PILLAGE OF THE DEAD SEA:

ISRAEL'S UNLAWFUL EXPLOITATION OF NATURAL RESOURCES IN THE OCCUPIED PALESTINIAN TERRITORY

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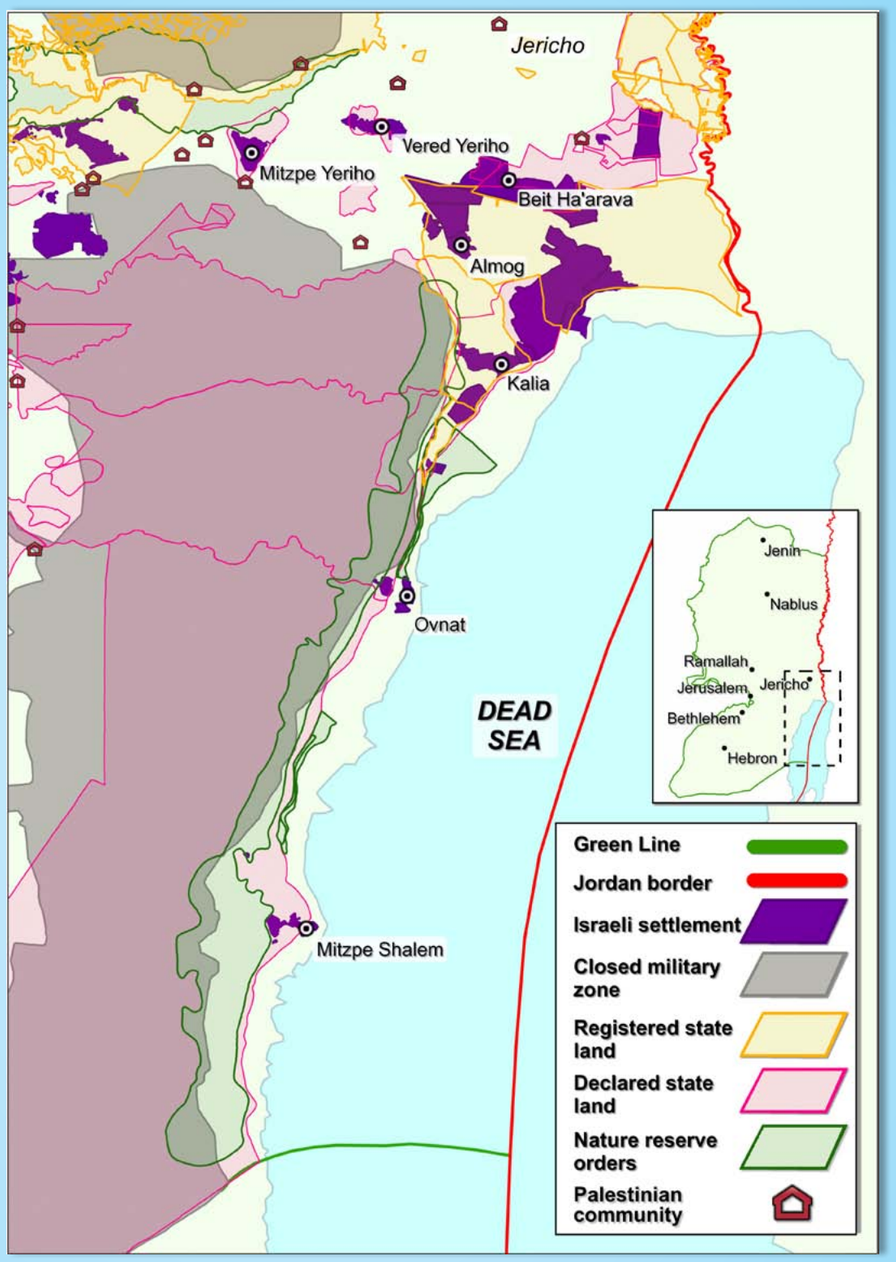

Map: The occupied Dead Sea area. The different coloured areas show the classifications assigned to Palestinian land in the area and the extent of land appropriated by Israel and closed to Palestinian use - Al-Haq©

For the purpose of this report, the occupied Dead Sea area refers to the territory south of the city of Jericho and that extends along the western shores of the Dead Sea until the 1949 Armistice Agreements Line, also known as the Green Line. In the west, the border runs along the eastern slopes of the West Bank mountain ridge.

I. EXECUTIVE SUMMARY

The Dead Sea area is the lowest point on Earth and the world's saltiest body of water. It is renowned for its distinctive geographical, mineral and climatic features and is rich in natural resources. The wide variety of minerals present in the area permits the development of profitable cosmetic industries and raw materials, such as silt, sand, gravel and mud, are regularly extracted for these purposes.

Since 1967, Israel has unlawfully appropriated vast portions of Palestinian land in the occupied Dead Sea area primarily to establish settlements and through these exerting a firm control over the region, including over its natural resources. Through the implementation of harsh restrictions on planning and movement, the Israeli authorities have severely hampered the ability of Palestinians to use and access their land and other natural resources in the region. The presence of settlers who directly utilise and profit from the Dead Sea wealth has severely exacerbated this situation and contributed to the over exploitation of the area, resulting in severe environmental damage.

This report examines Israel's responsibilities as an Occupying Power with respect to the treatment of the occupied territory's natural resources in the Dead Sea area. By virtue of the temporary nature of the situation of occupation, Israel must be regarded only as the administrator of the natural resources belonging to the Occupied Palestinian Territory (OPT), and is obliged to administer them in accordance with the rule of usufruct. Accordingly, Israel is prohibited from exploiting them in a way that undermines their capital and results in economic benefits for Israeli citizens, including settlers, or for its national economy.

Israel's practices in the occupied Dead Sea area represent blatant violations of its legal obligations under international humanitarian and human rights law, since they favour Israeli economic interests while denying the Palestinian people their right to self-determination. The latter is considered a peremptory norm of international law, that is to say a norm that is binding on all States and from which no derogation is permitted.

By granting substantial financial benefits to the settlers living in '*Mitzpe Shalem*,' as well as by licensing Ahava Dead Sea Laboratories Ltd., 44.5 per cent of whose shares are owned by the settlements of '*Mitzpe Shalem*' and '*Kalia*,' to mine and manufacture products that utilise the mud extracted from the occupied Dead Sea area, Israel is openly in violation of its obligations as an Occupying Power in the OPT, because it is encouraging and facilitating the exploitation of Palestinian natural resources and actively assisting their pillaging by private actors. Given that the settlers and Ahava Dead Sea Laboratories Ltd. directly profit from the appropriation of the Dead Sea natural resources and from the trade of the products extracted and processed in this area, they can be considered as primary perpetrators of the war crime of pillage.

In light of the seriousness of the violations of international law committed in the occupied Dead Sea area, Al-Haq calls on the Israeli authorities to immediately stop the pillaging of the Palestinian natural resources, including when committed by private individuals, and to provide measures of restitution and reparation to Palestinian land owners and Palestinian communities that comply with international legal standards. In addition, Israel should halt the concession of substantial financial incentives to the settlements and settlers in the occupied Dead Sea area and withdraw the mud mining permission granted to Ahava Dead Sea Laboratories Ltd. at once.

In consideration of Israel's breaches of peremptory norms of international law, such as the violation of the Palestinian right to self-determination, third-party States must abide by their legal obligations under international law and ensure that Israel's violations do not remain unpunished. In addition, the High Contracting Parties to the Geneva Conventions must ensure Israel's respect of the Conventions by taking concrete measures to pressure Israel to bring to an end its violations of international humanitarian law and must refrain from providing any form of assistance to such violations, including by maintaining business relationships with economic actors allegedly involved in pillage in the occupied Dead Sea area.

By allowing Ahava Dead Sea Laboratories Ltd. to participate in European Union (EU) funded projects and granting it financial assistance, the EU is acknowledging and supporting the company's illegal activities, thus failing to adhere to its commitment to international law and appropriately implementing the recent EU Strategic Framework on Human Rights and Democracy.

In light of the current debate at the European level on the legality of settlement products and on the possible legal implications arising from their trade in the European market, Al-Haq demands the EU to strengthen its efforts to ensure that its neighbouring countries, which participate in the European Neighbourhood Policy (ENP) framework, comply with their international legal obligations, as well as assuring that the European trade policies and preferential trade schemes concluded by its member States do not contribute to the perpetration of violations of international humanitarian and human rights law.

The EU should develop firm regulations and procurement guidelines as regards the purchase of Dead Sea products by the public sector, and adopt restrictive measures on the import of Israeli products originating from settlements, because of the serious violations of peremptory norms of international law that settlements and their related infrastructure entail. Furthermore, the EU should ensure that appropriate safeguard clauses, or mechanisms, are included in EU-Israel cooperation instruments in order to guarantee that only Israeli entities with headquarters, branches and subsidiaries registered and established in Israel, and conducting activities in Israel proper, are able to participate in European programmes, such as HORIZON 2020 (successor of the Seventh Framework Programme on Research and Development).

In conclusion, worldwide cosmetic retailers should provide their customers with clear information about the origin of the products that are sold in their stores, thus enabling the consumers to make a conscious and informed choice about the cosmetic products purchased.

II. GLOSSARY

Appropriation: *Defined as the exercise of control over property; a taking of possession.*

Division of the West Bank under the 1995 Interim Agreement on the West Bank and the Gaza Strip (also known as the Oslo II Accord):

Area A (17 per cent): *Under full Palestinian civil and security control. However, since 2002, Israel has retained responsibility for overall security in all areas of the West Bank, and does not abdicate full authority over Area A.*

Area B (24 per cent): *Under full Palestinian civil control and joint Israeli-Palestinian security control.*

Area C (59 per cent): *Under full Israeli control over security, planning and construction.*

Dunum: *A dunum (or dönüm, dunam) is a unit of land area enclosing 1,000 square metres. Land area in the West Bank, Gaza Strip and Israel has been measured in dunums since the era of the British Mandate of Palestine.*

Expropriation: *Defined as a governmental taking or modification of an individual's property rights, especially for public use or in the public interest.*

Green Line: *The 1949 Armistice Line, which is internationally accepted as the boundary between Israel and the OPT. Its name derives from the green ink used to draw the line on the map during the peace talks.*

Israeli Civil Administration: *It is the body responsible for the implementation of Israel's government policy in the West Bank. It is part of the Coordinator of Government Activities in the Territories (COGAT), which is a unit in the Israeli Ministry of Defense.*

Occupied Palestinian Territory: *Composed of two discontinuous regions, the West Bank, including East Jerusalem, and the Gaza Strip, the OPT refers to the territory occupied by Israel since the 1967 Six-Day War.*

The Dead Sea shores in the occupied Dead Sea area – July 2012, Al-Haq©

1. Introduction

In a situation of occupation, the responsibilities of the Occupying Power with respect to the treatment of the occupied population and the occupied territory's natural resources are firmly regulated. Israel cannot deplete the natural resources located in the occupied Dead Sea area, but it may utilise them to meet specific military requirements. Essentially, as a temporary administrator of the Occupied Palestinian Territory (OPT), Israel is prohibited from exploiting these resources in a way that undermines their capital and that benefits its own economy.

Conversely, Israel's practices in the occupied Dead Sea area result in serious violations of its international humanitarian and human rights law obligations as an Occupying Power in the OPT. These practices are implemented in such a way that grants only Israeli nationals, including settlers, the opportunity to benefit economically from the exploitation of the occupied territory's natural resources at the expense of the Palestinian population. Accordingly, these practices could amount to the war crime of pillage.

2. History

The Dead Sea is a salt lake, which borders Jordan to the east and Israel and the West Bank to the west. It lies in the Jordan Rift Valley and, being located more that 400 metres below sea level, constitutes the lowest point on Earth's dry land. The Dead Sea is 67 kilometres long, 377 metres deep and 18 kilometres wide at its widest point. It is considered one of the world's saltiest bodies of water, with 33.7 per cent salinity.

In 1967, during the Six-Day War, Israel occupied the West Bank, including East Jerusalem, and established its military presence over the Dead Sea area previously under the control of the Kingdom of Jordan.

Following the terms of the Oslo Accords signed in 1993 between the Palestine Liberation Organisation (PLO) and Israel, the Dead Sea and its surrounding lands were classified as 'Area C' and placed under Israeli military and administrative control. Vast portions of land have been declared closed military zones and closed off to the Palestinian population, yet Israeli settlements, such as *'Vered Yeriho,' 'Beit Ha'arava,' 'Almog,' 'Kalia,' 'Ovnat' and 'Mitzpe Shalem'* have been established therein.

3. Israel's Method of Land Appropriation in the Dead Sea Area

Since the beginning of the occupation Israel has been appropriating vast portions of land in the Dead Sea area and also lands under the sea that have emerged following a decrease in the Dead Sea's water level, by declaring and registering them as 'State land.' As a result, the Israeli authorities have dispossessed Palestinians of extensive portions of the Dead Sea land, effectively depriving them of the possibility of benefitting from the natural resources of the Dead Sea.

