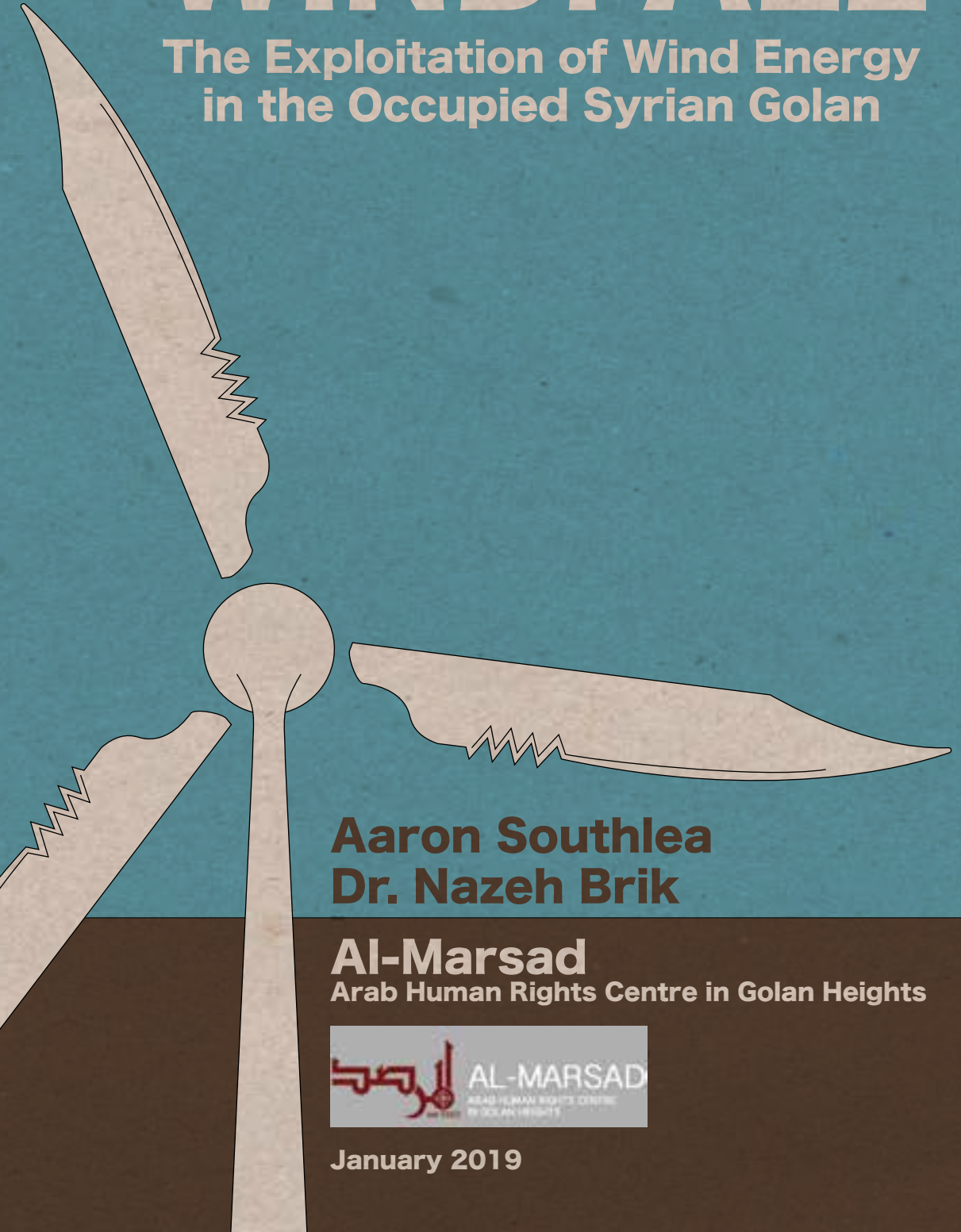


# WINDFALL

The Exploitation of Wind Energy  
in the Occupied Syrian Golan



**Aaron Southlea**  
**Dr. Nazez Brik**

**Al-Marsad**  
Arab Human Rights Centre in Golan Heights



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**WINDFALL**  
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**OCCUPIED SYRIAN GOLAN**

**AARON SOUTHLEA**  
**Dr. NAZEH BRIK**

## FORWARD

In early September 2018, Al-Marsad began researching a new Israeli wind energy project proposal for the occupied Syrian Golan ('Golan'). The project, submitted by Energix Renewable Energies Ltd., came to Al-Marsad's attention because it was stoking conflict within the Syrian community. The plan, known as the Clean Wind Energy Project, proposes to build at least 52 massive wind turbines across much of the extremely limited Syrian farmland in the Golan.

Through investigation, Al-Marsad has come to the realization that the wind farm project is causing rifts in the Syrian community because it benefits a few influential residents but will harm the vast majority of the population. Through its research, Al-Marsad has uncovered that the Syrians of the Golan are being lied to, manipulated, and purposefully divided over the project by both the company advancing it and the Israeli government.

This project brought back to the collective memory of the native Syrian community the tragedy of the displacement of the inhabitants of S`heita village and Israel's practices of restriction, confiscation, intimidation, and manipulation there. The village of S`heita was uprooted by Israeli military order in early 1970 and its population was forcibly displaced. A large part of the land targeted by the proposed energy project belongs to the people displaced from S`heita. The community rifts caused by the plan have revived the tragedy of S`heita and the problems that accompanied its population's displacement. These problems continue to this day and float to the surface of every debate on the issue.

Al-Marsad reasons that if it is able to educate the population on all of the implications of the wind farm plan and create an open forum for peaceful and constructive dialogue, it can perhaps mend some of the rifts in the community. In early November 2018, about 20 community activists (including farmers, lawyers, journalists, and engineers) attended a public meeting led by Al-Marsad to discuss the initial findings of Al-Marsad's research and how to fix the divisions being created by the wind farm project. The activists resolved to build a committee that would educate the

Syrians of the Golan about all of the implications of the project, including its benefits, in an attempt to develop a more informed local voice on the issue.

The committee created by these activists has held numerous meetings with the author of this report, experts on relevant issues, individuals involved in the project directly, and the Syrian community at large. Through these meetings, the committee has developed a rounded perception of the project and its implications in the area. At the time of this report's publication, the committee continues to hold open, public meetings. To date, an overwhelming consensus has been seen among the Syrians of the Golan: wind farms are not welcome here.

The following report seeks to highlight the implications of Energix's wind energy project and its impacts on the Syrian community. The report emphasizes how wind energy development in the Golan, especially through this new project, violates inherent human rights, international law, and the core principles of corporate social responsibility.

Although the report focuses on one specific project, it identifies many of the common characteristics of settlement businesses in the Golan, which violate international law and harm the native community.

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## INTRODUCTION

For decades, Israel has sought ways to cultivate occupied land so as to link the land to itself and cement its occupation.<sup>i</sup> In advancing this goal, Israel has prioritized developing natural resource-based industries in occupied regions because such industries are physically embedded in the land. This is why Israel, since 2013, has scoured the occupied Syrian Golan ('Golan') for oil.<sup>ii</sup> Now, Israel has turned toward a new opportunity to strengthen its hold on the Golan: wind farms.

In 2011, Israel's government approved a self-imposed quota for 800 megawatts ('MW') of its electricity to be provided through wind energy.<sup>iii</sup> This quota was revised to 730MW in 2014.<sup>iv</sup> In 2015, after signing the Paris Agreement, Israel announced that it aimed to have 10 percent of the country's energy produced from renewable sources, including wind farms, by 2020 and 17 percent by 2030.<sup>v</sup> Today, only about two and a half percent of Israel's energy comes from renewable sources,<sup>vi</sup>

i I. Conway & N. Brik, *Selling Settlements: The Occupied Golan's Settlement Industries*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 3-4, 8; J. Maloney, M. Stewart & N. Tuohy, *From Settlement to Shelf: The Economic Occupation of the Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 69-76.

ii G. Fassina, *Drilling for Oil: Israeli Oil Exploration in the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 91-101.

iii S. Udasin, "Israel's Wind Industry is Blowing in a Positive Direction Despite the Challenges" in: *The Jerusalem Post* (30 October 2015), <https://www.jpost.com/Business-and-Innovation/Environment/Israels-wind-industry-is-blowing-in-a-positive-direction-despite-the-challenges-430541>.

iv S. Udasin, "Israel's Wind Industry is Blowing in a Positive Direction Despite the Challenges" in: *The Jerusalem Post* (30 October 2015), <https://www.jpost.com/Business-and-Innovation/Environment/Israels-wind-industry-is-blowing-in-a-positive-direction-despite-the-challenges-430541>.

v "On a Cloudless Day, Israel Breaks its Solar Power Production Record" in: *Times of Israel* (19 March 2018), <https://www.timesofisrael.com/on-a-cloudless-day-israel-breaks-its-solar-power-production-record/>.

vi "On a Cloudless Day, Israel Breaks its Solar Power Production Record" in: *Times of Israel* (19 March 2018), <https://www.timesofisrael.com/on-a-cloudless-day-israel-breaks-its-solar-power-production-record/>.

and Israel's three active wind farms only produce about 27 MW of electricity annually.<sup>vii</sup>

This environment of increased need for, but lack of, renewable energy has generated dozens of solar and wind energy initiatives across Israel and the Golan.<sup>viii</sup> In 2017, there were as many as 26 wind farm projects in some phase of development in Israel.<sup>ix</sup> Almost half of these projects were located in the Golan alone, where at least 11 plans proposed to build almost 200 wind turbines.<sup>x</sup> Three of these projects are now in the final phases of Israel's regulatory process.<sup>xi</sup> These three projects would account for over 120 turbines across thousands of dunams of occupied land.<sup>xii</sup>

The following report discusses Israel's newest attempt to durably tie itself to the Golan by manipulating wind energy production through a specific project in the Golan, Energix Renewable Energies Ltd.'s ('Energix') Clean Wind Energy Project ('Project').<sup>xiii</sup> The Project is exceptional for two reasons: (1) it will be executed on property included within the five percent<sup>xiv</sup> of land that native Syrians have retained since Israel's mass expropriation of the Golan; and (2) it has blatantly involved the Israeli state in egregiously violating standards of corporate social responsibility and international law. The Project reveals the assortment of strategies Israel, as an occupying state, and private companies are employing to solidify Israel's occupation in the Golan and how such strategies are inappropriate and illegal.

israel-breaks-its-solar-power-production-record/.

vii S. Gorodeisky, "Greens Delay Israel's Wind Energy Program" in: *Globes* (23 January 2018), <https://en.globes.co.il/en/article-greens-delay-israels-wind-energy-program-1001220783>; [https://www.thewindpower.net/country\\_windfarms\\_en\\_60\\_israel.php](https://www.thewindpower.net/country_windfarms_en_60_israel.php) (last visited 9 December 2018).

viii Annex II.

ix E. Becker, *Operation of Wind Turbines and Health and Environmental Considerations: A Comparative Perspective*, Knesset Research and Information Center (2017), p. 39-41.

x Annex II.

xi Annex II.

xii Annex II.

xiii *Quarterly Report for the Period Ended on March 31, 2018*, Energix Renewable Energies Ltd. (2018), p. 10; <http://www.energix-group.com/The-Company/> (last visited 23/11/2018).

xiv Dr. N. Brik, *Building Up: Housing and Planning Policies in the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 106.



