Wineries

The establishment of wineries by settlers in the occupied Syrian Golan is another example of how Israel continues to profit economically from the occupation. Owing to its high altitude, rich soil and agreeable climate conditions, the occupied Syrian Golan has played host to the emergence of an array of wineries such as Golan Heights Winery, Chateau Golan and Bazlet Ha Golan. It is estimated that there are at least fourteen Israeli wineries in the occupied Syrian Golan.<sup>263</sup> One of the largest is Golan Heights Winery Ltd, a subsidiary of Galilee and Golan Heights Vineyards Inc, which was founded in 1983, shortly after Israel’s unlawful annexation of the occupied Syrian Golan.<sup>264</sup> Located in the industrial

area of Katzrin, the winery is jointly owned by a combination of nearby kibbutzim and agricultural settlements.<sup>265</sup>

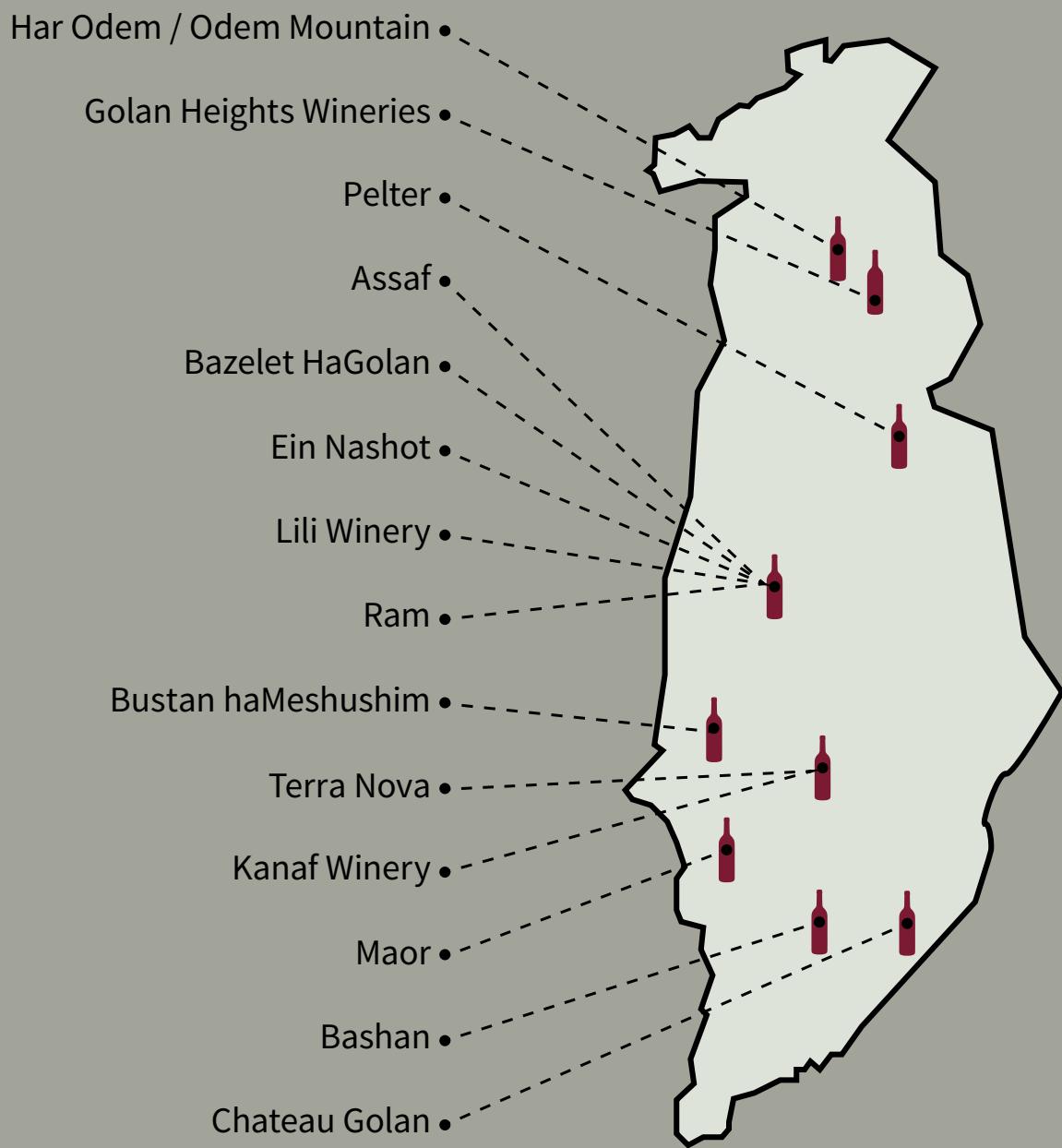
With a formidable domestic market share of 18 percent,<sup>266</sup> Golan Heights Winery is considered to be one of Israel’s top three wineries. Its products comprise approximately 38 percent of Israel’s wine exports, which corresponded to approximately 26.7 million dollars in 2008.<sup>267</sup> Further, Golan Heights Winery is regarded as responsible for the modernisation of the entire Israeli wine industry, forcing other wineries to professionalise, and encouraging the creation of new wineries.<sup>268</sup>

Vineyards planted in the occupied Syrian Golan not only supply grapes to wineries in the region, but also to all major wineries in Israel.<sup>269</sup> This means it is easier for wine and grape producers in settlements to circumvent international requirements such as European Union labelling guidelines, which require settlement products, such as wine, to state their true origin, i.e. ‘Product of the Golan Heights (Israeli settlement)’ rather than ‘Made in Israel’. In addition, the Israeli Government provides substantial financial assistance to the wine industry in the occupied Syrian Golan, through its National Priority Regions investment program.<sup>270</sup>

The wine industry has therefore proved to be highly lucrative for settlements in the occupied Syrian Golan. However, the expansion of the settlement wine industry in the occupied Syrian Golan has come at a high price for Syrians, with the vast majority of Israeli settlement vineyards located on or near destroyed Syrian villages and farms.

Despite the inherent illegality of settlement

# Wineries in the occupied Syrian Golan



production, the international community has done little to reproach the marketing and distribution of wines imported from Israeli settlement wineries in the occupied Syrian Golan. In selling settlement products, international companies are watering down their respective corporate social responsibility commitments to nothing more than empty rhetoric. As UN Special Representative for Business and Human Rights, John Ruggie, has observed, 'company claims that they respect human rights are all well and good. But the Special Representative has asked whether companies have systems in place enabling them to demonstrate the claim with any degree of confidence. He has found that relatively few do.'<sup>271</sup>

#### Tourism

The occupied Syrian Golan has long been promoted as a tourist destination by the Israeli

Government and tourism industry, which market it as 'Northern Israel' - even referring to it as the 'Israeli Texas' due to its size.<sup>272</sup> Much of the international travel media follows suit: TimeOut magazine describes the occupied Syrian Golan as a 'must-see' part of 'Northern Israel' and advises readers to enjoy its "tranquil parks, gardens, museums, galleries, [and] vineyards."<sup>273</sup>

The Israeli Government provides economic incentives to Israeli settlers to develop tourism facilities, offering generous loans and long-term rent-free leases for land.<sup>274</sup> Meanwhile, attempts by Syrians to develop the local Syrian tourism sector are inhibited by discriminatory policies, such as those that prevent the building of hotels, restaurants and infrastructure. Further, Israel's tourism program favours Jewish-owned hotels over those owned by Arabs. For example, vouchers provided

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קצרין  
welcome to Katsrin



by the Ministry of Tourism in Israel to Israeli army personnel and veterans with disabilities, police officers, employees of certain companies, among others, can only be used in hotels owned by Jewish-Israeli settlers.<sup>275</sup>

As a result, tourism is a major part of the Israeli settlement economy. And, it is not just Israeli settlement businesses that are benefiting: international travel giants such as Lonely Planet, Booking.com and Airbnb – among others – misleadingly describe the occupied Syrian Golan as part of Israel and promote accommodation and tourism in illegal Israeli settlements.<sup>276</sup>

### Conclusion

Israel's ongoing occupation of the Syrian Golan violates international humanitarian and human rights law. While the international community occasionally condemns these violations, actions speak louder than words and in this respect, the international community has repeatedly failed the people of the occupied Syrian Golan. This chapter has illustrated that Israel's policy of settlement expansion continues unabated, to the extent that the number of illegal Israeli settlers in the occupied Syrian Golan will soon surpass that of the remaining Syrian population. The settlement industry has had severe economic repercussions for

Syrians. Discriminatory policies and practices have adversely affected their daily lives and stifled their ability to develop a prosperous and vibrant economy. Further, Israel's exploitation of the occupied Syrian Golan's natural resources violates Syrian' right to freely dispose of their natural wealth and resources.

With no foreseeable end to the occupation in sight, at a minimum: Israel's policy of settlement expansion in the occupied Syrian Golan must be halted immediately; discriminatory policies and

The screenshot shows a portion of the Lonely Planet website. At the top right is the 'lonely planet' logo. Below it is a search bar with the placeholder 'Search Lonely Planet and beyond.' To the left of the search bar is a magnifying glass icon. Below the search bar is a navigation menu with links to 'Middle East', 'Israel', and 'Golan Heights'. The main content area features a large image of a lake and mountains. Above this image is a small 'DAY TRIPS & EXCURSIONS' link. To the right of the image is the title 'Golan Heights Day Trip from Tel Aviv'. Below the title is a brief description: 'Head to Israel's Golan Heights, with historical heritage to match its mountainous beauty, on a day trip from Tel Aviv!...'. The overall design is clean and modern, typical of travel guidebook websites.

practices enforced by the Israeli authorities against the Syrian population must be brought to a resolute end; and Israel's illegal exploitation of the occupied Syrian Golan's natural resources must cease.



# Education



# Fadwa Abujabel Shoufi

I come from a large family, with seven sisters and one brother. I went to the local school. The curriculum is developed by the Israeli Government and includes history, geography, social sciences, maths and languages, such as Hebrew, Arabic and English. Some of my teachers were from Majdal Shams, and others were from the Druze community in the Galilee in Israel.

Now I am a parent myself. My husband and I have three children, all boys. The oldest two are fifteen and twelve years old and go to school. The youngest is only one year old. My teenagers go to the same school I went to when I was little. I have recently joined the parent committee of the school because I would like them to make changes to the curriculum. We have a few concerns, such as that there is too much emphasis on hard sciences and not on languages and art. We also think that the school days are too long. However, one of our biggest concerns is that the curriculum is developed by Israel, and teaches our children an Israeli interpretation of history.

The history books have not changed since I left school: they still tell the same story, created by Israel. We are not told about our Syrian history, culture or identity. The creation of the state of Israel in 1948 and the Arab-Israeli wars of 1967 and 1973 are not mentioned at all. This means our children do not know about their past and are led to believe they are part of Israel. It is incredible that my sons are taught about native American history in the United States, but not about their own history and the occupation of the Syrian Golan by Israel.

It is left to the parents to tell their children about Syria. My father told me, and in turn I tell my children. I wish I would be able to send my children to a Syrian school, but this is not possible. I try to make a difference through my work in the parent committee, but I am worried that my children are going to grow up without an idea what it means to be Syrian.

# Education Under Occupation

*Israeli Educational Policies in the Occupied Syrian Golan*

By Alexandre Newman

Since the start of the occupation of the Syrian Golan in 1967, Israel has implemented multiple policies that violate the basic human rights of the native Syrian population. A notable example is education: the education system in the occupied Syrian Golan is under the complete control of the Israeli authorities and designed to ensure the social and political submission of Syrians and the erode their sense of identity and culture.<sup>277</sup> In 2016, a United Nations Special Committee observed that the school curriculum in the occupied Golan ‘sought to ‘diminish’ Syrian identity and culture as well as the civilisation and history of the local community.’<sup>278</sup>

This chapter provides an overview of Israeli educational policy in the occupied Syrian Golan. It will explain why Israel’s numerous interferences in the education system and its attempts to impose Israel’s own narrative violate international law.

## Background

When Israel militarily occupied the Syrian Golan in June 1967, one of the first policies it implemented was to replace the Syrian curriculum in schools with an Israeli curriculum.<sup>279</sup> Israel did not replace the Jordanian and Egyptian curricula in the other territories it occupied at the same time. The reason the occupied Syrian Golan was different was because Israel was laying the foundations for a future annexation of the region. The majority of the remaining Syrian population in the occupied Syrian Golan was Druze. Israel hoped that this population would eventually become loyal to Israel, similar to the Druze in the Galilee, and be the basis of a semi-autonomous Druze state to act as a buffer between Israel and its neighbours.<sup>280</sup> Controlling the education system to ensure that Syrian school children learned an Israeli narrative of history,

geography and culture was a vital first step for this strategy.

The small Syrian population that was able to remain in the occupied Golan after the 1967 Arab-Israeli War was consequently absorbed into the Israeli education system and taught an Israeli curriculum.<sup>281</sup> The existing Syrian headteachers were fired and the entire education system became under the control of the Israeli military commander for the region. Israeli soldiers were brought in to teach Syrian school children Hebrew. In addition, a shortage of teachers due to the occupation meant that senior students sometimes had to teach junior students.<sup>282</sup>

In 1975, to counter a resurgence of an Arab national identity among many Druze in Israel<sup>283</sup>, the Israeli Government removed responsibility for Druze education from the Ministry of Education's Arabic Schools Department and assigned it to a separate Druze authority.<sup>284</sup> This was a further development in the Israeli Government's plan to implement "Druze-Israeli awareness" in the occupied Syrian Golan.<sup>285</sup> A subsequent curriculum included Druze-only authors and Druze-centric historical narratives. Further, the curriculum followed a Druze holiday calendar, which is separate from Muslim holidays. This is contrary to common practice for Druze holidays in Syria or Lebanon, where Druze holidays, such as Eid Al-Adha, are identical to Muslim ones.<sup>286</sup>

During this period, the Israeli military continued to control every aspect of the education system in the occupied Syrian Golan. If teachers taught outside of the Israeli imposed curriculum, they were summoned to the school headteacher, who had been appointed by the Israeli military commander.

The headteacher could then refer the teacher to school inspectors – who were directly connected to the Israeli military and security apparatus – for investigation.<sup>287</sup>

There continued to be a shortage of teachers, which meant many teachers were recruited straight from high school and did not have the necessary experience or qualifications. Israeli soldiers continued to teach Hebrew to students. However, students regularly protested the presence of Israeli soldiers in uniforms in schools and this practice eventually stopped.<sup>288</sup>

In 1981, the Israeli Government sought to annex the occupied Syrian Golan by imposing Israeli civil law. This resulted in a six month open strike by the Syrian population in the occupied Golan in 1982. At least a dozen teachers who took part in the strike were fired. They were not provided with compensation or letters of recommendation and some ended up working in other sectors, such as construction, to make ends meet. Remaining teachers were forced to sign one year contracts at the start of each academic year, which created significant job insecurity and impacted work related benefits.<sup>289</sup>

Given the Syrian population's lack of control in the education system, Syrian civil society groups developed various initiatives to provide their children with alternatives sources of education. Amongst other things, they organised summer camps, kindergartens and sports clubs.<sup>290</sup> For example, in 1983, a group comprising of academics and those interested in politics founded the Golan Academic Association (GAA), which later started to develop educational programs as an alternative to the Israeli curriculum.

In the meantime, the GAA organised a summer camp in Majdal Shams in 1986, called The Oak Camp. It welcomed children between the ages of 6 to 18 and hosted basic social and cultural activities, including art, music, drama, and sport. The camp was a success and similar initiatives continued until 2008, when they stopped due to funding issues.

The Israeli authorities interfered with and discouraged such local initiatives. Members

is developed without any participation from the Syrian population. Materials are often translated into Arabic years after the Hebrew language material is published, making them out of date and at times irrelevant.<sup>292</sup> Students take 'Bagrut' (high school matriculation) exams of 'Arabic for Druze' and 'History for Druze', thus imposing an artificial Druze identity on students and separating them from other Arabs.<sup>293</sup> Syrian schools in the occupied



of the GAA underwent prolonged custody and interrogation, and students were prevented from joining the activities. The Israeli authorities even started organizing their own heavily subsidised summer camps and kindergartens to compete with the Syrian initiatives.<sup>291</sup>

### Today

Syrian children continue to study an Israeli Government-prescribed Druze curriculum which

Golan only visit Druze-Israeli and Jewish-Israeli schools in Israel for school exchanges, as opposed to also visiting Arab-Israeli schools.<sup>294</sup>

Additionally, history books for the Druze curriculum do not include information about the 1967 Arab-Israeli War or the occupation of the Syrian Golan. The occupied Syrian Golan is presented within the borders of Israel without reference to the occupation or illegal annexation.