The Israeli authorities have used different means in order to take control of Palestinian land in the OPT, including the Dead Sea area, primarily to build settlements and related infrastructure, as well as touristic facilities. For instance, Israel has often appropriated land for military needs, ultimately declaring the lands closed military areas[1] or natural reserves;[2] or it has often expropriated land for public purposes, or proclaimed it as abandoned property.[3]

Despite the variety of land appropriation techniques, Israel's main mechanism to seize control over the land in the occupied Dead Sea area has been the declaration and frequent registration of extensive areas as 'State land.'

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Undoubtedly, the lack of official registration of land property with the Jordanian Land Registry has facilitated Israel's land appropriation policy in the occupied territory.[4] Land surveys conducted by the British and Jordanian authorities were never finalised and Israel cancelled the registration process of West Bank property with the Jordanian Land Register in 1968.[5] The Israeli authorities restricted any Palestinian access to the Land Register and, as a result, vast extension of land in the West Bank became more vulnerable to appropriation.[6]

1 Military Order No. 151 (1 November 1967), Military Order No. 377 (19 March 1970) regarding Security Provisions (Closing of Training Zones) and Military Order No. 378 (20 April 1970) and their amendments. These orders applied to the region of the Jordan Valley district, including the Dead Sea area.

2 Through Military Order No. 363 (22 December 1969) regarding Protection of Nature Reserves and Military Order No. 373 (8 February 1970) regarding Public Parks, Israel seized vast portions of land in the Dead Sea area.

3 On 23 July 1967 Israel issued Military Order No. 58 (23 July 1967) concerning Absentee Property (Private Property). The Absentee Property Law was first issued in Israel in 1950 to take control of the property belonging to Palestinians living in Israel who fled or were expelled in 1948. In the same vein, Order No. 58 declared that Palestinians who left the West Bank prior to 7 June 1967, or subsequently, should be considered as 'absentees' and the land owned by them should be qualified as 'abandoned.' The latter was then administered by the Custodian of Absentee Property, an officer appointed by the Israeli Military Commander, vested with the obligation to safeguard the absentees' property and return it to the legitimate owners upon their return. However, the Israeli authorities prevented numerous Palestinians from returning to the region by means of denial of entry into the OPT and revocation of residency rights. As a result, many abandoned lands were appropriated by Israel and used to establish settlements. In 2005, the State Comptroller recognised this practice to be 'prima facie unlawful.' State Comptroller, 'Annual Report 56/A' (31 August 2005), 220 (also known as the Sasson Report).

4 Surveys conducted by Israel in the 1970s established that most of the land in the OPT was privately owned, but only over one third of it was fully registered with the Jordanian Land Register, which represented the only system of registration of land and the only land register prior to 1967. Land registered in its name could be viewed as Jordanian 'governmental or State land.' See R Shehadeh, ***The Law of the Land - Settlements and Land Issues under Israeli Military Occupation*** (Passia, Jerusalem, 1993), 6 and R Shehadeh, ***From Occupation to Interim Accords: Israel and the Palestinian Territories*** (Kluwer Law International, London, 1997), 81.

5 Military Order No. 291 (19 December 1968) concerning the Settlement of Disputes over Titles in Land and the Regulation of Water, Section 3. According to the Israeli authorities, the continuation of land registration proceedings would have likely harmed the ownership rights of the absentees.

6 The simple fact that lands in this area have not previously been registered as privately owned property cannot be considered conclusive because, for the purpose of the treatment of property under belligerent occupation, it is necessary to look beyond the strict legal title in order to ascertain the character of the property, namely if it is either private or public, on the basis of the beneficial ownership thereof. US Field Manual No. 27-10 (18 July 1956), para. 394(a).

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Israel extensively used the declaration of 'State land' method especially following the landmark decision of the Israeli High Court of Justice in the *Elon Moreh* case.[7] In this case, the Court condemned the Israeli government's practice of seizing private Palestinian land for military needs and establishing civilian settlement and ordered the seized property to be returned to its owners. As a result, the Israeli authorities decided that settlements would no longer be established on private land seized for military needs, but only on land previously declared 'State land.'[8] The declaration of 'State land' became Israel's main method for appropriating land in the OPT, also in the Dead Sea area, and some 900,000 *dunums* were defined as such.[9] This mechanism received strong approval by the Israeli High Court of Justice, which authorised substantial changes in the Palestinian law, at the same time recognising settlers as falling into the definition of 'local population' as envisaged in Article 43 of the Hague Regulations.

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Israel has often deliberately manipulated the genuine definition of the categories of land and the legal concept of 'State land' as understood over the different historical periods in the West Bank,[10] thus seizing control over Palestinian land and exploiting the natural resources located therein for Israel's sole benefit.

For instance, the Israeli authorities have declared as 'State land' all lands that the Ottoman Land Code of 1858 classified as *matrouk,*[11] *mawat*[12] and *miri*[13] land. These categories encompassed lands used for public purposes; vacant land not in possession of anyone by title deed, not assigned to the use of inhabitants of a town or village; and cultivable fields, pastures and woodland in the vicinity of the village. Accordingly, types of municipal, community and collective properties have been defined as State properties and taken over by the Israeli government. At the same time, Israel claimed that properties traditionally owned by the Sultan are the modern equivalent of State properties.[14]

The British Mandate's 1922 Order-in-Council spelled out the category of 'State land,' identifying as having this character land to be acquired for public service by means of expropriation; yet, *miri*,

7 HCJ 390/79, ***Dweikat v Government of Israel,*** 34 PD 11.

8 Governmental Decision No. 145 (11 November 1979).

9 Data collected by Bimkom – Planners for Planning Rights.

10 In June 1967 Israel proclaimed that "[t]he law that existed in the region on June 7, 1967 will remain in effect, to the extent that it contains no contradiction to this proclamation or to any proclamation or order issued by [the military area commander]" and the changes needed by the occupation of the area by the military army. From June 1967 on, the Israeli authorities have issued many military orders that significantly changed provisions of land law. Proclamation No. 2, 'Proclamation Regarding Regulation of Administration and Law' (7 June 1967) and R Shehadeh, ***The Law of the Land*** (n 4), 20.

11 The term *matrouk* indicates lands used for public purposes, lands between villages and used by all inhabitants as common pasture. R Shehadeh, ***The Law of the Land*** (n 4), 16.

12 The term *mawat* refers to dead land. The ultimate ownership shall belong to the Sultan, but if the land is turned into arable, private persons may acquire some rights over it. Article 103 of the Ottoman Land Code of 1858 and *Ibid*, 17.

13 The term *miri* refers to "[a]ll the lands owned by the Sultan." *Miri* lands were intended for cultivation. The State had an economic interest in their cultivation, because it benefitted from tax collected on the produce grew therein. Article 3 of the Ottoman Land Code of 1858; *Ibid*, 16, 20, 21 and B'Tselem, "Under the Guise of Legality - Israel's Declaration of State Land in the West Bank' (March 2012), 15.

14 In the OPT, the majority of land that the Israeli authorities declared as 'State land' was treated by the Ottoman, British and Jordanian government rules as private property.

mawat and *matrouk* lands were not included in this category.[15] Moreover, according to Jordanian legislation, 'State land' was only the land owned by the government or in its actual use.[16] In 1967, some portions of land in the northern part of the occupied Dead Sea area were registered by the Jordanian authorities as governmental property.

Through Military Order No. 59 of 31 July 1967 Israel defined 'State property' as any property – movable or immovable, which prior to 7 June 1967 belonged to a hostile State or to any arbitration body connected with a hostile State. The Order vested the Custodian of Public Property, an office of the Israeli Civil Administration, with the power to simply issue a declaration assuming possession of the property belonging to an 'enemy State' – in this case Jordan.[17] With regard to the lands formerly bordering on the northern part of the Dead Sea, Israel recognised that they were already registered in the Land Register in the name of the Treasury of the Kingdom of Jordan. Accordingly, these lands automatically become property of the State of Israel.

The same Order was further amended several times. For instance, the Israeli authorities expanded the definition of 'State property' to include any property whose owner is unable to prove before the Military Objection Committee – controlled and administered by the Israeli military authorities, to be his/her private property.[18] As foreseeable, it was extremely difficult for private Palestinian owners to actually win a case before the committee.[19] In 1980, Israel adopted a more expedient method of appropriating land. By deliberately twisting the Ottoman Land Code provisions, Israel started to declare all unregistered and uncultivated lands as 'State land' unless the owner could prove ownership.[20]

Among others, the establishment of the settlement of '*Mitzpe Shalem'* followed the 'State land' declaration procedure. It was founded in 1970 on land belonging to the Bedouin village of 'Ein Tribah purportedly in response to Israel's military necessity. However, several years later it was converted to a civilian settlement.[21]

Recently, Israel started to seize control also over lands that have emerged following a decrease in the Dead Sea water level and lands still under the sea by using the same method, namely by declaring them as

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15 R Shehadeh, ***The Law of the Land*** (n 4), 25, 29.

16 *Ibid*, 26-27.

17 Military Order No. 59 also designated as 'State land' any land not individually registered or registered as the property of the Islamic *Waqf*. Severe punishments were to be inflicted on any person attempting to retain control over any State property. J Rabah and N Fairweather, ***Israeli Military Orders in the Occupied Palestinian West Bank 1967 – 1992*** (2nd edn Jerusalem Media & Communication Centre, Jerusalem, 1995) and R Shehadeh, 'The Legislative Stage of the Israeli Military Occupation' in E Playfair (ed), ***International Law and the Administration of the Occupied Territories*** (Clarendon Press, Oxford, 1992), 157.

18 Military Order No. 364 (29 December 1969). The Military Objection Committee was established by Military Order No. 172 (1967). Its decisions were no more than recommendations submitted to the Area Commander who might accept or refuse them. R Shehadeh, ***Occupier's Law, Israel and the West Bank*** (Institute for Palestine Studies, Washington DC, 1985), 28.

19 R Shehadeh, ***The Law of the Land*** (n 4), 6.

20 M Benvenisti, ***The West Bank Data Handbook*** (American Enterprise Institute for Public Policy Research, Washington/London, 1984), 61.

21 In 1970, the Israeli authorities declared '*Mitzpe Shalem*' an agricultural observatory inhabited by members of the Israeli Army's infantry brigade "Nahal." On 19 April 1977, the Israeli government approved the conversion of the military settlement in a civilian one. Governmental Decisions No. 569 (5) (1/תה May 1970) and No. 19) 9/תה April 1977).

'State land.' In some areas, the coasts have retreated nearly half a kilometre, thus requiring the relocation of touristic facilities that had become distant from the water.[22] Since any plans to relocate the facilities at risk in the occupied Dead Sea area have to receive the approval of the Israeli Civil Administration, firstly it was essential to clarify who owned the uncovered land.[23] To this regard, the Israeli authorities affirmed that an exhaustive land survey must be conducted before actually declaring the land as 'State land' on which any construction can be authorised, adding that due to the diplomatic implications of this move, this process had to be carried out "[b]y the book."[24]

As a result of this conclusion, the Civil Administration embarked on the statutory process of registering the exposed land in the Dead Sea area and, in 2009, the Custodian of Public Property announced in one newspaper the intention to start the registration of these lands as 'State land,' highlighting that the term for receiving objections was of 45 days.[25] In the registration order the Custodian of Public Property invoked the Ottoman Land Code of 1858, in particular Article 123, which stipulates that reclaimed lands capable of cultivation and resulting from receding lakes have to follow the same procedures as other *miri* land and therefore, in principle, cannot be considered as private property. As a result, some 139,000 *dunums* along the Dead Sea were registered as 'State land.'

The registration process was temporarily halted in July 2009. However, the Israeli authorities reactivated the process in early July 2011. Israel's registration order of the 'new' emerging lands and land still under water had never been published in the local newspapers with the consequence that the wider public, land owners and all others affected remained unaware of the right to reclaim their lands. Instead, the order was posted up in the Civil Administration building of the settlement of '*Ma'ale Adumim*' only.[26] Hence, in all likelihood, lands that could have been acquired by the Palestinian villages located nearby would instead become the State property of Israel.

22 C Levinson, 'New Israeli-Palestinian Land Dispute rises as Dead Sea Water Levels Drop' ***Haaretz*** (10 November 2011) <http://www.haaretz.com/print-edition/news/new-israeli-palestinian-land-dispute-rises-as-dead-sea-water-levels-drop-1.394667> accessed 10 August 2012.

23 In 2009, the Megilot Dead Sea Regional Council formulated a new master plan for the area that would move the touristic facilities at risk of collapse closer to the water. However, the Civil Administration stated that it wasn't able to approve it because the newly exposed land's legal status was unclear. *Ibid*.

24 A senior Central Command officer described the process as an idiocy, and the head of the Megilot Dead Sea Regional Council affirmed, "[T]he legal advisors [of the Israeli Civil Administration] have lost all sense of proportion on the matter and are acting contrary to the state's agenda […] It's simply delusional." *Ibid*.

