



## **The Importance of a Legally Binding Instrument on the Right to Development**

### **Submission to the Human Rights Council Advisory Committee on the Importance of a Legally Binding Instrument on the Right to Development**

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## I. Introduction

1. Since June 1967, Israel has occupied the West Bank, including East Jerusalem, and the Gaza Strip. Over the course of over half century-long administration of the occupied Palestinian territory (OPT), Israel has developed and implemented countless policies and practices in order to control and limit human rights, freedoms, and the social and economic development of the protected Palestinian population. This has included the closure of the Gaza Strip amounting to mass collective punishment of the occupied Palestinian population there, administrative control exceeding the conservationist administrative limitations on the belligerent occupant under international humanitarian law, annexation of Palestinian territory in East Jerusalem, appropriation of land and pillage of natural resources, such as water, oil, and gas through a system of physical and bureaucratic barriers to movement, trade, and social and economic development.

2. This submission seeks to highlight why the legally binding treaty on the Right to Development is especially important for occupied populations in terms of access to their natural wealth and resources, which are systematically and routinely denied in situations of prolonged belligerent occupation, colonisation, and annexation.

## II. The Right to Development – importance for the occupied territory and its population

3. The legally binding treaty on the Right to Development is crucial in the context of armed conflict and belligerent occupation; such contexts often result in continued and purposeful measures (presented below) against the right to development of the protected civilian population. International Humanitarian Law (IHL) outlines the obligations of the Occupying Power to administer the territory for the benefit of the occupied population. The Occupying Power does not acquire sovereignty but rather acts as the de facto administrator of the territory.

4. In the Occupied Palestinian Territory (OPT), the current system of discriminatory policies, access restrictions and physical barriers, separate legal systems for Israeli and Palestinian individuals who live in the same area, and collective punishment measures including the closure of the Gaza Strip, violate IHL and are major obstacles to Palestinian economic development.<sup>1</sup> For example, operations of the development cooperation bodies are restricted by the policies imposed by the Occupying Power limiting their core goals. Implementation of development cooperation programmes addresses the humanitarian needs and rights of the Palestinian

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<sup>1</sup> UNCTAD states that Palestinian economy requires addressing the prevailing inherent constraints, which stem mainly from occupation conditions, namely: absence of national sovereignty, territorial fragmentation, limited



population in East Jerusalem, the West Bank and the Gaza Strip separately. This allows for the successful completion of projects and tackling of individual cases while disregarding the systematic nature and cause of the conflict. The situation in the OPT has been described by the Association of International Development Agencies (AIDA)<sup>2</sup> as a “de-development” process and affirmed that in order to have “effective and sustainable development in the OPT”, third States must “fulfil their obligations to hold Israel accountable for its violations of international law and to end its belligerent occupation.”<sup>3</sup>

5. The right to development encompasses the right to economic, social, cultural and political development with people at its centre.<sup>4</sup> It includes the right to self-determination understood as the right of people “to determine their political status and to pursue their economic, social and cultural development” and the right of peoples to exercise “complete sovereignty over all their natural wealth and resources”.<sup>5</sup> As expressed in the Declaration on the Right to Development:

“Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo colonialism, apartheid , all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind”.<sup>6</sup>

This is particularly relevant in the context of complex occupations such as the Israeli occupation of the Palestinian territory, which is experiencing a multi-layered fragmentation<sup>7</sup>, colonisation

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<sup>2</sup> AIDA – The Association of International Development Agencies (AIDA) is a membership body and coordination forum of over 80 international non-governmental and non-profit organizations working in the occupied Palestinian territory. The mission of AIDA is to strengthen the work of the international non-governmental organization community in the oPt in order to better address the rights of the Palestinian people. Source:

<http://www.aidajerusalem.org/aida-mission/>.

<sup>3</sup> AIDA, “50 Years of Occupation: Dispossession, Deprivation and De-development”, October 2017, p. 3,

<http://www.aidajerusalem.org/50-years-of-occupation/>.

<sup>4</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), Frequently Asked Questions on the Right to Development, New York and Geneva, 2016, p. 2.

<sup>5</sup> Declaration on the Right to Development, Resolution of the General Assembly 41/128, 4 December 1986,

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightToDevelopment.aspx>.

