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Climate Oppression: A Major Tool to Establish and Maintain Israel's Apartheid Regime over the Palestinian People and Their Lands

Submission to the Office of the High Commissioner for Human Rights (OHCHR)
Pursuant to Human Rights Council Resolution 47/24 “Human Rights and Climate Change”

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Introduction

This submission to the OHCHR comes in response to a call for input issued ahead of its preparation of a report on “Human Rights and Climate Change” to be delivered at the Human Rights Council 50th session, in accordance with Human Rights Council resolution 47/24.ⁱ The present contribution aims to address the intersectional and multidimensional impacts of Israel’s apartheid, colonization and military occupation on the comprehensive human rights of the Palestinian people within the context of climate change. Israel’s climate oppression does not only contribute to entrenching and maintaining its domination over Palestinian lands and natural resources, but also deprives Palestinians from the development of self-determined resilience strategies to mitigate and adapt to climate challenges.

This report will approach Israel’s climate change-related human rights violations through the lens of the apartheid system that underpins its regime. Under Article II of the 1973 Apartheid Convention, “the crime of apartheid [...] shall include similar policies and practices of racial segregation and discrimination [and] shall apply to [...] inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.”ⁱⁱ Since its inception in 1948, Israel has been gradually building such a regime of domination over the Palestinian people as a whole, including Palestinians residing in historic Palestine and Palestinians living in exile. Since 1967, Israel has administered the occupied Palestinian territory (hereafter the OPT), i.e the West Bank, including East Jerusalem and the Gaza Strip, as a belligerent occupant, with limited rights of governance. What follows intends to provide an illustrated analysis of apartheid mechanisms at play in Israel’s exploitation of climate change stakes to trample on Palestinian human rights.

I. Establishing Domination: Entrenchment of Israel’s Apartheid and Exacerbation of Climate Change Adverse Impacts on Palestinian Communities

Israel’s apartheid has been premised upon an arsenal of laws, regulations, policies and practices of land appropriation and pillage aimed at depriving Palestinians from the enjoyment of their natural resources, a pillar of their right to self-determination affirmed 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).ⁱⁱⁱ

a. Land Grabs and Pillage of Natural Resources: The Dead Sea Minerals

Land appropriation has constituted a major tenet of Israel’s matrix of control over Palestinians. Israel’s denial of access to Palestinians and along with its pillage of natural resources has accelerated climate oppression. For example, in the occupied Gaza Strip, 20 percent of arable land is limited from use within the Israeli-imposed buffer zone near the apartheid fence, which leading to a deterioration in food insecurity. Overexploitation of Palestinian natural resources in the occupied Palestinian territory contributes to the exhaustion of non-renewable resources and the exacerbation of climate change-related endangerment of fragile ecosystems.^{iv} Since the 1960s, the Dead Sea has shrunk by one third of its surface due to combined factors including temperature rises, accelerating evaporation, mineral extraction and agriculture-related water pumping.^v Since its occupation of the West Bank, Israel has profited from the unlawful exploitation of Palestinian minerals in the OPT, to develop its cosmetic industry, which is dominated by the Ahava Dead



Sea Laboratories Ltd, 44.5 percent of whose shares are owned by the unlawful settlements of Mitzpe Shalem and Kalia.^{vi} As per Article 55 of the Hague Regulations, Dead Sea minerals, as the public immovable property of the occupied territory, must not be exploited by the Israeli Occupying Power in a manner that undermines its capital, and its use and its administration must be strictly limited to provide for the needs of the occupied Palestinian population.^{vii} Israeli exploitation and overexploitation of the Dead Sea natural resources exemplifies how the restrictions placed on peoples' human rights, first and foremost to the free disposal of their natural resources, directly intensifies climate change crises.

b. Water and Agricultural Development under Stress: Between Climate Oppression and Apartheid

Further, water is a precious and rare resource in the whole of Palestine, particularly at risk due to increasing episodes of drought and floods. Over the past few decades, the only source of freshwater in Gaza is the coastal aquifer that underwent heavy over-extraction, wastewater pollution and seawater intrusion due to rising sea levels. Some 95 percent of Gaza water has been deemed undrinkable as of 2020.^{viii} The low quality of water consumed by the local communities aggravates the occurrence of gastro-intestinal diseases. Israel's water exploitation, with its induced consequences on the availability of water in both quality and quantity, impinges upon the right to water and sanitation recognized by the United Nations General Assembly Resolution 64/292,^{ix} but also on the right to the highest attainable standard of physical and mental health, protected under Article 12(1) of the ICESCR.^x