It is unwritten rule that school headteachers must

be politically pro-Israel. Applicants for teaching jobs are filtered out during the recruitment stage if they are considered by the Israeli authorities to have anti-Israeli views.<sup>295</sup> Teachers are closely monitored and anyone considered to be discussing politics in the classroom risks being fired and replaced by someone more closely affiliated with the Israeli authorities.<sup>296</sup>

Compared to Jewish-Israeli schools, Syrian schools suffer from a serious lack of funding. Israeli Government funds for special projects, such as the upkeep of buildings and improvements in educational programs are disproportionately allocated to Jewish-Israeli communities.<sup>297</sup> Litigation was initiated in 2017 regarding concerns about the safety and structural integrity of schools in the villages of Buqata, Majdal Shams and Masada in the occupied Syrian Golan. In the case of Majdal Shams and Buqata, the Israeli authorities had previously refused to provide evidence that the building was structurally sound.<sup>298</sup>

Since the outbreak of the conflict in Syria in 2011, there has been substantial investment by the Israeli authorities in Israeli youth movements in the occupied Syrian Golan, as part of a strategy of 'Israelization' of young Syrians.<sup>299</sup> For example, the organisation 'The General Federation Of Working And Studying Youth' (NOAL), the first Zionist youth movement established in Israel<sup>300</sup>, is trying to encourage Syrian school children to join its various programs. NOAL has strong links with the Israeli army and graduates of NOAL community programs enter a specific Israeli army brigade.<sup>301</sup> The Hebrew version of the NOAL website includes a section dedicated to Druze youth army service.<sup>302</sup>

Similarly, in 2016, the Israel Druze Boy and Girl

Scout Association (IDBGSA) tried to develop formal ties with Syrian schools in the occupied Golan. The Association gave out membership application forms in classrooms and held meetings and trainings in schools in the evenings. The school parent committees rejected this move amid concerns that the Druze Scout movement has long been the stepping stone for Druze-Israeli teenagers to join the Israeli army.<sup>303</sup>

School parent committees have in fact been the one mechanism through which Syrians have been able to exert some limited influence over their children's education in recent years. In addition to the rejection of the Druze Scout movement in Syrian schools, another notable success was the strike action coordinated by a school parent committee in 2011. The parent committee initiated a month long strike after the school headteacher refused to cooperate with it. Subsequently, the headteacher left the position. This action gave parents and teachers some encouragement that they could make their voice heard, even in just a small way.<sup>304</sup>

With regard to tertiary level education, Syrian students face administrative and financial discrimination based on ethno-religious considerations, as they do not benefit from scholarships or fee exemptions on the same basis as Jewish students.<sup>305</sup> For example, educational institutions tend to offer scholarships to Israeli army conscripts and even a total fee exemption for army officers. By not offering the same benefits to Syrian students, who do not serve in the Israeli army, these kinds of academic and financial aids are discriminatory.

Some Syrian students from the occupied Golan study at universities in Damascus. However, the

number of students is very low compared to the period before the outbreak of the current conflict in Syria when it reached the hundreds. Studying in Syria had many advantages, mostly because students benefited from the same type of government financial support as Jewish students receive in Israel. It also provided Syrian students an opportunity to strengthen ties with the rest of Syria and family members living there.

However, Syrians from the occupied Golan faced numerous obstacles from the Israeli Government, such as travel restrictions which meant they were unable to travel back and forth and were often separated from their families for extended periods of time. Students who have previously studied in Syria have also often faced difficulties having their degree recognised in Israel or finding a job on the Israeli market. Although Syrian graduates have a good reputation, they may have to sit additional Israeli examinations (in Hebrew). This is a particular issue for medical students, who also face difficulties to practice in public hospitals.

Due to the current conflict in Syria and the high tuition fees for universities in Israel, many Syrians seek to study abroad. However, this poses its own problems as Syrian students from the occupied Golan are not able to qualify for scholarships and grants in the same way as Palestinian and Israeli students. This is in part due to the unusual categorisation of Syrians from occupied Golan as having an 'undefined' nationality on their Israeli issued travel documentation, which means they fall outside of many universities' defined scholarship nationality categories.

### The Right to Education

International humanitarian law and international human rights law require the development and protection of the right to education in the occupied Syrian Golan. Essential for the exercise of all other rights, the right to education is widely proclaimed throughout many major international legal instruments.<sup>306</sup>

Foremost, as Israel is in effective control of the occupied Syrian Golan, it has the rights and duties of an Occupying Power.<sup>307</sup> As such, the 1907 Hague Conventions and the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War apply.<sup>308</sup> These standards are a product of customary international law and all states are bound by them and should respect and implement their rules. Article 50(1) of the Fourth Geneva Convention provides that the 'Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children'.<sup>309</sup> The International Committee of the Red Cross (ICRC) interprets this provision as stating that 'the occupying authorities are bound not only to avoid interfering with [the activities of children's institutions], but also to support them actively and even encourage them if the responsible authorities of the country fail in their duty'.<sup>310</sup> Therefore, by removing the Syrian school curriculum and by controlling all facets of education, Israel has interfered with the local institutions devoted to the education of children. This is a clear breach of Article 50(1) of the Fourth Geneva Convention.

Article 26 of the 1948 Universal Declaration of

Human Rights proclaims that 'everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory (...). Education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among racial or religious groups (...).'<sup>311</sup> The right to education is also enshrined in a range of international conventions, including the 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 1966 International

Covenant on Economic, Social and Cultural Rights (ICESCR), the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the 1989 Convention on the Rights of the Child (CRC).<sup>312</sup>

The importance of the role of education has been underlined by the United Nations Committee on Economic, Social and Cultural Rights which states that: 'education is both a human right in itself and an indispensable means of realizing other human rights'.<sup>313</sup> Therefore, the denial of the right to education has a negative impact on the realisation of other civil, political, economic and social rights.<sup>314</sup>



### Understanding Violations of the Right to Education by Israel - The “4 A” Model

The right to education is detailed by the ICESCR in its General Comment N°13: ‘Education in all its forms and at all levels shall exhibit the following interrelated and essential features: a) availability; b) accessibility; c) acceptability; and d) adaptability’.<sup>315</sup> Israel has failed to comply with these provisions in the occupied Golan in the following ways:

#### Failing to Make Education Available

The first feature of the right to education is availability. This consists of two parts: one being the ‘social equality’ dimension, which guarantees the availability of education for all on the basis of equality and non-discrimination; the other the ‘freedom’ dimension, which recognises the freedom of non-state actors to establish and direct educational institutions.<sup>316</sup>

First, although Israel provides educational services in the occupied Syrian Golan, due to discriminatory policies, Syrian students are denied the same rights and opportunities as their Jewish-Israeli counterparts. School facilities and infrastructure are often of poor quality and, at times, potentially dangerous. Teachers are often under-qualified and school materials are not as regularly updated as those in Hebrew. The rights of teachers are not respected and they have little academic freedom. They are unable to fulfil their duties without discrimination or fear of repression by the Israeli authorities.<sup>317</sup> In the past, teachers who have been outspoken about the occupation have been fired, often citing security reasons. The dismissal of teachers based on their political views constitutes a violation of the right to freedom of opinion, of

expression and of assembly.<sup>318</sup> It also violates their freedom to express their opinions about the institution or system they work in and to participate in professional or representative academic bodies.<sup>319</sup>

Second, the Israeli authorities have repeatedly interfered with initiatives from Syrian non-state actors to establish alternative sources of education for their children – at times, even jailing the leaders of these initiatives. Today, the Israeli authorities only support non-state actors whose programs comply with Israeli Government policies and its political agenda. Therefore, non-state actors who wish to establish independent art, cultural or sporting activities without restrictions on their content cannot obtain Israeli Government funding and thus implement their activities.<sup>320</sup>

#### Failing to Make Education Accessible

The second feature of the right to education is accessibility. Education must be accessible to all, especially the most vulnerable groups. States and educational institutions should refrain from taking measures which marginalise certain groups of students.<sup>321</sup> In the occupied Syrian Golan, lack of accessibility is particularly striking in higher education, where Syrian students face administrative and financial discrimination if they wish to attend Israeli universities.

#### Failing to Make Education Acceptable

The third feature of the right to education is acceptability: ensuring that education is relevant, culturally appropriate and of good quality.<sup>322</sup> This is particularly problematic in the occupied Syrian Golan. Syrians are taught an Israeli imposed curriculum that does not allow for Syrian cultural

or historical studies. Teachers are forced to use their own material and knowledge to cultivate their students' identity, but do so with the fear of potentially losing their jobs. Parents have little opportunity to influence what their children are taught.

#### Failing to Make Education Adaptable

The fourth feature of the right to education is adaptability: education must be flexible and respond to the needs of the community and social and cultural context.<sup>323</sup> Schools need to adapt to the best interests of the children they teach, in particular when students come from diverse backgrounds.<sup>324</sup> In the occupied Syrian Golan, the educational system is skewed towards the Jewish-Israeli population and fails to respect local Syrian traditions. For instance, the Israeli Government imposes bank holidays based on religious or national considerations which do not meet local traditions. Despite numerous requests by the native Syrian population, the Israeli Government refuses to acknowledge local holidays such as Eid al-Fitr, and instead implements Druze holidays.<sup>325</sup> The "Druzification" of the academic calendar consequently denies the local Syrian students the opportunity to celebrate events that are part of their identity and culture.<sup>326</sup>

#### Conclusion

Israel routinely violates the right to education of Syrians in the occupied Golan. The prolonged length of Israel's occupation does not affect its obligations as an Occupying Power.<sup>327</sup> Israel's interference with educational institutions in the occupied Syrian

Golan violates the protection afforded to the Syrian population by international humanitarian law.<sup>328</sup> Israel does not respect its duties under domestic and international law that require the best interests of the student to be the primary consideration.<sup>329</sup>

Israel controls the content and infrastructure of education. It develops the curriculum, recruits the teachers and closely monitors what students are taught. With minimum input from the Syrian population, Israel teaches a biased history, based on an Israeli narrative, which denies the Syrian population an opportunity to explore their history, culture and identity. Teachers are hired and monitored by the Israeli Ministry of Education - and by extension the Security Services, which are a structural part of the Israeli education system - making it all but impossible to discuss the occupation or explore Syrian identity in the classroom. Local initiatives to provide an alternative to the Israeli curriculum have faced huge resistance from the Israeli Government, with organisers being held in custody and students actively forbidden from attending.

These systemic efforts are part of an Israeli Government strategy to alter the national identity of Syrians in the occupied Golan and isolate them from the broader Syrian and Arab community.<sup>330</sup> Israel's comprehensive control of education in the occupied Syrian Golan with the aim of 'raising Israeli-Druze awareness' manipulates the Syrian population's identify and undermines its connection to its history. Finally, Israel's policies diminish the ability of Syrians to achieve self-determination, as protected by Article 1 of the ICCPR.<sup>331</sup>

# Oil Exploration





# Nizar Ayoub

I am a lawyer and the director of Al-Marsad. We document international law violations, conduct legal research and take legal action in the Israeli courts to try to protect the basic human rights of the Syrian population in the occupied Syrian Golan.

We have recently started working on the illegal exploration of oil in the Golan. Since 2014, an Israeli company called Afek Oil & Gas, which has links to Dick Cheney and Rupert Murdoch, has been drilling for oil and natural gas in the Southern part of the occupied Syrian Golan. The Syrian inhabitants of this part of the Golan were forcibly transferred or displaced from their homes during and after the 1967 Arab-Israeli War. Their villages and farms were destroyed, and all the land was appropriated by the Israeli military and used to build settlements.

Israel is drilling for oil to make money and become energy independent. On its website, Afek claims that the occupied Syrian Golan contains ‘billions of barrels of Israeli oil’ and that the oil ‘is expected to enrich [Israel’s] coffers in the amount of at least 5 billion shekels a year’. However, drilling for oil for private gain in occupied territory is a clear violation of international law.

The Syrian population will not benefit, even though we are the rightful owners of the land. There will also be environmental consequences: Afek can use fracking to release the oil and gas, which might cause small earthquakes and contaminate groundwater. Oil drilling can also cause air pollution and the release of harmful chemicals. We have found that many Syrians in the occupied Golan are not even aware that the oil drilling is taking place. We all live in the five small remaining villages in the north of the Golan, whereas the drilling is taking place in the south. This makes it easier for Afek to carry out its operations. However, the impact of oil exploitation will affect us all: it is a violation of international law, it will damage the environment and it is essentially stealing natural resources from the rightful owners of the land, the Syrian people.

# Drilling for Oil

## *Israeli Oil Exploration in the Occupied Syrian Golan*

By Giovanni Fassina

After fifty years of occupation, the Syrian Golan still has considerable geopolitical value for the State of Israel. The region is rich in water, supplying it with a third of its total water consumption.<sup>332</sup> Furthermore, the occupied Syrian Golan represents a key military outpost due to its position overlooking southern Lebanon, northern Israel and much of southern Syria. More recently, the strategic importance of the occupied Syrian Golan increased when Israeli company Afek Oil & Gas started conducting oil exploration in the southern part of the region.<sup>333</sup> With the prospect of finding significant oil deposits, Israel now has new economic incentives for maintaining its hold on the occupied Syrian Golan.

This chapter will assess the legality of Israel's oil exploration activities in the occupied Syrian Golan under international law. The first part will briefly

revisit Israel's steps to achieve energy independence and investigate the history of oil test drilling in the occupied Syrian Golan. The second part will outline the applicable norms of international humanitarian law and customary law. It will discuss the interpretation of such norms by the Israeli Government and the Israeli High Court of Justice and it will underline the most relevant shortcomings of the Israeli legal argumentations. Finally, the third part of the chapter will illustrate the illegality of the current drilling tests carried out by Afek in the occupied Syrian Golan.

### Oil Exploration in the occupied Syrian Golan

Since its foundation in 1948, Israel has been encouraging exploration for oil and natural gas in its territory in order to reduce energy dependency and improve its energy security.<sup>334</sup> However, the

boycott of Arab oil states (such as Saudi Arabia, Bahrain and Qatar) against companies operating in Israel curbed these efforts for several years.<sup>335</sup> Most international oil and gas companies had little interest in carrying out exploration activities in Israeli territory, fearing repercussions to their business.<sup>336</sup> This changed when Israel signed the Oslo Accords with the Palestinian Liberation Organization in 1993, which led to the stabilization of diplomatic relations with the Arab oil states.<sup>337</sup> From 1999 onwards, the Israeli Government has started granting exploration licenses to national and foreign companies, which have subsequently discovered significant gas fields both in the Israeli Exclusive Economic Zone<sup>338</sup> and off the coast of the occupied Gaza strip<sup>339</sup>. As a result, Israel succeeded in gaining energy independence in 2012, through its control of gas fields which contain almost 950 billion m<sup>3</sup> of natural gas.<sup>340</sup> However, this achievement came at the expense of the Palestinian people, who were prevented from developing their own offshore gas resources and are completely dependent on Israeli energy suppliers.<sup>341</sup> More recently, due to the intensification of the Syrian conflict, Israel has also launched exploratory drilling tests in the occupied Syrian Golan to consolidate its new role as regional energy power.

The intent of the Israeli Government to exploit energy resources in the occupied Syrian Golan dates back to the early nineties, when the Israeli Energy Ministry approved a permit for the Israel National Oil Company to conduct exploratory drilling in the occupied Syrian Golan.<sup>342</sup> However, following failed peace negotiations between Israel and Syria during the early nineties, the permit was suspended.<sup>343</sup> A second attempt was made in 1996 by Prime Minister Benjamin Netanyahu, when he granted preliminary

approval to the Israeli National Oil Company to proceed with oil exploration in the occupied Syrian Golan.<sup>344</sup> The drillings never took place as the Syrian Government successfully urged the international community to denounce the move.<sup>345</sup>

Since the start of the war in Syria, Israel has been trying to solidify its hold on the occupied Syrian Golan.<sup>346</sup> In 2012, National Infrastructure Minister Uzi Laundau secretly approved exploratory drilling for oil and natural gas in the occupied Syrian Golan.<sup>347</sup> In 2013, the Petroleum Council of Israel's Ministry of Energy and Water Resources granted Afek Oil & Gas a drilling license covering a 153-square mile radius in the southern part of the occupied Syrian Golan.<sup>348</sup> Afek Oil & Gas is a subsidiary of an American company, Genie Energy, which includes Rupert Murdoch and Dick Cheney on its board. The permit covers the settlement of Katzrin and extends southward, overall covering about a third of the whole occupied Syrian Golan (see maps on pages 99 and 102).<sup>349</sup> It is worth highlighting that this area was completely emptied of its native Syrian population during the 1967 Arab-Israeli war and that nowadays only Israeli settlers are living there.<sup>350</sup> On 11 September 2014, the Israeli North District's Planning Committee granted Afek a permit for the exploratory drilling of ten wells in the licensed area.<sup>351</sup> Immediately afterwards, the environmental group Adam Teva V'Din, together with a number of local Israeli settlers, filed a petition with the Israeli High Court of Justice claiming that Afek did not provide sufficient information about the methods it had used to extract the oil.<sup>352</sup> The claimants argued that the project could seriously endanger the natural ecosystem of the Golan.<sup>353</sup> They claimed that the potential repercussions of fracking on the region's environment should be taken into consideration,

given that the Israeli Oil Law allows an automatic permit to any successful experimental drilling.<sup>354</sup> They deliberately did not raise the issue of the legal status of the occupied Syrian Golan, avoiding any discussion of the issue from an international law perspective.<sup>355</sup>

In December 2014, the Israeli Supreme Court stated that any commercial drilling would require further consideration, and that exploration licenses should not lead to automatic approval of the extraction phase.<sup>356</sup> One month later, Afek started its first drilling tests, expecting to discover significant amounts of oil in a short period.<sup>357</sup> Between 2015 and 2016, it concentrated its explorations on five sites in the southern part of the licensed area.<sup>358</sup> It subsequently concluded that none of these sites could produce sufficient amounts of oil for commercial production, but that its tests 'confirm the presence of a consistent and substantial resource of early-stage matured organics, primarily bitumen and heavy oil'.<sup>359</sup> Following the renewal of the license until April 2018, Afek has started concentrating its drilling activities in the northern region of the licensed area.<sup>360</sup> According to a Genie Energy quarterly report of 2016, the small oil reservoirs that were discovered in the southern part of the area may extend northward and could contain a much larger quantity of oil.<sup>361</sup> However, a recent analysis suggests that the drilling area does not contain commercially interesting quantities of oil or natural gas.<sup>362</sup> Accordingly, Afek has recently announced the suspension of drilling operations in the Golan area, and that it will take a decision on future exploration activities within the following year.<sup>363</sup>

#### The International Legal Framework

International law states that, as the Syrian

Golan is occupied by Israel, Israel is classified as an Occupying Power. This means that international humanitarian law, constituted by the Hague Convention on the Laws and Customs of War on Land of 1907 and the Regulations accompanying it, and the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War of 1949, are fully applicable.

