Made in Israel:

Exploiting Palestinian Land for Treatment of Israeli Waste

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Introduction

Power disparities between populations are among the chief factors that determine who will have better access to resources, and who will suffer from greater exposure to waste and hazardous materials.[1] The more developed a country is – the combined result of a number of factors, including economic growth, globalization and urbanization – the more resources it consumes and the more waste it generates per capita.

The State of Israel is a developed nation and a member of the Organisation for Economic Co-operation and Development (OECD). As such, its resource consumption per capita is high and it generates waste accordingly. Israel's per capita ecological footprint – the measure of how much land and water are required to provide the resources consumed and absorb the waste generated – is three times that of either Egypt or Jordan.[2]

As the amount of waste generated grew worldwide, so did its negative impact on the environment and public health. To help mitigate this injurious impact, over time, experts came to favor the treatment of waste and hazardous materials (recycling or energy recovery) over their disposal (by depositing or burying in landfills).[3]

Though waste treatment is preferable to waste disposal, it is still a polluting industry. Many waste treatment processes, particularly of hazardous waste, could potentially result in health hazards and pollution, including harm to open spaces; water, air and ground pollution; noise and dust nuisance; visual pollution and pests.

With a view to minimizing the damage caused by waste treatment plants, various restrictions have been introduced with regard to their establishment and operation. However, these restrictions are not uniform, and here too the disparity between developed and developing nations is plain to see. While developed countries have imposed a slew of costly restrictions on waste treatment facilities operating on their land, developing nations – which face structural, economic and infrastructure challenges – are hard put to institute the same strict environmental standards, and where they have done so, have trouble enforcing them.

In addition, plans for waste treatment plants are often met with resistance from local residents due to the hazards involved in their operations. The greater the local population's economic and political power, the more effective the objection and the more likely it is for the plant to be moved away.

Like other countries, Israel has a waste treatment system. Internal objections to local treatment plants, combined with the high costs associated with stringent environmental regulation and international restrictions on waste export, have encouraged Israel to seek sacrifice zones,[4] where waste treatment facilities could be placed.

Israel found these sacrifice zones in the West Bank. Abusing its status as an occupying power and the fact that Palestinians have no say in the decision-making process – which also means they cannot object to any decisions made – Israel applies

1. R.W. Collin, "Environmental Equity: A Law and Planning Approach to Environmental Racism," *Virginia Environmental Law Journal* 11 (1992), pp. 495-546.
2. For figures and more details, see Global Footprint Network website: http://www.footprintnetwork.org/content/documents/ecological_footprint_nations/ecological.html
3. The Waste Framework Directive issued by the European Union in 2008 (Directive 2008/98/EC) is one of the main regulatory mechanisms in the field today. The directive stipulates, *inter alia*, a five-tier waste management hierarchy: 1) Prevention; 2) Preparation for re-use; 3) Recycling; 4) Recovery; 5) Disposal.
See European Commission website: http://ec.europa.eu/environment/waste/framework/
4. A sacrifice zone is a geographic area that has become irrevocably impaired by environmental damage or economic neglect.

less rigorous regulations in industrial zones in settlements and even offers financial incentives such as tax breaks and government subsidies. This policy has made it more profitable to build and operate waste treatment facilities in the West Bank than inside Israel.

Israel transfers to the West Bank various types of waste: sewage sludge, infectious medical waste, used oils, solvents, metals, electronic waste and batteries, to name but a few. All of these are urban and industrial by-products Israel generates within its own territory, and they are made up of a wide range of unwanted substances that pose a real threat to the people and natural resources in their vicinity.

Israel's environmental policy in the West Bank – including situating polluting waste treatment facilities there – is part and parcel of the policy of dispossession and annexation it has practiced in the West Bank for the past fifty years. Israel is exploiting the West Bank for its own benefit, ignoring the needs of the Palestinians almost entirely, and harming both them and their environment.

The first part of this report focuses on five waste treatment facilities built in the West Bank, with the state's encouragement and support; four of the five plants process hazardous waste. The second part shows how Israel manages to evade its responsibilities by creating a legal framework different from the one it is bound by inside Israel.

