

Politics, powers and the environment in Palestine ☐

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Introduction

Many nations need both local and international instruments (including conventions and laws) to address the significant decline in the state of the environment including habitat destruction, desertification and climate change. The Palestinian environment, like many countries, did not improve significantly in almost any of the declared Aichi Targets in compliance with the Convention on Biological Diversity (EQA, 2021). Our environment and biodiversity suffer from the five major threats identified globally: climate change, habitat destruction, overexploitation, invasive species, and pollution. But unlike the vast majority of other countries, we suffer from another challenge: Israeli colonial occupation which adds and exacerbates these five threats.

After the Oslo Agreements 1993-1994, the newly established Palestinian National Authority (a state in the making) attempted to deal with the environmental problems and to identify stakeholders authorized to follow up the environmental conservation issues. Many authors and institutions have already raised the alarm on the deteriorating environment of historic Palestine that accompanied the political decline of native Palestinian power and the ascendancy of the Zionists culminating in a creation and development of a Jewish state in Palestine (Al-Haq, 2015: 1; EQA, 2021: 1; Qumsiyeh *et al.*, 2014: 101; Tal, 2002: 1; Weizman, 2012: 1).

For successful environmental conservation planners should seriously take into consideration power dynamics and issues of environmental justice (Büscher and Fletcher, 2019: 283) especially in a neoliberal world order (Corson, 2010: 576). The global assessment by the Environment and Conflict Observatory highlights growing environmental risks to human security and thus interconnectivity between environment status and the political conflict that deprives Palestinians from self-determination and sovereignty¹.

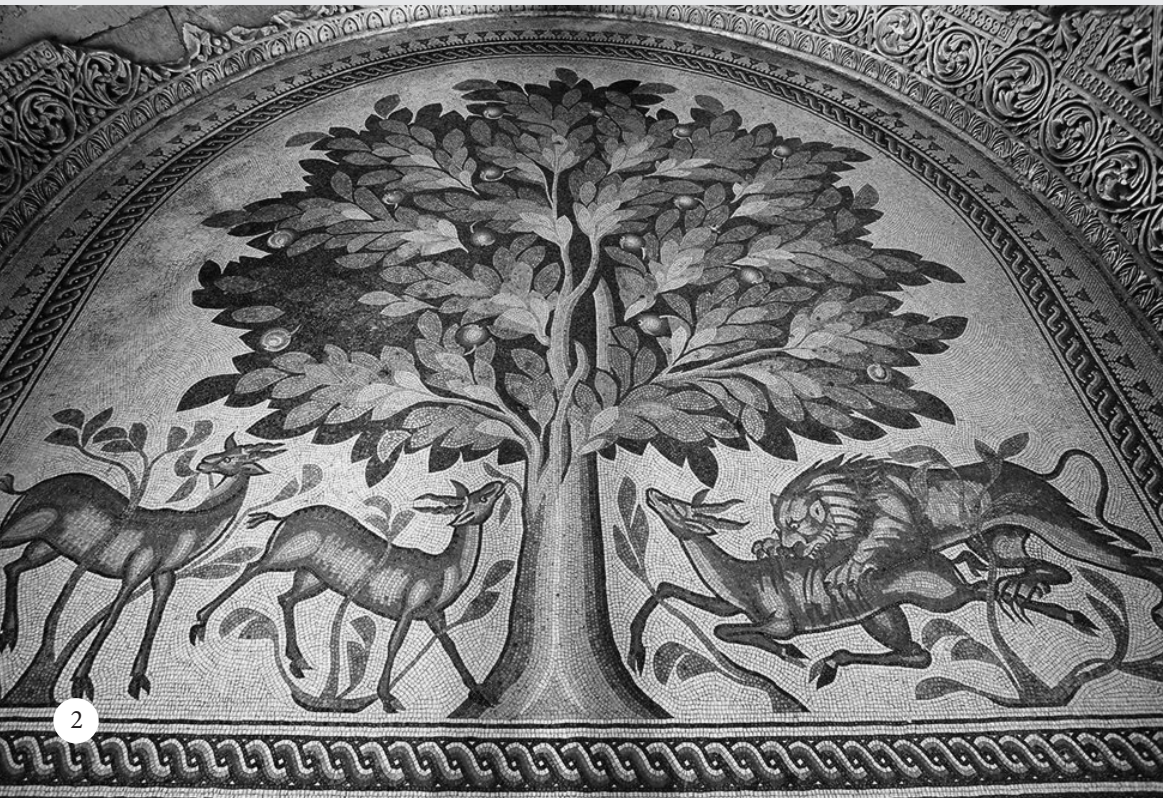
Addressing these challenges requires detailed analysis that will vary from country to country. Since no such study on power dynamics of environmental conservation existed in Palestine before, we embarked on this study to summarize what is known about such things and based on our conclusions propose some things that can be done to effect change in power dynamics.