#### Occupation and natural resources: The exploitation of natural resources in occupied territory under Articles 43 and 55 of the Hague Regulations

The key principle underlying the Hague Regulations is the notion of belligerent occupation as a temporary situation.<sup>364</sup> The occupation should be time-limited and terminate with the withdrawal of the occupier from the occupied territory and subsequent restoration of the full sovereignty of the occupied state or, alternatively, with a peace treaty between the parties.<sup>365</sup> Thus, during a military occupation, the sovereignty over occupied territory does not transfer to the occupying state.<sup>366</sup> Instead, it is only entitled to exercise a limited range of powers in order to aid the occupied population.<sup>367</sup> This principle is inferred from Article 43 of the Hague Regulations, which states that the occupant '[...] shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country'.<sup>368</sup> Legal experts maintain that the Occupying Power should be seen as a sort of 'inactive custodian'<sup>369</sup>. It prevents the occupier from taking measures that could have a long-term effect on the area that is under belligerent occupation.<sup>370</sup>

However, international humanitarian law does

not provide a specific set of rules regarding the management of natural resources in occupied territory. Instead, regulations on natural resources are divided according to their characteristics and legal status as privately or publicly owned, and movable or immovable.<sup>371</sup> The only norm protecting any type of ownership is Article 47 of the Hague Regulations, which prohibits pillaging.<sup>372</sup> Concerning natural resources, it is clear they are public property, but is not always easy to classify them as movable or immovable property, especially when speaking about oil exploitation.<sup>373</sup> The difference is relevant because Article 53 of the Hague Regulations gives the occupant wider powers to seize movable public properties which may be used for military operations.<sup>374</sup>

However, it appears to be unchallenged that natural resources which are not renewable and are still located in the ground, such as oil and natural gas, are classified as immovable public property.<sup>375</sup> This interpretation has been also confirmed in the

judgment of the 1956 Singapore Oil Stock Case, in which it was ruled that crude oil in the ground was immovable property.<sup>376</sup>

Also applicable here is Article 55 of the Hague Regulations, which states that 'the occupying state shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile state, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct'. However, the provision is admittedly unclear<sup>377</sup>, leaving the debate open regarding: (1) what the specific rights and duties of the occupant are in the management of such resources; (2) whether the occupant can freely use the profits from the exploitation of natural resources; And (3) how such administrative powers apply to the specific case of oil exploitation in occupied territory.

(1) What Are the Specific Rights and Duties of the Occupant in the Management of Natural Resources?



**"The Golan contains billions of barrels of Israeli oil ... and is expected to enrich Israel's coffers in the amount of at least 5 billion shekels a year"**

**Afek Oil & Gas**

First, it is worth underlying that the obligations emanating from Article 55 of the Hague Regulations are directly connected to the temporary nature of the occupation as established in Article 43. As a result, the Occupying Power cannot claim sovereign rights over the natural resources of the occupied territory.<sup>378</sup> Thus, as 'it must safeguard the capital' refers to preservation and expresses a negative obligation, the occupier is only entitled to manage public immovable resources, without detriment to the substance of their capital.<sup>379</sup> At the same time, Article 55 confers upon the occupier a positive obligation to administer such resources 'in accordance with the rules of usufruct', literally the right to use the fruits of the property.

## (2) Can the Occupying Power Freely Use the Profits From Exploitation of Natural Resources?

An important theory regarding an occupier's limits in terms of the exploitation of natural resources emerged during the Nuremberg trial after World War Two. After analyses of provisions governing occupant powers in the field of economic activities, such as Articles 48, 49, 53(1) and 52(1) of the Hague Regulations, the Court held that: 'the economy of an occupied territory can only be required to bear the expenses of the occupation, and these should not be greater than the economy of the country can reasonably be expected to bear'.<sup>380</sup> According to renowned legal expert Antonio Cassese, it is logical to extend these limits to Article 55 of the Hague Regulations.<sup>381</sup> Otherwise, it would be unreasonable if the occupier has explicit limitations only on some properties while it would have greater freedom in exploiting immovable resources over which it has usufruct rights.<sup>382</sup> These

limitations are consistent with the principle of Permanent Sovereignty Over Natural Resources, which exists in customary law, and which will be further explained below.

## (3) How do Such Powers Apply to the Specific Case of Oil Exploitation in Occupied Territory?

The specific rights and obligations of an occupier change depending on the context. In the case of oil exploitation of fields which were active before the start of the occupation, the usufruct rule allows the occupant to continue exploiting such oil deposits under the so called 'continuity principle', which provides the mandatory condition of maintaining the prior extraction rate and avoiding depletion of the field.<sup>383</sup> On the other hand, if oil resources were not exploited prior to the beginning of the occupation, Article 55 of the Hague Regulations would not allow the occupier to carry out drilling test and open new oil fields, since such actions clearly go beyond the faculties enshrined in the usufruct rule.<sup>384</sup> The right to implement underground exploration and drilling activities, and to exploit new oil deposits, belongs only to the sovereign state, not to the Occupying Power, which is considered a mere temporary administrator of the occupied territory.<sup>385</sup> Furthermore, by developing new oil deposits, the occupier would irreversibly alter the socio-economic environment of the occupied territory, which is strictly prohibited by Article 43 of the Hague Regulations.<sup>386</sup>

A relevant provision in customary law which protects the natural resources located in a state's territory is the Principle of Permanent Sovereignty Over Natural Resources (PSNR). PSNR can be defined as the inalienable right of every peoples

or nation to decide on their natural wealth and to freely use, control and dispose of their natural resources.<sup>387</sup> This principle emerged during the decolonization process in the early fifties as part of a number of UN General Assembly resolutions.<sup>388</sup> The intent at the time was to establish a legal mechanism by which newly independent states could gain control over their own resources and, thus, defend their economic sovereignty against property rights claimed by colonial powers.<sup>389</sup> The first extensive definition of PSNR is enshrined in UN General Assembly Resolution 1803 of 1962, which states that 'violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the charter of the United Nations and hinders the development of international cooperation and the maintenance of peace'.<sup>390</sup> Over the years, the principle has gained recognition through a variety of international legal instruments.<sup>391</sup> Furthermore, in line with the development of international environmental law, it has extended its original scope by including new duties upon the states regarding environment's protection.<sup>392</sup> For the present purposes, it is important to note that the International Court of Justice considers the principle as belonging to international customary law, as affirmed in the case of the Democratic Republic of Congo against Uganda.<sup>393</sup> In addition, the UN General Assembly has at various times invoked PSNR to protect natural resources of people under foreign occupation.<sup>394</sup>

In 1972, the UN General Assembly for the first time specifically affirmed the importance of PSNR in the territories occupied by Israel during the 1967 Arab-Israeli War.<sup>395</sup> Since then, the UN General Assembly has adopted several resolutions recalling the right

'of the Arab States and peoples whose territories are under foreign occupation to permanent sovereignty over all their natural resources'<sup>396</sup> and reaffirming that 'all measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Arab territories were illegal and called upon Israel immediately to desist forthwith from all such measures'.<sup>397</sup> Professor Sloan, a former director of the UN office of Legal Affairs, provided the first legal analysis of the implications of these UN General Assembly resolutions on Israel's conducts in the occupied territories.<sup>398</sup> He argued that both the principle of PSNR and the law of belligerent occupation share the same scope: to preserve the sovereign rights of the occupied territory's population over their natural resources.<sup>399</sup> On the one hand, the Hague Regulations provide the occupant only the temporary military rights to administer the resources of the occupied territory, while on the other hand, the principle of PSNR establishes the inalienable right of every peoples to exercise full sovereignty over his natural wealth.<sup>400</sup> Accordingly, 'the application of the PSNR would lead to a narrower interpretation of powers of the occupying state and would strengthen the rights of the occupied state and peoples to the protection of their property'.<sup>401</sup> In this view, the principle of PSNR should be used as an interpretative criterion which guides the occupier to choose policies which harm less the rights of the occupied state over its natural resources.<sup>402</sup> The latter interpretation would be consistent with Article 55 of the Hague Regulations, by prohibiting the Occupying Power to conduct activities that could potentially deplete natural resources of the occupied territory.<sup>403</sup>

Professor Sloan's understanding of the Hague

Regulations and PSNR is confirmed in a number of UN General Assembly resolutions, in particular those dealing with the application of 'Permanent Sovereignty of the Palestinian people in the Occupied Palestinian Territory and of the Arab Population in the occupied Syrian Golan over their natural resources' which have been repeatedly adopted by the UN General Assembly since the nineties.<sup>404</sup> An in-depth analysis of these resolutions clarifies the extent of PSNR in the context of the occupation of the Syrian Golan. The preambles of the resolutions eliminate any doubt whether the principle of PSNR is relevant in the context of foreign military occupation<sup>405</sup>, and that the law of belligerent occupation applies also in the occupied Syrian Golan<sup>406</sup>. All the resolutions consistently condemn Israeli exploitation policies both in the occupied Syrian Golan and in the occupied Palestinian territories, as they negatively affect the natural resources of the occupied territories.<sup>407</sup> In the operative section, it is specified that the entire Syrian population, including the population of the occupied Syrian Golan, is entitled to claim inalienable rights over their natural resources, including land, water and energy resources.<sup>408</sup> Accordingly, the resolutions recommend and urge Israel to 'cease the exploitation, damage, cause of loss or depletion of, or endangerment of the natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan'.<sup>409</sup>

To conclude, it is worth addressing the issue of the legal effect of these resolutions and their status within international law. Although UN resolutions are not binding under the UN Charter, they nevertheless belong to so-called soft law and

have a recommendatory effect for all UN member states and international actors.<sup>410</sup> It is appropriate to note that article 2 of the UN Charter affirms the duty to cooperate with good faith.<sup>411</sup> It follows that state parties have a general duty to conform their actions to the recommendations embodied in the resolutions. Therefore, as the former judge of the International Court of Justice, Mr. Lauterpacht, argued, a state that does not comply with the UN General Assembly resolutions 'may not be acting illegally by declining to act upon a recommendation or series of recommendations on the same subject, but in doing so it has overstepped the imperceptible line between impropriety and illegality, between discretion and arbitrariness'.<sup>412</sup>

#### Israel's Interpretation of the Laws Governing the Exploitation of Natural Resources in an Occupied Territory

This section discusses the interpretation of the laws of occupation provided by the Israeli Government and the Israeli High Court of Justice. The extent of an occupier's authority over natural resources was explored extensively in diplomatic notes exchanged between Israel and the US Government in 1977, when Israel planned to explore and develop new oil fields in the territorial water of the occupied Sinai.<sup>413</sup> At the time, the Israeli Government maintained that, under the Hague Regulations, there existed the duty to avoid the economic deprivation of the occupied territory.<sup>414</sup> Consequently, it argued that the Occupying Power cannot act as a mere passive administrator and, thus, every activity conducted by the occupier which can positively impact the economy of the occupied territory should therefore be permitted.<sup>415</sup> Israel

maintained that the exploitation of new oil fields in the occupied Sinai would benefit the territory by enhancing its economic value.<sup>416</sup> It concluded by stating that 'we cannot consider that the Hague Rules are intended to cause economic paralysis of occupied territory and we do not think that is a reasonable interpretation'.<sup>417</sup>

Legal discussions concerning the occupier's exploitation rights have been settled on a national level by the Israeli High Court of Justice.<sup>418</sup> This institution has distinguished itself over the years through its self-described 'evolutive interpretation'<sup>419</sup> of international humanitarian law in reference to the prolonged occupation of the Palestinian territory.<sup>420</sup> In this respect, it has interpreted Article 43 of the Hague Regulations as stating that 'long term fundamental investments in an occupied area bringing about permanent changes that may last beyond the period of the military administration are permitted if required for the benefit of the local population'.<sup>421</sup> The court's reasoning is mainly based on two arguments. First, since international humanitarian law was designed to regulate temporary military occupation, the court considers it appropriate to reinterpret such norms in case of prolonged occupation.<sup>422</sup> Second, the occupier's duty under Article 43 of the Hague Regulations to guarantee 'public order' and 'safety', has been interpreted in a 'dynamic' manner to adapt to the contemporary socio-economic situation.<sup>423</sup> In other words, according to the interpretation of the Israeli High Court of Justice, the Occupying Power is entitled to act in the interest of the economic development of the occupied territory, despite eventual irreversible consequences.<sup>424</sup> As a result, the court has widely extended the occupier's

discretion in the development of policies affecting the exploitation of natural resources in the occupied territory. By doing this, it has legitimised, de facto, the prolonged occupation of the Palestinian territory.<sup>425</sup>

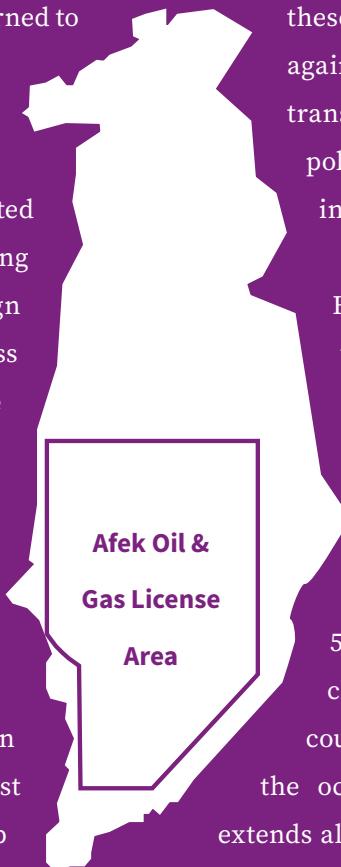
Recently, in 2011, the issue was raised when Israeli NGO Yesh Din brought a legal case against the Israeli Government to stop the exploitation of stone quarries in the occupied Palestinian territories by Israeli companies.<sup>426</sup> The Israeli High Court of Justice dismissed their claim and recognised Israel's right to extensively exploit the natural resources in the occupied Palestinian territories for the benefit of the Israeli private market.<sup>427</sup> The court stated that a context of prolonged belligerent occupation requires a 'dynamic' interpretation of Article 43 of the Hague Regulations, enabling the occupant to make fundamental investments ensuring the development of the area for the benefit of the 'local population'.<sup>428</sup> In fact, they argued that, although Article 55 prohibits the depletion of natural resources, it cannot be interpreted to prevent the occupying state from opening new quarries.<sup>429</sup> They therefore interpret Article 55 as a duty to enhance the value of occupied territory. The occupier is entitled to conduct a 'reasonable'<sup>430</sup> exploitation of natural resources, if these activities benefit the area and its residents.<sup>431</sup>

#### The Legality of Oil Drillings in the Occupied Syrian Golan

Israel's interpretation of Article 43 of the Hague Regulations, based on the prolonged nature of the occupation of the Syrian Golan, fails to comply with the Hague Conventions and the Fourth Geneva Conventions. As has been stated by Judge Koroma of

the International Court of Justice in its judgment on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 'the essence of occupation is that it is only of a temporary nature and should serve the interests of the population and the military needs of the Occupying Power'.<sup>432</sup> The time-limited nature of the belligerent occupation is intended to advance the interests of the protected population and guarantee that upon conclusion of the occupation, sovereignty will be returned to the hands of the occupied state.<sup>433</sup> The prolonged occupation represents by definition a harmful situation for the local population, because it is subjected to a military regime instead of being administered by its original and sovereign government.<sup>434</sup> Therefore, regardless of the duration of the occupation, the Occupying Power is still obliged to act in the interest of the local population, which are far from being protected through the exploitation of its natural resources for the benefit of occupier's economy.<sup>435</sup>

The Israeli Government's decision to grant Afek a license to conduct test drillings, with the objective to develop new oil fields in the occupied Syrian Golan, clearly contradicts Articles 43 and 55 of the Hague Regulations. As illustrated above, the occupier's right with respect to oil resources is that of usufructuary, literally the right to use the fruits of the property, not the right of ownership. Accordingly, usufruct does not include the right to establish new oil fields. This argument is strengthened by the occupier's duty to preserve the 'capital', as



explained in Article 55 of the Hague Regulations. Resources such as oil deposits are irreplaceable and so they cannot be exploited without diminishing their economic value.<sup>436</sup> In the context of prolonged occupation, a restrictive interpretation of the usufructuary right is consistent both with Article 43 of the Hague Regulations<sup>437</sup> and with the principle of PNSR<sup>438</sup>. International legal expert Antonio Cassese said on the issue that 'the strengthening of these limitations is the only safeguard against the turning of the occupant (a transitory military administration) into a political and administrative government in disguise'.<sup>439</sup>

Further, the fact that Article 55 of the Hague Regulations does not specify the purpose of the usufruct activity, does not mean it allows the occupier to exploit the natural resources of the occupied territory for its own benefit without any restrictions.<sup>440</sup>

In addition, Articles 48, 49, 52, and 56 of the Hague Regulations make it clear that the economy of the occupying country can only bear the expenses of the occupation. Logically, such limitation extends also to the usufruct rule of Article 55 of the Hague Regulations.<sup>441</sup> This has been confirmed by settled jurisprudence.<sup>442</sup> In the case of Krupp, the Nuremberg Tribunal held that 'if an economic asset which, under the rules of warfare, is not subject to requisition is nevertheless exploited during the period of hostilities for the benefit of the enemy, the very things result which the law wants to prevent, namely, (a) the owners and the economy as a whole as well as the population are deprived

of the respective assets; (b) the war effort of the enemy is unfairly and illegally strengthened'.<sup>443</sup> The aforementioned also appears in the case of Singapore Oil Stock Case, where the Court of Appeal stated that the exploitation of Netherlands Indies' oil resources by Japanese armed forces was in violation of the laws of occupation, since the exploitation was intended 'not merely for the purpose of meeting the requirements of an army of occupation but for supplying the naval, military and civilian needs of Japan both at home and abroad'.<sup>444</sup> Therefore, if Afek discovers new oil fields and subsequently develops them, the profits should not enrich Israel's home economy, but only benefit the Syrian population of the occupied Syrian Golan.<sup>445</sup>

These limitations are also consistent with the customary principle of PSNR, as is confirmed by multiple UN General Assembly resolutions.<sup>446</sup> By consistently condemning the Israeli exploitation policies of Syrian and Palestinian natural resources, these resolutions clarify that only the Syrian and the Palestinian populations can claim inalienable rights over their natural resources. Thus, the principle strengthens the prohibition of profiting from the exploitation of natural resources for the benefit of the occupier's economy.<sup>447</sup>

To conclude, it is worth considering the overarching scope of international humanitarian law. In the last thirty years, the international community has widely recognised that the presence of valuable natural resources is a trigger for armed conflict.<sup>448</sup> Therefore, if an extensive interpretation of international humanitarian law would allow the aggressor to freely profit from the exploitation

of these resources, it would directly contribute to or prolong such conflicts.<sup>449</sup> Thus, the 'evolutive' interpretation adopted by the Israeli Government must be rejected. The occupied territory cannot be used by the Occupying Power to benefit its own economy. Otherwise this would encourage prolonging the occupation, which is exactly what is happening in the occupied Syrian Golan.