The unavailability of clean water sources and increased groundwater salinity levels directly harm coastal agriculture and reduce the products that can be grown under new agricultural conditions – e.g. oranges, strawberries, cherry tomatoes and cut flowers in Gaza. Adverse impacts are gravely felt on the olive sector, where rising temperatures and humidity, scarcer water resources and increased violent winds impact flowering and growth, cause direct stress on the olive trees, the quality and quantity of their fruits, cause loss of leaves, fruit destruction and definitely endanger livelihood security, and small farmers' ability to compete with larger producers.^{xi} In the Gaza Strip, the heavily reduced flow of imports and exports due to Israel's imposed blockade has heightened reliance on locally-produced food, already under high pressure due to the deterioration of water quality and quantity, therefore leading to more food insecurity,^{xii} in contravention of the right to adequate food enshrined in Article 11(1) of the ICESCR.^{xiii}

c. Exploiting the Environmental Discourse to Legitimize Colonial Afforestation and Greenwashing International Crimes

Wrapped around a halo of environmental concerns, the Jewish National Fund-led afforestation projects are branded by Israel as a major tool to combat climate change. However, the Jewish National Fund, a semi-State body, is a key agent in implementing Israel's expanding colonization of Palestinian lands. From 15 to 19 August 2021, severe and extensive wildfires destroyed 2,000 hectares of European pine tree forests planted in the outskirts of Jerusalem.^{xiv} As the blaze abated, the landscape rigged with burnt trees revealed the ruins of Palestinian villages destroyed and ethnically cleansed during the Nakba, and their adjacent 400-year-old agricultural terraces that used to be planted with native tree species, including fig and olive trees and vines.^{xv} Since 1948, 4,300,000 trees have been planted by the Jewish National Fund, 67 percent of which on the ruins of some 89 Palestinian villages forcibly displaced in 1948.^{xvi} Most of the preferred species sown were conifers to provide a European cover to a new alien landscape, and their lack of

adaptive capacities to the dry and hot climate of Palestine renders them highly vulnerable to climate change-related wildfires.^{xvii} While Israel has played upon its environmental discourse and the environmental benefits of afforestation, stressing its role in mitigating climate change through carbon fixation, they primarily function as a green camouflage to war crimes and crimes against humanity, and the prevention of the right of return of millions of Palestinian refugees to their original villages, as provided for under Article 13(2) of the Universal Declaration of Human Rights and Article 12(4) of the ICCPR.^{xviii}

d. The Gendered Dimension of Israel’s Climate Oppression

Within the Palestinian population, women and girls are particularly affected by climate change oppression and climate change hazards due to their unique nutritional needs and their induced enhanced vulnerabilities to food insecurity, the difficulty to adapt their traditional dress codes to climactic episodes, as well as their central role within Palestinian households.^{xix} Climate change-provoked agricultural hardships strongly impact female employment in the Gaza Strip, amounting to 14.6 percent of the total workforce, often to carry out traditional male tasks due to Israel’s occupation.^{xx} As such, Israel infringes on its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), especially their right to “enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply [...],” as per Article 14(h).^{xxi}

II. Maintaining Domination: Prevention and Den of Access to Self-Determined Mitigation and Adaptation Strategies

a. Divide and Rule: Israel’s Strategic Fragmentation of Palestinian Lands Hampering Adaptive Capacities

Israel’s apartheid has imposed a fragmented and divided political and territorial landscape – Israeli government in ‘48 lands, Palestinian Authority in the West Bank and Gaza, in addition to Hamas-Fatah division of the Palestinian leadership - that both amplifies the impact of climate change and prevents the ability to conduct harmonized and coordinated efforts to mitigate and adapt to its effects in a comprehensive manner.