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External power dynamics

A number of UN General Assembly resolutions recognized the relationship between the environment and human rights. For example in 1990 declaring that ‘all individuals are entitled to live in an environment adequate for their health and well-being’ (UNGA Res. 45/94). But these are not binding or enforced resolutions as testified to by dozens of such resolutions that condemned Israel for its violations of basic human rights and international law *vis a vis* its continued destruction and occupation of Palestine.

Article 49 of the Fourth Geneva Convention (to which Israel is a signatory) clearly states that:

the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

UN Security Council Resolution 465 of 1980 reads in part that:

all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.

But Israel flagrantly violates these protocols (Isaac *et al.*, 2015: 1). Jewish colonial communities and industrial settlements continued to be built on Palestinian land while intentionally de-developing the local communities (Roy & Pfeifer, 1999: 1). But there are also other violations of even Israeli signed agreements such as issues of harmful waste disposal (Hammad and Qumsiyeh, 2013: 655; Khlaif and Qumsiyeh, 2017: 66; Qumsiyeh *et al.*, 2014: 101).

The “Israeli-Palestinian Interim Agreement On The West Bank And The Gaza Strip” otherwise known as Oslo agreement had two parts (Oslo I and II) and the Paris economic agreement kept most of the West Bank under full Israeli control and only a small part of the areas under very limited Palestinian administration. This arrangement was supposed to be temporary for five years. Yet for 29 years as of now, the colonial activities continue to a point where about one million Israeli settlers live in the West Bank, more per square kilometers than inside the Green Line (this is the border before 1967) In Annex III (Protocol Concerning Civil Affairs). In Oslo II, we find relevant articles - 12 (on environment), 13 (Fisheries), 14 (Forests), and 15 (Gas, Fuel and Petroleum). In each of these articles, we found the imbalance of power and the subjugation of Palestinians to Israeli whims to be evident. This had a huge impact on the environment. For example, Israel retained per Oslo II the right to adjust or limit any issue for “security reasons” which was vague and allowed Israel to determine what it considered security. That included limiting Palestinian access to the sea, access to their agricultural lands, to nature reserves, to areas it deemed of “military importance” and much more.

The Palestinian Environmental Law 1999, Article (5) states that every person has a right to live in a sound and clean environment as well as enjoy the highest extent of public health and welfare and to protect the country’s natural resources. It further sets guidelines for protection of natural heritage as a cultural and nationalist heritage. Yet, Article XVIII section 4 of the Oslo II agreement states that:

Legislation, including legislation which amends or abrogates existing laws or military orders, which exceeds the jurisdiction of the Council or which is otherwise inconsistent with the provisions of the Declaration of Principles (DOP), this Agreement, or of any other agreement that may be reached between the two sides during the interim period, shall have no effect and shall be void ab initio.

Internal power dynamics

As part of the Oslo agreements, the two parties (Israel and the PLO) agreed to protect the environment in compliance with International standards, conduct Environmental Impact Assessments (EIA), protect soil, and other natural resources etc. (UNEP, 2003). As early as January 1995, ARIJ and the Environmental Law Institute (Washington DC) drafted an environmental law for consideration by the nascent PNA. In December 1996, the Palestinian Environment Authority was created and then elevated to the Ministry of Environmental Affairs (MOEA) in 1998. In 2002, a Presidential Decree reformatted the Ministry of Environmental Affairs into the Environmental Quality Authority, and was given the same duties and powers. The agriculture Law no. 2 for the year 2003 is the legal reference for some aspects of protected areas.