### Conclusion

The fifty-year anniversary of the occupation of the Syrian Golan is marked by Israel's deepening commitment to cement its hold on the region. Given the instability in Syria, the Israeli Government is furthering its sovereignty claims over the occupied Syrian Golan and its valuable natural resources. One example is the oil exploration activities that have been carried out by Afek Oil & Gas in recent years. The occupied Syrian Golan is presented as part of Israel, and thus, they argue, the exploitation of its energy resources is called not only legal but also in line with the legitimate scope to enhance the value of this supposed new part of Israel.

This chapter has illustrated that Israel's arguments are inconsistent with the norms of international humanitarian law regarding the management of natural resources and with the customary Principle of Permanent Sovereignty Over Natural Resources. The legal reasoning used by the Israel High Court of Justice has thus served as a mere stamp of approval of Israeli international law violations in the occupied territories. Operating far beyond the remit of its role as an administrator and usufructuary of the occupied territory's natural

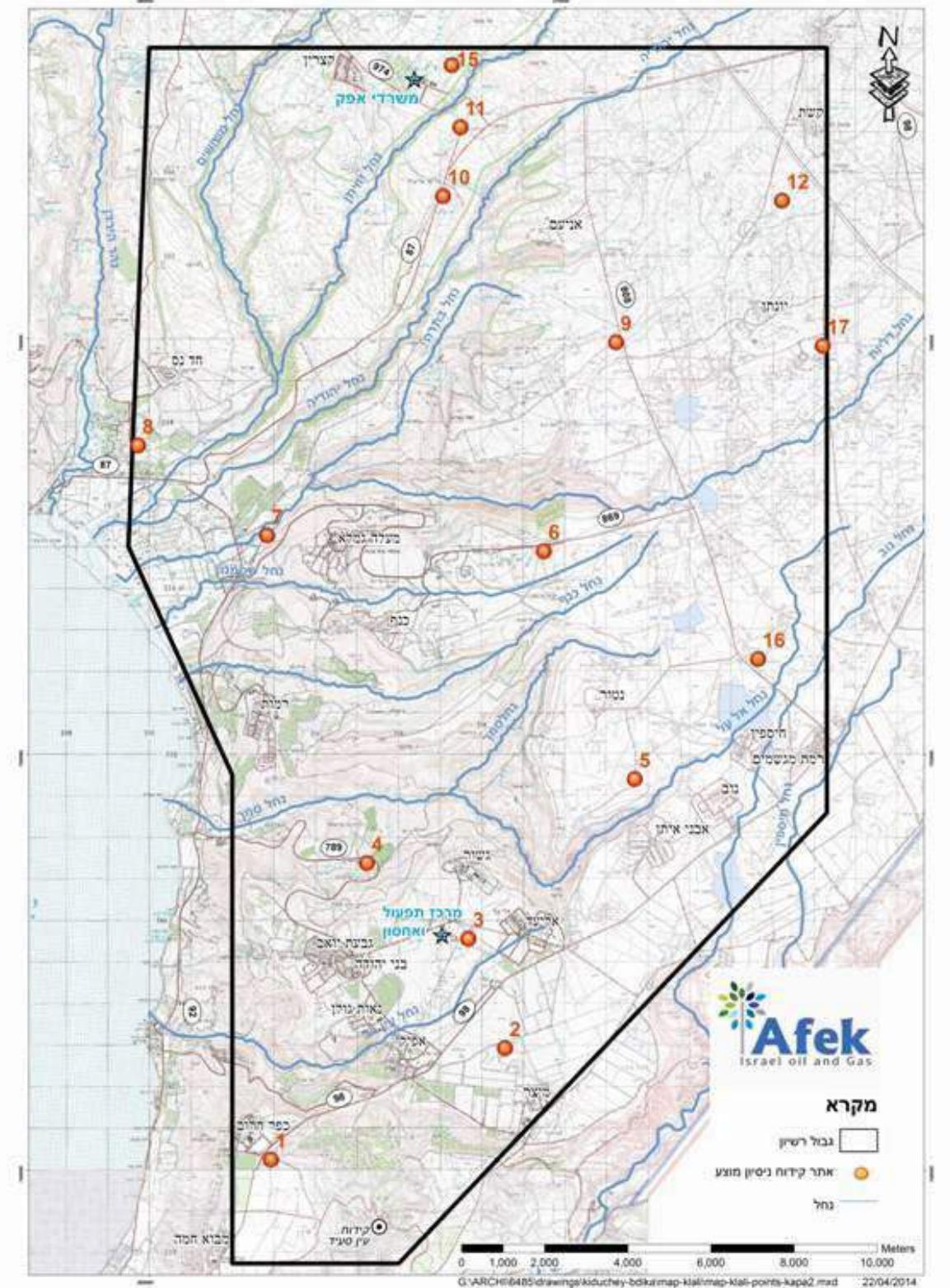
resources, Israel's decision to grant Afek a license to conduct oil test drillings constitutes a blatant violation of its obligations as an Occupying Power. Moreover, such exploration activities infringe upon the Syrian people's right to permanent sovereignty over their natural resources.

In case new exploration licenses are granted and oil fields are exploited, this will only constitute a further violation of these norms. Israel will be the sole beneficiary of its profits by saving on the price of fuel, and by collecting tax and revenue from the

extraction activities. As a result, the exploitation of oil resources in the occupied Syrian Golan will simply constitute a new economic incentive for prolonging the current occupation.



חיפושי נפט רמת הגולן



Previous page: Oil rig in the occupied Syrian Golan. Photograph © 2017 Al-Marsad. Above: Afek Oil & Gas oil drilling license area, as published by The Times of Israel on 2 November 2015.

# Housing





# Bassam Ibrahim

I have lived in Majdal Shams all my life. There are a lot of problems with finding a house here in the village. The Israeli authorities do not allow us to expand the borders of the village even though our population grows every year. This means that land has become very expensive. At the same time the Israeli settlers have large houses with lots of space and gardens.

In 2015, the Israeli planning committee said that people in Majdal Shams could start building in an area of the village in which had previously been forbidden. Some years before, I had bought a piece of land there from someone in the village. The land was very expensive because people rarely sell as they want to pass it down to their children. However, in the end, despite what the Israeli planning committee had said, I was not able to get a permit to build my house. The Israeli Government makes it almost impossible to get a permit and instead people are forced to pay multiple fines to prevent the destruction of their homes. They have no choice.

After years of saving and borrowing considerable amounts of money, I spent around 900,000 shekels (about \$250,000) to build the house. Construction was progressing well: I thought we would be moving in within two months and had even ordered the doors. Then, on 7 September 2016, I heard that Israeli police were near my house. When I saw them arriving with a bulldozer I knew what was going to happen. They demolished my house right in front of my family's eyes. My young children were there and were traumatised. Everything we had worked for was destroyed in less than two hours.

My family and I have struggled a lot since the demolition. We live in a tiny rental apartment and all four of us have to share a room. We have lost all of our money, so we are stuck. My son was so traumatised that he has barely left the house for over a year. I am trying to sue the Israeli Government because they did not follow the correct legal procedure, but it will likely take years for the court to even reach a decision. In the meantime, I do not know what to do. The ruins of what is left of my house are on a hill, so I can see it from everywhere in the village. I cannot look at it because it is so difficult.

# Building Up

## *Housing and Planning Policies in the Occupied Syrian Golan*

By Dr Nazeh Brik

Lack of housing is one of the most pressing issues affecting Syrians living in the occupied Golan today. Before the occupation, roughly 136 thousand people lived in over three hundred villages and farms spread out over the Syrian Golan.<sup>450</sup> Following the 1967 Arab-Israeli War, around 95 percent of the population (130 thousand people) was either forcibly evicted by the Israeli army or fled the fighting, leaving a hugely decimated population of about six thousand people.<sup>451</sup> As part of the eviction process, the Israeli army destroyed 340 Syrian villages and farms, leaving the remaining Syrians to live in only five villages: Majdal Shams, Buqata, Masada, Ein Qynia and Ghajar.

In the fifty years since the occupation began, the population of Syrians in the occupied Golan has grown from six thousand to approximately 26 thousand. However, due to discriminatory Israeli

policies, the boundaries of the remaining villages have not increased proportionally, creating huge strains on housing and infrastructure. Although the population of Syrians and Israeli settlers is roughly the same, Syrians are restricted to five percent of the occupied Syrian Golan, whereas the Israeli settlers control the other 95 percent.

**1967**



**2018**



It is impossible for the Syrian population to purchase land for housing outside of the village

<b>Population in the remaining Syrian villages after the occupation (August 1967)</b>		
<b>Village</b>	<b>Households</b>	<b>Population</b>
Majdal Shams	570	2,918
Buqata	284	1,421
Masada	141	720
Ein Qynia	123	576
Ghajar	73	382
Suheita	32	173
<b>Total</b>	<b>1,223</b>	<b>6,190</b>

boundaries<sup>452</sup>, and so they are forced to buy land from other Syrians at hugely inflated prices or to build upwards. Compared to nearby illegal Israeli settlements, which have a suburban feel to them, the Syrian villages are crowded, lack green spaces and feature multi-story buildings to accommodate more homes. It is common for whole families to share a bedroom. New homes are often built next to minefields, which puts lives at risk as landmines often slide and fall close to people's homes after heavy rain and snow. It is an unsustainable situation which needs to be resolved urgently.

### The right to housing

The right to housing is a universally recognised human right. It is enshrined in the Universal Declaration of Human Rights<sup>453</sup>, the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>454</sup>, the Vancouver Declaration on Human Settlements<sup>455</sup>, and the Istanbul Declaration on Human Settlements<sup>456</sup>, amongst others. The ICESCR defines the right to housing as 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and

housing, and to the continuous improvement of living conditions' (Article 11).

The right to housing must be understood in the context of achieving an adequate standard of living and must be available to all, without discrimination. It plays an essential role in the stability and development of a society and is considered a basic need, so that people can participate in their community at all levels. The right to adequate housing is not limited to the structure of the house itself, in the sense of a roof and four walls, but extends to encompass many aspects of daily life, so that people can live in safety, with dignity and privacy. The infringement of the right to housing thereby leads to the violation of many other civil, political, economic and social rights.

### The destruction of the occupied Syrian Golan

During the 1967 Arab-Israeli War and subsequent period, the Israeli military destroyed approximately 340 Syrian villages and farms. Then Chief of Staff Rehavam Ze'evi said, 'We have to get a clean Golan from its population [sic]'.<sup>457</sup> The Israeli army was ordered to destroy Syrian houses and property on a wide scale. Avishay Katz, former Commander of the 602nd Engineering Battalion, describes his orders at the time:

'The first and foremost [command] was to destroy the Golan Heights. [...] I was told to demolish the Golan Heights immediately [...] As soon as I received the order, I said OK, I will take all the troops. I drove west near Banias, where there is a wonderful olive grove, a kind of surface, where we settled. We had an exceptional camp with showers and everything

Above: Table based on data from the Israeli State Archives, file number ISA-MOIN-MOIN-00059xc. Note that Suheita was destroyed in the early seventies, so today, Syrians live in just five villages.

we needed. And from there the troops went out every day to pick up mines and destroy the villages. There was total destruction. We did not leave one house standing. [...] We found Syrian anti-tank mines and used them. We did not even have to use our explosives. [...] A ten-pound landmine cuts down a Syrian house without problems. [...] Every morning the troops would leave the woods in Banias, blow up villages and return in the evening.<sup>458</sup>

The area was declared a closed military zone, with entrance and exit permitted only by permission from the Israeli Military Commander. Military orders were used to expel the native Syrian population and prevent them returning to their villages and farms. With the destruction of 340 villages and farms, and expulsion and displacement of 95 percent of the population, the Israeli army had full control over the occupied Syrian Golan. Public and private property was seized and resources belonging to the local population and Syrian state, such as fresh water springs and lakes, were appropriated and used to develop the Israeli economy and illegal Israeli settlements.

After fifty years of occupation, the remaining Syrian population has grown from about six thousand to 26,600. At the same time, Israel has established 34 illegal settlements in the occupied Syrian Golan. The Israeli Government encourages Jewish-Israelis to move to the occupied Syrian Golan through advertisements and the development of residential and industrial areas.<sup>459</sup> Potential settlers do not even have to buy the land: they can obtain long-term leases<sup>460</sup> and other financial incentives of up to \$12,000.<sup>461</sup> The settler population is over

26,250 and is expected to soon overtake the Syrian population.<sup>462</sup>

The number of Israeli settlers has increased dramatically since the start of the war in Syria in 2011. As the table on the following page shows, between 2010 and 2017, the settler population increased from 19,635 to 26,261. This is an increase of roughly 35 percent, and reflects the efforts by the Israeli Government to increase its hold on the occupied Syrian Golan as a result of the war in Syria. Indeed, in November 2015, Michael B. Oren, a former Israeli Ambassador to the US stated that 'the Golan can no longer be exchanged for peace with Syria because Syria no longer exists'.<sup>463</sup>

#### Housing and planning policies in the occupied Syrian Golan

Since the start of the occupation, the Israeli Government has used housing and planning policies to subjugate the remaining Syrian population in the occupied Golan. Housing and planning policies are developed by the Ministry of Construction and Housing, with input from the Ministry of Public Security, the Ministry of Interior, the Ministry of Economy, the Jewish Agency for Israel and the Jewish National Fund, among others. The regulation of housing and planning policies is done on three levels:

The National Planning and Building Council  
Six Regional Committees  
130 Local Planning Committees

Given that all members of these bodies are appointed, and that the Syrian population is excluded from participation by virtue of their Arab

### Illegal Israeli settlements in the occupied Syrian Golan

<b>Settlement</b>	<b>Population (in thousands)</b>			
	<b>2010</b>	<b>2014</b>	<b>2016</b>	<b>2017</b>
Afiq	0,234	0,259	0,292	0,336
Allone Habashan	0,291	0,359	0,422	0,398
Ani'am	0,454	0,526	0,513	0,582
Avne Etan	0,491	0,601	0,681	0,754
Bene Yehuda	0,968	1,047	1,024	1,234
Eli-Ad	0,255	0,328	0,382	0,424
El-Rom	0,277	0,323	0,372	0,460
En Zivan	0,213	0,280	0,296	0,381
Geshur	0,221	0,257	0,272	0,304
Giv'at Yo'av	0,532	0,636	0,700	0,683
Had-Nes	0,622	0,815	0,852	0,915
Haspin	1,362	1,719	1,877	1,455
Kanaf	0,352	0,394	0,450	0,470
Kefar Haruv	0,307	0,347	0,378	0,501
Ma'ale Gamla	0,372	0,401	0,472	0,545
Merom Golan	0,592	0,661	0,701	0,784
Mevo Hamma	0,276	0,323	0,383	0,530
Mezar	0,111	0,198	0,244	0,194
Nahal Namrud	0,16	0,16	0,018	0,018
Natur	0,236	0,560	0,688	0,440
Ne'ot Golan	0,424	0,510	0,574	0,632
Neve Ativ	0,117	0,130	0,115	0,208
Nov	0,631	0,830	0,862	0,857
Odem	0,084	0,109	0,126	0,160
Ortal	0,306	0,304	0,355	0,359
Qazrin/Katzrin	6,791	6,829	6,998	8,141
Qela	0,163	0,217	0,249	0,283
Qeshet	0,660	0,722	0,796	0,767
Qidmat Zevi	0,334	0,343	0,400	0,513
Ramat Magshimim	0,568	0,615	0,630	0,765
Ramot	0,453	0,476	0,509	0,644
Senir	0,496	0,544	0,543	0,578
Sha'al	0,196	0,232	0,249	0,309
Yonatan	0,466	0,570	0,622	0,628
<b>Total</b>	<b>19,635</b>	<b>22,200</b>	<b>23,934</b>	<b>26,261</b>

status, decisions are made top-down, without input from the Syrian population. As a result, Syrians are denied the opportunity to establish new residential areas, while illegal Israeli settlements continue to expand.