This report is divided into four parts and begins by briefly outlining the Project. Next, it discusses the Project's impact on the native Syrian community in the Golan. The report then analyzes the corporate social responsibility infractions apparent in how Energix has carried out the Project. Finally, the report shows how Israel and Energix, through the Project, are violating international law. This report concludes that Israel and Energix, together, are damaging the native Syrian community, violating numerous international standards on business responsibility, and egregiously defying international law.



2017 Map of the Project. Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017), p. 17.

## THE CLEAN WIND ENERGY PROJECT

Energix is incorporated in Israel and is a public company whose shares are traded on the Tel Aviv Securities Exchange.<sup>i</sup> Energix is controlled by Alony Hetz, an Israeli incorporated real estate holdings firm, also traded on the Tel Aviv Securities Exchange.<sup>ii</sup> This, in combination with Israel's occupation of and claim of sovereignty over the Golan, means that Israel will regulate every aspect of the Project.<sup>iii</sup>

Energix is pursuing the Project as a National Infrastructure Plan ('NIP'), which means the government is prioritizing the plan in its regulatory process.<sup>iv</sup> As of the publication of this report, Energix is in the final stages of getting its plan approved by regulators.<sup>v</sup> Energix claims the Project has already received full approval from the Israeli army.<sup>vi</sup> However, this is false as the Israeli army has unambiguously stated that it has not yet cleared the Project.<sup>vii</sup> In addition to the all important permission of the army, Energix still needs approval from other branches of the government and the Israeli Electric Company ('IEC'), Israel's state owned and controlled energy provider.<sup>viii</sup>

<sup>i</sup> *Quarterly Report for the Period Ended on March 31, 2018*, Energix Renewable Energies Ltd. (2018), p. 1.

<sup>ii</sup> *2017 Periodic Report*, Alony-Hetz (2017), p. 4-6.

<sup>iii</sup> *Quarterly Report for the Period Ended on March 31, 2018*, Energix Renewable Energies Ltd. (2018), p. 39; Interview with Nabi Halabi on 1 October 2018 (Nabi was one of the main individuals involved in an attempt to create a locally owned and operated wind energy project in 2014 and currently is an activist against the Project); Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

<sup>iv</sup> *Periodic Report for 2017*, Energix Renewable Energies Ltd. (2017), p. 44.

<sup>v</sup> *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 98-156; *Meeting Minutes of the National Committee for the Planning and Construction of National Infrastructure: Number 12/2018*, State of Israel Ministry of Finance (14 August 2018), p. 16.

<sup>vi</sup> *2017 Periodic Report*, Alony-Hetz (2017), p. 68; Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.

<sup>vii</sup> *Meeting Minutes of the National Committee for the Planning and Construction of National Infrastructure: Number 12/2018*, State of Israel Ministry of Finance (14 August 2018), p. 15-16.

<sup>viii</sup> *2017 Periodic Report*, Alony-Hetz (2017), p. 68.

Energix has been advancing the Project aggressively since 2013,<sup>i</sup> after it acquired rights to the plan from another company that had been developing it since 2010.<sup>ii</sup> The Project proposes to build at least 52 wind turbines near the remaining Syrian villages of Majdal Shams, Mas'ada, and Ein Qiniya.<sup>iii</sup> The Project will be built in two locations: (1) Rabenah, which is a little over one kilometer southwest of Mas'ada and south of Ein Qiniya; and (2) S'heita, which is in the center of Syrian agricultural lands about one and a half kilometers southeast of Majdal Shams and less than one kilometer east of Ram Lake.<sup>iv</sup> The plan will generate 152 MW of energy annually, which will make the Project the largest wind farm, in terms of production, supplying Israel's power grid.<sup>v</sup> The Project's energy will be sold directly to only one customer, the IEC,<sup>vi</sup> and will produce an estimated NIS 150 to 160 million<sup>vii</sup> in revenue each year.<sup>viii</sup>

Energix has not specified the exact turbine model it will use for the Project but claims that the turbines will incorporate the newest technology and measure about 180 meters in height each (the equivalent of an approximately 64 story building).<sup>ix</sup> Smaller turbines weigh around 330 tons<sup>x</sup> and are anchored in platforms composed of about 1,100 tons of concrete and steel rebar.<sup>xi</sup> The foundations of a turbine span about nine to 15 meters across and need to be rooted two to nine meters deep into the ground.<sup>xii</sup>

Energix claims that, after construction, each turbine will only occupy about

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- i *Energix Renewable Energies LTD 2013 Financial Report*, Energix Renewable Energies Ltd. (2013), p. 14-15, 37.
- ii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 99; Interview with Energix Project Manager wishing remain anonymous on 5 December 2018.
- iii Annex I; *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 101.
- iv *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017), p. 17.
- v *2017 Periodic Report*, Alony-Hetz (2017), p. 68.
- vi *2017 Periodic Report*, Alony-Hetz (2017), p. 39.
- vii About \$41 million USD to \$44 million USD.
- viii *2017 Periodic Report*, Alony-Hetz (2017), p. 68.
- ix *2017 Periodic Report*, Alony-Hetz (2017), p. 68.
- x <https://www.wind-watch.org/faq-size.php> (last visited 25/11/2018); <http://www.aweo.org/faq.html> (last visited 25/11/2018).
- xi <https://www.wind-watch.org/faq-size.php> (last visited 25/11/2018); <http://www.aweo.org/faq.html> (last visited 25/11/2018); <https://www.youtube.com/watch?v=4C-RHeYagE0> (last visited 05/12/2018).
- xii <https://www.wind-watch.org/faq-size.php> (last visited 25/11/2018).

600 square meters of space.<sup>xiii</sup> However, Energix does not know exactly how it will utilize the land it has contracted for yet,<sup>xiv</sup> so the eventual land impact cannot be certain. Turbines, again presumably smaller than the ones proposed for the Project, can have a blade sweep radius of over 9,500 square meters<sup>xv</sup> and the blades can spin at speeds exceeding 290 kilometers per hour at their tips.<sup>xvi</sup>

The Project is not only expansive in terms of its turbines and the area it will cover, it will also require extensive upgrades to the power grid and the reinforcement of infrastructure and roads to support its construction.<sup>xvii</sup> These 'improvements' will have a large but, to date, unknown impact on the areas of development. Energix, without explanation or support, claims that despite the massive size of the Project, agriculture will be virtually untouched.<sup>xviii</sup>

Energix continues to say that the Project will help the local Syrians of the Golan and provide new avenues for income and industry.<sup>xix</sup> In fact, Energix claims that the Project is generally supported by the community and that the company is working 'hand-in-hand' with Golan residents.<sup>xx</sup> Energix estimates that the plan will create 820 jobs directly.<sup>xxi</sup> The vast majority of these jobs will be short term positions linked to construction,

- xiii Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.
- xiv According to the contract, which Al-Marsad has seen and analyzed first hand, Energix does not need to specify the exact location on the landowner's property that will be used before executing the contract.
- xv <http://www.aweo.org/windmodels.html> (last visited 25/11/2018); <https://www.youtube.com/watch?v=4C-RHeYagE0> (last visited 05/12/2018).
- xvi <http://www.aweo.org/windmodels.html> (last visited 25/11/2018); <https://www.youtube.com/watch?v=4C-RHeYagE0> (last visited 05/12/2018).
- xvii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100-102.
- xviii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 101; Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.
- xix *Periodic Report for 2017*, Energix Renewable Energies Ltd. (2017), p. 17; *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017); *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100-102; Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- xx *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 129; Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.
- xxi *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100.



but about 40 to 50 will span the life of the 20 year-long Project.<sup>i</sup> The plan also proposes to build a visitors' center to attract tourism, which Energix claims will be an additional source of revenue for locals.<sup>ii</sup>

Energix's claim that the Project is supported by local Syrians is patently and unequivocally false. In fact, Energix appears to have paid individuals just to vocalize support for it<sup>iii</sup> and has relied on seriously flawed surveys of the area where the Project will be built to back its claim.<sup>iv</sup> Recently, even Israeli officials questioned the community's actual support for the Project due to the lack of substantive evidence Energix could provide.<sup>v</sup> The reason Energix lacks proof of community support is because it does not have it. After countless interviews with locals regarding the Project, nearly everyone Al-Marsad has spoken with contests it.<sup>vi</sup>

The reality is that the majority of native Syrians are not behind the Project and do not see it as benefiting the area. To the contrary, as discussed below, the Project will harm the local Syrian community while breaching corporate social responsibility standards and flagrantly violating international law.

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- i *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100.
- ii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 101.
- iii Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018 (Emil is a social activist, member of the agriculture associations in the Golan, and a campaigner against the Project); Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.
- iv In a poll conducted to measure public opinion, only 14 percent of those questioned were actually residents from areas that would be impacted by the wind farm. It is unclear how many of these individuals are Syrian residents of the Golan. *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017), p. 1-2.
- v *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 129.
- vi Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 20; Interview with Bahjat Brik on 17 October 2018.



Photo of Ram Lake, Mas'ada, and the location where the Rabenah turbines of the Project will be built (about 800 meters southwest of Mas'ada).



# IMPACT ON THE NATIVE SYRIAN COMMUNITY

Wind energy has numerous beneficial aspects. It is effective, clean, non-exhaustible, and relatively cheap (after high upfront costs).<sup>i</sup> However, wind farms can also be extremely harmful. The Project presents numerous problems that will severely hurt the native Syrians of the Golan as well as threaten wildlife in the region.