25 –, '139 Thousand Dunums of Lands located between Jerusalem and Jericho are threatened Confiscation in Favor of the Settlement of *«Ma'ale Adumim»*" (in Arabic) ***Al Quds*** (26 June 2009) <http://www.alquds.com/news/article/view/id/101903> accessed 10 August 2012.

26 The Custodian of Public Property usually informs the local village *mukhtar* (village elder) about their intention to declare the land as 'State land.' It then becomes the *mukhtar's* responsibility to notify the persons who own the land in the area in question. They have the right to appeal to the Military Objection Committee within 45 days. Often, the Israeli authorities throw the Military Orders on the land that they intend to requisite or declare as 'State land.' Generally, there is no clear description of the land subject to the declaration, and therefore the owners are not often sure whether and which part of their land is included in the declaration. At the present time, the 'first registration procedure' is the only procedure available for the registration of unregistered land in the West Bank. It is used for small land areas and initiated by private sectors (not by the State). In the present instance, the Israeli authorities have failed to properly fulfil the necessary procedural requirements established by the law in case of 'State land' registration procedure. Accordingly, arguments have been submitted against Israel's default and, to date, no answer has been received from the Israeli authorities. Unofficial information and see also A Coon, ***Town Planning Under Military Occupation, An examination of the Law and Practice of Town Planning in the Occupied West Bank*** (Dartmouth Publishing Company Limited, Brookfield, 1992), 166 and R Shehadeh (n 18), 29.

View of the Israeli settlement of '*Kalia*' in the occupied Dead Sea area – July 2012, Al-Haq©

4. Effects of Israel's Building Restrictions, Closure Policies and Settlements in the Occupied Dead Sea Area

In the occupied Dead Sea area, Israeli authorities prevent the Palestinian population from using their own natural resources, while the same resources are exploited by Israeli settlers who live therein.

Since the beginning of the occupation in 1967, Israel has implemented harsh restrictions on planning and movement in the occupied Dead Sea area, which have severely hindered the ability of Palestinians to use and access their land and other natural resources. This situation further deteriorated after the signing of the Oslo Accords in 1993, when extensive portions of land surrounding the Dead Sea were classified as Area C and often declared closed military zones by Israel. As a result, the occupied Dead Sea area is under full Israeli control of security, planning and construction. Consequently, Palestinians have no role in the management of the economic development of this area rich in natural resources.

For instance, Palestinians are required to obtain the approval of the Israeli Civil Administration in order to build any kind of structure, whether a private home or a donor-funded infrastructure project. In this regard, the World Bank affirmed that Israel's continued control over planning and zoning in Area C has increasingly imposed severe constraints on Palestinian activity,[27] directly affecting the already weak economic situation of the Palestinian people, particularly around the Dead Sea.

Furthermore, the strict regime of permits and restrictions on Palestinians' freedom of movement in the Dead Sea area implemented by the Israeli authorities precludes equitable access to services and natural resources. In 2007, the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA) confirmed that Palestinians with West Bank IDs were denied access to the Dead Sea.[28] One year later, an Israeli organisation called the Association for Civil Rights in Israel, reported that at

27 World Bank, 'The Economic Effects of Restricted Access to Land in the West Bank' (October 2008) <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/WESTBANKGAZAEXTN/0,,contentMDK:21946232~pagePK:141137~piPK:141127~theSitePK:294365,00.html> accessed 10 August 2012.

28 UN Office for the Coordination of Humanitarian Affairs, 'Protection of Civilians Weekly Report' (17-23 October 2007) <http://www.ochaopt.org/documents/Weekly%20Briefing%20Note%20230.pdf> accessed 10 August 2012.

the checkpoint located nearby the Israeli settlement of *'Beit Ha'arava,'* Palestinian access to beaches in the occupied Dead Sea was sporadically being denied and the beaches used by "Jews only." Upon investigation, two reservists of the Israeli Army admitted that the checkpoint was not for security reasons, but to serve the economic interests of the Israeli settlers[29] and to prevent Palestinians from coming to the Dead Sea beaches as "their presence offended the Jewish population."[30] Currently, there is partial access for Palestinians to the Dead Sea coastline, but very often they are refused entrance and discriminated against.[31]

This situation has further deteriorated due to the presence of Israeli settlers in the area, since settlers pave roads under their control and usually place physical obstructions in the vicinity of settlements with Israeli authorities' approval. Barbed-wire fences, patrol roads, illumination and electronic sensory devices located at the edge of the Israeli settlements prevent Palestinian access to these areas. This results in both the denial of their right of freedom of movement and of their sovereign right to utilise and benefit from the natural resources of the Dead Sea. Moreover, Palestinians' lack of access to the area has also changed the demographic composition of the population present in the occupied territory, from Palestinians to settlers. Essentially, the number of settlers living in settlements, which are illegal under international law, in the Dead Sea area is significantly increasing, while the Palestinian presence in the area is progressively decreasing.[32]

The potential for economic development of the Dead Sea area is substantial. The sizeable source of income represented by the wealth of its basin could greatly boost the Palestinian economy. Yet, it is being routinely appropriated by Israel that manifestly pursues the promotion of its economic, social and strategic interests. These interests are also pursued by non-State actors, including Israeli settlers and foreign companies, whose unsustainable resource exploitation practices have detrimental effects in the area. With no access to the natural resources of land, water or minerals, and denied the benefit of tourist exploitation, Palestinians are deprived of the right to use the Dead Sea as a source for their future economic development.[33]

"The potential for economic development of the Dead Sea area is substantial. The sizeable source of income represented by the wealth of its basin could greatly boost the Palestinian economy. Yet, it is being routinely appropriated by Israel that manifestly pursues the promotion of its economic, social and strategic interests."

29 "[S]ome of the Dead Sea beaches are held privately by the settlements. The beaches are a private economic business. The presence of Palestinians from the territories at the beaches harms the tourism and economy of those who own the beaches." HCJ 5148/08, ***The Association for Civil Rights in Israel v Chief of the General Staff*** (Petition file to the Israeli High Court of Justice against Dead Sea Roadblock) (10 June 2008), paragraphs 9-10 <http://www.acri.org.il/en/2008/06/10/acris-petition-to-high-court-against-dead-sea-roadblock/> accessed 10 August 2012.

30 *Ibid*.

31 On April 2012 a number of Palestinian families were stopped and turned away by the management of the resort at the Kalia Beach Dead Sea resort, owned by the illegal settlement of '*Kalia*,' while trying to access the Dead Sea beach. The Kalia beach management declared that their policies were laid down by the Israeli Army and, in the end, by the State of Israel. A Abunimah, 'Video: Palestinians Turned Away from Dead Sea Resort as Israelis, Europeans and Dogs Enter Freely' Electronic Intifada (19 April 2012) <http://electronicintifada.net/blogs/ali-abunimah/video-palestinians-turned-away-dead-sea-resort-israelis-europeans-and-dogs-enter?utm_source=EI+readers&utm_campaign=d4a8b07dc6-RSS_EMAIL_CAMPAIGN&utm_medium=email> accessed 10 August 2012.

32 In 2009, approximately 820 settlers lived in settlements located in the occupied Dead Sea area, whereas the Palestinian presence in the area amounted to only a few hundred people, mainly living in few small villages of less than 500 residents, and in Bedouin communities.

33 It is estimated that the Palestinian economic losses caused by Israel's control of the Dead Sea correspond to 144 million USD per year. 'The Economic Cost of the Israeli Occupation for the Occupied Palestinian Territory – A Bulletin published by the Palestinian Ministry of National Economy in Cooperation with the Applied Research Institute, Jerusalem (ARIJ) (September 2011) <http://www.un.org/depts/dpa/qpal/docs/2012Cairo/p2%20jad%20isaac%20e.pdf> accessed 10 August 2012.

View of cultivated land in the Israeli settlement of '*Kalia*' – July 2012, Al-Haq©

5. The Geographical, Mineral, Climatic Features of the Dead Sea and its Natural Resources

The Dead Sea area is renowned for its unique geographical, mineral, climatic and archaeological features. The area is very rich in natural resources, such as groundwater, surface water, springs system and mineral deposits.[34] Its unique features make the area a potential world heritage site.[35] Offering a wealth of natural resources, stunning landscapes and a tourist friendly climate, its potential for economic development is significant. Tourism, industry and agriculture are lucrative activities currently underway in the region. Israeli plans for accelerated development in the tourist industry include hotels, water parks, shopping malls and urban facilities. An increase in mineral and water extraction is also foreseen in the accelerated development plan.[36]

Presently, the Israeli settlements located in the occupied Dead Sea area are mainly involved in the extraction of raw materials for the cosmetic industry, in fruit harvesting and in the packaging of such products.[37] Farming in settlements is intensive and is both dependent on and depleting the most precious resource of all, water.[38]

34 SC McCaffrey, 'The Shrinking Dead Sea and the Red-Dead Canal: A Sisyphean Tale?' (2006) 264 Global Business and Development Law Journal, 260.

35 On May 2011, the Israeli Government approved the recommendation of the Israeli Prime Minister Netanyahu and the Tourism Minister Misezhnikov to promote the candidacy of the Dead Sea in the New 7 Wonders of Nature campaign. The campaign tried to stimulate respect and awareness of the diversity and beauty of human and natural creations. The Dead Sea site was a joint Israel, Jordan and Palestinian Authority candidate. It reached the finals of the competition, but failed to be inserted in the list of the New 7 Wonders of Nature. At the end of October 2011, the Palestinian Authority included the Dead Sea in its list of world heritage sites to the United Nations Educational, Scientific and Cultural Organisation (UNESCO), which accepted Palestine as a full member on 31 October 2011. –, 'Palestine joins Dead Sea ‹World Wonder› Campaign' ***Ma'an News Agency*** (31 October 2011) <http://www.maannews.net/eng/ViewDetails.aspx?ID=434074> accessed 12 August 2012; –, 'Dead Sea fails to make List of New 7 Wonders of Nature' ***Haaretz*** (11 November 2011) <http://www.haaretz.com/news/national/dead-sea-fails-to-make-list-of-new-7-wonders-of-nature-1.394993> accessed 12 August 2012.

36 Eco Peace: Friends of the Earth Middle East Report, 'Development in the Dead Sea Region' <http://foeme.org/www/?module=projects&project_id=21> accessed 12 August 2012.

37 Israeli settlements in the area can rely on special geo-climatic conditions to develop a flourishing agricultural economy. For instance, in the settlement of *'Mitzpe Shalem'* the agricultural sector is very successful. There are 400 acres of palm plantation, a variety of field crops and hothouses. *'Mitzpe Shalem'* Megilot Dead Sea Regional Council Homepage (in Hebrew) <http://www.dead-sea.org.il> accessed 12 August 2012.

38 The agricultural produce of settlements in the area of the Jordan Valley and northern Dead Sea amounts to about 135 million USD per year. On the contrary, Palestinians encounter many difficulties in developing their agricultural sector, mainly because of Israel's restrictions on access to their farmland, of the limited water sources available to the Palestinian population and restrictions on freedom of movement. B'Tselem, 'Dispossession and Exploitation – Israel's Policies in the Jordan Valley and Northern Dead Sea' (May 2011), 35-36.

A vast spectrum of available mineral wealth offers opportunities for the development of cosmetics industries; raw materials such as silt, sand, mud and gravel are extracted for these purposes.[39]

The Dead Sea minerals have the capacity of treating a range of skin disorders and Dead Sea mud is renowned for its unique cosmetic qualities. Friends of Earth Middle East (FOEME) report that there are 50 factories working in the cosmetic field on the western shore of Dead Sea, both in the occupied Dead Sea area and in zones belonging to Israel proper. The extraction and processing of Dead Sea mud have proven to be an extremely lucrative economic activity, offering massive potential in terms of business development. The level of production of the factories already amounts to about 29 million USD per year and covers approximately 58 per cent of the international Dead Sea cosmetic market.[40]

Ahava Dead Sea Laboratories Ltd.: Corporate Profile

The Israeli cosmetic company Ahava Dead Sea Laboratories Ltd. is located in the settlement of *'Mitzpe Shalem,'* on the western shore of the Dead Sea in the OPT, and utilises the natural resources of the occupied territory. It is the only cosmetics company licensed by the Israeli government to mine mud in this area[41] and offers an infinite range of products manufactured from the minerals and mud taken from occupied Dead Sea land next to the settlement.

The company, founded in 1988, does not manufacture for other companies or markets utilising other brands, and it entirely owns three international subsidiary companies in Germany, United Kingdom and United States. In 2007, Ahava's annual revenue was 142 million USD. As of 2011, about 60 per cent of Ahava's revenues were driven from exports mainly to European countries and the United States and the remaining 40 per cent from the Israeli market and tourism in the Dead Sea area.

