

Biodiversity and Human Rights from a Palestinian Perspective

By *Roubina Bassous/Ghattas*

The concept of environment as a basic human right encompasses a respect for the right of other species to survive on the planet. Each of the 5 to 50 million species of plants, animals, and microorganisms sharing the earth has a value of its own and a role to play in a vast, complex web of interdependent connections. This range of species, their habitats, and the internal genetic diversity they display is known as biodiversity. Biodiversity has numerous uses in agriculture, medicine, food, and industry. Its loss, therefore, is part of the erosion of environmental human rights. The conservation of biodiversity and natural resources affects, and is in turn affected by, the realisation of human rights. Conservation can help realise substantive human rights, such as the right to health, culture, and food. Likewise, the realisation of human rights can create an enabling environment for achieving conservation objectives.¹

A key success attributed to biodiversity is an abundance and diversity of ecosystems, species, and genes, and the interactions between them. Ecosystem goods and services, sustained by biodiversity, play an important role in supporting a range of economic, social, and cultural rights, including rights to food, health, water, and an adequate standard of living, as well as freedom to pursue cultural practices. Biodiversity loss impacts the enjoyment of fundamental human rights. Plants and animals have the right to exist and the future generations of people have the right to expect adequate resources in a clean environment. Conservation of a wide variety of species can be justified on the grounds that they are of direct economic importance to humans. If humans conserve the biodiversity of the planet Earth, they will consequently conserve the potential food varieties for the future; keeping in mind that plants and animals are basic to the food requirements of all people. On the other hand, if biological resources are conserved then the ecosystem balance is also ensured. This is necessary for clean environments including water, air, and land, and is the basis for acceptable human health conditions. Protecting and conserving biological resources not only responds to the rights of humans to enjoy better food, health, etc., it also ensures the continuance of life by providing oxygen, fresh water, and other resources that are essential for human long-term survival.

Accordingly, policies and regulations have been enacted to protect and preserve biodiversity. Examples are conventions that deal with such matters as human rights and conditions or the protection of the environment. The legal instruments have a significant bearing on the development of mechanisms for the conservation of biodiversity as a basic human right. They are in turn dependent on a comprehensive framework of laws that define procedures, responsibilities, and obligations for utilising, conserving, and managing biodiversity.

During the past 30 years, there has been rapid growth in the number and scope of international legal instruments and institutions relating to the conservation of biodiversity, such as the Multilateral Environmental

Agreements (MEAs): the Convention on Wetlands of International Importance (Ramsar, 1971), the Convention on International Trade in Endangered Species (CITES, 1973), the Convention on the Conservation of Migratory Species of Wild Animals (CMS, 1979), and the Convention on the Conservation of Biological Diversity (CBD, 1992). Treaties dealing with the protection of individual species, which are listed in one or several appendices, and for the preservation of natural habitats, usually by means of the establishment of

some extent, being adopted at a national level. However, Palestinian status under international law is specific: Palestine was awarded recognition as a non-member observer state to the UN in a decision passed in November 2012. The State of Palestine is now a permanent observer, described as a “Non-member State having received a standing invitation to participate as observer in the sessions and the work of the General Assembly and maintaining permanent observer missions at UN Headquarters.” Palestine had previously not been eligible to sign multilateral environmental agreements;



protected areas. Parties to these treaties have the obligation, therefore, to protect listed species and to set up and maintain parks and reserves.

The biodiversity conservation principles and concepts related to sustainable development permeate the provisions of the more recent instruments and are, to

its new statehood status gives it this jurisdiction. This recognition has enabled the Palestinians to actively participate in almost all the activities of international agencies and bodies like any other state. The Palestinian Authority is currently in the process of deciding which environmental conventions will be signed; some of these



will depend on further progress of the peace process, final status negotiations, and in-depth analysis of their pros and cons if signing takes place. Nevertheless, Palestine is party to various agreements, treaties, and networks in the region. These include the Euro-Mediterranean partnership, the MEDUSA Regional Network for the Identification, Conservation, and Use of Wild Plants in the Mediterranean Region, the Arab Forum for Environment and Development (AFED), and the Jordanian Palestinian Economic Protocol.

The Palestinian National Authority (PNA) ministries, in accordance with the Oslo I and II accords, prepared relevant policies, strategies, and laws falling within their authorities. The Palestinian Environmental Quality Authority (EQA) issued the Environmental Law in 1999 (finalised in 2003), the Palestinian Environmental Strategy (1999), Sectoral Environmental Strategy (2010), the National Biodiversity Strategy and Action Plan (1999), and the Gaza Coastal and Marine Environment Protection and Management Action Plan. The Ministry of Agriculture also finalised Agricultural Law (2003), *Forest Policy, Strategic Options, and Scenarios and the Palestinian Agro-biodiversity strategy*, (2005), and the Palestinian National Biodiversity and Agro-biodiversity strategies

and action plans. All are considered *the basic legislations for biodiversity in the oPt*. The enforcement of these laws obliges people and authorities to respect the right of sustainable protected environment and adequate utilisation of resources by Palestinians.