## a. SOCIAL IMPACT

Perhaps the most common negative impact of wind farms is the divisions they cause in the communities where they are built. Usually, these divisions come from the fact that wind farms tend to benefit few (landowners and private companies) to the detriment of many (the community at large around the wind farm).

The Project is no exception to the general notion that wind farms can hurt communities. In fact, the Project has, and will continue to, harm the Syrian community in numerous ways: (1) manipulating native Syrians; (2) restricting Syrians' ability to expand their village; (3) repurposing Syrians' land; and (4) advancing the Israelization of the Golan. In the end, the Project will benefit a few individuals, including the 40 or so landowners<sup>ii</sup> who signed contracts with Energix and the 40 to 50 people it will employ long term,<sup>iii</sup> to the detriment of about 27,000 native Syrians.

i <https://www.energy.gov/eere/wind/advantages-and-challenges-wind-energy> (last visited 25/11/2018).

ii Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

iii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100.



Photo of Syrian agricultural lands where the S'heita turbines of the Project will be built.

## 1. MANIPULATING THE COMMUNITY

The Project has taken advantage of and manipulated native Syrians. Energix first entered the northern Golan when a competing, homegrown wind energy program was being researched and developed.<sup>iv</sup> Energix attempted to buy out this project and used questionable tactics in doing so, including threats according to one of the project's creators.<sup>v</sup> Energix failed to buy out this project and, not coincidentally, the plan was destroyed after it was stalled by the Israeli military in 2014.<sup>vi</sup>

To execute the Project, Energix mapped out the Golan, targeted the land plots it desired, and then hired local mediaries with influence to convince Syrian landowners to lease their property to Energix.<sup>vii</sup> As Energix started to push for influence in the community, apple sales (the main Syrian farm crop in the region) dropped due to the closure of export lines between Syria proper and the occupied Golan.<sup>viii</sup> The economic situation for Syrian

iv Interview with Nabi Halabi on 1 October 2018.

v Interview with Nabi Halabi on 1 October 2018.

vi Interview with Nabi Halabi on 1 October 2018.

vii Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018; *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017).

viii Interview with Mas'ada Farmer who cannot be named for legal reasons on 21

farmland owners was getting worse.<sup>i</sup> This created perfect conditions for Energix to offer quick and easy money to landowners to lease their property without being informed of the risks involved with the Project.

To encourage landowners to sign contracts, Energix sought power in the social and religious structures of the native Syrian community, supplying influential figures in Majdal Shams and Mas'ada with varying inducements.<sup>ii</sup> The company established an office in Majdal Shams, the largest Syrian village, and started holding community meetings to disseminate exaggerations, misleading information, and lies<sup>iii</sup> about the perceived benefits of its plan.<sup>iv</sup> Energix also set up a school scholarship fund for the community and sponsors the local youth football team.<sup>v</sup> To be sure it would not face resistance, Energix influenced the media, paying out large advertising sums to local news providers who, not coincidentally, have yet to publish negative stories about the Project.<sup>vi</sup>

Landowners who submitted to Energix's influence were given long contracts they could not easily understand and were told to sign.<sup>vii</sup> What these landowners did not know is that these contracts were filled with disconcerting clauses, including: (1) extremely low payments compared to the revenue that is to be generated by the turbines – local Syrians

October 2018; J. Atkins, "Apples from Israel, Another of the Syrian Civil War's Victims" in: *The Times of Israel* (14 September 2014), <https://www.timesofisrael.com/apples-from-israel-another-of-the-syrian-civil-wars-victims/>.

- i Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.
- ii Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Bahjat Brik on 17 October 2018; *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 129.
- iii *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017).
- iv Interview with Emil Masoud on 3 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.
- v Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- vi Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- vii Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.

are offered about one percent of the revenue generated by the turbines whereas it is said Israelis, for similar projects on their lands, have been offered as much as five times more;<sup>viii</sup> (2) a designation of land rights that allows Energix to destroy and utilize whatever it wants on the leased land; (3) an unqualified right for Energix to acquire encumbrances on the land; (4) a requirement that all landowners who have not yet registered their land with Israel do so; (5) a lack of exclusivity between Energix and landowners that allows Energix an unrestricted ability to pass the rights and obligations of the contract to another company or person; (6) a termination clause that allows Energix to cancel the contract whenever it wishes without allowing landowners to do the same (landowners have a narrow right to cancel the contract within seven years under certain conditions and before construction); and, (7) a ban on landowners sharing any non-public information about their interactions with Energix.<sup>ix</sup>

The contract may not even be valid on its face because it does not possess a mutual obligation on Energix's part, according to an experience lawyer who inspected the contract.<sup>x</sup> One set of farmers who questioned the initial contract through legal counsel were able to get 18 personal changes made to it after initial conversations with Energix.<sup>xi</sup> These 18 changes were left off contracts that were signed by other landowners who did not have access to legal counsel.<sup>xii</sup>

When some landowners initially refused to sign contracts, Energix and its mediaries applied prompt and aggressive pressure to force landowners to sign.<sup>xiii</sup> Energix and its mediaries harassed landowners who did not agree

- viii Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with Dr. Ofer Megged on 14 October 2018.
- ix Al-Marsad has seen and analyzed the contract first hand. Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.
- x Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- xi Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.
- xii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.
- xiii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Bahjat Brik on 17 October 2018.

to their terms with phone calls and house visits.<sup>i</sup> When these conversations failed, it appears Energix's mediaries encouraged landowners who had signed contracts to confront those who did not.<sup>ii</sup> When all else failed, Energix made direct bribes, telling landowners that if they agreed to sign the contract and keep quiet, Energix would make a large, one time payment to them.<sup>iii</sup> One farmer who says he was confronted with such a deal claims Energix was willing to pay him tens of thousands of United States Dollars.<sup>iv</sup>

To date, Energix claims that it has 200 land agreements for the creation of the Project;<sup>v</sup> however, local landowners estimate that it cannot have, and would not need, more than 40.<sup>vi</sup> Energix has presented that it has wide support, including from Syrian agricultural cooperatives,<sup>vii</sup> but this is not true. Many of the landowners that have signed the contracts have already voiced their displeasure with Energix, stating they were misled into signing contracts, and have shown a desire to vacate the agreements.<sup>viii</sup> Despite concerns from community, Energix has shown no signs of stopping its manipulative tactics or halting the Project. In fact, Energix is ramping up its pressure by aggressively targeting those who have expressed concern about signing the contracts, even threatening them with lawsuits.<sup>ix</sup>

i Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.

ii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.

iii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Bahjat Brik on 17 October 2018.

iv Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.

v *Periodic Report for 2017*, Energix Renewable Energies Ltd. (2017), p. 17.

vi Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

vii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 102.

viii Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.

ix Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018.



Syrian agricultural lands between Majdal Shams and Mas'ada in the area where the S'heita turbines of the Project will be built.



## 2. RESTRICTING VILLAGE EXPANSION

The Project, because of where it will be built, will create a new Israeli industrial wall stopping the expansion of the Syrian villages.<sup>i</sup> That is, the turbines will be located so close to Mas'ada, Ein Qiniya, and Majdal Shams that the future expansion of these villages will be extremely restricted.<sup>ii</sup> The boundaries enforced by the proposed wind farm are so severe that even Israeli government officials acknowledge that the Project may cause the Syrian villages huge difficulties in the future as they grow.<sup>iii</sup>

In fact, one Israeli official, Amos Rudin, who led the Israeli Local Planning Committee in the northern Golan, was forced out of his position, after 25 years of service, because of his staunch opposition to the Project due to its restrictions on village expansion.<sup>iv</sup> Rudin, who should have been consulted on the Project because of his position in the government, was initially not told about the Project at all.<sup>v</sup> When Rudin did learn about the Project, he contested it because he concluded it would limit the expansion of Majdal Shams and Mas'ada as well as destroy a tourism development near Mas'ada.<sup>vi</sup> When Energix heard about this, it visited Rudin and even threatened him.<sup>vii</sup> When this failed, at least one Israeli government official visited Rudin.<sup>viii</sup> These meetings seemingly took place to silence Rudin and force him to retract his position against the Project.<sup>ix</sup> Rudin refused to rescind his opposition due to his strong belief that the Project would hurt native Syrians.<sup>x</sup> Ultimately, the government declined to renew Rudin's employment contract, forcing him out of his job and ending his 25 years of government work.<sup>xi</sup>

It is abundantly clear that in the eyes of experts, including Israeli experts,

i *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 108-109; Interview with Bahjat Brik on 17 October 2018.

ii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 108-109.

iii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 108-109.

iv Interview with Amos Rudin on 5 December 2018.

v Interview with Amos Rudin on 5 December 2018.

vi Interview with Amos Rudin on 5 December 2018.

vii Interview with Amos Rudin on 5 December 2018.

viii Interview with Amos Rudin on 5 December 2018.

ix Interview with Amos Rudin on 5 December 2018.

x Interview with Amos Rudin on 5 December 2018.

xi Interview with Amos Rudin on 5 December 2018.

the Project will restrict Syrian village expansion. This will further box in the Syrian communities and stymie their already constrained<sup>xii</sup> ability to grow.

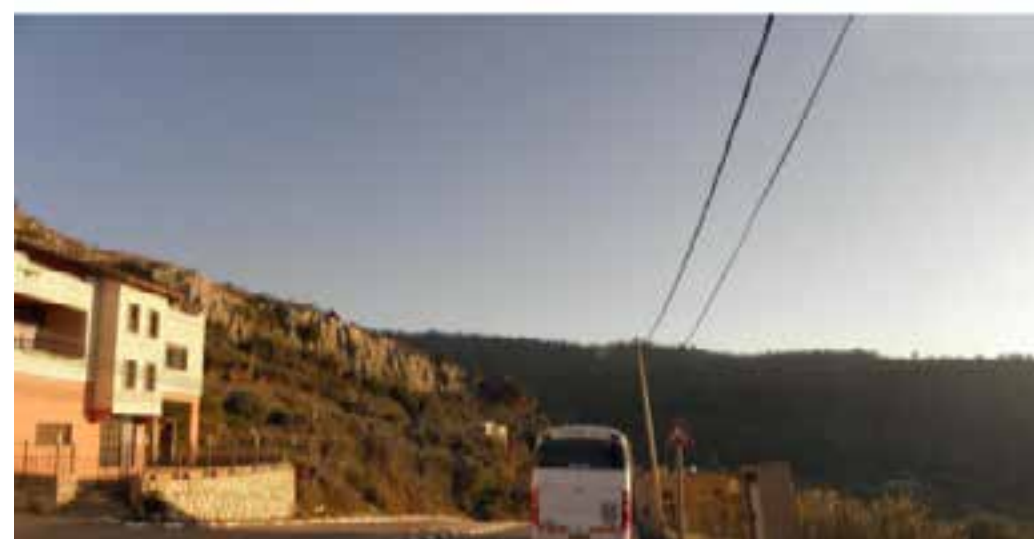


Photo of the potential Rabenah site of the Project from Ein Qiniya after and before the turbines are built. Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017).

xii Dr. N. Brik, *Building Up: Housing and Planning Policies in the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 106-115.