<sup>6</sup> *Ibid*

<sup>7</sup> The fragmentation constitutes from system of physical obstacles which strengthen bureaucratic division into Areas A, B and C in the West Bank, unilateral annexation of East Jerusalem, and disconnection of the Gaza Strip. It diminishes an ability of sustainable development and becomes valid framework for any development initiative as it captures the dynamics of political, administrative, social regimes and limitations exist in Palestine. See: Ray Dolphin, OCHA, The Fragmentation of Palestine, <https://www.youtube.com/watch?v=gMoMejhNLI&t=252scratic>



and annexation.<sup>8</sup> In such cases, development should lead to a situation whereby all human rights can be fully realized, premised on such principles as equity, participation, non-discrimination, self-determination as well sovereignty over natural resources by the human as a central subject and beneficiary of the development.<sup>9</sup>

6. Lack of accountability leads to continued violations of the human rights of the protected population in the OPT. In Palestine, the annexationist approach of Occupying Power, practised in different forms (e.g. Annexation Wall, confiscation of the land for settlement's use) and several locations (e.g. East Jerusalem, Dead Sea area) leads to restricted access of Palestinians to natural resources like oil, solar and gas energy<sup>10</sup> as well water, stone and Dead Sea minerals. In the context of the aforementioned fragmentation and annexation, the obstruction of development of such sectors as agriculture, minerals extraction, stone mining and quarrying, construction, tourism and communication (in the Area C) leads to USD 2.2 billion in annual loss<sup>11</sup>.

7. The adoption of a legally binding instrument on the Right to Development, even though many provisions are already anchored in legally binding instruments<sup>12</sup>, is particularly important during belligerent occupation to ensure third parties place the rights of the protected occupied population to development, to the fore. A binding treaty would ensure that the belligerent occupant must respect and ensure the realisation of the collective right to development, placing the right ahead of broader war objectives of territorial acquisition and control. It places the "best interests of the occupied population" to the forefront of considerations of development, ensuring that the right to development includes rights of access to and development of natural

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<sup>8</sup> Israel's Policies of Annexation of the Jordan Valley through appropriation of land, establishing settlements, movement restrictions, building restrictions and house demolitions and exploitation of natural resources – decrease the population rates in the area by creating unliveable environment for Palestinian communities in Jordan Valley, see: Mercedes Melon, Settling Area C: The Jordan Valley Exposed, Al-Haq, 2018. Annexation in East Jerusalem has been announced after Six Day War, 1967 and unilaterally legalised by Israel through Basic Law Act. UN Resolution 2254 (1967) denounced Israel's annexation and call on it to refrain from further actions affecting political status of the city. See Al-Haq, <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/1195-the-occupation-and-annexation-of-jerusalem-through-israeli-bills-and-laws>.

<sup>9</sup> OHCHR, op. cit., p. 5-6.

<sup>10</sup> Al Haq, Annexing Energy: Exploiting and Preventing the Development of Oil and Gas in the Occupied Palestinian Territory, p. 100.

<sup>11</sup> Area C constitutes about 61 percent of the West Bank, endowed with natural resources that are off limits for Palestinian people. According to the study conducted by the World Bank, the Area C is key to future Palestinian economic development. See: The World Bank, Area C and the Future of the Palestinian Economy, 2014, <http://documents.worldbank.org/curated/en/257131468140639464/pdf/893700PUB0978100Box385270B00PUBLI CO.pdf>

<sup>12</sup> Charter of the United Nations, Universal Declaration of Human Rights, International Covenants on Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, etc. *Ibid*.



resources during occupation, as well as *erga omnes* third State obligations to ensure the right to development of occupied populations. Where the right to development is denied during belligerent occupation, a treaty would provide the occupied population with a concrete means of redress and access to remedy.

### III. Israel's policies and practices hindering the Palestinian right to development

8. Maladministration and lack of the accountability from Israel, limits development opportunities for the Palestinian economy as a whole, and in particular, individuals and communities are threatened by the encroaching practices on the ground including land appropriation, destruction of property, wilful killing, denial of freedom of movement, the forced displacement of the population and the transfer in of the settler population. Some crucial aspects of the Israeli occupation regime hindering the right to development of the Palestinian people include:

- Israel's settlement enterprise in the OPT, including East Jerusalem.
- Unlawful exploitation of the natural resources by the Occupying Power in the OPT.
- Demolition of structures, including structures financed by the international cooperation and third States.
- Control over access points for the services and products (including export and import) and circulation of the products in the Palestinian economy.