Waste recycling in the West Bank

B'Tselem research has found that there are at least fifteen waste treatment facilities in the West Bank. Most of the waste they process is produced in Israel.[5] Six of the facilities handle hazardous waste which requires special processes and regulatory supervision due to the dangers it poses, including toxicity, mutagenicity (carcinogenicity), infectiousness, flammability and combustibility.[6]

Israel produces some 350,000 metric tons [1 metric ton = 1,000 kg] of hazardous waste each year. About 60% of it is organic waste, including used solvents, oils and other materials. About 10% of the waste contains metals: mostly lead from the battery industry, but also lithium batteries, aluminum, copper, zinc and silver, among others. The rest of the waste is made up of hazardous-material packaging, contaminated soil and industrial wastewater. Hazardous waste is produced by almost all industrial sectors: chemical, pharmaceutics, agricultural raw materials, high-tech, metals, the military industry, fuel and oil production, paint production and more. Additional hazardous waste is produced in places such as medical facilities, farms and car repair shops.[7]

By and large, information about the amount and types of waste processed in the West Bank as well as about the impact of the waste treatment is not publicly available. Freedom of information applications B'Tselem submitted to the Ministry of Environmental Protection and the Civil Administration have not been answered to date. A parliamentary question submitted to the Minister of Environmental Protection by MK Dov Khenin in March 2017 has not yet been answered either.[8]

B'Tselem examined four facilities in the West Bank that treat waste and hazardous materials, most of which is generated in Israel, and one facility that treats sewage sludge. The findings presented below are based on the information available on the types of waste transported to these facilities and the potential risks the plants' operation poses.

Sewage sludge:
Compost Or Factory Ltd., the northern Jordan Valley

The Compost Or site is located in the northern Jordan Valley, between the settlements of Massu'a and Yafit. It is the largest plant for processing sewage sludge generated in Israel and is one of several facilities that handle the processing and burial of different types of Israeli waste.[9]

Sewage sludge is an organic solid, originating in human feces, that sinks in the sedimentation tanks of sewage processing facilities. According to Israel's Ministry of

5. For the full list, see table in Appendix, below p.19.
6. The main criterion determining if a type of waste is considered hazardous is whether it exhibits at least one of the risk traits defined in the European Waste Directive. For more on this, see Israel's Ministry of Environmental Protection website: "Hazardous Waste – Definition", http://www.sviva.gov.il/subjectsEnv/HazardousMaterials/Waste/Pages/default.aspx (Hebrew).
7. The information presented in this paragraph is taken from the following publication: Ministry of Environmental Protection, *Status Report – Hazardous Waste Management in Israel*, 2015, April 2016 (Hebrew) (hereafter: *Status Report*).
8. Information request from B'Tselem to Public Liaison and Freedom of Information Unit, Ministry of Environmental Protection, 12 February 2017; Parliamentary Question by MK Dov Khenin to the Minister of Environmental Protection, 7 March 2017; 30-day extension letter from Public Liaison and Freedom of Information Unit, Ministry of Environmental Protection to B'Tselem, dated 15 March 2017; 60-day extension letter from Director General of the Ministry of Environmental Protection to B'Tselem, dated 19 April 2017.
9. This group of facilities includes the largest Israeli waste facility in the West Bank, the Tovlan waste burial site, which takes in waste from Israeli communities as well as settlements.

Environmental Protection, "sludge is waste that carries a high potential for causing environmental harm. However, if used correctly, it can be converted into a resource."[10] In point of fact, according to Ministry of Environmental Protection figures for 2015, a significant portion of the sludge produced in Israel – 65% (about 387,000 metric tons) – was used to make fertilizers which were then utilized in agriculture. As for the rest: 32% of the sludge was pumped into the sea and 3% was buried.[11]

According to further figures from the Ministry of Environmental Protection, roughly 60% of all sewage sludge converted into fertilizer in 2015 (225,321 metric tons) was processed at the Compost Or facility.[12] It receives sludge from 25 municipal sewage treatment facilities throughout Israel – including Eilat, Beersheba, Jerusalem, Herzliya, Haifa and Karmiel – and also from the settlement of Ariel.[13] There are several more facilities inside Israel and in the Golan Heights that process sludge, but each handles only a few dozen metric tons annually.

There used to be two other facilities that operated inside Israel: Dalila Materials Recycling (at Re'em Junction) and Bar Idan (at Plugot Junction). However, after protests from local residents who suffered from the stench produced by the plants, they were ultimately closed in 2013 and 2014 respectively.[14]

While sewage sludge is not classified as hazardous waste, stench is an inescapable byproduct of the facility's operation. Additionally, potential failures in the plant's operation could result in soil, water and air contamination, attract pests, cause fires and spread pathogens.[15]

Medical waste:
Eco Medical Ltd., Ma'ale Efrayim Industrial Zone

The Eco Medical plant, located in the Ma'ale Efrayim Industrial Zone (about ten kilometers west of the Compost Or facility), processes infectious, biological and medical waste originating in hospitals and medical laboratories throughout Israel. According to Tabib, the company that owns the plant, Eco Medical is the largest facility in the country for processing medical waste.[16] According to published statistics, the plant processes some 3,300 metric tons of infectious, biological and medical waste every year.[17]