### 3. REPURPOSING SYRIAN LAND

The Project will markedly repurpose and destroy Syrian agricultural land. Since the beginning of Israel's occupation, Syrian landowners have consistently faced oppressive regulations and restrictions that have severely suffocated their agricultural industry.<sup>i</sup> Despite these policies, native Syrians have been able to sustain their agricultural roots to an extent. The Project is a massive construction initiative. It will require the creation of new, intrusive roads and the clearing of land on the farms where individual turbines will be built.<sup>ii</sup> Once the turbines are built, it will be harder to cultivate the land in the direct vicinity of the turbines and there are risks the turbines will destroy the fertility of the land.<sup>iii</sup> Combined, these factors will further restrict Syrian landowners' abilities to utilize their property and destroy the agricultural industry in the area.

Energix even acknowledges that the Project will repurpose Syrians' land to an extent, claiming that the wind farm will bring a new industry to the area.<sup>iv</sup> This industry, according to Energix, is more sustainable and profitable.<sup>v</sup> In this way, Energix does not shy away from the fact that it intends on altering the usage of Syrians' land. What Energix does not openly admit is that it is creating this new business on the backs of Syrian landowners who have long cultivated and lived off the land as farmers, paying them dismal amounts for the use of their property to generate huge profits for itself. This land repurposing could prove catastrophic to the Syrians' already dwindling agricultural industry.

i J. Maloney, M. Stewart & N. Tuohy-Hemill, *From Settlement to Shelf – the Economic Occupation of the Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), pg. 70-73.

ii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 101.

iii L. Linowes, "The Incompatibility of Wind and Crop 'Farming'" in: *Master Resource* (1 July 2013), <https://www.masterresource.org/linowes-lisa/incompatibility-wind-crop-farming/>; "Wind Farms Lift the Temperature in their Region" in: *Phys.org* (30 April 2012), <https://phys.org/news/2012-04-farms-temperature-region.html>; P. Patel, "Wind Farms May Warm Local Land While Fighting Global Warming" in: *Anthropocene* (11 October 2018), <http://www.anthropocenemagazine.org/2018/10/57873/>.

iv Interview with Energix Project Manager wishing remain anonymous on 5 December 2018.

v Interview with Energix Project Manager wishing remain anonymous on 5 December 2018.



Photo of the potential S'heita site of the Project after and before the turbines are built. Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017).

### 4. CONTRIBUTING TO ISRAELIZATION

The Project will contribute to the Israelization of the Golan. The Israeli government is advancing the Project to benefit itself. Israel's state support is publically evidenced by the fact that the Project has been designated a NIP, which allows it to accelerate through the government regulatory process. Israel, however, also maintains non-public support for the Project, which is more concerning. Rudin made it clear that Israel seems to be engaged in clandestine and possibly corrupt practices to support the Project directly.<sup>vi</sup> Rudin identified at least one meeting between a high

vi Interview with Amos Rudin on 5 December 2018.

ranking Israeli government official and a Syrian religious leader where the Project was privately discussed.<sup>i</sup> Rudin identifies other similar meetings as well and claims the government's direct support for and involvement in advancing the Project are unquestionable.<sup>ii</sup>

Many local Syrians speculate that Israel is supporting the Project because it will entrench Israel's influence in the Golan.<sup>iii</sup> The Project will: (1) support Israel's renewable energy plan (in fact, it will cover over 20 percent of Israel's renewable wind energy goals on its own); (2) exclusively supply Israel's main power grid; (3) force unregistered landowners to register their land with Israeli authorities; and (4) utilize Israeli licensing regulations and laws, validating Israel's authority. When confronted about concerns for international legal violations in following Israeli law and ignoring Syrian ownership of the Golan, Energix responded simply, 'no comment.'<sup>iv</sup>

The Project also undercuts the potential for a future peace deal in the Golan. One influential peace plan for the Golan that was being advanced prior to the Syrian conflict included a shared wind energy project.<sup>v</sup> The proposed peace plan embraced the creation of wind farms controlled by both Syria and Israel, jointly, in the Golan.<sup>vi</sup> Israel's steps to unilaterally advance and exclusively gain from energy plans in the region completely destroy possibilities for peace like those once proposed before the Syrian conflict. Israel necessarily sees the utility of the Project in progressing its attempts to deeply link itself to the Golan for political gain, similar to its other industries in the region,<sup>vii</sup> and supports the plan for these reasons.<sup>viii</sup>

All of this has ruptured the Syrian community. Landowners and locals,

i Interview with Amos Rudin on 5 December 2018.

ii Interview with Amos Rudin on 5 December 2018.

iii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018.

iv Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.

v Y. Greenfield-Gilat, *A Renewable Energy Peace Park in the Golan as a Framework to an Israeli-Syrian Agreement*, United States Institute of Peace (2009), p. 2.

vi Y. Greenfield-Gilat, *A Renewable Energy Peace Park in the Golan as a Framework to an Israeli-Syrian Agreement*, United States Institute of Peace (2009), p. 5-6, 9-10.

vii I. Cowey & Dr. N. Brik, *Selling Settlements: The Occupied Golan's Settlement Industries*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018).

viii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018.

with the help of Al-Marsad, are coming together to learn more about the Project. However, without more community engagement, the Project poses an immediate and substantial threat to the natives of the Golan.



Majdal Shams youth football team jersey with Energix sponsorship.



## b. HEALTH AND WILDLIFE IMPACTS

Wind farms come with negative consequences that, if left unmitigated, can cause serious harm to people and wildlife in surrounding areas. The Project has not sought to mitigate these harms, which will result in negative effects on the local population.

Perhaps the Project's most concerning potential health problem for civilians is infrasound. Infrasound is low frequency sound waves below the audible threshold that have an impact on humans.<sup>i</sup> Infrasound negatively impacts about one in every three people and causes troubling health effects similar to motion sickness, such as headaches, dizziness, and nausea.<sup>ii</sup> Though the science differs, under optimal atmospheric and topographic conditions (not necessarily rare in nature), infrasound may propagate several kilometers away from wind farms before being attenuated to an insignificant level.<sup>iii</sup> The Project proposes to build approximately 52 wind turbines, some of which will be within two kilometers of three Syrian villages.<sup>iv</sup> Thus, there is an overwhelming possibility that infrasound from the Project will have a negative impact on a large number of Syrians living and working near the wind farm.

Second, wind farms can cause noise disturbances depending on how far away one is from a turbine.<sup>v</sup> The Project does not appear to have plans to build too close to main housing areas, which will avoid sound disturbances on a large scale. However, in the farmland directly around the turbines, where much of the local population works and engages in recreational activities, there will certainly be incessant sound disturbances.

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- i T. Evans, J. Cooper & V. Lenchine, *Infrasound Levels Near Windfarms and in Other Environments*, Australian Environmental Protection Authority & Resonate Acoustics (2013), p. 2; Interview with Dr. Ofer Megged on 14 October 2018.
- ii T. Burt, *Sick Building Syndrome: Acoustic Aspects*, Indoor Built Environment (1996), p. 52.
- iii Infrasound has been measured many kilometers away from wind farms in certain locations. K. Hansen, C. Hansen & B. Zajamsek, *Identification of Low Frequency Wind Turbine Noise Using Secondary Windscreens of Various Geometries*, Noise Control Engineering Journal (2014).
- iv *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017), p. 17; *2017 Periodic Report*, Alony-Hetz (2017), p. 68.
- v L. Gray, "Wind Farms Can Cause Noise Problems Finds Study" in: *The Telegraph* (28 January 2010), <https://www.telegraph.co.uk/news/earth/earthnews/7085086/Wind-farms-can-cause-noise-problems-finds-study.html>; T. Kellner, "How Loud is a Wind Turbine" in: *GE Reports* (2 August 2014), <https://www.ge.com/reports/post/92442325225/how-loud-is-a-wind-turbine/>.

Third, wind farms are known to cause 'flickering.'<sup>vi</sup> This occurs when the sun shines through the spinning blades of the turbine, causing flashing or blinking.<sup>vii</sup> Even minimal exposure to flickering can be annoying and harmful, especially for individuals prone to epilepsy,<sup>viii</sup> but the Project will incorporate new, larger rotor blades that, based on their location, could cause up to 1 hour of flickering per day at certain times in some residential locations.<sup>ix</sup> This will be problematic and harmful to the populations living around the Project, including much of Mas'ada and part of Ein Qiniya (during the winter). In fact, flickering has been one of the Israeli government's largest contentions with the plan.<sup>x</sup>

Finally, in addition to human impacts, wind farms endanger wildlife.<sup>xi</sup> In the Golan, there is specific concern for native and migrating bird populations.<sup>xii</sup> Cranes, vultures, eagles, falcons, and bats are all in danger in the Golan.<sup>xiii</sup>

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- vi J. Ryber et al., *The Effects of Wind Power on Human Interests*, Swedish Environmental Protection Agency (2013), p. 33; Interview with Dr. Ofer Megged on 14 October 2018.
- vii Interview with Dr. Ofer Megged on 14 October 2018; *Environmental Impacts of Wind-Energy Projects*, National Research Council of the National Academies (2007), p. 160-161; L. Gray, "Shadow Flicker: Rotating Blades Can Cause Headaches" in: *The Telegraph* (17 March 2011), <https://www.telegraph.co.uk/news/earth/earthnews/8386273/Shadow-flicker-rotating-blades-can-cause-headaches.html>.
- viii *Environmental Impacts of Wind-Energy Projects*, National Research Council of the National Academies (2007), p. 161; P. Schworm & D. Filipov, "Flickering Shadows From Wind Turbines Draw Complaints" in: *the Boston Globe* (5 April 2013), <https://www.bostonglobe.com/metro/2013/04/04/turbine-flicker-effect-draws-complaints/UKgf7nOwMHm8CWAAtZ47V5L/story.html>; L. Gray, "Shadow Flicker: Rotating Blades Can Cause Headaches" in: *The Telegraph* (17 March 2011), <https://www.telegraph.co.uk/news/earth/earthnews/8386273/Shadow-flicker-rotating-blades-can-cause-headaches.html>.
- ix Interview with Dr. Ofer Megged on 14 October 2018.
- x *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 103.
- xi Dr. E. Arnett et al., *Impacts of Wind Energy Facilities on Wildlife and Wildlife Habitat*, The Wildlife Society (2007); B. Wallheimer, "Wind Turbines Killing More than Just Local Birds" in: *Science Daily* (29 September 2016), <https://www.sciencedaily.com/releases/2016/09/160929143808.htm>; M. Mutchins, "Wind Energy and Birds FAQ – Part 1: Understanding the Threats" in: *BirdCalls* (8 April 2017), <https://abcbirds.org/wind-energy-threatens-birds/>.
- xii S. Gorodeisky, "Greens Delay Israel's Wind Energy Program" in: *Globes* (23 January 2018), <https://en.globes.co.il/en/article-greens-delay-israels-wind-energy-program-1001220783>; Interview with Dr. Ofer Megged on 14 October 2018.
- xiii S. Gorodeisky, "Greens Delay Israel's Wind Energy Program" in: *Globes* (23 January 2018), <https://en.globes.co.il/en/article-greens-delay-israels-wind-energy-program-1001220783>; Interview with Dr. Ofer Megged on 14 October 2018.