#### Israeli settlement's enterprise in the OPT

9. The role of Israeli settlement expansion in continuous violations of Palestinian rights including the right of self-determination and permanent sovereignty over natural wealth and resources has been reiterated in numerous UN resolutions. In 2016, UN Security Council Resolution 2334 called upon all States to "distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967" in light of the flagrant violations of international law constituted by Israel's settlement enterprise. Settlement enterprise is built and developed on the land appropriated from the Palestinians, uses all Palestinian resources which are off limits for the Palestinian communities neighboring the settlements. One of the tools used by Israel, in breach of their obligations as the Occupying Power, is **confiscation and control of land**, through creating archeological sites, national parks, military firing zones on confiscated Palestinian lands and designating Palestinian communal lands as Israeli State land.

10. One case in point is Nabi Samwil, a Palestinian village in the West Bank located in Area C, which was designated as a national park in 1995. The village has experienced a system of



practices and policies leading to **direct and indirect forcible transfer** of the Palestinian population, through incorporating a system of movement restrictions for people and goods, a discriminatory planning and permit system for building, difficult access to education, family and cultural life.<sup>13</sup> In the words of Nabi Samwil's resident:

"I have tried to apply for permits, but I was always refused. When I applied I was around 20. I did not have any issues and I had not been previously arrested, but they did not give it to me. The restaurant owner tried to get me a permit, but it did not work. I have not been doing anything since. I do not want to go there to work and get arrested... What can I do here? We started a car wash here; they [the Israeli Occupation Force, IOF] destroyed it. I tried to open it again, and they destroyed it again."<sup>14</sup>

11. The establishment of Israeli settlements in the OPT constitutes a serious and flagrant violation of international law, and **undermines the ability for economic development** and employment opportunities for the occupied Palestinian population. Unemployment rates have remained very high in the OPT since 1994 and it are predicted to increase to 35 per cent by 2020. A total employment rate for the whole Palestinian population is 33.3 per cent - 10.3 per cent for female and 55.9 per cent for male employment.<sup>15</sup>

12. Unlawful settlements are a crosscutting challenge for the right to development in the OPT and wellbeing of the occupied population. A growing disconnection from the land is observed in some affected farmer communities due to the complex **system of restrictions on movement and access** in the West Bank.<sup>16</sup> It is a combination of physical obstacles, bureaucratic constraints and designation of areas as restricted or closed for Palestinians. Physical obstacles such as the Wall and checkpoints, and administrative requirements, particularly permits, restrict Palestinian access and movement to different areas isolated by the Wall, within the West Bank, including East Jerusalem.

13. "Although the Declaration does not explicitly refer to the private sector and other non-State actors, the general obligation on States to respect, protect and fulfil human rights applies to all human rights, including the right to development."<sup>17</sup> Al-Haq recognizes that some businesses as well other international actors misperceive the nature of occupation and issues regarding

<sup>13</sup> See: Marya Farah, Nabi Samwil. Hidden in plain sight: The village of Nabi Samwil", Al-Haq, 2018.

<sup>14</sup> Interview with Mahmoud Ellayan on 27 August 2016, in: Marya Farah, op. cit., p. 31.

<sup>15</sup> 2017, ILO.

<sup>16</sup> UN OCHA, "Movement and Access in the West Bank", 21 December 2017,

[https://www.ochaopt.org/sites/default/files/movement\\_and\\_access\\_in\\_the\\_west\\_bank.pdf](https://www.ochaopt.org/sites/default/files/movement_and_access_in_the_west_bank.pdf).

<sup>17</sup> OHCR, op. cit., p. 4.



liability.<sup>18</sup> Israeli and foreign companies continue to benefit and profit from engagement in the illegal settlements. Involvement of all kinds of business as well as **international investors** in the unlawful exploitation of the Palestinian resources and the need of Human Rights Due Diligence (HRDD) is an obligation in Occupied Territory.<sup>19</sup>

14. As such, corporations alongside States have obligations to respect the right to development and must carry out enhanced or heightened due diligence when operating in territories under armed conflict or belligerent occupation. Enhanced due diligence should include ensuring that the operation of corporations present in occupied territory is for the benefit of the protected occupied population. This includes the conduct of enhanced due diligence by banks and investors in both active and passive investments in corporations active in occupied territory. In particular, consent from political and civil society representatives of the occupied population should be sought for the development of natural and land resources, over which the occupied population retains rights of self-determination and permanent sovereignty.