According to Adalah – the Legal Center for Arab Minority Rights in Israel, there are 65 Israeli laws in place that discriminate either directly or indirectly against Arab citizens in Israel and Arab residents in the occupied territories.<sup>464</sup> Of those 65, fourteen laws directly affect the right to housing.<sup>465</sup> These include the Israel Land Administration Law (Amendment No. 7) of 2009, which instituted broad land privatization for settlements in the occupied Syrian Golan<sup>466</sup>, and the Acquisition for Public Purposes Land Ordinance (Amendment No. 10) of 2010, which allows the Finance Minister to confiscate land for ‘public purposes’<sup>467</sup>. This list does not include the military orders that were issued between 1967 and 1981 to confiscate private and public land and property.

As a result of these laws, the Syrian population is restricted to approximately 55 thousand dunams<sup>468</sup> of land, whereas the Israeli military and Israeli settlers exploit over a million dunams. Despite the fact that the population size is roughly equal, Israel effectively uses 95 percent of the land, and the Syrian population only five percent.

In 2013, the Israel Nature and Park Authority proposed the ‘Hermon National Park’ plan, which would designate 81,802 dunams of land from around two of the remaining Syrian villages, Majdal Shams and Ein Qynia, as a national park.<sup>469</sup> If approved, the park would not only appropriate additional land from those villages, but also surround Majdal Shams in the north and west. It is not possible to expand the village to the east given its proximity to

the fortified ceasefire line. Therefore, the only area available for urban expansion of the village would be agricultural land in the south – an important source of livelihood for the local population.

Research by Adalah found that the Israeli Land Authority and Ministry of Construction and Housing invest little to no effort in solving housing shortages in Arab communities throughout Israel and the occupied territories. A study into housing tenders which were approved by the Israeli Land Authority in 2015 shows that Jewish-Israeli and mixed communities in Israel received 38,095 marketed housing units, while Arab communities received only 1,835.<sup>470</sup> This is barely five percent, even though Arabs constitute 20 percent of the population of Israel.<sup>471</sup> In addition, research by Be’er Sheva University shows that Arab town requests for master plan expansions take up to three times longer than requests by Jewish-Israeli towns.<sup>472</sup>

The situation is even worse in the occupied Syrian Golan, where 2015 saw no allocation of marketed housing units in the Syrian villages.<sup>473</sup> Instead, Israeli Government ministers called for 100 thousand new Israeli settlers to move to the occupied Syrian Golan over the next five years.<sup>474</sup> This coincides with plans to establish 750 new Israeli farming estates on 30 thousand dunams of land, including a 108-million-dollar investment in agricultural training, upgrading the water systems and clearing mines from the region.<sup>475</sup> More than 90 Israeli settler families moved to the occupied Syrian Golan under the ‘Farms Project’ in 2015.<sup>476</sup> Further, in October 2016, the Israeli Finance Ministry approved plans for the construction of 1600 new settlement units in the illegal Israeli settlement of Katzrin.<sup>477</sup>

Housing shortages in the Syrian villages of the occupied Golan have had a dramatic impact on the local population. As the population increases and villages remain the same size, land prices have shot through the roof. People are often hesitant to sell land, preferring to keep it in the family so their children have a place to live. This has made land enormously expensive and often inaccessible for poorer members of the community. Green spaces have long since disappeared from the Syrian villages, as available space is used to build houses. Instead, people have started building upwards, with five or six-story buildings not being uncommon. Young families are often forced to share bedrooms in small rental accommodation, and borrow huge sums of money to buy their own home.



#### Building permits and home demolitions

According to the Israeli Planning and Building Law of 1965, any construction or expansion of a building requires a building permit.<sup>478</sup> Construction without a permit is a criminal offence, and buildings without permits can be demolished by the state.<sup>479</sup> Similar to other countries, one of

the requirements for a building permit is that the planned construction takes place within the appropriate planning zone. For example, a house can only be built within an approved residential zone. However, in the remaining Syrian villages in the occupied Golan, designated residential zones have not been expanded to meet the needs of the growing population. This makes it all but impossible to receive building permits.

In addition, the Israeli Land Authority claims ownership over a significant amount of land that is suitable for housing. However, in order for the Syrian population to build on it, they are required to sign a document stating that ownership of the land belongs to the Israeli Land Authority. Given that this land was appropriated by Israel following



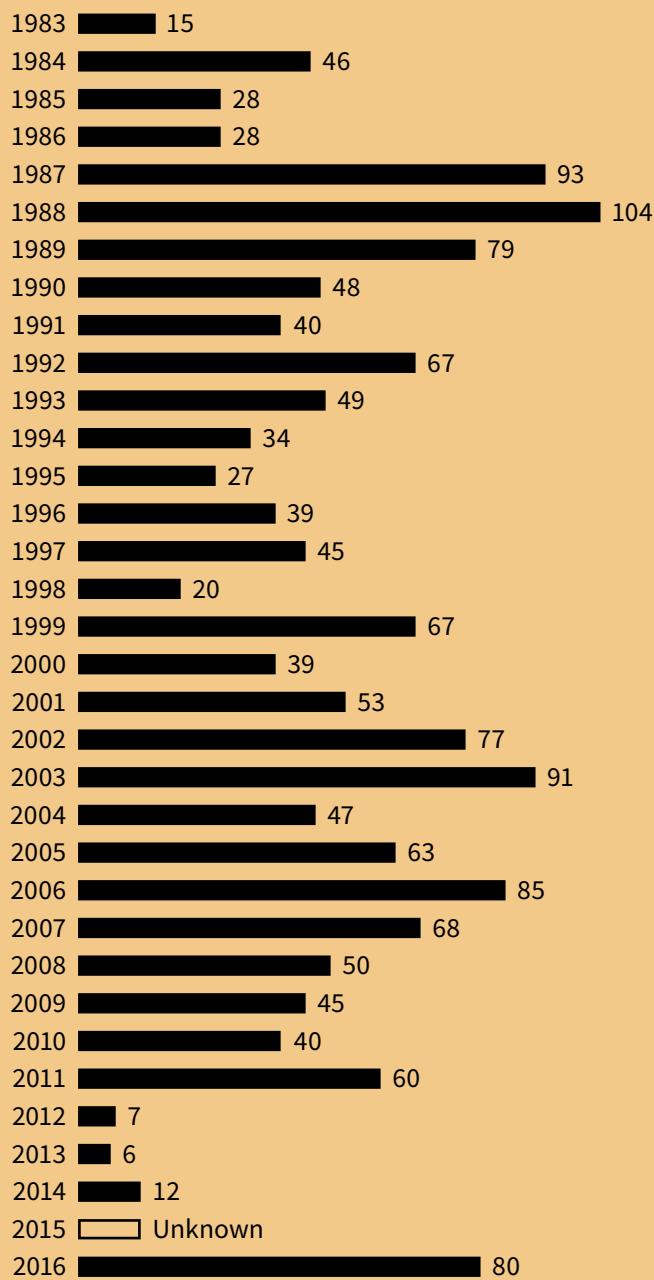
the occupation, the vast majority of the Syrian population refuse to do so, as they would consider it a legitimisation of the occupation.

Even in the rare case that all above conditions are met, Syrians still face discriminatory treatment in applying for permits. Although building permits cost the same for Syrians as they do for Israeli

**Court ordered punishments for building without a permit in the Syrian villages (2013 - 2017)**

<b>Year</b>	<b>Village</b>	<b>Punishment</b>	<b>Year</b>	<b>Village</b>	<b>Punishment</b>
2013	Masada	12,000 NIS / 120 days in prison	2016	Ein Qynia	3,000 NIS / 20 days in prison
2013	Majdal Shams	3,500 NIS / 35 days in prison	2016	Buqata	11,000 NIS / 20 days in prison
2013	Buqata	1,500 NIS	2016	Buqata	3,000 NIS / 20 days in prison
2014	Ein Qynia	4,000 NIS / 40 days in prison	2016	Masada	25,000 NIS / 30 days in prison
2014	Masada	54,000 NIS / 90 days in prison	2016	Ein Qynia	20,000 NIS / 120 days in prison
2014	Ein Qynia	20,000 NIS / 20 days in prison	2016	Masada	15,000 NIS / 90 days in prison
2014	Buqata	10,000 NIS / 30 days in prison	2016	Buqata	12,000 NIS / 15 days in prison
2014	Majdal Shams	2,000 NIS / 20 days in prison	2016	Masada	3,000 NIS / 30 days in prison
2015	Majdal Shams	70,000 NIS / 20 days in prison	2016	Majdal Shams	2,000 NIS / 14 days in prison
2015	Buqata	2,500 NIS / 25 days in prison	2016	Masada	2,000 NIS / 20 days in prison
2015	Majdal Shams	2,000 NIS / 20 days in prison	2016	Masada	2,000 NIS / 20 days in prison
2015	Ein Qynia	10,000 NIS / 60 days in prison	2016	Buqata	11,000 NIS
2015	Masada	1,500 NIS / 90 days in prison	2016	Buqata	90 days probation
2015	Ein Qynia	18,000 NIS / 90 days in prison	2016	Buqata	25,000 NIS / 25 days in prison
2015	Buqata	15,000 NIS / 90 days in prison	2016	Masada	85,000 NIS / 100 days in prison
2015	Majdal Shams	65,000 NIS / 180 days in prison	2016	Buqata	30,000 NIS / 30 days in prison
2015	Ein Qynia	3,000 NIS / 30 days in prison	2016	Buqata	15,000 NIS / 25 days in prison
2015	Ein Qynia	3,000 NIS / 30 days in prison	2016	Majdal Shams	15,000 NIS / 20 days in prison
2015	Majdal Shams	10,000 NIS / 60 days in prison	2016	Masada	20,000 NIS / 30 days in prison
2015	Buqata	30,000 NIS / 120 days in prison	2016	Masada	80,000 NIS / 100 days in prison
2015	Buqata	90,000 NIS / 210 days in prison	2016	Majdal Shams	15,000 NIS / 30 days in prison
2015	Buqata	5,000 NIS / 15 days in prison	2016	Majdal Shams	15,000 NIS / 30 days in prison
2015	Majdal Shams	80,000 NIS / 180 days in prison	2016	Ein Qynia	20,000 NIS / 20 days in prison
2015	Majdal Shams	30,000 NIS / 120 days in prison	2016	Majdal Shams	15,000 NIS / 30 days in prison
2015	Ein Qynia	30,000 NIS / 120 days in prison	2016	Buqata	2,000 NIS / 5 days in prison
2015	Buqata	40,000 NIS / 180 days in prison	2017	Masada	75,000 NIS / 60 days in prison
2015	Buqata	10,000 NIS / 30 days in prison	2017	Masada	25,000 NIS / 30 days in prison
2015	Buqata	4,000 NIS / 20 days in prison	2017	Majdal Shams	40,000 NIS / 40 days in prison
2015	Ein Qynia	5,000 NIS / 10 days in prison	2017	Buqata	5,000 NIS / 70 days in prison
2015	Majdal Shams	10,000 NIS / 10 days in prison	2017	Masada	3,000 NIS
2016	Ein Qynia	25,000 NIS	2017	Majdal Shams	45,000 NIS / 30 days in prison
2016	Majdal Shams	50,000 NIS / 50 days in prison	2017	Majdal Shams	10,000 NIS / 30 days in prison
2016	Masada	4,000 NIS / 30 days in prison	2017	Buqata	4,000 NIS / 40 days in prison
2016	Ein Qynia	14,000 NIS / 20 days in prison	2017	Masada	26,000 NIS / 40 days in prison
2016	Masada	12,000 NIS / 20 days in prison	2017	Majdal Shams	15,000 NIS / 30 days in prison
2016	Buqata	25,000 NIS / 30 days in prison	2017	Majdal Shams	45,000 NIS / 30 days in prison

# Demolition orders issued in the Syrian villages of the occupied Syrian Golan



settlers, Israelis receive on average a 65 percent higher income than Arabs in Israel, which means that the cost is relatively much higher for Syrians.<sup>480</sup> Further, once the project comes to construction, Israeli settlers enjoy a free and state-sponsored infrastructure, which includes free access to waterpipes and electricity lines.<sup>481</sup> In contrast, the Syrian population is financially responsible for their own waterpipes and electricity lines, which adds significant costs to construction.<sup>482</sup>

They are also charged higher prices for utilities, with the price per kilowatt of electricity in the Syrian villages coming to approximately 0.72 shekels, compared to 0.55 shekels in the Israeli settlements.<sup>483</sup> In conclusion, even if Syrians meet all necessary requirements, they pay much higher costs related to construction than the illegal settlement population.

As a result, many Syrians in the occupied Golan have had no choice but to build without permits, risking fines and the demolition of their home or business. In September 2016, the Israeli authorities demolished the house of a Syrian family in the village of Majdal Shams on the basis that they had not obtained the necessary permit.<sup>484</sup> The family is currently challenging the demolition in court on the basis that it did not follow required procedure. However, in the meantime, they are left without a home and have to pay high fees in rent.

According to research by Al-Marsad, between 1983 and 2014, 1,570 demolition orders were issued in the Syrian villages in the occupied Golan (see page 113). Those issued with demolition orders have been forced to either pay substantial fines or go to prison. After paying a number of fines, the majority

eventually obtain a permit. Others are forced to sign a document stating that the land they built on belongs to the Israeli Land Authority (despite being privately owned) in order to obtain a permit. The table on page 112 shows an overview of the fines and prison sentences that were issued for construction without a permit between March 2013 and April 2017. On average, people had to pay a 21,130 shekel fine (about \$6000) or spend 52 days in prison. The average annual income of Syrians in the occupied Syrian Golan is the same as for Arabs in Israel who earn on average \$13,000 a year. This means that a \$6000 fine constitutes almost half of the yearly income for many Syrians.

### Conclusion

In the last fifty years, the Syrian population in the occupied Syrian Golan has grown from six thousand to approximately 26,600, living in five villages. However, instead of allowing the villages to expand to accommodate the growing population, the Israeli authorities have placed severe restrictions on growth. At the same time, they have built 34 illegal Israeli settlements all over the occupied Syrian Golan. Unable to expand, the Syrians face a terrible housing crisis.

Compared to the nearby illegal Israeli settlements, which have a green and suburban feel to them, the Syrian villages are crowded, grey and lack green spaces. Families are forced to share rooms, rent is high and land prices have become exorbitantly expensive. Even if a Syrian family is able to buy land, it is almost impossible to obtain the necessary building permit. Discriminatory zoning policies

mean that there are almost no residential zones available to build houses on. In addition, the land that is available within the designated residential zones has been appropriated by the Israeli Land Authority, which requires potential buyers to sign a document acknowledging ownership, something the vast majority of Syrians refuse. Even if all conditions are met, building permits and construction fees are disproportionately expensive for the Syrian population, as Israelis living in illegal settlements enjoy much higher incomes and benefit from state sponsored infrastructures and other benefits. As a result, most Syrians in the occupied Golan are forced to build without permits, risking huge fines and prison sentences. Home demolition orders are common, leaving families to live in constant fear. It

is an untenable situation.

The Israeli Government must take steps to address the situation. It should immediately remove discriminatory restrictions on the expansion of village boundaries and implement planning zones proportionate to the growing population. The Israeli Government must make building new housing units and infrastructure a priority in the Syrian villages. All outstanding home demolition orders must be cancelled and Syrians who have paid fines or suffered the full or partial demolition of their homes should be compensated. The Israeli Government should also abolish the Hermon National Park plan that would appropriate more land from the Syrian population and further inhibit the natural growth of Majdal Shams and Ein Qynia.



Above: The remains of Bassam Ibrahim's demolished house. Photograph sourced from the Al-Marsad archives.



# Water



# Tayseer Maray

I am the former Director of Golan for Development, a Syrian development organisation that provides health services to the local community. I now work with Syrian water cooperatives, managing projects on agriculture and water resources, which are two of the major issues affecting the local population.

All the water in the Syrian Golan was confiscated by the Israeli military after the war in 1967. Farmers were forbidden from digging wells and using springs, and would be fined if they did. Access to the only fresh water lake in the area, Lake Ram, was also prohibited. At the time, everyone in the Golan depended on farming as their main source of income, so the impact was huge. In the eighties, farmers built water tanks to collect the rain water. They were very expensive to build, costing between \$5,000 and 10,000 per tank. However, Israel settlers complained to the Israeli authorities saying that Syrians farmers were stealing water! The Israeli military ordered many farmers to destroy the water tanks or pay huge fines. It was obvious that they were making our lives difficult.