Israel’s protracted military closure of the Gaza Strip since 2006 has severely hindered Palestinians’ ability to develop sustainable water systems. Israel benefits from the access restriction of items it considers to be of dual-use,^{xxii} – military and civilian – to prevent imports of construction materials for wastewater and desalination plants. It leads to a situation of severe malfunctioning of sewage treatment plants, what induces even more pollution when sewage and wastewater is directly dumped into the Mediterranean Sea.^{xxiii} During the last military attack on Gaza on 15 May 2021, the Israeli warplanes targeted one of the two only official landfills of the Gaza Strip, Johar Ad Dik, triggering a major health and environmental crisis.^{xxiv} The burning of D9-type solid waste produced an intense smoke cloud over Gaza City, and placed inhabitants under urgent health hazards, as informal waste depots started to emit toxic substances, rodents and mosquitoes.^{xxv} In Area C of the occupied West Bank, under full Israel military and civilian control, Israel controls and denies Palestinian access to water reservoirs and pumping sites, routinely destroys water wells and imposes a discriminatory and arbitrary permit regime for the implementation of any water-related project.^{xxvi}

b. Prevention of Community-Based Mitigation and Adaptation Solutions

Israel's comprehensive land appropriation and exploitation strategy not only fosters a coercive environment, but also permanently prevents the design and implementation of sustainable coping mechanisms to confront climate change.

As climate change tends to increase energy and fuel demands to cope with rising temperature extremes and water scarcity, the development of solar energy is an important alternative to greenhouse gas, especially in the Jordan Valley that enjoys an average of eight and a half hours of sun per day.^{xxvii} It forms the only source of energy to provide for the basic human needs of the Bedouin communities located in Area C of the West Bank. While neighboring settlements take advantage of unhindered access to electricity,^{xxviii} the Israel, the Occupying Power makes the most of its full civilian and military control over zoning and planning to systematically deny Palestinians more than 98.5 percent of building permits, including of solar panels.^{xxix} Left with no alternative, communities often build solar installations without permits, some of them directly funded by external donors including within the framework of European Union development projects.^{xxx} This exposes them to subsequent confiscation and demolitions.^{xxxi} The arbitrary destruction of solar panels and the reciprocal exploitation of solar energy for the benefit of the settler population not only largely exceeds Israel's prerogative as an administrator of natural resources in the occupied territory,^{xxxii} but also gravely infringes on the Palestinian people's right to free disposal of their natural resources as per Common Article 1 of the ICESCR and ICCPR.^{xxxiii}

As a result, Palestinian communities are left with no choice but to engage in non-sustainable coping mechanisms to alleviate climate change impacts. In Gaza, the use of raw sewage for agricultural irrigation and the drilling of wells, temporarily withholds water shortage-related calamities, while causing pressing public health risks and to the detriment of long-term solutions.^{xxxiv}

Conclusion and Recommendations: The Need to Address Climate Change Through a Human Rights-Based Approach

a. Dismantling Apartheid: A Mainstay of Human Rights-Based Solutions against Climate Change in Palestine

To reach its voiced COP26 objective to cut greenhouse gas emissions to net zero by 2050 and to phase out the use of coal by 2025,^{xxxv} Israel is very likely to deepen its colonial control over the Palestinian people and their lands. Israel's environmental and eco-friendly narrative attempts to normalize decades of apartheid and human rights violations where climate oppression plays a central role.

Israel's multilayered apartheid policies and practices have exacerbated climate change vulnerabilities while hampering Palestinians' capacities to adapt, therefore enhancing a system of colonial domination as per Article 1 of the Declaration on the Granting of Independence to Colonial Countries and Peoples.^{xxxvi} Altogether, climate apartheid measures are designed to assert domination over the Palestinian people and their lands vis-à-vis 48 lands, whether by, in the Gaza Strip, contributing to de-development and hindering adaptation capacities to climate change to reinforce an environment deemed "unlivable" by the United Nations,^{xxxvii} or, in the West Bank, facilitating annexation and permanent control over Palestinian territory and natural resources for the exclusive benefit of illegal Israeli settlements. By strengthening a climate-related coercive environment, Israel uses climate oppression over Palestinians to drive Palestinian forcible

transfer. Critically, the forcible transfer of occupied populations is unequivocally prohibited under Article 49(1) of the Fourth Geneva Convention,^{xxxviii} and may amount to a war crime under Article 8(2)(vii) and a crime against humanity under Article 7(1)(d) of the Rome Statute of the International Criminal Court.^{xxxix}