Studies have shown that wind turbines in Israel actually kill more birds than expected (17 per turbine per year at Ramat Sirin farm and 23 per turbine per year at Gilboa farm).<sup>i</sup> This has caused concern for projects throughout the Golan and Israel where environmental groups and communities have come together to challenge wind farm development.<sup>ii</sup> There are additional concerns that wind farms may damage wildlife at their structural foundations as well by disturbing natural habitats; however, much less research has been done on this issue.<sup>iii</sup>

The Project, especially with its dominating size, will undoubtedly have negative health impacts on humans and animals alike across the Golan.



Birds flying with wind turbines. M. Nichols, How to Prevent Birds from Running into Operating Wind Turbines, Greentumble (2 May 2018), <https://greentumble.com/how-to-prevent-birds-from-running-into-operating-wind-turbines>.

- i Z. Rinat, “Wind Turbines in Israel Kill Many More Birds, Bats than Expected” in *Haaretz* (20 December 2017), <https://www.haaretz.com/israel-news/wind-turbines-in-israel-kill-many-more-birds-bats-than-expected-1.5629170>.
- ii Interview with Dr. Ofer Megged on 14 October 2018; S. Udasin, “Israeli Vulture Population on the Rise” in: *the Jerusalem Post* (24 July 2017), <https://www.jpost.com/Israel-News/Israeli-vulture-population-on-the-rise-500603>; Z. Rinat, “Wind Turbines in Israel Kill Many More Birds, Bats than Expected” in: *Haaretz* (20 December 2017), <https://www.haaretz.com/israel-news/wind-turbines-in-israel-kill-many-more-birds-bats-than-expected-1.5629170>; “Israel Cancels Wind Turbine Project to Spare a Rare Falcon” in: *Jewish Press* (26 November 2017), <http://www.jewishpress.com/news/politics/israel-cancels-wind-turbines-project-to-spare-a-rare-falcon/2017/11/26/>; S. Gorodeisky, “Greens Delay Israel’s Wind Energy Program” in: *Globes* (23 January 2018), <https://en.globes.co.il/en/article-greens-delay-israels-wind-energy-program-1001220783>.
- iii Dr. E. Arnett et al., *Impacts of Wind Energy Facilities on Wildlife and Wildlife Habitat*, The Wildlife Society (2007), p. 26-27; Interview with Dr. Ofer Megged on 14 October 2018.

## ENERGIX’S CORPORATE SOCIAL RESPONSIBILITY INFRACTIONS

Energix, in advancing the Project, is flouting every core tenant of corporate social responsibility (‘CSR’). CSR is the principle that responsible business actions, economic foresight, and positive self-regulation that considers social and environmental impacts in corporate decision making lead to positive community and business growth.<sup>iv</sup> More and more, CSR is becoming an essential aspect of effective corporate practice.<sup>v</sup>

Human rights standards have embedded themselves in CSR through numerous international initiatives. Chief among these initiatives is the United Nations Global Compact (‘Compact’).<sup>vi</sup> The Compact states that ‘[b]usinesses should support and respect the protection of internationally proclaimed human rights; and make sure that they are not complicit in human rights abuses.’<sup>vii</sup> The Compact gave way, in 2011, to the more comprehensive Guiding Principles for Business and Human Rights (‘Guiding Principles’).<sup>viii</sup> The Guiding Principles too call on corporations to uphold human rights and address the adverse impacts of their activities on human rights.<sup>ix</sup>

Supplemental documents help reinforce these United Nations (‘U.N.’)

- iv M. Doucin, *Corporate Social Responsibility: Private Regulation is Not Enough*, International Finance Corporation (2011), p. 8.
- v R. Robins, “Does Corporate Social Responsibility Increase Profits?” in: *Business Ethics: The Magazine of Corporate Responsibility* (5 May 2015), <http://businessethics.com/2015/05/05/does-corporate-social-responsibility-increase-profits/>.
- vi <https://www.unglobalcompact.org/what-is-gc/mission/principles> (last visited 26/11/2018).
- vii <https://www.unglobalcompact.org/what-is-gc/mission/principles> (last visited 26/11/2018).
- viii *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” framework*, United Nations (2011).
- ix *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” framework*, United Nations (2011), p. 13.



directives. Perhaps the oldest set of principles espousing CSR best practices, first circulated in 1976, come from the Organization for Economic Co-Operation and Development's ('OECD') Guidelines for Multinational Enterprises ('Guidelines').<sup>i</sup> The Guidelines reiterate that businesses must respect the human rights of all persons impacted by their actions.<sup>ii</sup> The Guidelines also have non-discrimination standards and call for fair dealing.<sup>iii</sup> Other regional and intergovernmental documents have reiterated these principles.<sup>iv</sup>

Energix's actions in the Golan have shown the company's complete disregard for, and even hostility toward, CSR. Energix has intentionally attacked the basic human rights of native Syrians in the Golan. They have done this by blatantly discriminating against local Syrians and stealing private property through manipulating and defrauding landowners while engaging in potential corruption.

## a. DISCRIMINATION

Energix has continuously discriminated against native Syrians while advancing the Project. Enshrined in international human rights law, and the U.N.'s and OECD's CSR directives, is the principle of non-discrimination.<sup>v</sup> In fact, non-discrimination is one of the foundational elements of the rule of law and human rights.<sup>vi</sup>

i OECD *Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2008).

ii OECD *Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2008), p. 14, 22.

iii OECD *Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2008), p. 14, 17, 22.

iv J. Lozano & M. Prandi, *Corporate Social Responsibility and Human Rights* in R. Mullerat, *Corporate Social Responsibility: The Corporate Governance of the 21<sup>st</sup> Century* (2015), p. 187.

v United Nations General Assembly, The Universal Declaration of Human Rights, 10 December 1948, G.A. Res. 217A(III), Art. 2, 7; United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, G.A. Res. 2200A (XXI), Art. 2(2); United Nations General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, G.A. Res. 2200A (XXI), Art. 4, 20(2); United Nations General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, G.A. Res. 2106 (XX), Art. 2(1), 5.

vi <https://www.un.org/ruleoflaw/thematic-areas/human-rights/equality-and-non-discrimination/> (last visited 27/11/2018).

The Project, at its core, is discriminatory. The Project is premised on Energix's belief that it can more easily do what it wishes on native Syrians' land and to Syrians. This belief stems from the fact that Syrian communities in the Golan have virtually no government support and face far more economic strife than Israelis due to occupation-based discriminatory policies.<sup>vii</sup> Decades of overtly discriminatory Israeli initiatives used to solidify Israel's occupation have destroyed native Syrians' economic prosperity, especially in the agriculture sector.<sup>viii</sup> This has economically suffocated native Syrians in countless ways,<sup>ix</sup> making the proposition of earning quick cash far more tempting to them than their Israeli counterparts who rejected wind farms on their land. In fact, the Project will only pay out about one percent of its profits to Syrian landowners; whereas, similar plans in Israel or Israeli settlements are said to have proposed to pay out as much as five times more.<sup>x</sup> Thus, building the Project in Syrian villages is calculated to take advantage of the Syrians' economic and legal instability that stems from occupation-based policies that discriminate against their ethnic background and national origin.

Discrimination targeting Syrian land was made even more apparent in a recent Israeli government meeting to advance the Project. During the meeting, fears about whether the plan would invade or impede Israeli controlled property were voiced continuously.<sup>xi</sup> Energix constantly allayed these concerns, insisting that the Project would not affect Israeli controlled territory.<sup>xii</sup> Very little attention was paid to how native Syrians actually view the plan and its potential impacts on their land.

Prior to the Project advancing to its final stages of approval, many Israeli settlements and communities in surrounding areas rejected similar wind

vii Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018.

viii L. Barella, *Uprooted: Struggles of Syrian Farmers in the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 51-63.

ix L. Barella, *Uprooted: Struggles of Syrian Farmers in the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 51-63.

x Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018; Interview with Dr. Ofer Megged on 14 October 2018.

xi *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 102, 130, 132.

xii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 102.

farm projects that were much more reasonably sized.<sup>i</sup> In fact, one Israeli settlement website emphasizes that the Golan's wind farm plans are far from Israeli settlements and that the Project was approved only after Energix moved planned turbines away from the settlement of Nimrod and closer to Syrian villages.<sup>ii</sup> It is evident that Israeli settlements' and Israeli citizens' perspectives and wellbeing are taken into serious consideration for the Project but that the Syrians' perspectives and health are irrelevant.