Nowadays, we have to buy our water from an Israeli company called Mekorot, which is owned by the Israeli Government. Syrians pay more per m<sup>3</sup> of water than the Israeli settlers do. We have to pay for the pumping infrastructure ourselves, while the Israeli settlers get this for free. We are set lower quotas for the maximum amount of water we are allowed to buy. As a community, our needs are about 16 million m<sup>3</sup> of water per year, in order to properly irrigate our crops, but we only get around 4 million m<sup>3</sup>. This means that we have fewer crops, that our produce is of lesser quality, and that we are disadvantaged on the market. The price we pay per litre of water is also higher. Israeli settlers have so much water they can build swimming pools.

The impact on our community is huge. We are in no position to compete with the Israeli settlers. It is one of the many ways in which the Syrian population of the occupied Golan has been discriminated against by the Israeli Government.

# Water is Life

*The Legality and Consequences of Israeli Exploitation of the Water Resources of the Occupied Syrian Golan*

By Kathy Keary

Water is becoming an increasingly valuable commodity in global politics and markets. According to research by the World Resources Institute, in 2040, Israel is going to be the eighth most water stressed country in the world.<sup>485</sup> Given the aridity of the landscape, water resources have always played an important part in the relationship between Israel and its Arab neighbours. This is most pertinent in the region of the Syrian Golan, which receives a much higher level of rainfall than much of Israel and the occupied Palestinian territories. It is therefore no surprise that the Syrian Golan became part of Israel's territorial agenda and was later occupied during the 1967 Arab-Israeli War. Indeed, in 1995, former Israeli Prime Minister Yitzhak Rabin stated that 'the greatest danger Israel has to face in the negotiations with Syria is the possibility of losing control over the Golan Heights' water resources'.<sup>486</sup>

Since the occupation in 1967, Israel has consistently exploited the natural resources of the Syrian Golan for the benefits of illegal Israeli settlements and the state of Israel in general. It has also persistently implemented discriminatory water policies towards the local Syrian population, charging them higher prices for water and setting them lower quotas for the amount of water they are allowed to buy. As a result of the above, the occupied Syrian Golan currently supplies Israel with more than a third of its annual water consumption.<sup>487</sup>

While the Israeli settlers, whose inhabitancy of the occupied Syrian Golan is illegal, enjoy unmeasured access to the water, the Syrian population, and rightful owners of the land, experience significant restrictions.<sup>488</sup> In addition, the few local springs that Israel has continued to allow the Syrian farmers access to, have been drying up as a result of the

drilling activities and water extraction carried out by Israeli companies and Israeli authorities.

Two reports issued by the Israeli Knesset, in 2002 and in 2010, illustrate the extent of water shortages, even with the exploitation of the occupied Syrian Golan.<sup>489</sup> They show that there is a deficit of 15.2 billion m<sup>3</sup> of water in the Israeli reserves and that this is more water than can be replenished even with a succession of particularly wet years.<sup>490</sup> It is therefore unlikely that Israel will concede its access to the water resources of the occupied Syrian Golan in the near future.

This chapter explores the geopolitical and legal intricacies of the occupied Syrian Golan's water situation. It highlights the discrimination experienced by Syrian farmers and the impact that the actions of the Israeli authorities, Israeli companies and consumers concerning water harvesting and distribution has on the native population's rights under international law. In conclusion, it sets out a range of recommendations which suggest that a peace settlement should be achieved which addresses the riparian rights of both Israel and Syria according to the relevant provisions in international law.

#### Water in Israel and the Golan

It is estimated that the average rainfall in Israel and the occupied territories is around 7,900 million m<sup>3</sup> per year.<sup>491</sup> In rainy years, it can be as high as 12,000 million, in dry years as low as 4,000 million.<sup>492</sup> Most of the water evaporates back into the atmosphere, leaving about 30 percent (2,400 million m<sup>3</sup>) to flow into the water systems.<sup>493</sup> As shown in the map on page 122, much of this rain falls in the northern region of the occupied Syrian Golan, with

the levels becoming lower going south into Israel.

The occupied Syrian Golan has access to two major water systems. One is in the west and consists of the drainage basin of the Jordan River and its tributaries the Banias, the Dan and the Hasbani.<sup>494</sup> The other is in the south and drains to Lake Tiberias and the Yarmuk River.<sup>495</sup>

Based on the line of 4 June 1967, Israel and Syria both have riparian rights to Lake Tiberias.<sup>496</sup> For Israel, it is the only fresh water lake where this is the case. As a result, the Israeli authorities have consistently and continuously over-extracted water, with devastating results to the water quality, the ecosystems of the area and the sustainability of the lake in general. Since the occupation, Lake Ram, which is situated in the north of the occupied Syrian Golan, has suffered a similar fate at the hands of the Israeli authorities, with damaging results to the local population. The water from the lake is exploited by Israeli companies Mey Golan and Mekorot, which force the local Syrian population to purchase water from the Israeli authorities to irrigate their farms. In addition, the Israeli authorities pump water into the lake for storage at certain times of the year, which results in the flooding of Syrian owned land.

In addition to Lake Tiberias and Lake Ram, there are over 200 springs in the occupied Syrian Golan arising from different sources.<sup>497</sup> Some are seasonal and others flow all year round. There are also numerous streams, many of which run only in the wet season.<sup>498</sup> The most important perennial streams are the Glibiney (Gilbon in Hebrew), the Wadi Hawa (Meshushim in Hebrew), the Yehuddia and the El Al, which are fed by rising springs and surface water.<sup>499</sup> A number of these streams are captured by reservoirs in the occupied Syrian Golan.

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

The exploitation of water in the occupied Syrian Golan by the Israeli Government was introduced with Military Order 120 on 24 March 1968.<sup>500</sup> It gave authority to the Israeli Military Commander to appoint an Israeli official to manage and oversee the water resources in the occupied Syrian Golan.<sup>501</sup> It also stated that ‘...no person is allowed to carry out or operate any work related to water, unless by an official permit issued by the official in charge and according to the conditions set out on obtaining the permit’.<sup>502</sup> The order furthermore obliged the Syrian population to disclose information regarding the water assets of the area, if demanded by the Military Commander, and allowed the military access to any area containing water works.<sup>503</sup>

In addition, the order bestowed upon the Military Commander the right to compel any member of the Syrian population with control over the extraction, supply or transportation of water, to supply the water to wherever the commander deemed necessary, albeit with adequate compensation provided.<sup>504</sup> Any contravention or violation of this order carried a potential sentence of up to one year in prison or 1,000 Israeli Lirot (about 100 Israeli shekels in today’s currency).<sup>505</sup>

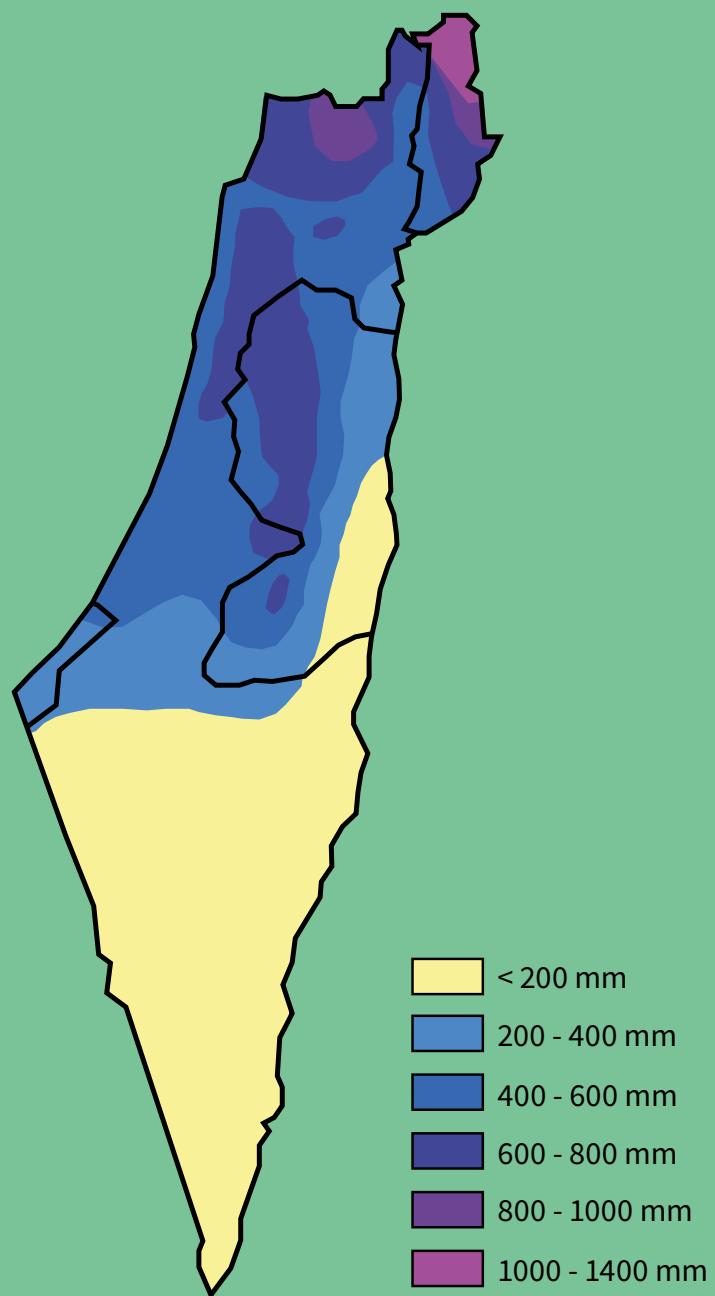
After the enactment of the Golan Heights Law in 1981 and the purported annexation that was the result, Israel started applying its Water Law in the occupied Syrian Golan.<sup>506</sup> The Water Law states that the water resources of the state are public property and that ownership of the land does not also mean ownership of the water resources on or under that

land. According to the law, Israel serves only as custodian of the water and manages it for the use of its residents: they do this through the Governmental Authority for Water and Sewerage. Any operation involving the use of a water source requires the individual to have a license issued by the Water Authority.<sup>507</sup> All water supplied to the population, whether it be for domestic, agricultural or industrial purposes is allocated, measured and charged for. Since the mid-eighties, the Water Commission (now the Water Authority) has been enforcing cutbacks in the amount of water allocated to farmers and consumption allowances depend on the level of rainfall. This has had a particularly devastating effect on Syrians in the occupied Syrian Golan. Not only did they lose access to their water resources, but they were forced to buy water from Israeli companies at discriminatory prices and were set incredibly low quotas for the amount of water they were allowed to buy. In addition, they were cut off from their customer base for agricultural products in the rest of Syria and had to develop new irrigation infrastructure, without support from either the Syrian or Israeli Governments.

### Discriminatory water policies

Before the Israeli occupation, there was no real exploitation of the groundwater of the Syrian Golan. The region contained a few shallow wells, which were sufficient for Syrian farmers, but no deep wells. After the occupation, Israel started building deep wells to gain access to the underground layers of water-bearing permeable rock, also called aquifers. They succeeded in 1984, when the Allone HaBashan

# Average annual rainfall in Israel and the occupied territories



well started producing significant amounts of water. Since then, seven more deep wells have been drilled in the region and together they extract more than ten million m<sup>3</sup> of water<sup>508</sup>, the vast majority of which is pumped to Israel and illegal Israeli settlements.

#### Water tanks

In the eighties, many Syrian farmers who had very little access to water and were forbidden by Israeli law from digging wells, started building large metal tanks on their farms in order to catch the winter rain water for irrigation in the summer. These tanks were prohibitively expensive. In general, they cost between \$5,000 and \$10,000.<sup>509</sup> However, some farmers paid up to \$20,000 which is roughly the same amount as ten dunams of land. The tanks could only hold 600 cubic meters of water, enough to properly irrigate only one dunam.<sup>510</sup> The Israeli authorities banned the construction of tanks and implemented policies to regulate them. Syrian farmers were forced to apply for permits for tanks and ordered to install gauges so that the water could be measured and charged for by the Israeli authorities.<sup>511</sup> A number of the tanks were destroyed<sup>512</sup>, and many of the farmers who had installed them were taken to court and fined.<sup>513</sup>

#### Mekorot

Mekorot is the main national water supplier in Israel. Owned entirely by the Israeli authorities, it supplies seventy percent of all the water used in Israel and eighty percent of the drinking water. In the occupied Syrian Golan, it supplies water to Israeli settlers as well as the local Syrian population – unlike competitor Mey Golan, which only supplies to Israeli settlers. The prices charged by Mekorot are

dictated by the Ministers of National Infrastructures and Finance, and subsequently have to be approved by the Knesset's Finance Committee.

Although the price of water is technically the same for Israeli settlers and the local Syrian population, the Israeli administration's control over water extraction and supply severely restricts the Syrian farmers. First, there is the pricing system, based on a three-tiered structure. Mekorot customers are allocated quotas of water in price categories A, B, and C. In 2009, Category A was the cheapest at 1.363 shekels, then Category B at 1.575 shekels, and Category C at 2.058 shekels. Because Syrian farmers are allocated smaller quotas than the Israeli settlers, they have to use all of the water allocated to them, including the water from the more expensive price categories. This means that Syrian farmers end up paying more money on average than the settler farmers, even if the prices as they appear on paper are the same.<sup>514</sup> Although an amendment to the water law in 2016 unified the water tariff for agriculture, this will not be implemented for Mekorot customers until the beginning of 2019.<sup>515</sup>

Second, Israeli settler farmers have their water pumped directly to their farms, while the Syrians have to pay for this infrastructure themselves. They have to install their own pumps, fit their own water transport systems and pay for the on-going costs associated with the running and maintenance of these infrastructures.<sup>516</sup> All this comes on top of what they already pay for the water. Although recently, after years of negotiation, Mekorot has started sharing some of these costs, on average, Syrian farmers still pay four times more than settlers, leaving them at a distinct economic disadvantage.<sup>517</sup>

Third, Syrian farmers are given smaller quotas

than the Israeli settlers in terms of the amount of water they are allowed to buy: roughly 300 m<sup>3</sup> compared to 700 – 1000 m<sup>3</sup>.<sup>518</sup> As a result of the water allocations, settler farmland is significantly more productive than Syrian farmland. Their produce is superior, they have a greater range and they subsequently receive higher profits on the market. When viewed together with the pricing structure and costs related to infrastructure, the Syrian farmers suffer from clear discrimination in water policies at the hands of the Israeli authorities.

#### Settlement industries profiting from the occupation

As a result of the occupation of the Syrian Golan, many settlement industries profit from the exploitation of natural resources for personal economic gain. Examples of these industries include Eden Springs, the Golan Heights Winery, the Golan Brewery, Bendaplast, and Pigmentan, to name but a few.

One of the largest companies in the occupied Syrian Golan is Eden Springs (also known as Mey Eden and Mayanot Eden). It started trading in Israel and the occupied territories in 1982 and was recently acquired by the Canadian Cott Corporation for €470 million.<sup>519</sup> The multinational enterprise has expanded its operations to 15 European countries and has somewhere in the region of 450 million clients.<sup>520</sup> It distributes 730 million litres of water a year.<sup>521</sup>

Mey Eden, the Israeli branch of the company, has been producing and marketing mineral water extracted from the Salukia Spring in the occupied Syrian Golan since the early eighties.<sup>522</sup>

The company's bottling plant is located in Katzrin settlement, which is the largest settlement in the occupied Syrian Golan and considered by the Israeli authorities to be the region's capital.<sup>523</sup> In 2016, Mey Golan, an Israeli settler water cooperative, which operates out of the same settlement as Mey Eden, partnered with Afek Oil & Gas to conduct drilling for water in the occupied Syrian Golan. Afek Oil & Gas is an Israeli company that has been exploring for oil in the occupied Syrian Golan since 2014 and recently discovered 'high quality water' in one of its exploratory wells.<sup>524</sup>



The extraction, processing and selling of the natural water resources of the occupied Syrian Golan are violations of international human rights and humanitarian law. The very existence of the settlements and all of their associated industries are illegal.

#### International law and the exploitation of water

According to international humanitarian law, the Israeli authorities have obligations in their role as belligerent occupiers of the Syrian Golan. These obligations are set out in the Fourth Geneva

Convention and the Hague Regulations. Articles 46, 55, and 56 of the Hague Regulations, for example, protect the interest of the civilian population and forbid the expropriation of private property except in exceptional circumstances.<sup>525</sup> In addition, the Fourth Geneva Convention prohibits the expulsion of civilians from occupied territory, as well as the transfer of civilians of an Occupying Power into occupied territory.<sup>526</sup> It also forbids the destruction of private property.<sup>527</sup> Additional Protocol I to the Geneva Conventions further proscribes attacking objects necessary for the survival of the civilian population, such as water installations.<sup>528</sup>

The applicability of the Fourth Geneva Convention to the occupied territories was confirmed by the International Committee of the Red Cross in 2001:

‘Being only a temporary administrator of occupied territory, the Occupying Power must not interfere with its original economic and social structures, organization, legal system or demography. It must ensure the protection, security and welfare of the population living under occupation. This also implies allowing the normal development of the territory, if the occupation lasts for a prolonged period of time.’<sup>529</sup>

#### Right to water of native Syrian inhabitants

Water is recognised as being one of the most basic and necessary elements for a healthy and productive life. It is fundamentally important for the wellbeing not only of the individual, but of society as a whole. There is explicit reference in a number of the prominent human rights treaties to the right to water, including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)<sup>530</sup> and the Convention on the Rights of the

Child (CRC)<sup>531</sup>.

There are also a number of international human rights treaties from which a right to fair and equitable access to water can be deduced. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>532</sup>, the Convention on the Elimination of all forms of Racial Discrimination (ICERD)<sup>533</sup>, and the International Covenant on Civil and Political Rights (ICCPR)<sup>534</sup>.