10. See Ministry of Environmental Protection website: http://www.sviva.gov.il/subjectsEnv/Wastewater/Sludge/Pages/default.aspx (Hebrew).
11. Ministry of Environmental Protection, *Removal of Sewage Sludge from Municipal Waste Treatment Facilities – 2015*, July 2016 (Hebrew).
12. Ibid.
13. Ibid.
14. Compost Or Ltd., "Compost Or Premium Compost: Uses and Images of Use in Modern Agriculture," 18 May 2014: https://www.slideshare.net/YosefEyalBenevet/1-34818593 (Hebrew).
15. See "Ministry of Environmental Protection Directives on the Building and Operation of Composting Facilities," December 2000, pp. 1-2, Ministry of Environmental Protection website: http://www.sviva.gov.il/subjectsEnv/Wastewater/Sludge/Pages/default.aspx (Hebrew).
16. See Tabib website: http://www.tabib.co.il/eng/?CategoryID=208.
17. See Municipal Environmental Associations of Judea and Samaria website: http://enviosh.org.il/page_s/80 (Hebrew).

The infectious and biological waste produced in medical facilities and laboratories includes waste contaminated with blood and other body fluids (for instance, discarded lab samples), contaminated and infectious lab materials (such as waste produced during post-mortems or from infected lab animals), or waste produced by patients in isolation wards and equipment that comes into contact with them (towels, dressings and used disposable medical devices).

According to the World Health Organization, this type of waste contains microorganisms that could be harmful to the general public, and any handling of such waste involves a potential risk for the spread of drug-resistant microorganisms from the facility to its environs. More specific risks include toxic effects and contamination due to the release of pharmaceuticals, particularly in the case of antibiotics and carcinogenic preparations.[18]

These risks are even greater in Israel and the West Bank as, unlike the situation in other developed countries, Israeli laws governing medical waste management fail to address seriously and comprehensively the full range of risks and all types of waste.[19]

Solvent waste:

MTA Recycling Technologies Ltd., Mishor Adumim Industrial Zone

Solvent waste is generated in many industrial fields, primarily pharmaceutics and the chemical industry – in phase separation processes; and paint, glue and sealant production – as well as in the printing and painting industries.[20]

Israel generates some 50,000 metric tons of solvent waste every year, which accounts for 15% of all hazardous waste produced in the country. About 40% of this waste is recycled in five different plants, including MTA. The remaining waste is not recycled, but converted to energy in facilities in Israel: the Ecosol incinerator at Ramat Hovav or the cement ovens at the Nesher plant. Finally, a very small percentage is exported for treatment abroad.[21]

Over the past two years, the Ministry of Environmental Protection granted all five plants "comprehensive administrative permits" for processing solvent waste.[22] These permits exempt manufacturers of the requirement to obtain an individual permit for every shipment of solvent waste to treatment facilities, and do not set a cap on how much waste can be transported.[23]

18. See WHO website: http://www.who.int/topics/medical_waste/en/

19. The binding legal framework is the Public Health Ordinance and the regulations enacted pursuant to it. These apply both in Israel and the West Bank. The bill for the amendment of the Public Health Ordinance, brought to the Knesset in May 2015, clarifies that the current framework does not address medical waste nor the risks it involves. See Open Knesset website, https://oknesset.org/bill/5826/ (Hebrew).

20. Chen Herzog, *Hazardous Waste Management Policy in Israel*: Vol. A, prepared for the Ministry of Environmental Protection (draft for internal discussion), 29 June 2015, http://mof.gov.il/pcc/articles/documents/publish_18062016-dangerousgarbagepolicy.pdf (Hebrew) (hereafter: *Hazardous Waste Management Policy in Israel*).

21. *Status Report*, see above, note 7.

22. See Ministry of Environmental Protection website, "Comprehensive Administrative Permit Issued to Generators of Hazardous Waste for the Transportation of Hazardous Waste": http://www.sviva.gov.il/subjectsEnv/HazardousMaterials/Waste/Pages/Hazardous-Material-Waste-permits.aspx#GovXParagraphTitle1 (Hebrew).

23. For more on comprehensive administrative permits, see below, p. 15.

The MTA plant manufactures new products from the solvent waste – mostly solvents of equal or lesser quality compared to the original. The new solvents are produced through a distillation process that involves releasing pollutants into the air.[24] Solvent waste treatment results in various organic contaminants, the exact type created depends on the sector and the distilling process. The predominant contaminants include pesticides, active substances from the pharmaceutical drug industry and paint. This type of waste is hazardous both to the environment and to humans as the solvents themselves are flammable, often enough toxic, and contain other active ingredients such as pesticides, remains of pharmaceutical drugs and hormones.[25]