Ahava Dead Sea Laboratories Ltd. in the occupied Dead Sea area – July 2012, Al-Haq©

Ahava's shareholders also include Hamashbir Holdings (the investment fund of B. Gaon Holdings and the Livnat family), Shamrock Holdings (the investment fund of the Roy E. Disney family[42]), which have 37 and 18.5 per cent of the shares, respectively.

39 Eco Peace: Friends of the Earth Middle East Report, 'Overview of the Natural and Cultural Resources of the Dead Sea Area: Part 1, Water Resources and Industrial Activities – Point IV Natural Resources and Industry' <http://foeme.org/www/?module=projects&record_id=24> accessed 12 August 2012.

40 Jordan, lying on the eastern side of the Dead Sea, is the only other country to manufacture Dead Sea products. Its marketing operations are smaller and less sophisticated than Israeli ones. Out of the 50 Jordanian companies producing Dead Sea mineral products, only 15 are global brands. *Ibid* and N Gunn, 'Israel's Dead Sea Minerals Cosmetics Industry' ***International Trade*** (30 April 2010) <http://suite101.com/article/israels-dead-sea-minerals-cosmetics-industry-a231904> accessed 12 August 2012.

41 "[I]n the jurisdiction of the Megilot Dead Sea Regional Council there is only one site that practices mining or quarrying. In this site, mud mining permissions were given to the company "Dead Sea Laboratories Ltd." as of 13/10/2004" (emphasis added). Letter to 'Who Profits: The Israeli Occupation Industry' from the public-inquiries officer in the Civil Administration, Second Lieut. Amos Wagner (26 April 2011). As regards the minerals utilised by Ahava for its cosmetic products, the company buys many of them from the Dead Sea Works Ltd.'s excavation sites in Israel. The extensive excavating activities carried out by Dead Sea Works Ltd. have a serious detrimental impact on the sensitive environment of the Dead Sea.

42 Recently, the granddaughter of Roy O. Disney, Abigail Disney, announced that she is disclaiming her share of Shamrock's investment in Ahava Dead Sea Laboratories Ltd. because it is "engaged in the exploitation of occupied natural resources." A Hass, 'Disney Heiress renounces Ahava Profits' ***Haaretz*** (16 July 2012) <http://www.haaretz.com/news/diplomacy-defense/disney-family-member-renounces-her-investments-in-israel-s-ahava-cosmetics.premium-1.451506> accessed 12 August 2012.

Shamrock Holdings is involved in profiting from the Annexation Wall and its checkpoints through Orad Group, which manufactures electronic detection systems installed in fences as part of the Wall. In addition, the company also supplies Siemens traffic control systems for roads in the OPT on which only Israelis are allowed to travel, and Orad Group's CCTV systems monitor the Old City in occupied East Jerusalem.

Ahava Dead Sea Laboratories Ltd. also runs a visitor centre for tourism and sales promotion in *'Mitzpe Shalem.'* Ahava generates approximately five times more revenue than all comparable Jordanian companies producing and trading Dead Sea products.[43] The settlements of *'Mitzpe Shalem'*[44] and *'Kalia'*[45] directly benefit from the exploitation of Palestinian natural resources, holding 37 and 7.5 per cent of Ahava's shares, respectively. Ahava receives numerous tax benefits from the Israeli government, as most of the companies located in settlements in the OPT,[46] but the taxes and revenues paid by the company to Israel do not benefit the occupied Palestinian population.

Ahava Dead Sea Laboratories Ltd. invests considerably in research and development on the therapeutic effects of Dead Sea minerals and mud on human skin. The company is working in close cooperation with many scientific Israeli and European centres and taking part in numerous EU funded research projects. In 2011, the company received 1.13 million EUR as financial contributions for its participation in a number of projects sponsored by the European Seventh Framework Programme for Research and Development (FP7).[47]

Ahava is currently the coordinator of the 'Skin Treat' project for the development of customised skin treatments and services and partner in the 'NanoReTox' project studying the risks of nanoparticles to the environment and its effects on human health. In addition, Ahava has also joined in the 'Nanother' project, whose main objective is to develop and characterise a novel nanoparticle system that will be used as a therapeutic agent or diagnosis tool for certain types of cancer. [48]

43 Who Profits: The Israeli Occupation Industry, 'Ahava: Tracking the Trade Trail of Settlement Products' (May 2012). See also —, 'Ahava Dead Sea Products' The Private Company Financial Data Authority <http://www.privco.com/private-company/ahava-dead-sea-products> accessed 12 August 2012 and M Lev-Ram, 'Turning Dead Sea Mud into Money - Transcending Politics and Ecology, an Israeli Cosmetics Firm goes Global' ***CNN Money*** (10 December 2009) <http://money.cnn.com/2009/12/09/smallbusiness/ahava_dead_sea.fsb/index.htm> accessed 12 August 2012.

44 Established in 1971, it covers an area of 271,245.02 square meters. Peace Now, 'Settlements Database' (2009) <http://peacenow.org.il/eng/content/settlements-and-outposts> accessed 12 August 2012.

45 '*Kalia*' was established in 1968 in the northern occupied Dead Sea area. It covers an area of 609,678.71 square meters and its economy primarily depends on agriculture. The settlement also runs the Nature and Parks Authority visitor's centre of the Qumran Caves where the Dead Sea Scrolls were found and it operates a water park.

46 'Benefits for the Settlers of the Megilot Local Council' (including all settlements in the Dead Sea area) (in Hebrew) <http://bit.ly/xQWDn1> accessed 12 August 2012.

47 The FP7 is a financial tool through which the EU supports research and development activities. About the European funding to Ahava Dead Sea Laboratories Ltd., see 'Answer by the European Commission to a written question by Keith Taylor MEP' (19 July 2011) P-006190/2011 in Euro-Mediterranean Human Rights Network and Aprodev, 'EU-Israel Relations: Promoting and Ensuring Respect for International Law' (February 2012), 48, fn 114.

48 The 'Skin Treat' is a 5.4 million euro project started in September 2008 and due to terminate in August 2012. It is funded under the FP7 and it was designed to build on the achievements of the precedent framework programmes towards the creation of the European Research Area. The 'NanoReTox' is a 5.19 million euro project funded under the FP7, which began in December 2008 and it due to end in November 2012. The Natural History Museum of London is the coordinator of the project, whereas the United States Department of Interior, the Belgian Join Research Centre, the University of Pisa and the King's College London are some of the participants. On 20 October 2011, the King's College London student council condemned the involvement of the university in the research project, because including Ahava Dead Sea Laboratories Ltd.. The 'NanoTher' is a 11.68 million euro project also funded under the FP7. It started in September 2008 and will terminate in August 2012 and involves companies from major European countries under the coordination of the Spanish Gaiker Foundation. On 13 September 2011, in response to a parliamentary question concerning Ahava Dead Sea Laboratories Ltd.'s participation in the FP7, the European Commission (EC) affirmed that it was currently scrutinizing options to be able to evaluate and potentially address such a situation in the frame of the preparation of the next HORIZON 2020 Programme. It is interesting to note that no safeguard clause to avoid the participation of entities based in settlements was inserted in the Protocol to the EU-Israel Association Agreement, which enables Israel's participation into EU Community Programmes - other than FP7, whose assent is still pending at the European Parliament. A motion for resolution adopted by the Foreign Affairs Committee of the European Parliament called for "the Commission and the Member States to ensure that the participation of Israeli entities in Community Programmes will be in line with the existing EC legislation and policy, especially with regard to measures aimed at preventing the participation of settlement-based companies and organisations in the programmes concerned." See Who Profits: The Israeli Occupation Industry (n 43), 16-17 and 'Answer by the European Commission to a written question by Keith Taylor MEP' (13 September) P-007789/2011 in *Ibid*, 49.

6. Misuse, Abuse and Overuse of Natural Resources in the Dead Sea Area

The Dead Sea area is currently an environmentally vulnerable area with a sensitive ecosystem in danger of total destruction.[49] The major causes of this catastrophic ecological and environmental deterioration lie in the misuse, abuse and overuse of the natural resources in the sea basin itself, as well as in the surrounding support systems, particularly the water system of the Jordan River Basin. This gross overexploitation of the region has resulted in the emergence of large sinkholes and severe shrinking of the Dead Sea, to such an extent that it has literally broken down into two lakes.

Upstream water diversion projects and mineral extraction industries in the southern basin of the Dead Sea have been identified as the major causes for the decrease in sea level.[50] Riparian and upstream States, namely Israel, as well as Jordan, Lebanon and Syria, have intercepted and diverted upstream water from the Upper Jordan River and from the Lower Jordan River tributaries. Altogether, these actions have reduced the flow to a trickle of highly saline water contaminated by untreated sewage.[51] The diverted water is used for domestic, industrial and agricultural uses inside and outside the drainage basin.[52]

Since 1967, Israel has taken control of the Palestinian water resources in the Dead Sea area,[53] like in the rest of the OPT, and has over exploited them for its own benefit. The Israeli settlements' water intensive-irrigation farms of the Jordan Valley and North Dead Sea consume vast quantities of water obtained both from the Jordan River and from deep boreholes that are drying out the water system that was previously feeding the Jordan River. These practices have significantly reduced the freshwater flow to the Dead Sea and caused a dramatic decline of the sea level.[54]

A secondary source of shrinkage is linked to unsustainable mining practices. In order to facilitate mineral extraction from the southern Dead Sea, the Israeli company Dead Sea Works Ltd. and the Jordanian Arab Potash Company pump more than 200 MCM/per year of water out of the Dead Sea, through industrial solar evaporation ponds. These man-made ponds are estimated to be responsible

49 Eco Peace: Friends of the Earth Middle East Report, 'Ecology of the Dead Sea Biosphere Reserve' <http://foeme.org/www/?module=projects&record_id=25> accessed 11 August 2012 and E Haddok, 'Can the Dead Sea Live? – Irrigation and Mining are Sucking the Salt Lake Dry, but Together Israel, Jordan and the Palestinian Authority could save the Sacred Sea' (2011) 4 Scientific American, Vol. 304, 60-65.

50 SC McCaffrey (n 34). See also C Klein, 'Fluctuations of the Level of the Dead Sea and Climatic Fluctuations in the Country during Historical Times' International Symposium on Scientific Basis for Water-Resources Management (Jerusalem, 1985) <http://exact-me.org/overview/p4144.htm> accessed 11 August 2012.

51 Amnesty International, 'Troubled Waters - Palestinians Denied Fair Access to Water' (October 2009), 10-12.

52 "[A]ccording to different estimates, 65 per cent of the decline in the level of the Dead Sea stems from utilisation of water sources for drinking and agriculture that normally would have flowed into the salty lake - first and foremost, the Jordan River." Z Rinat, 'Dead Sea Hotels at Risk of Flooding' ***Haaretz*** (23 June 2011) <http://www.haaretz.com/print-edition/news/dead-sea-hotels-at-risk-of-flooding-1.369161> accessed 12 August 2012.

53 Through Military Proclamation No. 2 (7 June 1967), Israel declared all water resources in the OPT as State property. Military Order No. 92 (15 August 1967) concerning Jurisdiction over Water Regulations amended Jordanian law as regards water and transferred complete authority over all water resources and issues related to water in the OPT to the Israeli military authorities. Military Order No. 291 (19 December 1968) declared that all prior settlements of disputes concerning water were invalid. Subsequent Military Orders guaranteed the Israeli control over Palestinian natural resources and nowadays many Israeli agencies are involved in the management of water projects in the Dead Sea area, including the Jewish National Fund. IJ Silverbrand, 'The History and Potential Future of the Israeli-Palestinian Water Conflict' (Summer 2008) 221 Stanford Journal of International Law and PA Kay and B Mitchell, 'Water Security for the Jordan River States: Performance Criteria and Uncertainty' in ***Water in the Middle East: A Geography of Peace*** (HA Amery & AT Wolf eds, 2000), 168-77. See also SC McCaffrey (n 34), 261.

54 Starting from 1950 and following intensive human activities in this area, the water level of the Dead Sea began to drop at a rate of 30 centimeters each year. Since 2000, this rate has accelerated to about a meter a year. Recent studies anticipated that the Dead Sea's shorelines will drop from minus 411 meters to minus 430 meters by 2020. Eye, 'Dead Sea disappearing Day by Day' ***The Watchers – Watching the World Evolve and Transform*** (29 May 2011) <http://thewatchers.adorraeli.com/2011/05/29/dead-sea-disappearing-day-by-day/> accessed 12 August 2012 and Eco Peace: Friends of the Earth Middle East Report, 'The Drying up of the Dead Sea' <http://foeme.org/www/?module=projects&record_id=21> accessed 12 August 2012.

for 30-40 per cent of the total evaporation of Dead Sea waters.[55] The salt industry further contributes to 25-30 per cent of the present total evaporation rates.