For example, the Committee on Economic, Social and Cultural Rights (CESCR) has stated that the right to water can be inferred from Articles 11 and 12 of the Convention. The exploitation of resources can also be framed in terms of the right to self-determination, which is guaranteed in Article 1 of the ICCPR and the ICESCR, and is listed as one of the four basic purposes of the United Nations.<sup>535</sup>

The CESCR has considered and discussed the obligations of Israel in relation to the occupied territories. In its concluding observations of Israel’s second periodic report, submitted in 2003, the Committee stated that Israel should ‘take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution.’<sup>536</sup>

The systematic and blatant discrimination evident in the different water policies that are applied to the native Syrian population and Israeli settlers also violates the inalienable right to non-discrimination on the grounds of ‘race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.<sup>537</sup> The principle of non-discrimination is

provided for in various UN treaties, including the CRC<sup>538</sup>, the CEDAW<sup>539</sup>, the ICCPR<sup>540</sup> and the ICESCR<sup>541</sup>.

The main international covenant dealing with the issue of racial discrimination is the ICERD, which prohibits ‘any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life’.<sup>542</sup>

#### Corporate complicity

Aside from the Israeli Government, companies are also complicit in the exploitation of the natural resources of the occupied Syrian Golan. In Resolution 38/144, the United Nations addresses not only state parties but also ‘international organisations, specialized agencies, business corporations and all other institutions’ not to assist the Israeli authority’s exploitation of Arab resources in any way.<sup>543</sup> The resolution, which was issued in 1983, applies to any settlement organisation or industry located on Arab territory or utilising the natural resources of occupied land.<sup>544</sup>

In general, business corporations do not have legal personality under international law. However, there is a number of initiatives that aim to regulate the actions of companies according to the principles of international human rights and humanitarian law. Examples include the International Labour Organisation’s Tripartite Declarations and the Organisation for Economic Cooperation and Development Guidelines. Israel is a party to both.<sup>545</sup>

#### Conclusion and recommendations

Israel’s occupation of the Syrian Golan, its settlement policy, and the exploitation of natural resources have all been deemed contrary to international law.<sup>546</sup> Despite that, Israel’s discriminatory policies with regard to water exploitation have changed little over the past decades. Given the importance of water to the inhabitants of the occupied Syrian Golan, it is essential that the needs of its Syrian population are addressed immediately.

In legal terms, the Israeli settlements and their accompanying industries should be dismantled and removed from the occupied Syrian Golan. The infrastructure that has been installed over the past fifty years to exploit local water should be either dismantled or used for the benefit of the Syrian population. In the interim period, there is an onus on the Israeli Government to ensure adequate access to the water resources of the occupied Syrian Golan for its local Syrian population. At the very least, Syrian farmers should have free access to their water resources.

There are a number of actions that the Israeli Government and international community need to take to ensure the enjoyment of basic human rights for the Syrian population of the occupied Syrian Golan. They are obliged by common decency and international law to take all possible measures to guarantee the Syrians of the occupied Syrian Golan can live in peace and prosperity, and freely enjoy their natural resources without discrimination or interference from Israeli administration.

# Conclusion

*By Dr Nizar Ayoub, Director of Al-Marsad - Arab Human Rights Centre in Golan Heights*

For over half a century, the Syrian people in the occupied Golan have lived under military occupation. They have witnessed the forcible transfer and displacement of friends and family; the destruction of homes; the appropriation of land and the arrival of a foreign occupier. While Syrians in the occupied Golan have been powerless to prevent these injustices, those with the power to right these wrongs – such as the Israeli courts, surrounding countries and the international community – have sat idly by and done nothing.

Meanwhile, the 130 thousand people who were forcibly transferred or displaced from the occupied Golan have grown to around half a million people. They have been unable to return to their homes, and those who have tried have been labelled as ‘infiltrators’ by the Israeli authorities. More recently, they have been suffering from the appalling conflict in Syria, with many becoming internally displaced persons for the second time in their lives, or refugees in neighbouring countries and beyond.

Amid this suffering, Israel is trying to tighten its grip on the occupied Golan, declaring that it cannot be returned because ‘Syria no longer exists’. As a

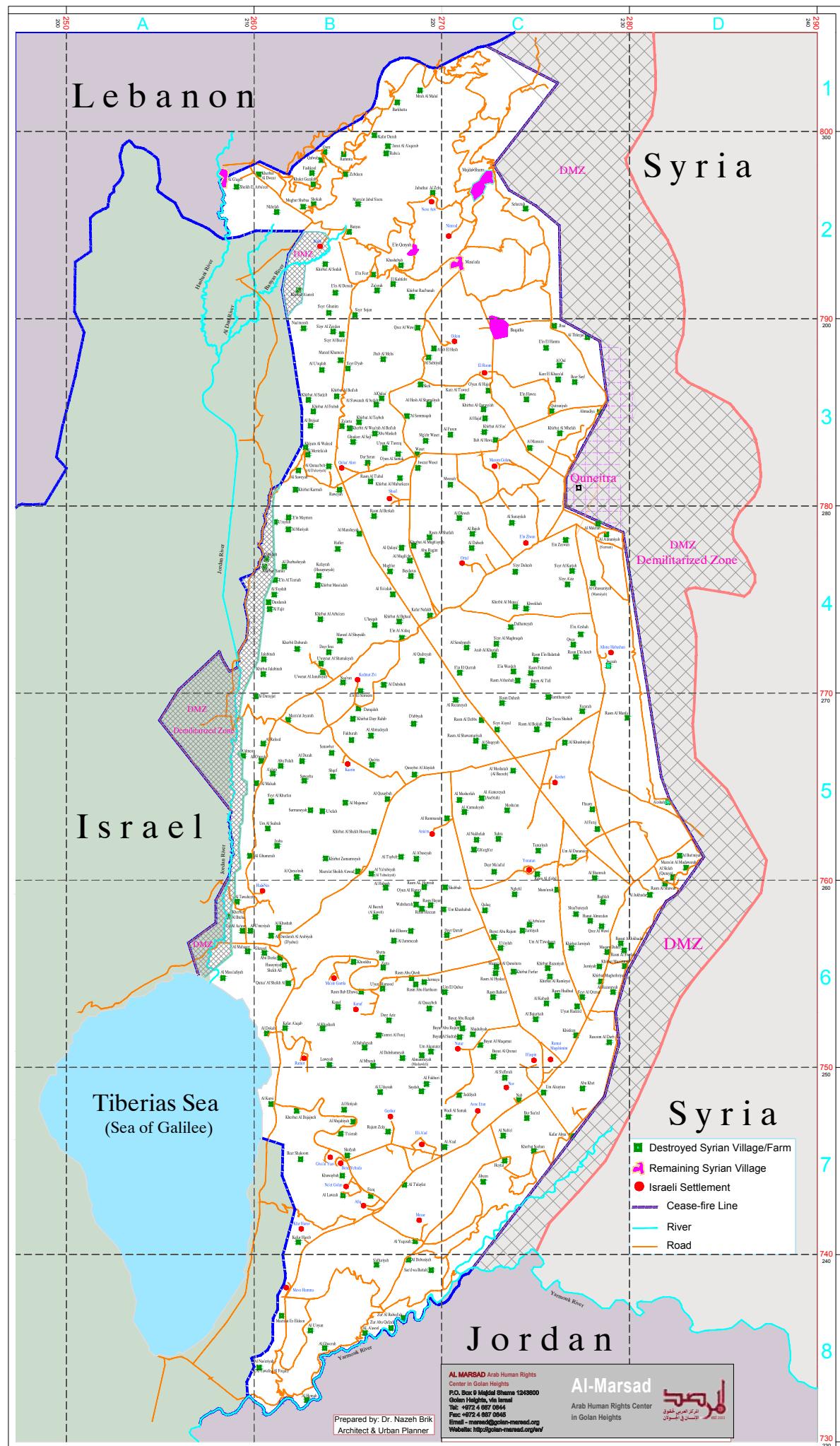
result, settlement expansion and natural resource exploitation have accelerated and the Israeli authorities are heavily investing in programs aimed at the ‘Israelization’ of young Syrians and the erosion of their Syrian identity. Discriminatory Israeli policies continue to violate the basic human rights of Syrians who have become second-class citizens in the land of their birth.

What then does the future hold for the occupied Syrian Golan? That is a question that can only be answered by the Syrian people themselves. After half a century of being ignored, it is time that their voices are heard. The conflict in Syria cannot be used as a tool by the Israeli authorities to tighten its grip on the region. The international legal status of the occupied Golan has not changed: it remains Syrian territory under Israeli occupation. Israel’s attempts to take advantage of the conflict in Syria must be an impetus for the international community to listen to the pleas of the Syrian population of the occupied Golan and restore their rights and dignity.

Dr Nizar Ayoub, Director of Al-Marsad



Above: Majdal Shams and Jebel al Sheikh. Photograph © 2017 Al-Marsad



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353 The kind of oil under the surface, as confirmed by experts and the company itself, is tight oil, which requires fracking for it to be extracted, with all expected consequences: risks for the pollution of the Golan's aquifers with dramatic repercussions both on agricultural lands and on Lake Tiberias. M. Lindman, "Israel's oil wars shift to the Golan Heights".

354 Adam Teva V'Din, Home, [www.adamteva.org.il](http://www.adamteva.org.il).

355 Interview with Mr. Gabriel Bourdon, Legal consultant at Adam Teva V'Din, on 10 March 2017.

356 The Israeli Supreme Court made a clear delineation of exploratory drilling and commercial production. The Court stated that any commercial drilling would require to be evaluated under basic environmental risk assessments. Therefore, the exploration licenses owned by Afek would not lead to automatic approval of the extraction phase. Id.

357 "Black gold under the Golan" in: *the Economist* (7 November 2015), <https://www.economist.com/news/middle-east-and-africa/21677597-geologists-israel-think-they-have-found-oil-in-very-tricky-territory-black-gold>. See also Afek predictions: 'According to the estimations of our geologists, the Southern Golan Heights reservoir contains billions of barrels of oil. This drilling is the first of a series of drillings designed to map the quality and size of the reservoir' at: Afek Israel Oil and Gas, Home, <http://afekoil.co.il/en/>.

358 Afek Israel Oil and Gas, Home, <http://afekoil.co.il/en/>.

359 M. Grossman, "Analysis stage begins at latest Golan drilling site" in: *The Jerusalem Post* (26 May 2016) <http://www.jpost.com/Business-and-Innovation/Environment/Analysis-stage-begins-at-latest-Golan-drilling-site-455042>; See: "Genie Energy Ltd. Reports Fourth Quarter and Full Year 2016 Results" in: *PR Newswire* (8 March 2017), <https://www.prnewswire.com/news-releases/genie-energy-ltd-reports-fourth-quarter-and-full-year-2016-results-300420119.html>.

360 "Genie Energy launches drilling services company in Israel" in: *Word oil* (11 January 2017), <https://www.prnewswire.com/news-releases/genie-energy-launches-drilling-services-company-in-israel-300388533.html>.

361 On 10 April 2017, Afek started test drilling in the Ness10 well, which is situated in the northern part of the license area. See: "Genie Energy Ltd. Reports Fourth Quarter and Full Year 2016 Results" in: *PR Newswire*. See also the more recent: "Genie Energy Ltd. Reports First Quarter 2017 Results" in: *PR Newswire* (3 May 2017), <https://www.prnewswire.com/news-releases/genie-energy-ltd-reports-first-quarter-2017-results-300450365.html>.

362 Genie Energy Suspends Exploratory Oil and Gas Drilling Program in Northern Israel (16 November 2017), [http://investors.genie.com/genie\\_energy\\_in\\_the\\_media/](http://investors.genie.com/genie_energy_in_the_media/).

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364 Y. Dinstein, *The International Law of Belligerent Occupation* (2009), p. 20-25.

365 Y. Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (2009), p. 6.

366 According to L. Oppenheim: 'There is no atom of sovereignty in the authority of the occupant, since it is now generally recognized that the sovereignty of the legitimate government, although it cannot be exercised, is in no way diminished by mere military occupation' in: L. Oppenheim, "The Legal Relations between an Occupying Power and the Inhabitants" in: *The Law Quarterly Review* (1917), p. 364.

367 Y. Arai-Takahashi, *The Law of Occupation*, p. 12-14. As Antonio Cassese notes, the main parameters ruling the occupant powers are: the respects of the inhabitants' interest and the fulfillment of its military needs. In: A. Cassese, "Power and Duties of an Occupant in Relation to Land and Natural Resources" in: P.

- Gaeta, S. Zappalà, *The Human Dimension of International Law: Selected Papers* (2008), p. 251.
- 368 Y. Dinstein, *The International Law of Belligerent Occupation*, p. 89 – 90.
- 369 E. Benvenisti, *The International Law of Occupation* (2004), p. XI.
- 370 A. Cassese, "Power and Duties of an Occupant" p. 251; Y. Dinstein, *The International Law*, p. 108-112; E. Benvenisti, *The International of Occupation*, p. 89-102; M. Sassoli, "Legislation and Maintenance of Public Order and Civil Life by Occupying Forces" in: *European Journal of International Law*, vol. 16, no. 4 (2005), p. 669-671.
- 371 M. Pertile, *The Linkage Between Natural Resources and Armed Conflicts*, from an International Law Perspective, (2012), p. 171 (in Italian).
- 372 According to the International Criminal Tribunal for the former Yugoslavia (ICTY), pillaging is defined as: 'the prohibition against the unjustified appropriation of public and private enemy property... [that] extends both to acts of looting committed by individual soldiers for their private gain, and to the organized seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory'. See: *Prosecutor v. Delalic* (ICTY, Trial Chamber 1998) para. 591. For an in-depth study of the crime of pillage, see: J. G. Stewart, *Corporate War Crimes: Prosecuting the Pillage of Natural Resources* (2011). This norm is also embodied in Article 33 of the Fourth Geneva Conventions, and it constitutes a war crime according to Article 8(2) (b) (xvi) of the Statute of the International Criminal Court.
- 373 The issue was raised for the first time in the Singapore Oil Stock Case. The minority judgment argued that oil must be viewed as munition de guerre and thus falling within the scope of Article 53 of the Hague Regulations. Accordingly, it has direct military use since it can be easily extracted and refined in barrels. See also: Y. Dinstein, *The International Law of Belligerent Occupation*, p. 234.
- 374 Article 53(1) of the Hague Regulations states that 'an army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations'. Article 53(2) states that: 'All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and, generally, all kinds of munitions of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made'.
- 375 Most scholars agree on this. See: Y. Arai-Takahashi, *The Law of Occupation*, p. 211-214; G. Abouali, "Natural Resources under Occupation: The Status of Palestinian Water under International Law" in: *Peace International Law Review*, vol. 10 (1998), p. 472; M. Pertile, *The Linkage*, p. 176-177; A. Cassese, "Power and Duties of an Occupant", p. 260-262. See also: "United States Department of State: Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and in the Gulf of Suez" in: *International Legal Materials* (1977), p. 733.
- 376 The case was related to the exploitation of Netherlands Indies oil reserves by Japanese armed forces during World War Two. The Court concluded that crude oil in the ground was "immovable property", since it requires extraction from underground reservoirs and a refining process before being employed for commercial use. *Singapore, Court of Appeal, N.V. De Bataafsche Petroleum Maatschappij and Others v. The War Damage Commission*, (1956) in: *The American Journal of International Law*, vol. 51, no. 4 (1957), p. 822-824. See also: Y. Arai-Takahashi, *The Law of Occupation*, p. 211-212.
- 377 The notion of usufruct, which is disciplined in different ways in the various national legal systems, has created several interpretative problems. See: A. Annoni, *The "Hostile" Occupation in International Law* (2012), p. 214 (in Italian).
- 378 Y. Arai-Takahashi, *The Law of Occupation*, p. 210.
- 379 M. Pertile, *The Linkage*, p. 178
- 380 Trial of the Major War Criminals Before the International Military Tribunal, 1 (1947), para. 238. This proposition is based on the text of Articles 53(1) and 52(1) of the Hague Regulations: '1) Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country'. It can be inferred that the occupant is entitled to interfere in the economic activity of the occupied territory only to: meet its own military or security needs; defray the expenses involved in the occupation; to protect the well being of the inhabitants. See: A. Cassese, "Power and Duties of an Occupant", p. 253. See also the judgment: *United States Military Tribunal, Nuremberg, Krupp and others* (30 June 1948), in: *Law Reports of Trials of War Criminals*, vol. X (1949), p. 1348-1369; and others (I.G. Farben Trial) (29 July 1948), in: *Law Reports of Trials of War Criminals*, vol. X (1949), p. 1143-1147; *Singapore, Court of Appeal, N.V. de Bataafsche Petroleum Maatschappij and Others v. The war Damage Commission*, in: *The American Journal of International Law*, vol. 51, no. 4, (1957), p. 808.
- 381 A. Cassese, "Power and Duties of an Occupant", p. 259.
- 382 Apparently, the lack of explicit limitations in Article 55 of the Hague Regulations has a historical justification. When this provision was drafted private owned properties had much more relevance than immovable property owned by states. Id.
- 383 R. Duffrene, "Reflections and Extrapolations on the ICJ's Approach to Illegal Resource Exploitation in the Armed Activities Case" in: *New York University Journal of International Law & Politics*, Special Issue, vol. 40 (2008), p. 200; A. Crivellaro, "Oil Operations by a Belligerent Occupant: the Israel-Egypt Dispute" in: *The Italian Yearbook of International Law*, vol. 3 (1977), p. 171-187.
- 384 D. Dam de Jong, *International Law and Governance of Natural Resources in Conflict and Post-Conflict Situations*, (2013), p. 228. B. M. Clagett, O. T. Johnson, "May Israel as a belligerent occupant lawfully exploit previously unexploited oil resources of the Gulf of Suez?" in: *American Journal of International Law*, vol. 72, no. 3 (1978), p. 575-576,
- 385 R. Cummings E., "Oil Resources in Occupied Arab Territories under the Law of Belligerent Occupation" in: *Journal of International Law and Economics*, vol. 9 (1974), p. 565.
- 386 Article 43 of the Hague Regulations, which prevents the occupant to modify the environment of the occupied territory, can be derogated only in case of absolute necessity in order to maintain public order and safety of the local inhabitants. See: M. Pertile, *The Linkage*, p. 178.
- 387 N. Schrijver, *Sovereignty Over Natural Resources: Balancing Rights and Duties* (1997).
- 388 For example: UN General Assembly Resolution 626 (VII), A/RES/626(VII) (1952); UN General Assembly Resolution 837, A/RES/837 (IX) (1954).
- 389 A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (2005), p. 211-216.
- 390 UN General Assembly Resolution 1803, A/RES/1803 (XVII) (1962), para. 7.
- 391 It is included in both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as common Article 1, which states: 'All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and International law. In no case may a people be deprived of its own means of subsistence.' Furthermore, it is incorporated in treaty law in various fields, including: state successions, law of the sea, environmental law, investment law. See: N. Schrijver, *Sovereignty Over Natural Resources*.
- 392 The main international legal instruments which have been influenced by PSNR are: Declaration of the United Nations Conference on the Human Environment (1972), the United Nations Convention on the Law of the Sea (1982), The Declaration on Environment and Development (1992), and The Declaration on Sustainable Development (2002). See also: M. Odzen, et al., *The Right of Peoples to Self Determination and to Permanent Sovereignty over their Natural Resources* seen from a Human Right Perspective (2010).
- 393 Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports (2005), p. 2, para. 244
- 394 See also the UN General Assembly resolutions adopted in the case concerning the occupation of Namibia by South African forces in 1973: UN General Assembly Resolution 3171, A/RES/3171 (XXVIII) (1973). N. Schrijver, *Sovereignty Over Natural Resources*, p. 21 and. 147-149.