In addition to these hazards, mishaps may occur during the transportation of solvent waste to the treatment facility. According to a State Comptroller report dedicated to environmental incidents that endanger both the environment and humans: "Traffic accidents, or other mishaps during the transportation of hazardous materials [...] may result in loss of life, severe public health hazards and extensive environmental contamination." An inspection conducted by the Office of the State Comptroller found that the Ministry of Environmental Protection and the Ministry of Transportation hardly perform any monitoring of hazardous material transporters, and that this exacerbates the risk of environmental incidents such as spills, leaks, explosions, fires or evaporation – all of which have a high potential for harm to the environment and to people.[26]

Oil waste:

Green Oil Energy Ltd., West Ariel Industrial Zone

Oil waste, also classified as hazardous waste, is produced by plants and car repair shops operating in Israel and in the settlements. The main sources of oil waste are the metalworking industry (especially from machining, which uses a great deal of lubricant oils and emulsions such as coolants), and oil changes in vehicles, sea vessels and aircrafts. Oil changes in hydraulic and other systems in various factories are another source of oil waste.[27]

Israeli treatment facilities recycle about 12,500 metric tons of used oil waste every year. The Green Oil plant, located in the West Ariel Industrial Zone, is one of three main facilities recycling this type of waste.[28] According to the Municipal Environmental Associations of Judea and Samaria, which also covers the area where Green Oil is located, the plant processes about 5,000 metric tons of used oil every year, which are equal to approximately 40% of all recycled Israeli oil.[29]

24. *Status Report*, see above, note 7; *Hazardous Waste Management Policy in Israel*, p. 144, see above, note 20.
25. *Hazardous Waste Management Policy in Israel*, see above, note 20.
26. For the information presented in this paragraph and for more details, see *State Comptroller Report 66C,* Ministry of Environmental Protection – environmental incidents that put people and the environment at risk – prevention and response, 24 May 2016, pp. 777-783 (Hebrew).
27. *Hazardous Waste Management Policy in Israel*, see above, note 20.
28. *Status Report*, see above, note 7.
29. http://enviosh.org.il/page_s/80 (Hebrew).

Oil waste arriving at the Green Oil plant is distilled using thermal cracking, and ultimately converted into diesel for use as industrial heating fuel. Used oils and emulsions contain heavy metals and organic contaminants that originate in chemical additives, such as anti-foaming agents, anti-corrosive agents and detergents. The potential environmental and health implications associated with failures in the operation of the plant and the transportation of the waste include severe, long-term damage to water resources, soil, as well as fauna and flora.[30]

Like solvent waste, in addition to the potential risks associated with the operation of the plant, there could be mishaps during the transportation of used oil waste to the treatment site.

Metal, electronics and battery processing:
EMS Refiners of Precious Metals Inc., Shilo Industrial Zone

The EMS plant was established in 1989 in the Shilo Industrial Zone and has since been providing a variety of recycling services to Israel's military, communications and electronics industries.[31] The plant treats basic metals (aluminum, copper and nickel), by-products generated in the electronics industry, as well as solid waste and solvents that contain precious metals.[32] EMS is the only Israeli plant granted a comprehensive administrative permit for processing electronic waste and one of which were granted a comprehensive permit for processing metal waste (the other plant is located inside Israel).[33]

EMS is also the only plant that processes assorted used batteries from Israel.[34] In 2012, Israel enacted the Electrical and Electronic Equipment and Batteries Law. The Ministry of Environmental Protection then gave two bodies the authority to oversee implementation of the law: M.A.I. Recycling of Electronic Waste and Batteries, and the Ecommunity Social Corporation for the Recycling of Electronic Waste Ltd. The two bodies work with EMS and send it all batteries designated for processing. At the plant itself, the batteries undergo preliminary treatment in preparation for export to international sites that complete the recycling process.

In 2015, when the law went into effect, EMS received 55 metric tons of a mixed assortment of batteries for sorting and export. That quantity was nearly doubled in 2016, reaching 100 metric tons, and it is expected to keep growing over the next few years.[35] The increase is attributed to the growing proportion of used batteries being transferred for recycling (as well as a shrinking proportion of batteries being directed for burial in the hazardous waste removal site at Ramat Hovav).