In addition, the effects of the mining of natural resources cause extensive air, land and water pollution, as well as destruction of the area. Arava Institute for Environmental Studies reports that wastewater from domestic, agricultural and industrial activities flow directly into the Dead Sea.[56] Agricultural and industrial activities further pollute and cause severe damage to the land.[57]

Groundwater exploitation and lowered water tables seriously affect local aquifers causing micro-ecosystems to dry up and land to subside.[58] The extent of the land degradation is evidenced by the presence of an increasing number of dangerous sinkholes opening up in the region.[59] To this regard, it is estimated that there are 3,000 sinkholes on the western shores of the Dead Sea,[60] many of which are located nearby the settlement of *'Mitzpe Shalem'* and along the coastline of the occupied Dead Sea. Collapsing roads and land areas have an obvious detrimental effect on the environment, but also on the infrastructure, agriculture and tourism of the region, thus limiting future sustainable development in the area.

"Groundwater exploitation and lowered water tables seriously affect local aquifers causing micro-ecosystems to dry up and land to subside. The extent of the land degradation is evidenced by the presence of an increasing number of dangerous sinkholes opening up in the region."

55 Eco Peace: Friends of the Earth Middle East Report, 'Mineral Extraction' <http://foeme.org/www/?module=projects&record_id=21> accessed 12 August 2012.

56 *Ibid*.

57 K Rishmawi and N Hrimat, 'The Use of High Resolution Satellite Images to Monitor the Changes in the Rates and Directions of Desertification in the South Eastern Part of the West Bank' Paper for the Second Palestinian Geographic Conference (Jerusalem, 1999).

58 GU Baer, D Schattner, D Wachs, S Sandwell, S Wdowinskiand and S Frydman, 'The Lowest Place on Earth is Subsiding – An InSAR (Interferometric Synthetic Aperture Radar) Perspective' (2002) 114 Geological Society of America Bulletin (1), 12-23 and D Bowman, D Banet-Davidovich, HJ Bruins and J Van der Plicht, 'Dead Sea Shoreline Facies with Seismically Induced Soft-Sediment Deformation Structures' (2000) 49 Israel Journal of Earth Sciences, 197-214. See also Y Yechieli, 'Influence of the Changes in Dead Sea Level on the Ground Waters Around' Israel Association of Water Resources - Dead Sea Valley and Arava Meeting (1996).

59 B Shirmanand and M Rypbakov, 'Sinkholes Along the Dead Sea Coast and their Development' FIG Working Week 2009 - Surveyors Key Role in Accelerated Development (Israel, 3-8 May 2009) <https://www.fig.net/pub/fig2009/papers/ts04e/ts04e_shirman_rybakov_3249.pdf> accessed 12 August 2012.

60 –, 'Dead Sea Sinkholes Swallow up Plans - Up to 3,000 Open Craters along Coast having Impact on Development' (21 June 2009) <http://www.msnbc.msn.com/id/31475786/ns/world_news-environment/t/dead-sea-sinkholes-swallow-plans/> accessed 12 August 2012.

7. Legal Analysis

Lacking an international convention on the law of the lakes, international customs constitute the primary source of normative regulation in relation to the legal framework applicable to Dead Sea shores.

According to general practice, in case of territorial delimitation of lakes between littoral States, lakes are divided so the coastal State has exclusive sovereignty over the biological and natural resources in the national sectors, which are formed by outlining a median line and the external border of the respective sectors.[61] However, when speaking about the occupied Dead Sea area, Israel does not have sovereign status over this territory. The occupied Dead Sea shores are within the territorial space of the OPT and belong to the Palestinian people who are entitled to benefit from their natural resources.[62] Consequently, the applicable framework is the one established under international humanitarian law and in particular under Article 55 of the Hague Regulations[63] that generally applies to the natural resources of the occupied territory and establishes the application of the rules of usufruct.

7.1 International Humanitarian Law

As the Occupying Power in the West Bank, including East Jerusalem, and the Gaza Strip, Israel is bound by the laws of belligerent occupation, whose provisions are set out primarily in the Hague Regulations annexed to the Hague Convention IV Respecting the Laws and Customs of Wars on Land 1907 (Hague Regulations) and in the Fourth Geneva Convention of 1949, both largely reflective of customary international law.[64] Repeated resolutions of the UN Security Council and General Assembly affirmed the *de jure* applicability of the Fourth Geneva Convention to the OPT and called upon Israel to abide by its terms.[65] This position was also confirmed by the International Court of Justice (ICJ) in its 2004 Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories.*[66]

General principles of international law and customary international law provisions also apply to the situation of occupation in the OPT, thus enlarging the set of obligations incumbent on Israel as an Occupying Power.

61 F Shafiyev, 'The Legal Regime of the Caspian Sea: Views of the Littoral States' (30 June 2001) The Jamestown Foundation <http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=28012&tx_ttnews[backPid]=223> accessed 13 August 2012.

62 Article 88 of the 1913 Oxford Manual of Naval War provides that "[o]ccupation of maritime territory that is of gulfs, [...] and territorial waters exists only when there is at the same time an occupation of continental territory [...]. The occupation, in that case, is subject to the laws and usages of war on land." Oxford Manual of the Laws of Naval War (1913) in D Schindler and J Toman, ***The Laws of Armed Conflicts*** (Martinus Nijhoff Publishers, Dordrecht, 1988).

63 P Verri, 'Commentary on the 1913 Oxford Manual of Naval War' in N Ronzitti (ed), ***The Law of Naval Warfare; A Collection of Agreements and Documents with Commentaries*** (Martinus Nijhoff Publishers, Dordrecht, 1988), 329, 337.

64 Despite its ratification in 1951, Israel has highly contested the applicability of the Fourth Geneva Convention to the OPT. The Israeli Government has declared that it will only abide by some 'humanitarian provisions' enshrined therein, without specifying which provisions it regards as having humanitarian character. For a recent judgment see HCJ 2690/09, ***Yesh Din et al. v Commander of the IDF Forces in the West Bank et al***., (Judgment, 23 March 2010), paragraph 6. With respect to the recognition of the customary character of the Hague Regulations see ***Attorney General of Israel v Eichmann*** (1962) 36 ILR 277, 293 and HCJ 302/72, ***Sheik Suleiman Hussein Odeh Abu Hilu et al. v Government of Israel et. al.***, 27(2) PD 169.

65 UNSC Res 237 (14 June 1967) UN Doc S/RES/237; UNSC Res 271 (15 September 1969) UN Doc S/RES/271 and UNSC Res 446 (22 March 1979) UN Doc S/RES/446. See also UNGA Res 56/60 (10 December 2001) UN Doc A/RES/56/60 and UNGA Res 58/97 (17 December 2003) UN Doc A/RES/58/97.

66 ***Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*** (Advisory Opinion) ICJ Rep 2004, paragraph 78 (hereafter: ***Advisory Opinion on the Wall***).

The Responsibilities of the Occupying Power: Article 43 of the Hague Regulations

'The authority of the legitimate power having in fact passed into the hands of the occupant, the latter 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.'

Article 43 of the Hague Regulations provides the general framework for the responsibilities of the Occupying Power in the occupied territory. It requires the occupant to undertake all measures in its power to restore and ensure public order and safety and requests the Occupying Power to respect the laws and administrative rules in force in the occupied territory, unless absolutely necessary.[67] Clearly, these duties are limited to the period of occupation. Since occupation is by definition provisional, the rights of the Occupying Power over the occupied territory are also transitory.[68] The Occupying Power does not acquire sovereignty over the occupied territory,[69] being entitled only to administer it.[70]

In exercising its powers the Occupier must comply with two important requirements: (i) the fulfilment of its own military necessity and (ii) respect for the interests of the local population.[71] Any changes or actions taken by the Israeli authorities in the occupied territory must serve one of these two interests and under no circumstances can Israel or its population profit from the occupation.[72] The Occupying Power is allowed to adopt measures to counter threats to its security, both to its personnel and property (or administration) stationed in the occupied territory.[73] However, these military necessities should never result in ignoring the needs of the occupied population. The same logic applies to Israel's ability to interfere in the economic activity of the occupied territory, which is only allowed for the purpose of meeting Israel's military or security needs, such as the exigencies posed by the conduct of its military operations in the occupied territory and covering the expenses of the occupation (not intended as the overall cost of the military operations), and of protecting the interests and well-being of the occupied population.[74]

Moreover, according to Article 49(6) of the Fourth Geneva Convention, the Occupying State is

67 The Occupying Power is not required blindly to comply with existing local laws that entail neglect of human rights. Y Arai-Takahashi, ***The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law*** (Martinus Nijhoff Publishers, Leiden-Boston, 2009), 106, fn 53. See also E H Schwenk, 'Legislative Power of the Military Occupant under Article 43, Hague Regulations' (1945) 54 Yale Legal Journal 393, 403.

68 A Cassese, 'Powers and Duties of an Occupant in Relation to Land and Natural Resources' in E Playfair (ed), ***International Law and the Administration of the Occupied Territories*** (Clarendon Press, Oxford, 1992), 422.

69 HCJ 390/79, ***Dweikat v Government of Israel*** (n 7). In this case the Israeli High Court of Justice recognised the premise that an occupation is temporary and not permanent.

70 Y Arai-Takahashi (n 67), 138 and Y Dinstein, ***The International Law of Belligerent Occupation*** (CUP, Cambridge, 2009), 49.

71 A Cassese (n 68), 420.

72 ***United States of America v A. Krupp et al***., US Military Tribunal at Nuremberg (Judgment, 31 July 1948), in ***Trials of War Criminals before the Nuremberg Military Tribunals,*** Vol. IX, 1342-1343.

73 O Ben-Naftali, 'PathoLAWgical Occupation: Normalising the Exceptional Case of the Occupied Palestinian Territory and Other Legal Pathologies' in Ben-Naftali (ed), ***International Law and International Human Rights Law*** (OUP, Oxford/New York, 2011), 140 and Y Arai-Takahashi (n 67), 124.

74 See Resolution of London International Law Conference (12 July 1943) and ***United States of America v Goering et al.***, US Military Tribunal at Nuremberg (Judgment, 1 October 1946), in ***Trials of War Criminals before the Nuremberg Military Tribunals,*** Vol. I, 238-239.

prohibited from encouraging the transfer of its civilian population into the occupied territory.[75] This prohibition encompasses any political, military or financial measure enacted by the Occupying Power to support the establishment or the expansion of settlements, including the authorisation to develop industries in the occupied territory.

7.1.1 The Use of Public Property and the Rule of Usufruct

The strict rules laid down in the Hague Regulations and in the Fourth Geneva Convention are the principal codification of existing international law governing the treatment of public property by an Occupying Power. The term public property is used to indicate the assets belonging to the State of the occupied territory and includes both movable[76] and immovable property. Article 55 of the Hague Regulations spells out the rules governing immovable property, providing that the Occupying Power does not become the owner of the property but it simply assumes the role of administrator and usufructuary of the said property.

> *'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.'*
>
> *Article 55 of the Hague Regulations*

The concept of 'usufruct'[77] imposes several limitations to Israel's ability to use and administer the natural resources belonging to the occupied territory. For instance, Israel is entitled to use the 'fruits'[78] that arise out of the property in question,[79] but it is prohibited from exploiting these resources in a way that undermines their capital and results in economic benefits for its inhabitants or for its national economy.

75 The International Court of Justice in its Advisory Opinion on the Wall unreservedly declared that settlements are a clear breach of international law and it additionally clarified that the term "transfer" encompasses any measures taken by an Occupying Power in order to organise or encourage transfers of parts of its own population into the occupied territory. ***Advisory Opinion on the Wall*** (n 66), paragraph 120.

76 Article 53 of the Hague Regulations regulates the use of movable public property providing for the possibility for the Occupying Power to seize those which may be used for military operations. At the international level, there is a general definition of what movable public property is and it does not include property such as, for instance, oil resources, which can be analogised to the natural resources extracted and exploited in the occupied Dead Sea area. M Voyame, 'The Use of Hydrocarbon Resources under Belligerent Occupation - The Question of the Iraqi Oil' (1 February 2004) Journal of Humanitarian Assistance <http://sites.tufts.edu/jha/archives/82> accessed 12 August 2012.

77 This concept originated in ancient Roman law, which defined 'usufruct' as "[t]he right of using and enjoying the property of other people, without detriment to the substance of the property." MB Clagget and OT Jr. Johnson, 'May Israel as a Belligerent Occupant Lawfully Exploit Previously Unexploited Oil Resources of the Gulf of Suez?' (1978) 3 American Journal of International Law, Vol. 72, 567, 568.

78 For instance, consumption of the crops harvested from the agricultural lands belonging to the occupied territory, the payment of the military costs of the occupation or the cost for the administration and provision of services to the occupied population. Y Arai-Takahashi (n 67), 198.

79 *Ibid*, 197, 210 and Y Dinstein (n 70), 213-214. See also HCJ 285/81, ***El Nazer et al. v Commander of Judea and Samaria et al***., 36(1) PD 704 (Judgment excerpted in English in 13 IYHR 368 (1983)).