15. Accordingly, any international treaty on the right to development must include the obligations of corporations as actors engaged in developing and in certain cases assisting the war aims of the belligerent occupant in de-developing the territory, in territory held under the effective control of the belligerent occupant. As such, provision must be made for corporations and their agents to be held liable for violations of the right to development, where their presence and operations in territory under active conflict or belligerent occupation violates the rights of the protected occupied population. In doing so, reference should be made to the obligations of State parties to the treaty to ensure that parent companies in their jurisdiction may be held accountable for the actions of their subsidiaries in third countries, where these subsidiaries infringe the right to development.

### **Unlawful exploitation of the natural resources by the Occupying Power in the OPT**

16. Israel's unlawful exploitation of natural resources obstructs the Palestinian economy.<sup>20</sup> A full realization of the right of people to self-determination, including full sovereignty over their natural wealth and resources is recognised by several codifications of regional and international law on the right to development.<sup>21</sup> Prevented access to the national and natural resources of

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<sup>18</sup> See: Al-Haq, "Business and Human Rights", 2016, <http://www.alhaq.org/publications/publications-index/item/business-and-human-rights-in-palestine>.

<sup>19</sup> See: Chiara Macchi, Tara Van Ho, Luis Felipe Yanes, "Investor Obligations in Occupied Territories: A Report on the Norwegian Government Pension Fund – Global", EBHR, Fagforbundet, 24 April 2019.

<sup>20</sup> Al-Haq, Facts on the ground, <https://medium.com/@alhaq/facts-on-the-ground-542fb4d17d08>

<sup>21</sup> Common Article 1, ICCPR and ICESCR; See also the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization (ILO) and in the United Nations Declaration on the Rights of Indigenous Peoples, as well as in the African Charter on Human and Peoples' Rights.



the Palestinian population translates to the lack of the sovereignty over the natural resources such as land, water, oil and gas, stone and Dead Sea minerals in the OPT. It limits potential for the Palestinian economy that has become highly dependent on interventions of external donors and international community actors<sup>22</sup>.

17. Unlawful exploitation of natural resources in the **occupied Dead Sea** area in the West Bank deprives Palestinians of their property. An investigation, conducted by Al-Haq on this particular aspect, shows that the economy of the illegal settlement ‘Mizpe Shalem’ depends heavily on financial incentives from the extraction of mud and manufacturing of minerals for Ahava cosmetic products.<sup>23</sup> The extraction industry and selling of products as well creating an opportunity for visiting the Ahava Visitors Centre in the Dead Sea<sup>24</sup> located in the occupied territory, sustains the illegal settlement financially. It provides further legitimization of the violation on the ground, by attracting tourists and customers without providing clear information about the illegal status of the settlement pursuant to international law.

18. Al-Haq’s research and collected data informs about the existing **discriminatory water allocation in the OPT**<sup>25</sup>. Firstly, a governmental policy through zoning and planning orders including a restrictive permit system alongside demolitions and confiscations of water structures prevent Palestinian communities in the West Bank from having access to their rich autochthonous groundwater resources. This creates a *man-made* “water scarcity” solely targeting Palestinians. Secondly, a new strategy involving private actors, particularly within the desalinated water sector, focuses on the sale of increasingly expensive amounts of additionally purchased water to Palestinians as consumers in a captive market in order to make up for the alleged “water scarcity” of the region. The exploitation of water, an essential natural resource in the region amounts to pillage, a war crime under international law.<sup>26</sup>

19. Access to different **sources of electricity** has been limited by a series of interrelated practices and policies, in the West Bank, where the “Israeli Civil Administration (ICA) has denied

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<sup>22</sup> The World Bank, *op. cit.*, p. ii.

<sup>23</sup> Claudia Nicoletti, Anne-Marie Hearne, “Pillage of the Dead Sea: Israel’s Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory”, Al-Haq, 2012, p. 34-35.

<sup>24</sup> The information of the Visitors Centre is promoted in several tourism website as and place to visit for tourists, see: Ministry of Tourism, Go Israel official website, <https://info.goisrael.com/en/ahava-visitor%20center%20-%20dead%20sea%208698300%20-%20mizpe%20shalem>.