30. *Hazardous Waste Management Policy in Israel*, see above, note 20.
31. Shmuel de Leon, "Batteries or not to Be – Battery Recycling in Israel", *infospot*, 6 March 2017 http://infospot.co.il/sviva/ar/Batteries_or_not_be_Battery_Recycling_in_Israel (Hebrew).
32. For further details see: Comprehensive Administrative Permit Issued to Generators of Hazardous Waste – Transportation of Metal Waste for Treatment and/or Preparation for Export at EMS Refiners of Precious Metals Inc. – Shilo Industrial Zone: http://www.sviva.gov.il/subjectsEnv/HazardousMaterials/Waste/Documents/HM-Waste-Permits/EMS.pdf (Hebrew).
33. See Ministry of Environmental Protection website, "Comprehensive Administrative Permit Issued to Generators of Hazardous Waste for the Transportation of Hazardous Waste": http://www.sviva.gov.il/subjectsEnv/HazardousMaterials/Waste/Pages/Hazardous-Material-Waste-permits.aspx#GovXParagraphTitle1 (Hebrew).
34. A plant located in Israel, Hakurnas Lead Works Ltd., received a permit to process used lead batteries. For the comprehensive administrative permits, see, http://www.sviva.gov.il/subjectsEnv/HazardousMaterials/Waste/Pages/Hazardous-Material-Waste-permits.aspx (Hebrew).
35. See above, note 31.

Waste recycling legislation

Recycling waste and hazardous materials offers many advantages, including a reduction in the amount of new raw material consumed and the amount of waste that needs to be processed and removed. That said, recycling systems do carry potential public health hazards as they involve the risk of leaks and fires, as well as the risk of air, soil and water source pollution. According to the American Environmental Protection Agency (EPA):

Hazardous wastes do not cease to be dangerous simply because they are being reused, recycled, or reclaimed. Many hazardous waste recycling operations may pose serious health and environmental hazards and should be subject to regulation. [...] Reuse, recycling, and reclamation should be viewed as ways of managing hazardous wastes which, if properly conducted, can avoid environmental hazards, protect scarce natural resources, and reduce the nation's reliance on raw materials and energy. Promoting reuse and recovery is certainly one of the goals of RCRA [Resource Conservation and Recovery Act]; however, this goal does not take precedence over ensuring the proper management of hazardous waste.[36]

The geographic distribution of waste and hazardous material processing systems dictates the distribution of risk. Those living close to a potential source of contamination are at greater risk than those living further away. In addition, the building of a treatment facility in a particular location is usually damaging to the communities and individuals living in the vicinity, both financially and in terms of their image, including self-image. For this reason, strong, influential segments of the population take action to keep such facilities far from their communities. This phenomenon has come to be known as NIMBY (Not In My Back Yard).

In recent decades, partly in response to this phenomenon, most developed countries have instituted strict environmental regulations meant to mitigate the potential risks associated with waste recycling. These measures also significantly increased the cost of recycling, which has moved both developing countries and private companies to transfer waste – including hazardous waste – from wealthy areas to weaker, more marginalized areas that are subject to less strict environmental regulation. While this cuts costs, it increases pollution.

Over time, sacrifice zones developed near disempowered populations living in outlying areas, where a disproportionate amount of environmental pollution ends up. The inequitable distribution of the risks and nuisances associated with exposure to dangerous materials and environmental hazards led to the rise of the environmental justice movement, which drew a connection between human rights and environmental protection values. The movement strove to shine a light on the injustices arising from the inequitable distribution of environmental and social harm.

Advocacy campaigns waged by this movement and other actors have resulted in the establishment of international standards for responsible waste management, including principles such as "polluter

36. See EPA website: https://www.epa.gov/hw/regulatory-exclusions-and-alternative-standards-recycling materials-solid-wastes-and-hazardous.

pays" and "extended producer responsibility". These standards are mostly geared at preventing the shifting of environmental and health hazards to disempowered populations, both internationally (transfer to developing countries) and locally (transfer to areas where economically disadvantaged and ethnically marginalized groups live).

The trend has led to the signing of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in 1989. The Basel Convention establishes an international mechanism for overseeing waste management on the inter-state level. It went into effect in 1992 and has collected 188 signatories to date, including the European Union and the Palestinian Authority. Israel ratified the convention in 1994, and it went into effect in 1995.

The convention stipulates several principles for the treatment of hazardous waste at the international level. First, the generation of hazardous waste must be reduced at source – both in terms of quantity and in terms of hazard potential. Second, waste management must be pursued in a manner that protects the environment and human health. Third, hazardous waste should be treated as close as possible to the site where it is generated, and transboundary movement of waste should be minimized as far as possible. Fourth, hazardous waste will only be exported to countries that are able to manage it in an environmentally sound manner, and only after the receiving country has been provided detailed information about the waste and has given written consent to receiving it.[37]

The West Bank is Palestinian territory occupied by Israel. It is not part of a separate independent state that can make informed decisions about waste management within its territory. In this special situation, the Basel Convention is particularly critical for evaluating Israel's policy on this issue, as it clarifies the standards internationally conceived as appropriate for managing hazardous waste outside the generating country.

It seems that Israel considers transporting hazardous waste into the West Bank as no different than transporting it within its own territory. Israel acts as though the Basel Convention and the provisions of international law regarding the state's responsibilities as occupier are inapplicable in this case. At the same time, Israel takes advantage of the fact that the West Bank is not its sovereign territory, and has left significant gaps in the environmental legislation on waste recycling between Israel and the West Bank. These gaps, in conjunction with other incentives given to businesses in the settlements, make recycling waste in the West Bank more profitable than in Israel.