The Oslo accords of 1993-1994 were supposed to be for 5-year transitional period and to conclude with final agreement no later than 1999 but this never happened and while the Palestinians continued to comply with the interim arrangements, Israel did not. Further the interim arrangement gave Israel “temporary” military and civilian control over 60 % of the land of the West Bank which is labeled as area C. There are tremendous challenges faced by Palestinians trying to work in area C where most of the protected areas are located (Ghattas *et al.*, 2016: 24).

The Key governmental entities concerned with nature protection currently include:

1. The Environment Quality Authority (EQA): The EQA does planning, approval of projects that could impact environment, maintain biodiversity, protect the environment, and encourage sustainable development practices.
2. Ministry of Agriculture (MOA): Under the Agriculture Law for the year 2003, the Ministry is responsible for implementing Article 9 of section 1 of this Law, stating: “*The Ministry in cooperation with other competent authorities shall develop nature reserves management plan and conserve all plants and living organisms living in protected areas*”.
3. Ministry of Planning and Administrative Development (MOPAD, Previously MOPIC): Recruiting funds from potential donors to implement planning of Palestinian Development (MOPAD, 2014). MOPAD merged into the Ministry of Finance and Planning with some functions moved to Prime Minister’s office and others to Ministry of Local Governorates.

4. Ministry of Local Government.
5. Ministry of Health (through Department of Environmental Health).
6. Ministry of Tourism and Antiquities: In charge of heritage sites and involved in areas like ecotourism.
7. Ministry of Education.
8. Ministry of Culture: Promote protection in the local communities and integrate protected areas in the network of cultural areas; may also be involved in museums and educational initiatives considering cultural and natural heritage.
9. Ministry of Interior: Law enforcement of environmental and agricultural laws.

These ministries do not have actual powers due to the dynamic of power under Israeli occupation. For example, there is a Palestine Water Authority and a number of strategies related to the water sector: Palestinian National Water Policy (NWP) 1995, Water Resources Management Strategy 1998, National Water Plan 2000, Palestinian Water Law N.º 3, 2002, National Integrated Water Resources Management Plan 2003, National Sector Strategy on Water and Wastewater 2011-2013; Decree N.º (14) relating to the water Law 2014, and Palestinian Water Authority Strategy plan 2016-2018. However, water is mostly controlled by the occupying power and the same for other natural resources (Abouali, 1998: 411). Similarly, the walls and other apartheid structures significantly affect sustainable development and environmental planning (Mizrachi and Shaveh, 2019: 1; Qumsiyeh, 2004: 2; Ben-Naftali *et al.*, 2005: 551).

Conventions and Treaties signed by Palestine and the issue of power

Since 2014, the state of Palestine has signed dozens of international conventions and treaties on basic human rights, international humanitarian law, international criminal law, and the environment. The environment related conventions include the Convention on Biological Diversity (CBD), Basel Convention Controlling Transboundary Movement of Hazardous Wastes and their Disposal, Cartagena Protocol (treaty governing the movements of living modified organisms LMOs), United Nations Framework Convention on Climate Change (UNFCCC), and the United Nations Convention to Combat Desertification. The State of Palestine, even not a signatory, is active in a number of other international treaties that are not directly concerned with conservation and biodiversity, but related to other environmental issues. The Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution adopted in 1976 includes legal protocols on Dumping Protocol (from ships and aircraft), Prevention and Emergency Protocol (pollution from ships and emergency situations), Land-based Sources and Activities Protocol, Specially Protected Areas and Biological Diversity Protocol, Offshore Protocol (pollution from exploration and exploitation), Hazardous Wastes Protocol, and Protocol on Integrated Coastal Zone Management (ICZM). Even though Palestine is not a signatory to some of these treaties and conventions, Palestine is involved in some of the meetings and programs of signatory parties.

Similarly the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Migratory Species (CMS) are slated to be joined. CITES would be highly beneficial in curbing trade in endangered species even

though now Palestine has no control of its ports of entry (still done by Israel). The potentiality of independence would make it more urgent to do this and prepare to implement this (EQA is now studying this issue). CMS should likewise be joined because 500 million birds migrate through Palestine (on annual migrations between Eurasia and Africa). This would ensure protection of this important migratory site.