- 395 UN General Assembly Resolution 3005, A/RES/3005 (XXVII) (1972).  
396 UN General Assembly Resolution 3175, A/RES/3175 (XXVIII) (1973).  
397 UN General Assembly Resolution 31/161, A/RES/32/161 (1977).
- 398 B. Sloan, Study of the Implications, under International Law, of The United Nations Resolutions on Permanent Sovereignty over Natural Resources, on The Occupied Palestinian and other Arab Territories and on the Obligations of Israel Concerning its Conduct in these Territories (1983).
- 399 Id., para 39.
- 400 Id., para. 25-38.
- 401 Id., para. 39.
- 402 Id.
- 403 Id., para. 51.
- 404 Including the following UN General Assembly Resolutions : A/RES/51/190 (1996); A/RES/52/207 (1997); A/RES/ 53/196 (1998); A/RES/54/230 (1999); A/RES/55/209 (2000); A/RES/56/204 (2001); A/RES/57/269 (2002); A/RES/58/229 (2003); A/RES/59/251 (2004); A/RES/60/183 (2005); A/RES/61/184 (2006); A/RES/62/181 (2007); A/RES/63/201 (2008); A/RES/64/185 (2009); A/RES/65/179 (2010); A/RES/66/225 (2011); A/RES/67/229 (2012); A/RES/68/235 (2013); A/RES/69/241 (2014); A/RES/70/225 (2015); A/RES/71/247 (2016).
- 405 Among others, see: UN General Assembly Resolution 64/185, A/RES/64/185 (2009).
- 406 'Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,0F to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967'
- 407 'Expressing its concern at the exploitation by Israel, the occupying Power, of the natural resources of the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967'; Aware of the detrimental impact of the Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water'.
- 408 'Reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land, water and energy resources'; UN General Assembly Resolutions 66/225, A/RES/66/225 (2011); 67/229, A/RES/67/229 (2012); 68/235, A/RES/68/235 (2013); 69/241, A/RES/69/241 (2014); 70/225, A/RES/70/225 (2015); 71/247, A/RES/71/247 (2016).
- 409 Id.
- 410 Articles 10 and 14 of the UN Charter.
- 411 Article 2(2) of the UN Charter states that: 'All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter'.
- 412 B. Sloan, Study, para. 42, footnote 88.
- 413 After the start of the Sinai occupation in 1967, Israel exploited the productive Egyptian Abu Rhodeis oil fields. These resources were returned to Egypt in 1975, as part of the Israel-Egypt disengagement agreement. Subsequently, Israel started test drillings in a maritime zone in front of the Sinai coast, a drilling area that Egypt had already assigned to a US company. See: A. Gerson, "Off-Shore Oil Exploration by a Belligerent Occupant: The Gulf of Suez Dispute" in: America Journal of International Law, vol. 71 (1977), p. 725. The US rebuttal is contained in this memorandum: "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: International Legal Materials, vol. 16, no. 3 (1977).
- 414 "Israel: Ministry of Foreign Affairs Memorandum on the Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: International Legal Materials (1978), p. 433, para. 3
- 415 Id. p. 433, para. 3-4.
- 416 Id., p. 433, para. 5.
- 417 Id., p. 435, para. 10. The U.S government strongly rejected such arguments, concluding that: 'An occupant's rights under International law do not include the right to develop a new oil field, to use the oil resources of occupied territory for the general benefit of the home economy or to grant oil concessions' in: United States: Department of State Memorandum of Law, p. 734.
- 418 See the case concerning the exploitation of Dead Sea natural resources by Israeli settlers. The Israeli High Court of Justice validated settlers' practices recognising the Occupying Power's duty to promote the welfare of settlers. See: C. Nicoletti, A. M. Hearne, "Pillage of the Dead Sea: Israel's Unlawful Exploitation of Natural Resources in the Occupied Territory," by: Al Haq (2012), p. 26-29, [http://www.alhaq.org/publications/publications-index?task=callelement&format=raw&item\\_id=104&element=304e4493-dc32-44fa-8c5b-57c4d7b529c1&method=download](http://www.alhaq.org/publications/publications-index?task=callelement&format=raw&item_id=104&element=304e4493-dc32-44fa-8c5b-57c4d7b529c1&method=download).
- 419 This term was used for the first time by Antonio Cassese in order to highlight the contradictions of the Israeli High Court of Justice's legal arguments. See: A. Cassese, "Power and Duties of an Occupant", p. 254.
- 420 For an in-depth analysis of the role of the Israeli High Court of Justice in the legitimization of the occupation of Palestine, see: R. Shehadeh, Occupier's Law: Israel and the West Bank (1985); D. Kretzmer, The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories (2002); N. Ayoub, "The Israeli High Court of Justice and the Palestinian Intifada: A Stamp of Approval for Israeli Violations in the Occupied Territories" by: Al-Haq (2004), [http://www.alhaq.org/publications/publications-index?task=callelement&format=raw&item\\_id=62&element=304e4493-dc32-44fa-8c5b-57c4d7b529c1&method=download](http://www.alhaq.org/publications/publications-index?task=callelement&format=raw&item_id=62&element=304e4493-dc32-44fa-8c5b-57c4d7b529c1&method=download); G. Bisharat, "Violence's Law: Israel's Campaign to Transform International Legal Norms" in: Journal of Palestine Studies, vol. XLII, no. 3 (2013), p. 62-84.
- 421 HCJ 393/82 Jam'iat Iscan Al-Ma'aloun v. IDF Commander in the Judea and Samaria Area, judgment. See also: A Teachers' Housing Cooperative Society v. Military Commander of the Judea and Samaria Region (1984), para.14.
- 422 Id., para. 7.
- 423 A. Cassese, "Power and Duties of an Occupant", p. 254.
- 424 D. Kretzmer, The Occupation of Justice, p. 57.
- 425 J. Reynolds, "Legitimising the Illegitimate? The Israeli High Court of Justice and the Occupied Palestinian Territory" by: Al-Haq, 2010, p. 9.
- 426 Israel started exploiting quarries in the occupied Palestinian territories in the seventies. Today, there are eight in operation. Approximately 75 percent of their yielded product is used on the Israeli construction market; in some quarries, this number reaches 94 percent. The petitioners claimed that such activities represent a direct violation of Articles 43 and 55 of the Hague Regulations. See: Y. Din, Petition Against Quarrying Activities in OPT (2009), p. 10-25.
- 427 HCJ 2164/09, Yesh Din v The Commander of the Israeli Forces in the West Bank et al. (2011), para. 9.
- 428 Id., para. 12-13. It is interesting to note that with the word 'local population' the court refers to the Israeli settlers working in the quarries. By doing so, it deliberately omits the fact that the presence of Israeli settlers in the occupied territory represents a blatant violation of Article 49 of the Fourth Geneva Conventions, as has been recalled by many UN resolutions (see: UN Security Council Resolution 446, S/RES/446 (1979); UN Security Council Resolution 2334, S/RES/2334 (2016). V. Azarov, "Exploiting A 'Dynamic' Interpretation? The Israeli High Court of Justice Accepts the Legality of Israel's Quarrying Activities in the Occupied Palestinian Territory" in: EJIL Talk (7 February 2012), <https://www.ejiltalk.org/exploiting-a-dynamic-interpretation-the-israeli-high-court-of-justice-accepts-the-legality-of-israels-quarrying-activities-in-the-occupied-palestinian-territory/>.
- 429 V. Azarov, "Exploiting A 'Dynamic' Interpretation? The Israeli High Court of Justice Accepts the Legality of Israel's Quarrying Activities in the Occupied Palestinian Territory" in: EJIL Talk (7 February 2012), <https://www.ejiltalk.org/exploiting-a-dynamic-interpretation-the-israeli-high-court-of-justice-accepts-the-legality-of-israels-quarrying-activities-in-the-occupied-palestinian-territory/>.
- 430 The Court did not consider that a 'reasonable' exploitation of the Palestinian mining quarries will irremediably deplete such resource in the long term.

- E. Benvenisti et al, Amicus Curiae Brief on the Case of HCJ Yesh Din v The Commander of the Israeli Forces in the West Bank et al (2012), p. 44, par. 131
- 431 Yesh Din v The Commander of the Israeli Forces, para. 11.
- 432 International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004), see in particular Judge Koroma separate opinion, para. 2.
- 433 E. Benvenisti, The International Law of Occupation, p. 93; G. H. Fox, Humanitarian Occupation (2008), p. 233–237.
- 434 E. Benvenisti et al, Amicus Curiae Brief on the Case of HCJ Yesh Din v The Commander of the Israeli Forces in the West Bank et al (2012), p. 27-28, para. 76-77.
- 435 Id., p. 27, para. 76.
- 436 “United States: Department of State Memorandum of Law”, p. 737-741. Not even a reasonable exploitation of these resources, as the IHSC suggested in the Quarries judgment, is in line with Article 55, since this conduct will irremediably deplete such resources in the long term. As Professor Benvenisti pointed out: ‘...Even if the use of natural resources is reasonable, the license cannot be justified. According to international law generally..., when a certain activity in the occupied territory is prohibited and the authority is therefore not authorized to conduct it, carrying it out is intrinsically invalid, irrespective of the actual extent of the activity’. E. Benvenisti et al, Amicus Curiae Brief on the Case of HCJ Yesh Din v The Commander of the Israeli Forces in the West Bank et al (2012), pp. 44 - 48, par. 131 - 143
- 437 As it has been argued above, Article 43 of the Hague Regulations defines the occupant only as an authority *pro tempore* who is not entitled to make permanent changes in the occupied territory. See also: M. Bonthe, “The administration of occupied Territory” in: A. Clapham, P. Gaeta, M. Sassoli, The 1949 Geneva Conventions: A Commentary, p. 1456-1463.
- 438 Various UN resolutions have repeatedly highlighted that Israel is prohibited from depleting natural resources in the occupied Syrian Golan, and that only the Syrian population can claim the inalienable rights over its energy resources.
- 439 A. Cassese, “Power and Duties of an Occupant”, p. 257.
- 440 “United States: Department of State Memorandum of Law”, p. 742-743; A. Cassese, “Power and Duties of an Occupant”, p. 253.
- 441 I. Scobbie, “Natural Resources and Belligerent Occupation” in: S.M. Akram, et al., International law and the Israeli-Palestinian conflict: a rights-based approach to Middle East peace (2011), p. 235.
- 442 See also: United States Military Tribunal, Nuremberg, Krupp and others (30 June 1948), in: Law Reports of Trials of War Criminals, vol. X (1949), p. 1205; U.S. Military Tribunal, Nuremberg, Krauch.
- 443 United States Military Tribunal, Nuremberg, Krupp and others, p. 1348-1369; and others (I.G. Farben Trial) (1948) in: Law Reports of Trials of War Criminals, vol. X (1949), p. 1143-1147.
- 444 Singapore, Court of Appeal, N.V. de Bataafsche Petroleum Maatschappi and Others v. The war Damage Commission in: The American Journal of International Law, vol. 51, no. 4 (1957), p. 808.
- 445 As Dam De Jong argued: ‘A modern interpretation of these judgments suggests that an occupant is permitted to use the proceeds from exploiting resources for the purposes of maintaining a civilian administration in occupied territory, but not to cover the costs associated with military operations’. This may be inferred having regard to the rules established by UN Security Council Resolution 1483 in relation to the management of Iraqi oil resources during the US – UK occupation. Indeed, the preamble affirms the right of Iraqis to freely determine their political future and control their own natural resources, while paragraph 14 highlights that the income deriving from the sale of oil would benefit only the Iraqi people. See: D. Dam de Jong, International Law and Governance of Natural Resources in Conflict and Post-Conflict Situations (2013), p. 229; A. Carcano, The Transformation of Occupied Territory in International Law (2015), p. 184.
- 446 See supra at § 3(B)).
- 447 D. Dam de Jong, International Law and Governance of Natural Resources in Conflict and Post-Conflict Situations (2013), p. 228.
- 448 J. d’Aspremont, “Towards an International Law of Brigandage: Interpretative Engineering for the Regulation of Natural Resources Exploitation” in: Asian Journal of International Law, no. 3 (2013), p. See relevant UN resolutions on the relationship between exploitation of natural resources and conflicts: UN Security Council Resolution 1625, S/RES/1625 (2005); UN Security Council Resolution 1856, S/RES/1856 (2008); UN Security Council Resolution 1952, S/RES/1952 (2010). See also: K. Ballentine and J. Sherman, The Political Economy of Armed Conflict: Beyond Greed and Grievance (2003); N. Schrijver, Permanent Sovereignty over Natural Resources, para. 8.
- 449 B. M. Clagett, O. T. Johnson, “May Israel as a belligerent occupant lawfully exploit previously unexploited oil resources of the Gulf of Suez?” in: American Journal of International Law, vol. 72, no. 3 (1978), p. 576-578.
- 450 Internal Displacement Monitoring Centre, Syria: Forty years on, people displaced from the Golan remain in waiting (2007), <http://www.internal-displacement.org/assets/library/Middle-East/Syria/pdf/Syria-October-2007.pdf>.
- 451 Al-Marsad, The Occupied Syrian Golan: Background (2005), <http://golan-marsad.org/wp-content/uploads/2013/02/background-golan.pdf>.
- 452 Israel Land Law (Amendment No. 3) 5771-2011, Unofficial translation, <https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/13-Israel-Lands-Law-Amendment3-2011.pdf>.
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- 454 Article 11, International Covenant on Economic, Social and Cultural Rights (1966).
- 455 Vancouver Declaration on Human Settlements (1976).
- 456 Istanbul Declaration on Human Settlements (1996).
- 457 Unofficial English translation from: M. Penny, Victims: History of the Arab-Zionist Conflict, 1881-2001 (Hebrew) (2003), p. 310.
- 458 “Interview with Avishay Katz, Battalion Commander, Engineering” in: Naamoush (2 September 2015), <https://naamoush.wordpress.com/2015/09/02/%D7%A8%D7%90%D7%99%D7%95%D7%9F-%D7%A2%D7%9D-%D7%90%D7%91%D7%99%D7%A9%D7%99-%D7%9B%D7%A5-%D7%9E%D7%92%D7%93-%D7%94%D7%A0%D7%93%D7%A1%D7%94-602/>.
- 459 S. Wilson, “Golan Heights Land, Lifestyle Lure Settlers”, in: The Washington Post (30 October 2006), <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/29/AR2006102900926.html>.
- 460 Interview with an Israeli settler in the occupied Syrian Golan (September 2017).
- 461 UN Secretary-General, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, UN Doc. A/70/406 (5 October 2015).
- 462 “Residents in Israel by communities and age groups” in: Israeli Ministry of Interior, [https://data.gov.il/dataset/residents\\_in\\_israel\\_by\\_communities\\_and\\_age\\_groups](https://data.gov.il/dataset/residents_in_israel_by_communities_and_age_groups).
- 463 M. Oren, “Oren: How President Obama can aid Israel’s security”, CNN (8 November 2015), <http://edition.cnn.com/2015/11/08/opinions/oren-israel-golan-heights/index.html>.
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