Hazardous waste management in Israel, within the Green Line [the boundary between Israel's sovereign territory and the West Bank], is regulated under several laws. The Licensing of Business Law (1968) and the regulations promulgated pursuant to it require a permit for handling hazardous materials and hazardous waste. They further stipulate how these materials are to be processed and specify the required reporting duties. The Hazardous Substances Law (1993)

37. See Basel Convention website: http://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx.

requires all waste treatment facilities to obtain a special permit from the Ministry of Environmental Protection for handling toxins. Polluting treatment facilities inside Israel are also subject to two more recent laws, the Clean Air Law (2008) and the Environmental Protection Law (Pollutant Release and Transfer Reporting and Registration Obligations) (2012). The latter requires polluting plants to record and report their impact on the environment around them.[38]

Environmental legislation in the West Bank, enacted by Israel over the heads of the local Palestinian population, is different. Hazardous waste treatment in the West Bank is regulated under the Order regarding the Administration of Local Councils (1981). This military order applies only some of the Israeli laws on environmental issues to the areas Israel handed over to the control of the settlements and their industrial zones.[39] While the Hazardous Substances Law and the Licensing of Business Law have been incorporated into the order, the more recent Clean Air Law and the Environmental Protection Law (Pollutant Release and Transfer Reporting and Registration Obligations) were not, and therefore do not apply to Israeli waste treatment facilities in the West Bank.

The legislative disparities in the regulation of polluting plants (including waste treatment plants) on either side of the Green Line result in two major differences, both of which give plants operating in the West Bank an advantage over their competitors inside Israel:

The first difference relates to air pollution. Until 2008, the Abatement of Environmental Nuisances Law (1961), which addressed environmental hazards related to air, noise and odor pollution, was the chief law regulating air pollution in Israel.[40] As this law was incorporated into the Order regarding the Administration of Local Councils, it applies to West Bank plants as well. The Clean Air Law introduced more progressive standards regarding air pollution. They superseded the provisions on air pollution in the Abatement of Environmental Nuisances Law, which were then revoked. Since the Clean Air Law was not incorporated into the military order, in effect there has been no legislation on air pollution whatsoever in the West Bank since 2008.

Consequently, polluting plants located within Israel are subject to advanced air pollution control legislation, while polluting plants in settlements' industrial zones are under no restrictions at all. Mr. Shoni Goldberg, Director of the Ministry of Environmental Protection's Jerusalem District, which covers most of the West Bank, explained the following at a conference held at Ariel University in June 2017:

The Abatement of Environmental Nuisances Law was a very broad law, also in terms of how it was used in the West Bank, and it was badly compromised when the Clean Air Law was passed in Israel in 2008. Currently, there is a vacuum in this field, and environmental offenses related to air pollution cannot be made subject to enforcement. It sounds absurd, but that's the legal situation. I haven't been able to carry out enforcement with respect to air quality in the West Bank for almost a decade.

38. Clean Air Law (2008); Environmental Protection Law (Pollutant Release and Transfer Reporting and Registration Obligations) (2012).
39. Order regarding the Administration of Local Councils (Judea and Samaria) (No. 892) 1981, Schedule No. 9 – Environmental Protection Laws.
40. Abatement of Environmental Nuisances Law (1961).

This difference gives a significant advantage to plants operating in the West Bank. The regulations under the Licensing of Business Regulations Law require obtaining a Ministry of Environmental Protection permit every time hazardous waste is transported to a treatment plant for the purpose of preparation for reuse, recycling or recovery into energy. When the Licensing of Business Regulations were enacted, Israel did not have many facilities for treating hazardous waste, and most of it was transferred to the Ramat Hovav site in the Negev Desert in southern Israel. In the rare cases in which hazardous waste could be transported for treatment in other facilities, the Ministry of Environmental Protection issued an individual permit.

Over the past few decades, a hazardous waste management sector developed in Israel, and there are now dozens of facilities specializing in different kinds of hazardous waste – both in Israel and the West Bank. Therefore, the Ministry of Environmental Protection began issuing comprehensive administrative permits, which obviate the need to obtain an individual permit for every shipment of hazardous waste. Four of the 30 permits the ministry has issued to date were given to facilities operating in the West Bank. However, while most polluting facilities in Israel must meet the criteria for an emissions certificate issued under the Clean Air Law in order to receive this permit, this requirement is absent from the permits issued to West Bank facilities, as the Clean Air Law does not apply there.