Climate change exacerbates multidimensional inequalities and constitutes a tool to entrench and maintain domination, and this domination in turn reinforces and spurs climate change. All forms of oppression including colonialism, apartheid and military occupation, enhance the oppressed peoples' vulnerabilities, forcing them to cope with disappearing natural resources that are deeply rooted in their identities and their relationship to their lands.^{xl} Addressing climate change, climate injustice and climate oppression necessitates the adoption of a human rights-based approach that gives due consideration to the multi-layered interrelations between people's right to self-determination, including the right to free disposal of their natural resources, women and children's rights, lands rights, right to an adequate standard of living, right to food and water, right to housing, or right to work as enshrined in the ICCPR and the ICESCR.^{xli}

b. Recommendations

In light of the above, Al-Haq recommends to the OHCHR to use his good offices to:

- Recognize and address, within the framework of its report on human rights and climate change, not only the intersectional impacts of climate change on human rights, including loss and damage, but also the effects of human rights violations on the acceleration of adverse climate change predicaments, with a special focus on peoples living under situations of armed conflict, military occupation, colonization and apartheid;
- Place peoples' right to self-determination and free disposal of their natural resources at the core of climate change-related decision-making and responses, especially in supporting mitigation and adaptation strategies and addressing loss and damage;
- Call on the Parties to the Paris Agreement to better integrate a human rights approach to climate change action, including through their national adaptation plans, and to directly concentrate on human rights within the framework of the Conferences of the Parties to the UNFCCC.

ⁱ See HRC, A/HRC/RES/47/24, 26 July 2021, para.14, <https://undocs.org/A/HRC/RES/47/24>

ⁱⁱ International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973, Article II, https://www.un.org/en/genocideprevention/documents/atrocitiy-crimes/Doc.10_International%20Convention%20on%20the%20Suppression%20and%20Punishment%20of%20the%20Crime%20of%20Apartheid.pdf

ⁱⁱⁱ UNGA, International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171, Article 1, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> ; UNGA, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3, Article 1, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

^{iv} Al-Haq, "Shrinking Dead Sea, at the Collusion Between Israel's Intensive Exploitation, Corporate Extraction and Climate Change," 4 November 2021, <https://www.alhaq.org/advocacy/19166.html>

^v "Sinkholes on Receding Dead Sea Shore Mark 'Nature's Revenge,' France24, 27 October 2021, <https://www.france24.com/en/live-news/20211027-sinkholes-on-receding-dead-sea-shore-mark-nature-s-revenge> ; Xu Chenlu, "Climate Change Spelling Death for the Death Sea," 2 November 2021, <https://news.cgtn.com/news/2021-11-02/Climate-change-spelling-death-for-the-Dead-Sea-14RqCVAgzug/index.html>

^{vi} Al-Haq, "Pillage of the Dead Sea: Israel's Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory" (2012), <https://www.alhaq.org/publications/8076.html>

^{vii} Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, 18 October 1907, Article 55, <https://ihl-databases.icrc.org/ihl/WebART/195-200065>

^{xxxv} Al-Haq, “In the Aftermath of COP26: A Rights-Based Solution to Climate Change is Needed to Counter Israel’s Greenwashing,” 21 November 2021, <https://www.alhaq.org/advocacy/19242.html>

^{xxxvi} UNGA, Declaration on the Granting of Independence to Colonial Countries and Peoples, 14 December 1960, A/RES/1514(XV)

^{xxxvii} See United Nations, “Gaza in 2020: A Liveable Place?,” August 2012, https://www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf?_cf_chl_jschl_tk_=XOSkYGA2QTR2iaPepEc5FpmwKsnbrb8nIewWtoNRO4-1637487783-0-gaNycGzNCD0

^{xxxviii} “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.” Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, Article 49(1), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf

^{xxxix} Rome Statute of the International Criminal Court, 17 July 1998, Articles 7(1)(d) and 8(2)(vii), <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

^{xl} Al-Haq, “COP26: Al-Haq Joins ESCR-Net’s Call to Deliver on Loss and Damage with a Focus on Human Rights,” 13 November 2021, <https://www.alhaq.org/advocacy/19208.html>

^{xli} UNGA, International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> ; UNGA, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>