According to the most accredited interpretation, resources that are not renewable but finite, such as minerals and hydrocarbons, cannot be considered as 'fruits,' but should rather be treated as immovable assets protected by Article 55 of the Hague Regulations.[80] Being non-renewable natural resources, oil, silt, gravel and Dead Sea mud should not be considered as 'the fruit of the tree, but as the tree itself' and, as such, part of the occupied territory's capital. Hence, they are protected by the rules of usufruct and cannot be depleted, damaged and destroyed by the Occupying Power, Israel.[81]

> *Resources that are not renewable but finite, such as minerals and hydrocarbons, cannot be considered as 'fruits,' but should rather be treated as immovable assets protected by Article 55 of the Hague Regulations.*

In light of the temporary nature of the situation of occupation, Israel must also guarantee that the use of the property remains in line with its status prior to the occupation. Israel is prohibited from both exploiting mines more rapidly than the level of production prior to the occupation[82] and from opening mines and quarries that were not in use prior to the occupation.[83] Accordingly, Israel cannot give permission to mine mud to the Ahava Dead Sea Laboratories Ltd. in '*Mitzpe Shalem*,' because this mine site was not in use prior to 1967. In addition, the Israeli authorities are prohibited from developing industry, commerce and agriculture in the Dead Sea area, since these practices utterly contribute to the destruction of its unique environment and to the depletion of its finite resources.

By allowing settlers of '*Mitzpe Shalem*' to exploit the occupied Dead Sea natural resources with the intent to sell the products manufactured from the mud and profiting from such trade, Israel is violating its obligations towards the local population, because it is providing its nationals with the opportunity to economically benefit from the utilisation of the occupied territory's natural resources at the expense of the Palestinian population.[84] As recognised by Justice Barak in the *Teachers' Housing Cooperative Society case* of 1984, "[t]he Military Commander cannot consider […] economic or social interest of this own State; […] but only his own military needs and those of the local population."[85]

80 In ***N.V. de Bataafsche Petroleum Maatschappij and others v The War Damage Commission,*** the Court of Appeal of Singapore ruled that crude oil in the ground was 'immovable property,' because it requires extraction from underground reservoirs and a refining process before becoming of any use. Therefore, it was not considered to fall within the meaning of munitions de guerre of Article 53 of the Hague Regulations. See ***N.V. de Bataafsche Petroleum Maatschappij and others v The War Damage Commission***, 23 ILR 810 (Court of Appeal Singapore, 1956) and Guano case, award 5 July 1901, 15 RIAA 77, 367 in Y Arai-Takahashi (n 67), 212 and 196-197, fn 6. See also DA Graber, ***The Development of the Law of Belligerent Occupation 1863-1914: A Historical Survey*** (Columbia University Press, New York, 1949), 170; ER Cummings, 'Oil Resources in Occupied Arab Territories under the Law of Belligerent Occupation' (1974) 9 Journal of International Law and Economics, 533, 563, 565.

81 The right provided for under Article 55 of the Hague Regulations does not "[i]nclude the privilege to commit waste or strip off the property involved, nor it is conceivable that the administrator or usufructuary [the Occupying Power] may with impunity so use the property as to ruin or destroy the economy of the occupied territory, or to deprive its inhabitants of […] coal, oil, iron, steel […]," as this would amount to unlawful spoliation. ***United States of America v E. Von Weizsaecker et al.***, US Military Tribunal at Nuremburg (Judgment, 14 April 1949), in ***Trials of War Criminals before the Nuremberg Military Tribunals***, Vol. XIV, 747.

82 G Von Glahn, ***The Occupation of Enemy Territory: A Commentary on the Law and Practice of Belligerent Occupation*** (University Of Minnesota Press, Minnesota, 1957), 177.

83 M Leigh, 'Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez' (1977) 16 ILM 737, 741. For a different understanding of the issue see HCJ 9717/03, ***Na'ale - Association for Settlement in Samaria of Employees of the Israel Aircraft Industry v Higher Planning Council in Judea and Samaria***, 58(6) PD 97, 102-3 (The judgment is excerpted in english in 37 IYHR 332 (2007)).

84 In the ***Electricity Company No.1 case***, Israel's High Court of Justice recognised that the Occupying Power must promote the welfare of settlers. ***Electricity Corporation for Jerusalem District Ltd v Minister of Defence et al.***, as discussed in D Kretzmer, ***The Occupation of Justice: the Supreme Court of Israel and the Occupied Territories*** (SUNY, Albany, 2002), 65.

85 HCJ 393/82, ***Jam'iyat Iskan al-Mua'almiun al-Thunaniya al-Mahduda al-Masuliya, Teachers' Housing Cooperative Society v Commander of IDF Forces in Judea and Samaria at al.***, 37(4) PD 785, 793 and ***United States of America v F. Flick at al.***, US Military Tribunal at Nuremberg (Judgment, 14 April 1949), in ***Trials of War Criminals before the Nuremberg Military Tribunals***, Vol. VI, 17.

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The prohibition imposed on Israel to implement activities resulting in the exploitation of the natural resources of the occupied territory is further emphasised by the Occupying Power's obligation to suspend such activities in order to ensure the possibility of resumption of mineral extraction procedures by the occupied population at the end of the occupation.[86] By establishing industrial extraction procedures in the OPT that continuously exploit the occupied Dead Sea natural resources, Israel is acting far beyond its role of administrator of Palestinians' public property, thus violating Article 55 of the Hague Regulations.

In addition, Israel does not have the right to use public property for purposes other than maintaining public order and safety in the occupied territory.[87] *In the Armed Activities on the Territory of the Congo* case *(Democratic Republic of Congo v Uganda)*, the ICJ addressed the issue of using mining products obtained in occupied territory for purposes other than serving the needs of the occupied territory and its civilians, and found Uganda to be responsible for looting, plundering and exploitation of the natural resources of the Democratic Republic of Congo. The ICJ asserted that Uganda had violated its 'duties of vigilance' with regard to these acts and had failed to comply with its obligations under Article 43 of the Hague Regulations as an Occupying Power.[88] By the same token, it has been affirmed that mining and extracting natural resources for the economic benefit of the Occupying Power and its nationals constitutes a violation of international law and amount to the war crime of pillage, entailing international and criminal responsibility for the State of Israel and for individuals who commit such a crime.

> *Mining and extracting natural resources for the economic benefit of the Occupying Power and its nationals constitutes a violation of international law and amount to the war crime of pillage, entailing international and criminal responsibility for the State of Israel and for individuals who commit such a crime.*

86 I Scobbie, 'Natural Resources and Belligerent Occupation: Mutation through Permanent Sovereignty' in S Bowen (ed), ***Human Rights, Self Determination and Political Change in the Occupied Palestinian Territories*** (Kluwer Law International, The Hague, 1997), 252.

87 Resolution of London International Law Conference (n 74) "[T]he rights of the occupant do not include any rights to dispose of property, rights, or interests for purposes other than the maintenance of public order and safety in the occupied territory."

88 The ICJ focused on the issue of the duties of Uganda, as an Occupying Power, as regards the use of Congolese natural resources found in the occupied Ituri region. The resources in question - especially diamonds and gold -were mined and traded by private bodies, which often cooperated with members of the Uganda Army. The ICJ found that the Republic of Uganda by acts of looting, plundering and exploitation of Congolese natural resources perpetrated by members of the Uganda People's Defence Forces and by its failure to comply with its obligations as an Occupying Power - in Ituri district - to prevent these acts, violated obligations owed to the Democratic Republic of the Congo under international law. ***Armed Activities on the Territory of the Congo - (Democratic Republic of Congo v Uganda)***, ICJ Rep 2005, paragraphs 249, 250 (hereafter: ***Democratic Republic of Congo v Uganda case***).

Quarrying Activities in the OPT

At present there are ten Israeli and internationally owned quarries in operation in the OPT (Area C). Approximately 75 per cent of their yielded product is transferred to the Israeli construction market. The rest is being sold within the OPT, both to Palestinians and Israeli settlers. In some cases, the percentage of output transferred to the private market in Israel reaches 94 per cent.

Justifying this exploitation, the Government of Israel has repeatedly claimed that the products of the quarries transferred each year to its territory only represent 0.5 per cent of the overall potential for mining in the West Bank, and that hundreds of years will have to pass before the total mining resources will be exhausted. However, this figure is disputed by official documents, which indicate that, at the current level of production, the quarries shall be able to yield products in the next 30 years only.

The Israeli authorities have also argued that the leasing fees and the royalties for the quarries, which are paid to the Israeli Civil Administration, are used to finance the operations of the Israeli military administration (In 2009, the total royalties paid for the use of the quarries was 25 million NIS). According to the Government of Israel, these operations also promote various projects aimed to benefit the interests of the area where the quarries are located. However, according to the 2005 Sasson Report, the Israeli authorities have failed to collect the royalties from the companies for many years, to the extent that the debt of the quarries has reached some 4.5 million NIS. As a result, the Israeli companies have been the only actors to have profited from these resources. Israeli quarrying companies are being allowed to freely exploit Palestinian land and natural resources, while Palestinians have been excluded from any meaningful form of utilisation of their natural resources.

Nonetheless, on 26 December 2011, the Israeli High Court of Justice found Israel's quarrying activities in the OPT to be in line with the rule of usufruct and Israel's obligations under Article 43 of the Hague Regulations. Furthermore, the Court claimed that the traditional laws of occupation require adjustment to the prolonged duration of the occupation. Hence, according to the Court, since the quarries contribute to the economy of the Occupied Palestinian Territory, banning their activities would likely harm the occupied population.

In reality, the quarries provide employment opportunities to approximately 200 Palestinian workers only. The royalties and leasing fees, when actually paid to the Israeli Civil Administration, have been mostly used to establish and operate District Coordination Offices, which mainly provide public services to Israeli settlements.

As a result, the Court's conclusions completely disregarded fundamental principles of the law of occupation, in that they ignored the Occupying Power's obligation to preserve the capital of the 'assets' located in the occupied territory, as well as the definitive prohibition under international humanitarian law against the exploitation of the occupied territory's natural resources for the economic benefit of the Occupying Power and its nationals.

Accordingly, the Courts' conclusions only serve the purpose to legitimise Israel's widespread exploitation of the occupied territory's natural resources for the sole benefit of the Israeli economy, including continued illegal settlement expansion, and they implicitly condone the pillage of such resources.[89]

89 For a detailed explanation of the issue and its legal implications see Yesh Din, 'Legality of Quarry Activity in the West Bank' and related links at <http://yesh-din.org/infoitem.asp?infocatid=15> accessed 12 August 2012.

The beach in the Israeli settlement of '*Kalia*' in the occupied Dead Sea area - July 2012, Al-Haq©

7.2. Palestinian Right to Self-Determination and Right to Permanent Sovereignty over Natural Resources

Israel's policies consolidating its control over the occupied Dead Sea Area and its natural resources demonstrate the existence of a governmental policy aimed at dispossessing the Palestinian population of their natural wealth.[90] As such, this constitutes an infringement on the right of the Palestinian people to self-determination and to permanent sovereignty over their natural resources.

The right to self-determination constitutes an essential principle of international law, since its realisation is an indispensable condition for the effective guarantee and observance of individual human rights.[91] This right provides that all people can freely determine their political status and freely pursue their economic, social and cultural development. Rooted in the United Nations Charter[92] and embodied in common Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), it is recognised as a peremptory norm of international law. Furthermore, the obligation to ensure the enjoyment of this right by people is owed by each State to the international community as a whole (*erga omnes*).

Since 1948, UN bodies, including the General Assembly[93] and the Security Council,[94] have reiterated the right of the Palestinian people to self-determination, at the same time acknowledging the continuous violation of this right by Israel.[95] In addition, the General Assembly often linked this right with the fundamental principle of customary international law of 'permanent sovereignty over natural resources,'[96] clarifying that it is a basic ingredient of the right to self-determination. As such,

90 ***Democratic Republic of Congo v Uganda case*** (n 88), paragraph 242.

91 UNCHR 'General Comment 12: The Right to Self-Determination of Peoples (Art. 1)' (13 March 1984).

92 Articles 1(2) and 55 of the United Nations Charter.

93 See i.e. UNGA Res 58/163 (22 December 2003) UN Doc A/RES/58/163.

94 UNSC Res 242 (22 November 1967) UN Doc S/RES/242.

95 ***Advisory Opinion on the Wall*** (n 66), paragraph 118.

96 The customary character acquired by this principled was reiterated in ***the Democratic Republic of Congo v Uganda case*** (n 88), paragraph 244.

the principle entitles a people to dispose freely of their natural wealth and resources[97] and containing the right to 'prospect, explore, develop and market' the natural resources, it must be exercised in the interest of the national development and the well-being of the people of the territory concerned.[98] This means that the Palestinian people have an inalienable right over their natural resources,[99] including land and water, and that its violation is contrary to the spirit and principles of the United Nations Charter.[100]

In the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, the General Assembly expressly declared that "[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of their fundamental human rights."[101] Accordingly, in so far as Israel's policies in the occupied Dead Sea unlawfully exploit the natural resources belonging to Palestinian people and prevent Palestinians from freely controlling their resources and determining their own economic development, they infringe upon the right of the Palestinian people to self-determination, particularly in its economic dimension,[102] which will be fully exercised only once the occupation ends.