The second difference pertains to the reporting obligations of treatment facilities. The Environmental Protection Law (Pollutant Release and Transfer Reporting and Registration Obligations) requires polluting plants to measure all pollutant release and report all the particulars of their waste management process, including the phases preceding receipt of the waste, actual receipt of the waste, waste sorting, waste treatment, and the disposal of products and waste generated during the treatment process.[41] All reports by plants that process hazardous waste inside Israel appear in the Pollutant Release and Transfer Register (PRTR), which has been posted annually on the Ministry of Environmental Protection website ever since 2012.[42]

As this law has not been incorporated into the Order regarding the Administration of Local Councils, facilities that process Israeli waste in the West Bank are able to operate in the shadows, without transparency. Since these plants are exempt from recording or reporting their external impact, no information is collected at all regarding the type and quantity of pollutants, how they are treated, the destination of wastewater pumping, or the quantity and destination of hazardous by-products. Even if some information is recorded, it is not made public. When asked whether these legislative disparities are ever exploited to transfer waste from Israel to the West Bank, Mr. Goldberg replied: "Yes. There are certainly wastes, especially hazardous waste and expensive waste, that Israelis transfer to the West Bank to get rid of."

41. Environmental Protection Law (Pollutant Release and Transfer Reporting and Registration Obligations) (2012), Chapter 2.
42. See Ministry of Environmental Protection website: http://www.sviva.gov.il/English/env_topics Industry And Business Licensing/PRTR/Pages/default.aspx#GovXParagraphTitle1. (Hebrew: http://www.sviva.gov.il/PRTRIsrael/Pages/default.aspx)

Conclusions

The findings presented in this report reveal another facet of the Israeli policy of using Palestinian space and Palestinian residents for the state's own benefit. As an integral part of its waste management apparatus, Israel – abusing its status as an occupying power – transfers to the West Bank large amounts of waste (including hazardous waste) generated inside its territory. This report presented but a few examples of this practice.

Ever since the Basel Convention came into effect a quarter of a century ago, any transfer of waste must be made with full consciousness of the dangers involved and the attendant harm to disempowered populations. The realization that waste management is more just and less environmentally harmful if carried out in the country where the waste originates forms the basis for international agreements on this matter, and they are predicated on the principle that economic, social and military power disparities must not be used to create environmental sacrifice zones.

The present report describes how Israel's actions defy this principle. Israel has created sacrifice zones beyond its sovereign borders, in the West Bank. At least fifteen waste treatment facilities have been built there to process waste (including hazardous waste) most of which was generated in Israel. Relying on the immense power disparity between the occupying power and the occupied population, Israel has set up a bureaucratic mechanism that allows it to transfer a broad range of industrial, medical and urban by-products from its own territory to the West Bank.

International standards in this field address the transfer of waste from the territory of one sovereign state to another. However, transferring waste into an occupied territory is a far graver matter, as residents of an occupied territory cannot oppose the decisions of the occupying power, and are entirely at its mercy. The Palestinian residents of the West Bank are a population under military rule. As such, they were never asked – to say nothing of having agreed – to take in hazardous waste. Prior informed consent is not even an option in their case. They have no influence over what types of plants operate in settlements' industrial zones, or the legislation that determines what environmental rules apply there. They have no access to information about what goes on in these plants, whether any accidents have occurred, or what risks they pose to water sources, air quality and local residents' health.

Under the terms of the roadmap for Israel's accession to the OECD, adopted by the OECD council in November 2007, Israel undertook to process hazardous waste in accordance with the environmental principles accepted in developed nations around the world, such as favoring treatment over disposal, favoring local waste treatment, and the principle of polluter pays.[43] In a report published in March 2017, the Ministry of Environmental Protection declared the state was formulating a policy that would comply with these principles and that it was committed to upholding them.[44] This statement, however, is hardly reflected in the situation on the ground. A comparison between the rates of recycling and recovery of

43. See OECD website: http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?docla guage=en&cote =c(2007)102/final.

44. Ministry of Environmental Protection, *Concluding Report on Regulatory Improvement: Hazardous Substances Field – Hazardous Waste*, March 2017 (Hebrew).

hazardous waste in Israel and Europe reveals that Israel's recycling rates are low. Whereas recycling and recovery in the leading European countries (EU-15) was on average 60% (and 44% for all EU countries combined) in 2015, Israel's rate that year was only 38%.[45]

The findings presented in this report reveal an even grimmer situation. A significant portion of the 38% of waste recycled or recovered is treated in the West Bank, an occupied territory that is four times smaller than Israel's own sovereign territory. Israel regards the facilities built in the West Bank as part of its local waste management system, and counts the waste processed there towards its own figures in this field. Yet, at the same time, it applies less rigorous regulatory standards there than it does inside its own territory. Israel is effectively having it both ways: seemingly increasing the amount of waste it treats, it actually does so by diverting the risks and pollutants onto Palestinian land and people.