<sup>25</sup> Israel has full control over water resources in the OPT through a system created by military orders issued after 1967, which regulates transfer of authority over water resources to Israel, demolitions of any attempts of structures allowing the water harvesting, and unifying the water management system by creating Merkorot, states owned company who is responsible for selling water to Palestinian communities in the West Bank. See more: E. Koek, “Water for one people only. Discriminatory Access and ‘Water-Apartheid’ in the OPT”, Al-Haq, 2013.

<sup>26</sup> Al-Haq, Internal report on Water in the OPT, April 2019, p. 1-2.



Palestinian communities access to the nearby electricity networks that serve to power refrigerators necessary to preserve medication and food, heat water, and provide lighting for children to study, amongst other uses. Solar panels<sup>27</sup> are not allowed in some restricted locations due to the discriminatory system of permits, and are threatened by confiscation or demolition orders even in cases where there is no other source of electric power and urgent humanitarian need.<sup>28</sup>

### **Demolitions of the structures financed by the international cooperation for development programmes**

20. House demolitions are a policy tool used to maintain and expand illegal Israeli settlements, the Annexation Wall and its associated regime. Palestinian houses continue to be demolished on the basis that they have been built without the necessary Israeli building permit, which is nearly impossible to obtain.<sup>29</sup>

21. In recent years, there have been several cases of the demolitions by the military forces of the Occupying Power of structures build in cooperation with international development and humanitarian actors, as a result of the humanitarian and development cooperation projects in the OPT. On September 27, 2016 three water cisterns were demolished by the Israeli forces in the village of Al Ganoub in the occupied West Bank. All destroyed cisterns had been installed in 2014 as a part of the intervention of DanChurchAid and funded by the EU and Denmark. As described by Country Director for DanChurchAid in Palestine:

“Things were improving for the farmers in Al Ganoub until a few weeks ago – especially due to the access to water. The community now risks being forced to leave their land – as too many villages these days. We do what we can to help the community but I am very worried about the future for the Palestinians in these areas.”<sup>30</sup>

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<sup>27</sup> Al-Haq, “The Sun Belongs to Everyone: Israeli Demolitions and Confiscations of Solar Panel Aid Projects in Area C of the West Bank”, 2018, <http://www.alhaq.org/publications/publications-index/item/the-sun-belongs-to-everyone>.

<sup>28</sup> See: Al-Haq, “The Sun Belongs to Everyone: Israeli Demolitions and Confiscations of Solar Panel Aid Projects in Area C of the West Bank”, 2018, <http://www.alhaq.org/publications/publications-index/item/the-sun-belongs-to-everyone>.

<sup>29</sup> <http://www.alhaq.org/advocacy/topics/housing-land-and-natural-resources/198-israeli-occupation-policies-are-the-primary-obstacle-to-realisation-of-the-human-right-to-adequate-housing-in-the-occupied-palestinian-territory>

<sup>30</sup> DanChurchAid, “Danish and EU funded humanitarian aid again destroyed by the Israeli military”, 23 Nov. 2016, <https://www.danchurchaid.org/articles/danish-and-eu-funded-humanitarian-aid-again-destroyed-by-the-israeli-military>.



22. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) documents on-going property destruction as part of the Israeli-imposed planning and zoning regime in Area C and East Jerusalem. On a single day - March 23, 2016 - Israeli forces destroyed 53 structures in Khirbet Tana, from which 18 structures were donor-funded humanitarian assistance.<sup>31</sup> In 2018, the Israeli authorities passed new legislation to “limit the ability of individual and human rights organizations to challenge the demolition or seizure of Palestinian properties in Area C and East Jerusalem”.<sup>32</sup>

### **Israel’s control over access points for the services and products in the Palestinian economy.**

23. Longstanding Israeli restrictions on imports, exports, and movement of goods and people continue to disrupt labour and trade flows and the territory’s industrial capacity, and constrain private sector development.<sup>33</sup>

The 12 years of naval, air and land siege of the Gaza Strip has multiple effects on people life and the right to development.<sup>34</sup> Al-Haq regularly documents attacks against fishermen by the Israeli Occupying Forces (IOF) ranging from killings and injuries, detention, to the confiscation of fishing boats and equipment. These attacks occur against the backdrop of Israel’s continuing closure of Gaza, which is partly implemented in order to insulate Israel’s gas industry, which US company Noble Energy holds a monopoly. As Israel ensures the continuance of its gas industry through the maintenance of lethal practices and its policy of closure, the lives and livelihoods of Palestinian fishermen are continually threatened. As noted by the Special Rapporteur, “the right to development requires...the substantive realization of equality of opportunity for everyone in their access to basic resources and their socioeconomic rights.”<sup>35</sup>

<sup>31</sup> UN OCHA, <https://www.ochaopt.org/content/third-large-scale-demolition-khirbet-tana-2016>.