Energix's discriminatory intent is apparent, but even if no such intent existed, CSR dictates that companies should not support state initiated discriminatory policies that violate international human rights standards.<sup>iii</sup> By executing the Project on native Syrian lands but seeking approval and validity through Israel's regulatory scheme, Energix is supporting the human rights violations embedded in Israel's illegal and discriminatory occupation of the Golan.<sup>iv</sup> When confronted on this, Energix had no response.<sup>v</sup>

Energix's actions reveal that it has targeted the Syrian community because of the systematic discrimination that has economically, politically, and socially marginalized Syrians in the Golan. Energix is also overtly supporting Israel's illegal and discriminatory occupation of the Golan. Energix is therefore directly violating CSR standards on non-discrimination.

i Z. Rinat, "Residents in Northern Israel Campaign Against Plan to Stop Wind Turbines" in: *Haaretz* (7 August 2017), <https://www.haaretz.com/israel-news/residents-in-northern-israel-campaign-against-plan-to-set-up-wind-turbines-1.5440731>; M. Kushnir-Stroumtze, "Residents in the North Do Not Want Wind Turbines Near their Homes" in: *Mynet* (30 January 2018), <http://mynetholon.co.il/%D7%9E%D7%92%D7%96%D7%99%D7%9F/257869>.

ii <https://www.golan.org.il/magazine/july2017/grrenwind/> (last visited 27/11/2018).

iii *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" framework*, United Nations (2011), p. 13; *OECD Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2008), p. 14.

iv United Nations Security Council, 17 December 1981, S.C. Res. 497; Dr. Ray Murphy et al., *Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in the Golan Heights (2018).

v Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.



Energix sign for the company office in Majdal Shams.

## b. UNFAIR DEALINGS AND POTENTIAL CORRUPTION

Energix has further violated CSR principles through its use of fraud, manipulation, unfair dealings and corrupt practices to seize private property from Syrian landowners. The U.N. Declaration of Human Rights states that '[e]veryone has the right to own property' and that 'no one shall be arbitrarily deprived of his property.'<sup>vi</sup> Additional human rights documents reiterate one's right to property and to not be deprived of one's property by unfair or unjust actions.<sup>vii</sup>

vi United Nations General Assembly, The Universal Declaration of Human Rights, 10 December 1948, G.A. Res. 217A(III), Art. 17.

vii United Nations General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, G.A. Res. 2200A (XXI), Art. 4, 20(2), Art. 17; United Nations General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, G.A. Res. 2106 (XX), Art. 5(d) (v); United Nations General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007, G.A. Res. 61/295, Art. 26(1).

CSR principles directly demand fair dealing as well. For instance, the Guidelines call for companies to '[n]ot make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.<sup>i</sup> Additionally, the Guidelines,<sup>ii</sup> along with the Compact,<sup>iii</sup> forbid corruption in all its forms.

Energix has continuously manipulated landowners to steal their property through deception, lies, fraud, and unfair dealings. Many believe Energix has come to the Golan, at least in part, because it felt it could easily take advantage of Syrian landowners.<sup>iv</sup> Energix has succeeded in manipulating and exploiting landowners in numerous ways, including: (1) hiring a set of local mediators with social and religious influence and paying them large sums to vocally support the Project;<sup>v</sup> (2) funneling money to influential social figures to drum up support for the Project;<sup>vi</sup> (3) creating a school scholarship fund in the Syrian villages to improve its image;<sup>vii</sup> (4) telling landowners that it will pay them large lump sums to sign contracts and stop contesting the Project;<sup>viii</sup> (5) injecting money into local media sites for 'advertising' so that the sites will not publish anything negative about the Project;<sup>ix</sup> and, (6) offering farmers quick, easy money to sign contracts that give Energix comprehensive, unfair, and inequitable land rights.<sup>x</sup>

i *OECD Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2000), p. 14, 17-18, 22.

ii *OECD Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development (2000), p. 21.

iii <https://www.unglobalcompact.org/what-is-gc/mission/principles> (last visited 28/11/2018).

iv Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

v Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018.

vi Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

vii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

viii Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Bahjat Brik on 17 October 2018.

ix Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.

x Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Majdal Shams attorney wishing to remain

Energix has done all this while misleadingly presenting the Project as a huge development initiative that will benefit the area,<sup>xi</sup> never acknowledging all the dangers and problems that will come from it. In documents, public meeting statements, and a direct interview, Energix made countless claims that were provably false, including, but certainly not limited to: (1) the Syrian community is behind the Project; (2) the turbines are far enough away from the Syrian villages that they will have no health impacts on the community; (3) the Project will not effect Syrian village expansion; and (4) the Project has Israeli army approval.<sup>xii</sup> Energix has a pervasive problem with propagating falsehoods in order to advance its interests.

All of Energix's practices and deception are calculated to exploit the Syrian community. Energix's sole goal seems to be to create wealth for itself, regardless of its impact on the Golan. In doing this, Energix has invaded individuals' property rights and maliciously, fraudulently sought to enter into unfair deals that are lucrative for Energix at the expense of local Syrians.<sup>xiii</sup>

Energix's dealings in progressing the Project are not simply unfair; they also illustrate potential corruption. Rudin directly identified numerous instances in which the Israeli government and Energix seemed nefariously intertwined.<sup>xiv</sup> For instance, the Project seems to have been initiated through improper channels in the government, which is why Rudin was not, as he should have been, initially notified of the Project.<sup>xv</sup> Another concerning issue is that the state seemed to involve itself directly in trying to advance the Project by discussing it with local religious authorities to ensure their support.<sup>xvi</sup> Israel's acts are so concerning that Rudin, a civil servant in Israel for decades and state loyalist, suggested that Israeli law enforcement should investigate the Project.<sup>xvii</sup> At numerous levels, the government and Energix have been suspiciously partnered in trying to advance the Project,<sup>xviii</sup> leading, at the very least, to an impression of corruption. From a

anonymous on 2 October 2018.

xi *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017); *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100-102.

xii Interview with Energix Project Manager wishing to remain anonymous on 5 December 2018.

xiii Interview with Nabi Halabi on 1 October 2018.

xiv Interview with Amos Rudin on 5 December 2018.

xv Interview with Amos Rudin on 5 December 2018.

xvi Interview with Amos Rudin on 5 December 2018.

xvii Interview with Amos Rudin on 5 December 2018.

xviii Interview with Amos Rudin on 5 December 2018.



CSR perspective, these practices are extremely disturbing.

Energix's actions in the Golan are deeply tainted by inappropriate and unfair business dealings and potential corruption. These acts clearly violate the core principles of CSR and show Energix's blatant disregard for the social and human rights impact of its endeavours.



Golan Heights Wind Farm, the only wind farm in the Golan, near Quneitra. These turbines have a hub height of about 30 meters. The Project's turbines have a hub height of 125 meters.

## ENERGIX'S ECONOMIC OCCUPATION

Energix's wind farm plan violates international law in a variety of ways by supporting Israel's illegal occupation of the Golan. The Project is not unique in its abuses of international law. Instead, it holds characteristics common among settlement businesses in the Golan, all of which violate international law for many of the following reasons.

International law, generally, applies to the Golan regardless of what country claims sovereignty over it. International humanitarian law apply to the Golan because the area is belligerent, Israel, occupied Syrian land.<sup>i</sup> International law, which includes international humanitarian law, is informed by international treaties; state legal customs, policies, and practices; international and domestic jurisprudence; and, resolutions and documents passed by intergovernmental bodies.<sup>ii</sup> These sources serve as the basis for analyzing Israel's and Energix's violations of international law in the Golan.

Energix, in advancing the Project, is following Israeli regulations, seeking Israeli licenses, and attempting to connect its energy production to Israel's main power grid, which provides electricity for the whole country.<sup>iii</sup> Energix is incorporated in Israel and is traded on Israel's main stock exchange.<sup>iv</sup> Energix is advancing its plan as a NIP, which will allow it to use state sponsored tools to complete the Project.<sup>v</sup> The Project seems to have been created in direct response to Israeli government initiatives calling

<sup>i</sup> United Nations Security Council, 17 December 1981, S.C. Res. 497; United Nations General Assembly, The Occupied Syrian Golan, 6 December 2016, G.A. Res. 71/99.

<sup>ii</sup> <https://ihl-databases.icrc.org/customary-ihl/eng/docs/src> (last visited 28/11/2018).

<sup>iii</sup> *Periodic Report for 2017*, Energix Renewable Energies Ltd. (2017), p. 17-18.

<sup>iv</sup> *Quarterly Report for the Period Ended on March 31, 2018*, Energix Renewable Energies Ltd. (2018), p. 1.

<sup>v</sup> *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 96-153.



for increased wind energy production.<sup>i</sup> Most damning, Energix is getting direct and potentially unlawful support and encouragement from Israel to pursue the Project.<sup>ii</sup> Thus, at the very least, Energix is complicit in Israel's occupation of the Golan. More realistically, Energix is a tool for Israel to entrench its occupation in direct violation of international law. Energix's actions and Israel's assistance are inextricably linked for the purposes of analyzing the international legal violations of the Project.

The Project, as an Israeli tool of occupation, defies two main principles of international law: (1) the ban on pillage and the permanent destruction, manipulation, and/or alteration of occupied land; and (2) the right to self-determination of one's land.



Turbine at Golan Heights Wind Farm, the only wind farm in the Golan, near Quneitra. This turbine has a hub height of about 30 meters. The Project's turbines have a hub height of 125 meters.

i *Periodic Report for 2017*, Energix Renewable Energies Ltd. (2017), p. 44; S. Udasin, "Israel's Wind Industry is Blowing in a Positive Direction Despite the Challenges" in: *The Jerusalem Post* (30 October 2015), <https://www.jpost.com/Business-and-Innovation/Environment/Israels-wind-industry-is-blowing-in-a-positive-direction-despite-the-challenges-430541>.

ii Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Amos Rudin on 5 December 2018.

## a. OVERSTEPPING THE ROLE OF USUFRUCT

The Project violates international humanitarian law because it is assisting Israel in overstepping its role as usufruct. The Hague Convention (IV) Respecting the Laws and Customs of War on Land ("Hague Regulations"), at Article 55, holds that an 'occupying state shall be regarded only as administrator and usufructuary.'<sup>iii</sup> This means that a state can acquire possession and enjoy the 'fruits' of occupied territory but cannot acquire ownership.<sup>iv</sup> Moreover, an occupier is obligated to safeguard the capital of occupied territory and cannot decrease its value.<sup>v</sup>

Though international law scholars differ in their interpretation of how far occupiers can go in exploiting natural resources while staying within the bounds of acting as usufruct,<sup>vi</sup> the prominent school of thought definitively outlaws two actions: (1) altering occupied land and/or using it in excess such that the permanent character of the territory is changed;<sup>vii</sup> and (2) using occupied land's resources to benefit an occupier's own state instead of keeping occupied territory distinctly separate.<sup>viii</sup> The Project is contrary to international law because it violates the laws of usufruct.

iii Hague Convention (IV) Respecting the Laws and Customs of War on Land, 18 October 1907, Art. 55.

iv "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: *International Legal Materials*, Vol. 16, No. 3 (1977), p. 736-737; G. Abouali, "Natural Resources under Occupation: The Status of Palestinian Water under International Law" in: *Pace International Law Review*, Vol. 10, Issue 2 (1998), p. 467.

v Y. Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (2009), p. 197.

vi For discussion to the contrary of the views espoused here see: V. Koutroulis, "The Application of International Humanitarian Law and International Human Rights Law in Situation of Prolonged Occupation: Only a Matter of Time?" in: *International Review of the Red Cross*, Vol. 94, Issue 885 (2012), p. 179-186.

vii *Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects* (1997), p. 20-22; "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: *International Legal Materials*, Vol. 16, No. 3 (1977), p. 742-746.

viii J. W. van Gelder and H. Kroes, *UK Economic Links with Israeli Settlements in occupied Palestinian Territory*, Profundo (2009), pg. 4; "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: *International Legal Materials*, Vol. 16, No. 3 (1977), p. 742-746.