Many biodiversity conservation challenges in the oPt affect the whole region, giving special importance to the role of MEAs. Habitat destruction comes from a broad range of sources, including unplanned urban expansion, overgrazing, over-exploitation, deforestation and unplanned forestry activities, desertification and drought, invasive alien species, and pollution and contaminants. In addition, the political status threatens Palestine's biodiversity, including but not limited to the uprooting of trees, land shaving, land division to politically classified areas A, B, and Cⁱⁱ (Oslo II 1995), land confiscation, settlements and bypass roads, and the fragmentation of habitats mainly as a result of the Segregation Wall. These factors all serve to affect genetic exchange and, as a result, will weaken species composition in the future, thus precipitating the loss of this valuable resource and heritage.

One of the major constraints facing Palestine in the conservation of its biodiversity is the lack of Palestinian sovereignty over natural resources. This is

in addition to the political reality of denial of access and control over land and natural resources as agreed in the international peace accords signed with Israel, including Oslo I, Oslo II, and Wye River Memorandum. For example, all occupied lands in the West Bank of the Jordan Valley should have been returned to Palestinian control by now. This has not taken place, leaving the Palestinians with little option but to overuse the very limited percentage of land under their control. A similar situation exists with marine and freshwater resources, since Palestinians control only a few narrow fishing zones, in violation of the Peace Accords, and have no access at all to the waters of the Jordan River.

The Israeli Segregation Wall will extend 774 km and is set to isolate 13.6 percent of the total area of the West Bank upon completion. Habitat fragmentation as a result of the Segregation Wall acts as a physical barrier that may prevent many species of mammals from travelling to their sources of food and mating, which may endanger the survival of specific populations or lead to the creation of new sub-populations. Such an action will increase the probability of Palestinian natural heritage loss by impacting the existence of a large number of plant and animal species that grow and inhabit this area which is already affected

by other destructive practices that cause the loss of valuable and irreversible resources. The total number of uprooted trees as a result of Israeli practices between 2007 and March 2013 is 681,000 trees.ⁱⁱⁱ

Concerns are also expressed over the potential impacts of the on-going development of the Segregation Zone^{iv} along the western and eastern parts of the West Bank. In view of the amount of land confiscated from the West Bank, and the commensurately greater development pressures, the Segregation Zone is causing major challenges in conserving representative ecosystems, landscapes, and habitat linkages, especially between protected areas, and forests.^v The Segregation Zone also causes strip clearing of land, including forest and other vegetation covers. Almost 49 forested and 40 protected areas are included in the Segregation Zones, forming up to 55.5 percent and 75.5 percent of the total covered forested and protected area of the West Bank respectively (ARIJ-GIS, 2011). This action will mostly have a detrimental impact on the functions of natural reserves, in particular the conservation of animal, plant, and mineral forms, and threaten the existence of a unique natural vegetation cover.

It is clear that there is a need for a comprehensive review and development of



Palestinian policy and legislation pertaining to plant genetic resources utilisation and conservation, incorporating standards of accreditation, intellectual property rights, indigenous knowledge, training, and research. Better cross-sector national policy coordination and stakeholder cooperation are also crucial for biodiversity policy development.

The Legal Framework for Nature Conservation should be amended to include specific laws governing nature protection and the empowerment of agencies to implement the legislative aspects. Improved Palestinian national legislation is also necessary to protect the traditional resource knowledge rights of local farmers, as well as sovereignty over their cultural and genetic property. This indigenous knowledge forms the main reference on which many rural communities rely when implementing conservation and production activities. It is important to note, however, that traditional and local knowledge remains an under-utilised and undervalued resource with considerable potential.

In terms of enforcing laws and policies, it is necessary for Palestine to enforce the prohibition on hunting, prevent uncontrolled clearance of farmland, stop deforestation, minimise pollution, and reduce overexploitation. However, before setting out or upgrading the policies and laws in relevance to the Palestinian case, it is necessary to identify and monitor components of biodiversity that are important for its conservation and ecologically sustainable use, collect and analyse information about the conservation status of components of Palestinian biodiversity, and assess strategies and

techniques for conservation. With these monitoring systems in place, some basic elements of law and policy should be set in order to develop more adequate measures for Palestinian biodiversity planning and conservation. This is important in order to protect Palestinian human rights.

Palestinians have long lived closely with nature and have often developed sustainable methods of using natural resources. Palestinians recognise the importance of biological resources to their survival and their identity. Understanding and recognising the Palestinian rights to govern and conserve their resources is fundamental for enforcing applicable solutions to sustain the Palestinian resources for future generations.

To read more about this sector, please visit:

http://www.arij.org/index.php?option=com_content&view=article&id=502&Itemid=62.

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¹ "Rights-based approaches: Exploring issues and opportunities for conservation," J. Campese, T. Sunderland, et al, IUCN and CIFOR, 2009.

² Area C: The Palestinians have responsibility for civil life, such as economics, health, and education, whereas Israel retains full control over security and administration related to the territory.

³ "Monitoring Israeli activities in the oPt," Analysis of Satellite Images, project funded by EU, ARIJ (Applied Research Institute-Jerusalem) – UM (Urbanization Monitoring) Department, 2013.

⁴ As sourced from ARIJ- GIS Land Use/Land Cover analysis 2008; The eastern segregation zone is an area of 1664 km square (only 5 percent of which is under Palestinian control) located along the eastern terrain of the West Bank that stretch for 200 km from south to north, most of which is declared a closed military area and is off limits to Palestinians. The western Segregation Wall is an area of 774 km located along the western terrain of the West Bank.

⁵ "West Bank Land Use/Land Cover Analysis 2010, ARIJ - GIS (Geographic Information System) Department, 2011, Bethlehem, West Bank.