The right of the occupied population to permanent sovereignty over their natural resources becomes even more relevant when considering the situation of prolonged occupation, since the Occupying Power's right to use and consume the 'fruits' deriving from the occupied territory's property cannot last for an indefinite period. Due to the temporary nature of the situation of occupation and to the wording of Article 55 of the Hague Regulations supporting a narrow understanding of the concept 'enjoy the fruits,' Israel's adoption of a *carte blanche* interpretation of this notion effectively results in an incentive to prolong the occupation in order to maintain unrestricted access to the utilisation of wealth and raw materials located in the Dead Sea area and exploiting them for its own benefit. As a result, this practice directly compromises the Palestinians' right of permanent sovereignty over their natural resources and risks enabling the Occupying Power to exploit these resources 'indefinitely,' in clear contradiction with the occupied population's right to self-determination.[103]

"The right of the occupied population to permanent sovereignty over their natural resources becomes even more relevant when considering the situation of prolonged occupation, since the Occupying Power's right to use and consume the 'fruits' deriving from the occupied territory's property cannot last for an indefinite period."

97 UNGA Res 1803 (XVII) (14 December 1962) UN Doc A/RES/1803(XVII), Preamble and Charter of Economic Rights and Duties of States, Article 2 adopted by UNGA Res 3281 (XXIX) UN Doc A/RES/3281(XXIX); UNGA Res 3016 (XXVII) (18 December 1972) UN Doc A/RES/3016(XXVII), paragraph 1.

98 UNGA Res 52/207 (18 December 1997) UN Doc A/RES/52/207.

99 UNGA Res 3175 (XXVIII) (17 December 1973) UN Doc A/RES/3175(XXVIII), paragraph 1. The UNGA Resolution further reaffirmed that "[a]ll the measures undertaken by Israel to exploit the […] natural resources of the occupied Arab territories are illegal" (paragraph 2), and "[t]he right of the […] peoples whose territories are under occupation to the restitution of and full compensation for the exploitation and looting of, and damages to, the natural resources" (paragraph 3).

100 UNGA Res 33/40 (13 December 1978) UN Doc A/RES/33/40, paragraph 3.

101 UNGA Res 1514 (XV) (14 December 1960) UN Doc A/RES/1514(XV), paragraphs 1 and 2.

102 UNGA Res 48/46 (10 December 1993) UN Doc A/RES/48/46 and UNGA Res 49/40 (9 December 1994) UN Doc A/RES/49/40.

103 O Ben-Naftali (n 73), 154.

Additionally, Israel's extensive appropriation of Palestinian land, water and minerals in the Dead Sea area violates Article 1(2) of the ICCPR and ICESCR containing the prohibition on depriving individuals of "[t]heir own means of subsistence." Being deprived of their lands, of the possibility to freely control their water resources and of making a living by utilising, prospecting and exploring the Dead Sea wealth, Palestinians are de facto dispossessed of their means of survival and for the Palestinian economy the present state of the Dead Sea suggests that it may never have the opportunity to develop what should have been one of its more attractive tourist and economic locations.

7.3 Pillage

International humanitarian law protects property, whether private or public, against pillage. The prohibition of pillage reflects customary international law and is codified both in Article 47 of the Hague Regulations and Article 33(2) of the Fourth Geneva Convention. Both norms encompass duties of a positive nature for the State, which is therefore not only prohibited from ordering as well as authorising the commission of pillage, but it is also obliged to prevent and stop pillage committed by private individuals.[104] International tribunals have often interchangeably used the term 'pillage' and 'plunder' conferring to these actions the same meaning,[105] and they have concluded that the prohibition against unjustified appropriation of public enemy property includes the organised seizure of property carried out within the framework of a systematic economic exploitation of the occupied territory.[106]

7.3.1 Alleged Individual Criminal Responsibility of Israeli Settlers

Individuals can be considered responsible for the commission of the war crime of pillage. In the *Prosecutor v Jean-Paul Akayesu* case, the International Criminal Tribunal for Rwanda declared that private entities or individuals may violate international humanitarian law even if their conduct is not attributable to the State,[107] therefore interpreting the requirement of a nexus to the armed conflict as only demanding the existence of a link between the act and the armed conflict in itself, not between the perpetrator and a party to the conflict.[108] As such, the judgement reaffirmed the principle that civilians also can be considered individually criminally responsible for the commission of war crimes against enemy civilians.[109]

104 J Pictet (ed), ***Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*** (ICRC, Geneva, 1958), 226 and JM Henckaerts and L Doswald-Beck, ***Customary International Humanitarian Law - Volume I: Rules*** (ICRC and CUP, Cambridge-New York, 2009), Rule 52.

105 ***United States of America v Goering at al.*** (n 74); ***United States of America v C. Krauch at al.***, (I. G. Farben case), US Military Tribunal at Nuremberg (Judgment, 29 July 1948), in ***Trials of War Criminals before the Nuremberg Military Tribunals***, Vol. X, 44; ***Prosecutor v Delalic et al.***, (Judgment, Trial Chamber) ICTY-96-21-T (16 November 1998), paragraph 591.

106 "[P]lunder should be understood to embrace all forms of unlawful appropriation of property in armed conflict for which individual criminal responsibility attaches under international law, including those acts traditionally described as 'pillage'." ***Prosecutor v Blaskic,*** (Judgment, Trial Chamber) ICTY-95-14-T (3 March 2000), paragraph 184; ***Prosecutor v Mucić et al***., (Judgment, Trial Chamber) ICTY-96-21-T (16 November 1998), paragraph 590; ***Prosecutor v Naletilic et al.***, (Judgment, Trial Chamber) ICTY-98-34-T (30 March 2003), paragraph 613. See also ***United States of America v A. Krupp et al.*** (n 72), where the US Military Tribunal at Nuremberg found six of the twelve officials of the Krupp industrial enterprises guilty of exploiting by "[a] deliberate design and policy, territories occupied by German armed forces in a ruthless way, far beyond the needs of the army of occupation and in disregard of the needs of the local economy."

107 ***Prosecutor v Jean-Paul Akayesu***, (Judgment, Appeals Chamber) ICTR-96-4 (1 June 2001), paragraphs 432-445 and R Arnold, 'The Liability of Civilians under International Humanitarian Law's War Crimes Provisions' (2002) Yearbook of International Humanitarian Law 5, 346-352. See also JM Henckaerts and L Doswald-Beck (n 104), Rule 151.

108 The same view was supported in Flick, Krupp, Farben judgements. ***United States v F. Flick at al.*** (n 85) and ***United States of America v A. Krupp at al.*** (n 72), p. 172. See also ***United States v C. Krauch at el.*** (n 105).

109 A Cassese, ***International Criminal Law*** (2nd edn OUP, Oxford, 2008), 34 and ***Prosecutor v Tadic***, (Judgment, Decision on the Defence Motion on Jurisdiction) ICTY-94-1-T (10 August 1995), paragraph 61.

Article 8(2)(b)(xvi) of the Statute of the International Criminal Court (ICC Statute) criminalises the war crime of pillage in the context of international armed conflicts and, from the analysis of the elements of the crime, it emerges that this offence is composed of five main characteristics, which identify both the material and mental elements of the crime.

The Five Elements of the War Crime of Pillage under the ICC Statute

1. The perpetrator appropriated certain property;
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use;[110]
3. The appropriation was without the consent of the owner;
4. The conduct took place in the context of and was associated with an international armed conflict;
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Under the ICC Statute, it is evident that there is no express requirement demanding the perpetrator to be linked to the party to the conflict. What seems relevant is simply that the offender is aware of the factual circumstances that constitute the conflict. In our case, taking for example the settlers living in the settlement of '*Mitzpe Shalem*,' it can certainly be affirmed that they have knowledge of their actions taking place in the context of an armed conflict, to be precise in a situation of occupation.[111]

In the context of natural resource pillage, property is appropriated when the perpetrator, by means of extraction, exports and sale, takes possession of the resources.[112] In the occupied Dead Sea area, Ahava Dead Sea Laboratories Ltd. manufacture products resulting from extraction of mud from the Dead Sea and their profits subsidise the settlements and their residents.[113] Therefore, it is beyond question that some settlers are involved in the illegal appropriation, namely pillaging, of Palestinian natural resources.[114]

110 The only exception being if the offender was acting for military necessity. In line with the wording of the Hague Regulations, the 'military necessity' concept finds limits in the Occupying Power's duty set forth in Articles 49, 52, 55 and 43 of the Hague Regulations. With respect to this latter, Israel is under the obligations to maintain order and enforce the local laws in the OPT. Reasonably the local laws comprise the enforcement of existing restrictions on natural resources exploitation.

111 This requirement appears to be met also on the basis that if the OPT were not occupied by Israel the settlers would not have been able to establish themselves there.

112 Appropriation can concern either the appropriation of property through the transfer of its title or the factual taking of control over the said property. MA Lundberg, 'The Plunder of Natural Resources during War: a War Crime (?)' (2008) 39 Georgetown Journal of International Law, 509.

113 Once asked about its illegal practices, Ahava Dead Sea Laboratories Ltd. affirmed that the Dead Sea and its treasures are international and do not belong to one nation. An Israeli government spokesman said "[t]he Palestinians did nothing with this land when they had it […] and the Palestinians still have access to the Dead Sea. If they wanted to, they could set up a factory themselves." However, it is worth restating that Palestinian access to the Dead Sea area and its beaches is severely restricted by the Israeli Army and Israel's extensive system of roadblocks throughout the occupied West Bank. N Kricorian, 'The Case Against Ahava Dead Sea Laboratories' (1 January 2010) <http://codepinkalert.org/article.php?id=5192> accessed 12 August 2012.

114 '*Mitzpe Shalem*' is considered a 'cooperative community,' where there is a collective ownership of the property and means of production. Cooperative settlements are usually managed by a cooperative association and they have a defined process of accepting new members. Once the settlers start to move into the settlement, routine management is allocated to the cooperative association, which is composed of some individuals who reside in therein. Sometimes, the association is also involved in the initial planning and construction phase of the settlement itself. Once the settlement is established, to a great extent, a local authority – composed of elected residents of the settlement, is responsible for providing fundamental services to the settlement, including health, water and urban planning. Accordingly, settlers in '*Mitzpe Shalem*' are involved in the appropriation of the Palestinian natural resources in the occupied Dead Sea area and, to a certain degree, they exercise public tasks. Hence, they mimic Israel's functions as a State.

It is also evident that since the outset of the occupation, Israel has arbitrarily appropriated Palestinian lands close to the Dead Sea area through the enactment of Military Orders/Regulations, which violated any pre-existing property rights over the land and as a consequence basic principles of international humanitarian law. With the establishment of settlements in the Dead Sea area, Israel has secured control over Palestinian natural resources, licensing their extraction and exploitation for the benefit of settlers living therein. Accordingly, Palestinian landowners have been arbitrarily deprived of their lands and of their means of subsistence, with no compensation for the damage suffered.

Furthermore, the extraction, removal and sale of the natural resources located in the occupied Dead Sea area amount to actions that deprive Palestinians of their property, and settlers exploit the Palestinian natural resources for their personal economic gain. The economy of '*Mitzpe Shalem*' primarily depends on industry deriving from the extraction of mud and manufacturing of minerals for the Ahava cosmetic products. This manufacturing is particularly important for the sustainability of the settlement in question, as it provides employment opportunities for the settlers and attracts tourists and customers visiting the areas. These economic opportunities sustain the economic growth of the settlement, which then attract and absorb new settlers.[115] Settlers accrue personal, economic or other benefits from the appropriation of Palestinians' resources in the occupied Dead Sea. Although settlers and companies involved in the exploitation of the natural resources of the Dead Sea are mainly encouraged to do so by the State of Israel, they cannot ignore that such resources are considered Palestinian under international law.[116] This should be sufficient to substantiate the 'mental element' of the crime of pillage, thus allowing for some Israeli settlers to be considered as the direct perpetrators of that crime.

7.3.2 Israel's State Responsibility

> *The Israeli authorities have unquestionably encouraged the transfer of its civilian population in the occupied Dead Sea area.*

Israel has extensively and unlawfully appropriated private and public Palestinian land in the occupied Dead Sea area in order to establish settlements. The Israeli authorities have lavished large subsides of utilities, tax benefits and budgetary grants to settlements and settlers in the area and Ahava Dead Sea Laboratories Ltd. has directly benefitted from these financial incentives. Accordingly, the Israeli authorities have unquestionably encouraged the transfer of its civilian population in the occupied Dead Sea area, thus acting in blatant violation of Article 49(6) of the Fourth Geneva Convention, and have failed to prevent and stop the individual pillaging committed in the area.