Joining international agreements carries legal, political and international ramifications that should be considered (Jaradat and Awad Allah, 2015: 1). It does promote international solidarity and may help assert need for sovereignty over natural resources and geographical boundaries. However, implementing and complying with the provisions of these treaties are made almost physically impossible due to the Israeli occupation practices. For example, the control by the Israeli occupation over the Palestinian natural resources prevents any meaningful measures the EQA can take to manage these resources. Furthermore, the Israeli occupation closed many springs for example taking water directly from the source to serve Jewish colonial settlements and this damaged free-flowing water essential for habitats and for indigenous people use.

Discussion

Generally, dealing with environmental issues in areas of conflict and war has received less attention than international rules related to human rights like the 4th Geneva Convention (Sands, 2003: 1). A main exception to this seems to be World Heritage Conventions (Debonnet, 2005: 28; Gillespie, 2007: 1). Dealing with this is not easy especially in developing countries and requires creative ways developed in a participatory way locally (Cedeño Bonilla *et al.*, 2004: 1; Oglethorpe, 2004: 2). While the challenges above seem complex and insurmountable, there were some local Palestinian successes including in environmental education, use of alternative energy, and research in areas of biodiversity (EQA, 2021: 1; Garstecki, 2010: 1; Qumsiyeh & Amr, 2016: 25).

There are many challenges to enforcement of laws relating to environmental protection in Palestine. For example article 41 of the environmental law on preventing hunting and trading of wildlife needs more enforcement (Handal *et al.*, 2021: 636). The main obstacle to doing the needed work for environmental protection, water and other issues is that the PNA actually has very little authority to carry out normal functioning of governments because the West Bank and Gaza remain under occupation. Other challenges due to imbalance of power is the significant poverty and reliance on international and local government aid. As is well known, poverty and imbalance of power reduces environmental conservation efforts.

There is some debate about whether some nations are able to advance their regulatory and enforcement standards to protect their environment in an increasingly globalized system (Vogel, 1997: 556) let alone under colonial occupation (Qumsiyeh & Amr, 2016: 25; Qumsiyeh *et al.*, 2017: 340). Between 1949 until 1967 the environmental laws in the West Bank and Gaza were those of Jordan and Egypt, respectively. The second Israeli Military Order issued immediately after the occupation of both areas (issued 7 June 1967) designated all water resources in the newly occupied Palestinian Territories were to be "state owned by Israel" (UNEP, 2003: 1). The Palestinian National Authority (PNA) did attempt to legislate on issues of water and other natural resources for example via the water law signed by Arafat on 17 July 2002. Yet, these remain wishful thinking in context of continued occupation. The PNA tried to get Israel to agree to waste water and solid waste facil-

ities but frequently Israel refused to authorize unless Palestinians agree to take in waste from colonial settlement (illegal settlements per international law).

The PNA developed a ten-year environmental strategy for 2000–2010 and in August 2000 a National Environmental Action Plan (NEAP) for plans and projects for the three-year period 2000–2002. There were also a National Biodiversity Strategy and Action Plan proposed in 1999 followed by a number of Environment Strategies (for 2011–2013, 2014–2016, 2017–2022, 2020–2022). These are in line with the CBD Aichi Targets and in line with the Millennium Development Goals (MDG). Yet, in its remarkable honesty the EQA states that the targets for 2015 for sustainability and environmental issues will not be reached because of “lack of control over natural resources, particularly water and land, due to occupation, and early stage of environmental protection.”

SWOT analysis: Conclusions/Recommendations on shifting power dynamics

Based on the analysis above we can create a small-scale SWOT analysis for fixing and improving power dynamics related to the environment.

Strengths

- Highly educated Palestinian population who have a very rich native/endogenous heritage going back thousands of years living in relative harmony with nature.
- Proliferation of NGOs, GOs, Academic centers and others interested in environmental conservation.
- The EQA has a cadre of qualified technical and administrative personnel.
- Palestine signed a number of international treaties relating to environment and is trying hard to match local laws with International commitments.

Weaknesses

- Entrenched Israeli colonial practices that damage the environment and drives Palestinians out and limits access even of professionals and conservationists to key areas.
- De-development of the economy (a policy of the Israeli occupation) resulting in impoverishments and added population pressures.

Opportunities

- Building & empowering communities and individuals.
- Leveraging International support.
- Using International law and signed conventions to challenge environmental injustice (Israel has signed some agreements also and can be held to account for lack of compliance with these).
- Use the media (mainstream and mass media) to highlight environmental damage in ways that empower communities.