## 1. PERMANENT ALTERATION AND DESTRUCTION OF OCCUPIED LAND

The Project violates international law because it will lead to the state sponsored exploitation and pillage of occupied lands in contradiction to the laws of usufruct. Article 55 of the Hague Regulations outlaws the use of occupied territory in excess of the way it was used prior to occupation.<sup>i</sup> Similarly, the Geneva Convention Relative to the Protection of Civilian Persons in Time of War ('Fourth Geneva Convention') marks unlawful, during occupation, the destruction of all property belonging to private persons or public authorities except where it is 'absolutely necessary' for military operations.<sup>ii</sup> Both of these treaties unequivocally outlaw pillage.<sup>iii</sup>

Supplemental international legal documents reiterate that an occupier can only use the resources of an occupied territory responsibly and to meet the essential needs of the local population.<sup>iv</sup> International and domestic legal decisions supplement this. The Israeli High Court of Justice has determined, referring to Palestine, that '[a] territory held under belligerent occupation is not an open field for economic or other exploitation.'<sup>v</sup> Though the Israeli High Court of Justice's decisions are not binding on the Golan because Israel's domestic, civilian courts have no inherent jurisdiction over the region, their novel analysis can be enlightening. The International Court of Justice has ruled similarly to the Israeli High Court of Justice and added that an occupier has the 'obligation' to take measures to prevent private companies from engaging in the plunder and/or exploitation of natural resources in occupied territory.<sup>vi</sup>

- i Hague Convention (IV) Respecting the Laws and Customs of War on Land, 18 October 1907, Art. 55.
- ii Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 75 UNTS 287, 12 August 1949, Art. 53.
- iii Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 75 UNTS 287, 12 August 1949, Art. 33; Hague Convention (IV) Respecting the Laws and Customs of War on Land, 18 October 1907, Art. 47.
- iv Bruges Declaration on the Use of Force, *Institute of International Law*, 2 September 2003; The Laws of War on Land. Oxford, *Institute of International Law*, 9 September 1880, Art. 52.
- v HCJ 393/82, *Jam'iat Iscan Al-Ma'aloun Al-Tha'auniya Al-Mahduda Al-Mauliya, Cooperative Association Legally registered at the Judea and Samaria Area Headquarters v. Commander of the IDF Forces in the Area of Judea and Samaria & Supreme Planning Committee in the Judea and Samaria Area*, 28 December 1983, Para. 13.
- vi General List No. 116, *Case Concerning Armed Activities on the Territory of the*

The building of massive wind turbines in the Golan violates the laws of usufruct by permanently altering and destroying land with no military necessity. First, the Project violates the laws of usufruct because it will permanently change the landscape of the Golan. To build the wind farm, roads will need to be constructed and widened,<sup>vii</sup> land will need to be cleared,<sup>viii</sup> 52 structures the equivalent height of 64 story buildings will be installed, and a new ultra high voltage electric line will be built underground across 30 kilometers of the Golan.<sup>ix</sup> In violation of the laws of usufruct, all this will permanently disfigure the Golan and reshape its entire existence.<sup>x</sup>

Second, the Project violates the laws of usufruct because it will encourage the use of occupied land in ways that exceed the use of the land prior to occupation. State civil codes<sup>xi</sup> and international law scholars<sup>xii</sup> have long held that consuming natural resources within an occupied territory in new or excessive ways constitutes a violation of the laws of usufruct. The Israeli High Court of Justice itself has signaled that the opening of new quarries for mining natural resources in the occupied territory of the West Bank likely violates international humanitarian law.<sup>xiii</sup> Energix's creation of

*Congo (Democratic Republic of the Congo v. Uganda)*, 19 December 2005, Para. 248.

- vii *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 101; Interview with Nabi Halabi on 1 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- viii Interview with Nabi Halabi on 1 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.
- ix *Quarterly Report for the Period Ended on March 31, 2018*, Energix Renewable Energies Ltd. (2018), p. 10; <https://www.youtube.com/watch?v=4C-RHeYagE0> (last visited 05/12/2018).
- x *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 108-109; Interview with Bahjat Brik on 17 October 2018.
- xi French Civil Code, 21 March 1804, Art. 598; Argentina Civil Code, 1 January 1871, Art. 2900; Netherlands Civil Code, 1992, Book 3, Art. 208.
- xii S. Saadoun, "Responsible Business in Occupied Territories" in: *Harvard International Review* (21 June 2016), <http://hir.harvard.edu/article/?a=13429>; "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: *International Legal Materials*, Vol. 16, No. 3 (1977), p. 735-742; Y. Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (2009), p. 213; B. Clagett & O. Johnson, "May Israel as a Belligerent Occupant Lawfully Exploit Previously Unexploited Oil Resources of the Gulf of Suez" in: *The American Journal of International Law*, Vol. 72, No. 3 (1978), p. 576.
- xiii HCJ 2164/09, "Yesh Din" – *Volunteers for Human Rights v. The Commander of*

new wind turbines to harness wind energy, an immovable natural resource unique to the occupied territory, would surely, similarly violate the laws of usufruct because it would manipulate the Golan's resources in novel ways.

Energix being an independent, private company does not negate Israel's culpability under international law and vice versa. Even if Energix was acting wholly independent of Israel, Israel still has a duty to prevent private entities from manipulating, expropriating, and/or pillaging occupied land's resources.<sup>i</sup> The Project violates international humanitarian law by breaching numerous treaties and international and domestic court decisions that require Israel, as occupier, to obey the laws of usufruct by not exploiting or pillaging occupied land.

## 2. BENEFITING ISRAEL TO THE DETRIMENT OF THE GOLAN

The Project further violates international humanitarian law because, to the detriment of the native Syrians, it overwhelmingly benefits Israel. Article 55 of the Hague Regulations and Article 53 of the Fourth Geneva Convention outlaw an occupier using the resources of occupied territory to significantly benefit itself to the detriment of an occupied population or to intentionally link itself to the land.<sup>ii</sup>

International legal decisions have built on this. The Court of Appeal for Singapore, while holding that Japan violated the Hague Regulations by exploiting oil deposits as a belligerent occupier during World War II, stated that Japan's use of the oil for its own 'naval, military and civilian needs' was unlawful.<sup>iii</sup> The Israeli High Court of Justice has stated that when using the resources of an occupied land, benefit to the local population must be taken into consideration and may even be dispositive.<sup>iv</sup> The

- <sup>i</sup> *the IDF Forces in the West Bank et al.*, 26 December 2011, Para. 12.
- <sup>ii</sup> General List No. 116, *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, 19 December 2005, Para. 248.
- <sup>iii</sup> "United States: Department of State Memorandum of Law on Israel's Right to Develop New Oil Fields in Sinai and the Gulf of Suez" in: *International Legal Materials*, Vol. 16, No. 3 (1977), p. 742-746; J. W. van Gelder and H. Kroes, *UK Economic Links with Israeli Settlements in occupied Palestinian Territory*, Profundo (2009), p. 4.
- <sup>iv</sup> Court of Appeal, Singapore, Whyatt, C.J., Mathew, C.J., & Whitton, J, "N.V. De Bataafsche Petroleum Maatschappij & Ors. V. The War Damage Commission" in: *The American Journal of International Law*, Vol. 51, No. 4 (1957), p. 808.
- <sup>v</sup> HCJ 393/82, *Jam'iat Iscan Al-Ma'aloun Al-Tha'auniya Al-Mahduda Al-Mauliya*,

Court has arguably also reiterated that an occupier's changes to the land undertaken simply to benefit itself are unlawful.<sup>v</sup> Again, the Israeli High Court of Justice's decisions are not intrinsically binding on the Golan.

It is evident that the Project is being executed simply to benefit Israel. The Project will be connected to Israel's main power grid through 30 kilometers of newly constructed ultra high voltage cable and its only customer will be the IEC.<sup>vi</sup> The IEC is state-owned and is the largest electricity provider in Israel.<sup>vii</sup> It also administers the country's entire electric system.<sup>viii</sup> Some of the energy sold to the IEC is used to supply electricity to the Golan; however, the overwhelming majority of the electricity the Project produces will be used in Israel and Israeli settlements. Furthermore, all this energy, regardless of where it goes, will be put towards advancing Israel's energy efficiency goals and financially enriching Israeli citizens and businesses.<sup>ix</sup> The Project will also cement Israel's occupation of the Golan and thwart peace efforts that have, in the past, included a mutual energy sharing regime between Israel and Syria.<sup>x</sup>

In fact, as mentioned earlier, for many years the occupied villages of the Golan attempted to create their own energy utility system and even their own wind farm to supply that system.<sup>xi</sup> This homegrown plan was stalled by the Israeli army in 2014, around the same time Energix began

*Cooperative Association Legally registered at the Judea and Samaria Area Headquarters v. Commander of the IDF Forces in the Area of Judea and Samaria & Supreme Planning Committee in the Judea and Samaria Area*, 28 December 1983, Para. 31; HCJ 2164/09, "Yesh Din" – *Volunteers for Human Rights v. The Commander of the IDF Forces in the West Bank et al.*, 26 December 2011, Para. 12.