115 The Israeli authorities give substantial benefits to Ahava Dead Sea Laboratories Ltd., especially after having declared particular areas and cities located in the OPT as 'national priorities,' at the same time awarding substantial financial incentives to encourage Israelis to settle down in these areas. '*Mitzpe Shalem*' and '*Kalia*' are included in the list of Israel's national priorities, together with all the Israeli settlements located in the OPT. Who Profits: The Israeli Occupation Industry (n 43), 13, fn 11.

116 In 2009, CodePink launched a 'Stolen Beauty AHAVA Boycott Campaign' against the Israeli cosmetics manufacturer Ahava Dead Sea Laboratories Ltd., which label their products as «Made in Israel.» However, their main manufacturing plant is located in the settlement of '*Mitzpe Shalem*,' which is illegal under international law. In January 2011, leading British retailer John Lewis has withdrawn Ahava Dead Sea cosmetics from its stores. Few months later, the Ahava's store in Covent Garden (London) closed after the decision of the landlord not to renew the lease. In 2012, DaitoCrea and Vita, namely the Japanese distributor for Ahava's cosmetics line and a major Norwegian retail chain, announced the decision to stop distributing and selling the Ahava products in Japan and Norway, respectively. Vita retail chain affirmed that its decision was based on the position of not wanting to contribute to violations of international law. N Kricorian (n 113) and Stolen Beauty website, 'Latest News' Section' <http://www.stolenbeauty.org/> accessed 12 August 2012.

On the contrary, the State of Israel has authorised the commission of this crime by openly licensing Ahava, 44.5 per cent of whose shares are owned by two Israeli settlements, to extract and exploit the Palestinian natural resources. Accordingly, Israel has facilitated the perpetration of pillage by settlers and by the company itself.[117] In addition, it has evidently failed to investigate and prosecute acts of pillage as established under international law. By encouraging the exploitation of the occupied Dead Sea area by settlers and Ahava Dead Sea Laboratories Ltd., Israel is no longer running counter to its obligation to investigate, but is actually actively assisting these actors in perpetrating the war crime of pillage.[118]

> *The State of Israel has authorised the commission of this crime by openly licensing Ahava, 44.5 per cent of whose shares are owned by two Israeli settlements, to extract and exploit the Palestinian natural resources.*

Furthermore, Israel is acting in violation of its role of administrator and usufructuary of the OPT. In particular, Israel is violating Articles 43, 46 and 55 of the Hague Regulations, completely disregarding its duty of due diligence, which implies Israel's obligation to protect the occupied territory and population, including by preserving the Palestinian natural resources.

These international law violations entail Israel's responsibility as a State and demand that the Israeli authorities cease the unlawful conducts and make full reparations for the loss or injury caused.

7.3.3 Third-Party Responsibility

Israel's violation of peremptory norms of international law, namely the denial of the Palestinian right to self-determination, including the permanent sovereignty over Palestinian natural resources, entails the responsibility of third-party States not to recognise Israel's conduct as lawful, not to render aid or assistance in maintaining the illegal situation and to cooperate to bring it to an end. Furthermore, third-party States have to ensure that Israel makes full reparations for the damage caused.

> *The responsibility of third-party States [is] not to recognise Israel's conduct as lawful, not to render aid or assistance in maintaining the illegal situation and to cooperate to bring it to an end.*

In light of Israel's violations of international humanitarian law, such as the violation of the prohibition of pillage and of the transfer of its own civilian population into the occupied territory, as well as the violation of the rule of usufruct and of Israel's responsibilities as an Occupying Power in the OPT, the High Contracting Parties to the Geneva Conventions are under an obligation to ensure, as established under Common Article 1 of the Conventions, Israel's respect for international humanitarian law and must refrain from condoning or rendering any support to its illegal policies in the OPT.

117 In the ***Democratic Republic of Congo v Uganda case*** the ICJ placed the appropriation by Uganda of the natural resources of the Democratic Republic of Congo, namely gold and diamonds, on a par with pillage. ***Democratic Republic of Congo v Uganda case*** (n 88), paragraph 245.

118 Appropriation and exploitation of Palestinian land and natural resources could also amount to an "[e]xtensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly" against protected persons or property, thus constituting a grave breach under Article 147 of the Fourth Geneva Convention and a war crime under Article 8(2)(a)(iv) of the ICC Statute.

By virtue of the long-standing customary international law rule prohibiting the war crime of pillage and in consideration of the recognition of pillage as a serious criminal offence in the statutes of numerous international tribunals, as well as in the domestic criminal law of most countries,[119] States must investigate acts of pillage allegedly committed by their nationals, and prosecute the responsible persons. Furthermore, they must also investigate other war crimes over which they have jurisdiction, especially in the interest of ensuring that these serious offences do not go unpunished.[120] Although these obligations are potentially limited to the nationality of the perpetrator of the crime and the territorial jurisdiction of the State, namely on where the crime occurred, it seems important to note that there is now considerable evidence that, owing to the customary nature of the prohibition of pillage, the High Contracting Parties should be obliged to search and prosecute persons alleged to have committed, or to have ordered to be committed, this war crime.[121]

Ahava Dead Sea Laboratories Ltd.'s participation in EU funded projects raises serious concerns with respect to the European involvement in the illegal activities carried out by the company. By granting substantial financial assistance to Ahava under the FP7, the European Union is acknowledging and supporting the company's illegal activities, thus failing to adhere to its self-commitment to international law and appropriately implement the recent EU Strategic Framework on Human Rights and Democracy. The EU is also acting in disregard of its own guidelines on promoting compliance with international humanitarian law. The guidelines[122] foresee the European Union's responsibility to ensure Israel's compliance with international humanitarian law provisions and provide for the possibility of adopting sanctions in case of their violation.

> *By granting substantial financial assistance to Ahava under the FP7, the European Union is acknowledging and supporting the company's illegal activities, thus failing to adhere to its self-commitment to international law and appropriately implement the recent EU Strategic Framework on Human Rights and Democracy. The EU is also acting in disregard of its own guidelines on promoting compliance with international humanitarian law.*

Ahava Dead Sea Laboratories Ltd. is unlawfully utilising the Palestinian natural resources of the Dead Sea area for its own economic profits and therefore can be considered directly responsible for the pillage of the occupied territory's natural resources in clear violation of customary international law.

119 For more information about the codifications of the crime of pillage see ICRC 'Customary IHL - Rule 52' <http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule52#refFn> accessed 12 August 2012.

120 In customary international humanitarian law, "States have the right to vest universal jurisdiction in their national courts over war crimes." This right is supported by treaty law and national legislation. Although the ICC Statute does not oblige States to establish universal jurisdiction over the war crimes listed therein, several States have incorporated the list of war crimes contained in the Statute in their national legislation and vested jurisdiction in their courts to prosecute persons suspected of having committed such war crimes on the basis of the universal jurisdiction principle. JM Henckaerts and L Doswald-Beck (n 104), Rules 157, 158, 161.

121 "[A]lthough pillage is not technically a grave breach of the Geneva Conventions, there is significant evidence that customary international law now extends the same duty to all war crimes." (emphasis added) JG Stewart, 'Corporate War Crimes – Prosecuting the Pillage of Natural Resources' Open Society Foundations (2010), 91.

122 European Union, 'Updated European Union Guidelines on Promoting Compliance with International Humanitarian Law (IHL)' (2009/C 303/06) (15 December 2009) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:303:0012:0017:EN:PDF> accessed 12 August 2012.

8. Conclusion and Recommendations

The appropriation and exploitation of Palestinian land and natural resources in the occupied Dead Sea area by Israeli settlers and companies (i.e., Ahava Dead Sea Laboratories Ltd.) meet the requirements of the crime of pillage. To the extent that the company and settlers directly profit from the appropriation and from the trade of the Palestinian natural resources they can be considered as primary perpetrators of the war crime of pillage.

> *"The appropriation and exploitation of Palestinian land and natural resources in the occupied Dead Sea area by Israeli settlers and companies (i.e., Ahava Dead Sea Laboratories Ltd.) meet the requirements of the crime of pillage."*

Operating far beyond the remit of its role as an administrator and usufructuary of the occupied territory's public property, Israel's practices in the occupied Dead Sea area constitute blatant violations of its obligations as an Occupying Power. These practices also amount to the denial of Palestinian's right to self-determination, especially with regard to its economic dimension. The Israeli authorities continue both to allocate part of its public budget to the financing of settlements and settlers and to grant licenses for excavating minerals in this area, thus encouraging, assisting and facilitating the exploitation of the occupied Dead Sea area by private actors.

As a result, Israel's illegal practices in the area entail its responsibility as a State and third-parties' responsibility under international law, in particular with respect to Israel's violations of peremptory norms of international law and serious violations of international humanitarian law.

Accordingly,

I. The Government of Israel must:

- stop the war crime of pillage, including when committed by private individuals, and provide measures of restitution and reparation to Palestinians land owners and Palestinian communities that comply with international law standards;
- immediately halt the concession of any financial incentives to settlements and settlers in the occupied Dead Sea area, as well as withdrawing the mud mining permission granted in 2004 to Ahava Dead Sea Laboratories Ltd. at once;
- cease its illegal practices in the occupied Dead Sea area, because constituting blatant violations of international humanitarian and human rights law. In particular, Israeli government must stop the unlawful appropriation of Palestinian land and natural resources and the implementation of harsh restrictions on Palestinian planning and movement, since these practices harm the livelihoods of the occupied Palestinian population and severely infringe upon their rights, including their right to self-determination.

II. The international community, including the High Contracting Parties to the Geneva Conventions must:

- ensure that Israel's violations of international law do not remain unpunished and recourse be made to the relevant mechanisms of international accountability, including UN mechanisms and criminal justice;
- take concrete measures to pressure Israel to halt its violations of international humanitarian and human rights law and not provide any form of assistance to such violations, including by maintaining business relationships with economic actors allegedly involved in pillage in the occupied Dead Sea area;

II. The European Union should:

- strengthen its efforts to ensure that its neighbouring countries, which participate in the European Neighbourhood Policy (ENP) framework,[123] comply with their international legal obligations, including by appropriately implementing the recent EU Strategic Framework and Action Plan on Human Rights and Democracy, thus also ensuring the integration of the promotion of human rights in its trade policies;
- act in accordance with its own guidelines on promoting compliance with international humanitarian law, which foresee the European Union's responsibility to ensure Israel's compliance with international humanitarian law provisions and provide for the possibility of adopting sanctions in case of their violation;
- ensure that the European trade policies and preferential trade schemes concluded by its member States do not contribute to the perpetration of violations of international humanitarian and human rights law, as well as developing firm regulations and procurement guidelines as regards the purchase of Dead Sea products by the public sector, i.e. with respect to the use of Dead Sea mud and minerals for the cure of certain skin diseases and syndromes;
- adopt restrictive measures on the import of Israeli products originating from the settlements in the OPT, because of the serious violations of peremptory norms of international law that settlements and their related infrastructure entail, such as the violation of Palestinian right to self-determination. On the one hand, by allowing the entering of such products in their internal market, the EU and its national authorities are in breach of their duty of non-recognition of Israel's unlawful conduct in the OPT. On the other hand, by trading goods coming from Israeli settlements, the member States of the EU are actively cooperating and supporting the maintenance of the illegal situation created by the Israeli authorities in the occupied territory, in clear violation of their legal obligations under international law;
- ensure that appropriate safeguard clauses or mechanisms are included in EU-Israel cooperation instruments in order to guarantee that only Israeli entities with headquarters, branches and subsidiaries registered and established in Israel, and conducting activities in Israel proper, are able to participate in European programmes, such as HORIZON 2020 (successor of the Seventh Framework Programme on Research and Development);
- ensure the implementation of the EU-PLO Association Agreement, which represents the appropriate framework for promoting the social and economic development of the Palestinian people in the OPT, especially in view to fully develop the Palestinian economy in the Dead Sea area and access of Palestinian products to the European market.

IV. Private individuals, in particular cosmetic retailers, should:

- provide their customers with clear information about the origin of the products that are sold in their stores, thus enabling the consumers to make a conscious and informed choice about the cosmetic products purchased.

123 This ENP framework is proposed to the 16 of EU's closest neighbours, that is to say Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine. Mainly, the ENP is a bilateral policy between the EU and each partner country. European Commission, 'European Neighbourhood Policy' <http://ec.europa.eu/world/enp/welcome_en.htm> accessed 14 August 2012.

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AL-HAQ

ABOUT AL-HAQ

Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT), the organisation has special consultative status with the UN Economic and Social Council.

Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, regardless of the identity of the perpetrator, and seeks to end such breaches through advocacy before national and international mechanisms and holding the violators accountable. The organisation conducts research; prepares reports, studies and interventions on the breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies. The organisation has a specialised international law library for the use of its staff and the community.

Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), and the Palestinian NGO Network (PNGO).

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