Threats

- Climate change, overexploitation, pollution, habitat destruction, invasive species.
- Conflict and instability.
- Continued colonization and de-development.

Prospects Going Forward

Büscher and Fletcher (2019) argue that “power is *both* structural and dispersed in micro-settings” and hence challenging prevailing systems at the macro and micro level are important and that dispersed forms of resistance to power structure matters. Such a resistance is not merely to get a “piece of the pie” but to hold others accountable and transform society to become sustainable (for nature and humans). Alatout (2006) showed that differences in perception of power relationships impacts perceptions of issues of environmental justice between Palestinians and Israelis. Basically, those in power view environmental issues in terms of improvements in their quality of life while Palestinians view them as issues of sovereignty, property rights, and mere survival.

It is clear that the margin for environmental work is very limited under colonial occupation. The system cannot continue like this for a long time or the environment will be damaged irrevocably. We also believe the struggle for environmental justice is an essential component of the liberation struggle that Palestinians are engaged in (Al-Butmeh *et al.*, 2019: 153; Harley & Scandrett, 2019: 1; Qumsiyeh, 2012: 1). Environmental justice in the legal context has often been about environmental equity, or equitable distribution of environmental harms and environmental goods, and about due process, or the rights of people to have a voice in the decision-making process.

Indigenous peoples and local communities (IPLCs) must have access and benefit sharing². Increasingly, indigenous knowledge of value and management of ecosystems and biodiversity are recognized as key components for sustainability (Karki *et al.*, 2017: 1; Nakashima & Krupnik, 2018: 1; Roué & Molnar, 2017: 1; Wilshusen, 2019: 104). Since colonization disempowers and tries to take away ability of locals to have sustainable human and natural communities, then it is logical to conclude that all actions to protect the environment against all odds (Alleson & Schoenfeld, 2007: 371; Qumsiyeh *et al.*, 2017: 1; Qumsiyeh & Amr, 2020: 29; Qumsiyeh, 2004: 1, 2012: 1) is empowerment and strength for indigenous people.

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² [Online]. [Consult. 21.March.2022]. Available at: <https://www.cbd.int/article/abs-we-all-need-campaign>.

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Impact of the Israeli Segregation and Annexation Wall on Palestinian Biodiversity

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Introduction

The natural landscape includes ecological boundaries (ecozones, gradients, transition zones etc.) (Cadenasso *et al.*, 2003: 750). These boundaries reflect spatial heterogeneity and play an important role for the function and the structure of the ecosystem and biodiversity. During the domestication of plants in the Fertile Crescent some 12 million years ago (Kilian and Salamini, 2010: 137), human started building small terraces which increased during the Hellenistic period and especially during the Islamic period of the last 700 years. These terraces intended to maximize land for agriculture and to facilitate the preservation of the soil. (Ron, 1966: 33; Sayej, 1999: 201; Pastor, 2013: 1; Arnáez *et al.*, 2015: 122; Gadot *et al.*, 2016: 397). However, another class of boundaries are socio-political such as the political borders that rarely reflect geographic or ecological aspects (Dallimer and Strange, 2015: 132). This class, constructed not for ecological reasons, can affect the management of biodiversity and conservation because the borders can separate one contiguous ecosystem and impact its management (Dallimer and Strange, 2015: 132; Miller, 2020: 473).

The domestication of plants and animals in Palestine was followed by the formation of city states and then kingdoms and empires which this created shifting socio-political borders that also did not correspond to the geographic or ecological borders (Bar-Yosef, 1998: 159; Hatuka, 2012: 347). Cities like Bethlehem, Jerusalem, and Jericho also had built defensive walls around them. Yet, the city remained in direct contact and dependency on the rural areas that supplied food and other raw materials (Walmsley, 1996: 126).

During the human dominance established over the past few millennia (the Anthropocene), physical borders have indeed contributed to the global reduction in biodiversity (Tucker *et al.*, 2018: 466). We were thus interested in understanding effect of physical structures built for political purposes on biodiversity in Palestine. Israel's annexation and segregation wall built in the occupied Palestinian territories began in the 1990s in Gaza and in 2003 in the West Bank. It did have a negative impact on human and environmental health (EQA, 2010: 1; OCHA, 2022). Anecdotal data also suggest it has an impact on biodiversity (Abdallah & Swaileh, 2011: 543). Data on biodiversity shows a decline in the

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