Israel allows waste treatment facilities in the West Bank to operate with almost no supervision. They are not required to report on the amount of waste they process, the hazards their operation poses or the measures they adopt to prevent – or at least to reduce – these risks. Given the lack of information, this report leaves open questions about the results of this Israeli policy. However, there is no doubt whatsoever that any transfer of waste to the West Bank is a breach of the international legal provisions Israel must uphold.

These provisions stipulate that an occupying power cannot use an occupied territory and its resources for the benefit of the occupying power's own needs or economic development.[46] Moreover, the occupying power is responsible for ensuring public health and hygiene in the occupied territory and must provide residents of the occupied territory with an adequate standard of living, including, the "highest attainable standard of physical and mental health."[47]

Palestinians are not the only ones at risk from potential pollution. Unlike other Israeli practices in the West Bank that make a distinction between Palestinian residents and Israeli settlers, environmental hazards make no such distinctions. That said, there is a difference. The settlers – whose presence in the West Bank is unlawful to begin with – are Israeli citizens. Therefore, they have access to, and influence over, decision-makers. Moreover, they can live anywhere inside Israel, whereas the Palestinian residents have nowhere else to go. The West Bank is their home and they have no other.

Waste treatment in the West Bank is simply one more facet of the exploitative policy Israel has practiced consistently for fifty years now, using Palestinian space and people to further its own interests. As part of this policy, Israel treats the West Bank – and particularly Area C, where it retained full control under the Oslo Accords – as an area meant to serve its needs exclusively, as if it were its sovereign territory.

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45. *Status Report*, see above, note 7
46. Hague Regulations respecting the Laws and Customs of War on Land, Arts. 43, 55.
47. International Covenant on Economic, Social and Cultural Rights, Art. 12; Convention (IV) relative to the Protection of Civilian Persons in Time of War, Art. 56.

As part of this policy, Israel exploits the area to build settlements, first having stolen tens of thousands of hectares of land from Palestinians for this purpose. After the settlements were built, Israel expropriated more land to expand them and to build roads serving the settlers. Later, Israel set up checkpoints that deny Palestinian landowners access to their farmland, and allowed settlers to cultivate these lands. The Separation Barrier's twisting, winding route was designed to leave on the western side of the barrier as many settlers as possible as well as a great deal of land that Israel designated for future settlement expansion, all in disregard for the resulting harm to Palestinians. Settlement development follows a suburban sprawl pattern, consuming a great deal of land and taking over open spaces with the object of making them Israeli. The Separation Barrier has deepened the fragmentation of Palestinian space and intensified the damage to the local ecosystem.

The international principles on hazardous waste management are based on values of environmental justice, public consultation and transparency. An expression of basic human decency, they strive to codify the simple notion that military, political or economic power disparities should not be abused by the powerful in order to dump their pollution and waste in their disempowered neighbors' backyards. When contrasted with these values, the reality Israel imposes on the West Bank in terms of waste management is unimaginably callous. Israel, taking into account its needs alone, treats its own waste in the West Bank and completely ignores its legal and moral obligations toward the Palestinian population there. Israel has turned the West Bank into a sacrifice zone, exploiting and harming the environment at the expense of the Palestinian residents, who are completely excluded from the decision-making process.

Appendix

Israeli waste treatment facilities in the West Bank (including areas annexed to the Jerusalem municipality)

Facility name	Location	Types of waste
Eco Medical Ltd.	Ma'ale Efrayim Industrial Zone	Contaminated medical waste and bio-logical waste
Green Oil Energy Ltd.	West Ariel Industrial Zone	Used oil waste (hazardous waste)
EMS Refiners of Precious Metals Inc.	Shilo Industrial Zone	Electronic waste, batteries and hazardous materials containing metals (hazardous waste)
MTA Recycling Technologies Ltd.	Mishor Adumim Industrial Zone	Solvent waste (hazardous waste)
Compost Or Factory Ltd.	northern Jordan Valley	Sewage sludge
Tyrec Tire Recycling Industries	Shahak Industrial Zone	Used tires
Polcom	Kedumim Industrial Zone	Hazardous waste packaging (hazardous waste)
All Recycling	Barkan Industrial Zone	Electronic waste (hazardous waste)
Talus	Meitarim Industrial Zone	Used oils (hazardous waste)
RA Ofek	Atarot Industrial Zone	Transfer station, construction waste recycling
Green Danlop	Atarot Industrial Zone	Transfer station, construction waste recycling
Zmora	Atarot Industrial Zone	Excess soil disposal and treatment
Green Net	Atarot Industrial Zone	Mixed urban waste
Elidori	Ma'ale Amos Industrial Zone	Construction waste