<sup>32</sup> UN OCHA, <https://www.ochaopt.org/content/new-legislation-impedes-challenges-demolitions-and-seizures-west-bank>.

<sup>33</sup> The World Factbook, The West Bank, November 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/we.html>.

<sup>34</sup> See Al-Haq, Gaza Closure Enters its Tenth Year, June 2017, <http://www.alhaq.org/publications/papers/GazaClousureJune2017.pdf>.

<sup>35</sup> Al-Haq, Al-Haq calls attention to business and human rights issues in the OPT, <http://www.alhaq.org/advocacy/targets/united-nations/1085-al-haq-calls-attention-to-business-and-human-rights-issues-in-the-opt->

#### IV. Conclusions and Recommendations:

24. The right to development in the context of belligerent occupation includes several constraints as mentioned above and requires the realisation of the right to self-determination<sup>36</sup> expressed by the freedom of movement, access to natural resources such as land and water, permanent sovereignty over natural resources, and economy.

25. Al-Haq urges that the realisation of the right to development as a stand-alone right, requires a legally binding treaty with specific references to the situation of armed conflict including belligerent occupation where international humanitarian law (IHL) operates as the *lex specialis* alongside international human rights law (IHRL).

26. Notably the right to development is also implicitly enshrined in the framework of belligerent occupation, where Article 43 of the Hague Regulations requires the belligerent occupant to administer occupied territory and “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”. This includes administering the territory in the interests of the occupied population, with reference to military necessity and the humanitarian guarantees of international humanitarian law. For example, Article 64 of the Fourth Geneva Convention requires that the belligerent occupant “may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power”.

26. IHL obligates the Occupying Power to protect the protected occupied population in the occupied territory. Transferring the civilian population of the Occupying Power into the occupied territory is illegal, as well exploiting natural resources, limiting access of local communities to their private and public land, water sources, minerals and energy sources.

27. Critically a treaty on the right to development must recognise the right of peoples under colonial rule and belligerent occupation to develop their natural and national resources.

29. A treaty on the right to development must include the obligations of corporations to respect the right to development of the protected occupied population. Accordingly the treaty should address the obligations of corporations to conduct enhanced due diligence in areas under active conflict or belligerent occupation. In this respect, the actual consent of the occupied population,

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<sup>36</sup> Al-Haq, <http://www.alhaq.org/advocacy/topics/settlements-and-settler-violence/177-an-obstacle-to-peace-41-years-of-israels-illegal-settlement-policy-and-the-violation-of-the-palestinian-right-to-self-determination>



including political and civil society representatives should be obtained prior to any development of the natural and national resources of the occupied territory.

30. Economic development in the occupied territory must be solely for the benefit of the occupied population. As per the requirement inherent in the principle derived from Article 53 of the Hague Regulations, that profits from the development of the occupied territory cannot be requisitioned to furnish the home economy of the Occupying Power or transferred to third countries.<sup>37</sup> Any profits from the development of occupied territory during belligerent occupation must be used for the administration of the occupied territory and for the benefit of the occupied population.

31. Al-Haq recommends that a treaty on the right to development recognise **the obligations of third States to respect and ensure respect** for the right to development of the occupied population, implicit in the articles governing the administration of occupied territory and property rights of the occupied population as protected under international humanitarian law, including Articles 43, 46, 52, 53 and 55 of the Hague Regulations and Articles 1 and 33 of the Fourth Geneva Convention.

32. Al-Haq advises that a treaty on the right to development include provisions on corporate liability, whereby corporations and corporate agents may be help responsible for violations of the right to development.

33. Al-Haq concludes that a treaty on the right to development must include access to individual and collective remedies.

34. An urgent appeal would be useful, whereby peoples under belligerent occupation and colonial domination can trigger an international investigation into the deliberate and intentional de-development of occupied territory, for example under prolonged siege, as a measure of collective punishment.

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<sup>37</sup> See “Practice Relating to Rule 51. Public and Private Property in Occupied Territory” <[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule51](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule51)>