- <sup>v</sup> HCJ 393/82, *Jam'iat Iscan Al-Ma'aloun Al-Tha'auniya Al-Mahduda Al-Mauliya*, *Cooperative Association Legally registered at the Judea and Samaria Area Headquarters v. Commander of the IDF Forces in the Area of Judea and Samaria & Supreme Planning Committee in the Judea and Samaria Area*, 28 December 1983, Para. 31; HCJ 2164/09, "Yesh Din" – *Volunteers for Human Rights v. The Commander of the IDF Forces in the West Bank et al.*, 26 December 2011, Para. 8, 12.
- <sup>vi</sup> 2017 *Periodic Report*, Alony-Hetz (2017), p. 39.
- <sup>vii</sup> <https://www.iec.co.il/en/aboutus/pages/whatdoestheiecdo.aspx> (28/11/2018).
- <sup>viii</sup> <https://www.iec.co.il/en/aboutus/pages/whatdoestheiecdo.aspx> (28/11/2018).
- <sup>ix</sup> S. Udasin, "Israel's Wind Industry is Blowing in a Positive Direction Despite the Challenges" in: *The Jerusalem Post* (30 October 2015), <https://www.jpost.com/Business-and-Innovation/Environment/Israels-wind-industry-is-blowing-in-a-positive-direction-despite-the-challenges-430541>.
- <sup>x</sup> Y. Greenfield-Gilat, *A Renewable Energy Peace Park in the Golan as a Framework to an Israeli-Syrian Agreement*, United States Institute of Peace (2009), p. 2.
- <sup>xi</sup> Interview with Nabi Halabi on 1 October 2018; Interview with Majdal Shams attorney wishing to remain anonymous on 2 October 2018.



aggressively progressing the Project.<sup>i</sup> The Project is now advancing to final approval and licensing.<sup>ii</sup> Thus, it is clear that not only is Israel supporting the Project to benefit itself, it is doing so, perhaps purposefully, to the direct detriment of the occupied population.

It is true that the Project will generate some income for the local Syrian population through private land contracts and perhaps the use of some Syrian contractors; however, Energix's overall practices have been extremely problematic and show Energix's and Israel's true desire for financial gain at the cost of the local population's prosperity and development. It is abundantly clear, therefore, that the Project violates the laws of usufruct because it overwhelmingly benefits an occupier while harming an occupied population.



Golan Heights Wind Farm, the only wind farm in the Golan, near Quneitra. These turbines have a hub height of about 30 meters. The Project's turbines have a hub height of 125 meters.

i Interview with Nabil Halabi on 1 October 2018; *2014 Financial Report*, Energix Renewable Energies Ltd. (2014), p. 13-16.

ii *Meeting Minutes of the National Committee for the Planning and Construction of National Infrastructure: Number 12/2018*, State of Israel Ministry of Finance (14 August 2018), p. 16.

## b. DESTROYING ECONOMIC SELF DETERMINATION

The Project also violates international law because it rejects Syrian economic self-determination in the Golan. The United Nations Charter explicitly protects all people's self-determination rights.<sup>iii</sup> Supplemental U.N. Resolutions forbid economic imperialism and the unlawful exploitation of natural resources that comes as a consequence of occupation;<sup>iv</sup> instead, favoring a people's right to self-determination and the 'enjoyment of the natural resources' of their territory.<sup>v</sup> The U.N. General Assembly has specifically recognized time and again that the Syrians of the Golan are entitled to claim inalienable rights over their natural resources.<sup>vi</sup>

iii United Nations Charter, 26 June 1945, Chap. 1, Art. 1, Part 2.

iv United Nations General Assembly, Activities of Foreign Economic and Other Interests which are Impeding the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People in Namibia and in all other Territories Under Colonial Domination and Efforts to Eliminate Colonialism, Apartheid and Racial Discrimination in Southern Africa, 24 November 1981, G.A. Res. 36/51; United Nations General Assembly, Activities of Foreign Economic and Other Interests which are Impeding the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People in Namibia and in all other Territories Under Colonial Domination and Efforts to Eliminate Colonialism, Apartheid and Racial Discrimination in Southern Africa, 5 December 1984, G.A. Res. 39/42; United Nations General Assembly, Charter of Economic Rights and Duties of States, 17 December 1985, G.A. Res. 40/182, Art. 5, 16; Y. Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (2009), p. 215.

v United Nations General Assembly, Activities of Foreign Economic and Other Interests which are Impeding the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People in Namibia and in all other Territories Under Colonial Domination and Efforts to Eliminate Colonialism, Apartheid and Racial Discrimination in Southern Africa, 24 November 1981, G.A. Res. 36/51; United Nations General Assembly, Activities of Foreign Economic and Other Interests which are Impeding the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People in Namibia and in all other Territories Under Colonial Domination and Efforts to Eliminate Colonialism, Apartheid and Racial Discrimination in Southern Africa, 5 December 1984, G.A. Res. 39/42.

vi United Nations General Assembly, Permanent Sovereignty of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem, and of the Arab Population in the Occupied Syrian Golan Over their Natural Resources, 28 November 2011, G.A. Res. 66/449; United Nations General Assembly, Permanent Sovereignty of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem, and of the Arab Population in the Occupied Syrian Golan Over their Natural Resources, 9 April 2013, G.A. Res. 67/229; United Nations General Assembly, Permanent Sovereignty of the Palestinian

The self-determination of natural resources has been discussed extensively when addressing Iraq during the Second Gulf War and Western Sahara. In Iraq, the U.N. endorsed the creation of a 'Development Fund' that served as an independent trust to hold the revenue created from the exploitation of natural resources during the U.S. coalition's occupation of the country.<sup>i</sup> The UN 'stress[ed] the right of the Iraqi people freely to determine their own political future and control their own natural resources.'<sup>ii</sup> In addressing Western Sahara, the U.N. concluded that when a state holds power over a territory, that state cannot 'disregard [] the interests and wishes of the people' while accessing or exploiting natural resources.<sup>iii</sup>

The Project violates native Syrians' inherent right to self-determination. The Syrian community is overwhelmingly against the Project, despite the falsehoods Energix attempts to disseminate,<sup>iv</sup> and the creation of wind farms on its land.<sup>v</sup> Even Israeli settlers have shown a lot of resistance to the Project, and plans like it, in the Golan.<sup>vi</sup> Ignoring the sentiment of the Syrians is ignoring the native people's desires in violation of international law.

What is worse is that the Project services an occupier to the direct detriment of an occupied population. Quite the opposite of programs like

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People in the Occupied Palestinian Territory, Including East Jerusalem, and of the Arab Population in the Occupied Syrian Golan Over their Natural Resources, 7 February 2017, G.A. Res. 71/247.

i United Nations Security Council, 22 May 2003, S.C. Res. 1483, Para. 12-14; Y. Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (2009), p. 216; S. Saadoun, "Responsible Business in Occupied Territories" in: *Harvard International Review* (21 June 2016), <http://hir.harvard.edu/article/?a=13429>.

ii United Nations Security Council, 22 May 2003, S.C. Res. 1483, Preamble.

iii United Nations Security Council, Letter Dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, Addressed to the President of the Security Council, 12 February 2002, S.C. Doc. 2002/161, Para. 25.

iv *Text, Plenary Session 12/2018*, State of Israel Ministry of Finance (30 July 2018), p. 100-102; *Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes*, Energix Renewable Energies Ltd. (2017), p. 1-2.

v Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with Bahjat Brik on 17 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018; Interview with Mas'ada Farmer who cannot be named for legal reasons on 21 October 2018.

vi Z. Rinat, "Residents in Northern Israel Campaign Against Plan to Stop Wind Turbines" in: *Haaretz* (7 August 2017), <https://www.haaretz.com/israel-news/residents-in-northern-israel-campaign-against-plan-to-set-up-wind-turbines-1.5440731>; M. Kushnir-Stroumtze, "Residents in the North Do Not Want Wind Turbines Near their Homes" in: *Mynet* (30 January 2018), <http://mynetholon.co.il/%D7%9E%D7%92%D7%96%D7%99%D7%9F/257869>.

the U.N. endorsed Development Fund for Iraq, the Project is made to profit Israel, Israeli civilians, and an Israeli company, not the natives of the region. In places like Western Sahara, actions like this (including the creation of a wind farm) have been condemned and declared unlawful by the international community.<sup>vii</sup>

Energix and Israel have shown blatant disregard for the interests and wishes of the people of the Golan. In fact, Energix and Israel have acted directly against the wishes of the native Syrians and, in doing so, have bullied, manipulated, and harmed the local population.<sup>viii</sup> This amounts to a direct violation of a core principle of international law, the right to self-determination.



Photo of the potential S'heita site of the Project from Majdal Shams after and before the turbines are built. Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017).

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vii [https://www.wsrw.org/files/dated/2016-11-18/mep\\_letter\\_renewable\\_energy\\_18.11.2016.pdf](https://www.wsrw.org/files/dated/2016-11-18/mep_letter_renewable_energy_18.11.2016.pdf) (last visited 28/11/2018); "The Fisheries Agreement Concluded Between the EU and Morocco is Valid in so far as it is Not Applicable to Western Sahara and to its Adjacent Waters" in: *Court of Justice of the European Union* (27 February 2018), <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-02/cp180021en.pdf>.

viii Interview with Nabi Halabi on 1 October 2018; Interview with Emil Masoud on 3 October 2018; Interview with two Mas'ada farmers wishing to remain anonymous on 16 October 2018.

## CONCLUSION

Energix and the Project reflect Israel's new, broader trend to reinforce its physical presence in the Golan. In 2013, Israel gave Afek Oil & Gas a permit to drill for petroleum in the Golan.<sup>i</sup> This, along with countless new wind farm projects and solar power initiatives,<sup>ii</sup> shows Israel's desire to make the Golan its key source of energy in the years to come. It should not be forgotten that Israel has long subsisted off the Golan's water's resources. In fact, the Golan supplies Israel with about a third of the water it consumes annually.<sup>iii</sup> Moving forward, natural resource utilization will not only perpetuate the countless violations of international law Israel is engaged in in the area, but it will also allow Israel to bind itself so deeply to the Golan that future peace agreements will be unachievable.

Through the analysis above, it is clear that Israel and Israeli companies are blatantly targeting the Golan for its natural resources. These businesses and Israel are directly harming native Syrian communities, disregarding established international business practice standards, and violating international law. Al-Marsad calls on the international community to hold Israel accountable for its actions. Additionally, Al-Marsad asks consumers and industrial partners of Energix, Alony Hetz, and other similar companies operating in the Golan, to demand that these companies refrain from their disturbing practices in the area and retract their support for Israel's illegal occupation.

With no end in sight to the occupation of the Golan, Al-Marsad seeks to uphold basic international laws and standards in the region. It therefore rejects and will continue to contest the Project and Energix's actions. It will also continue to facilitate community meetings and discussions to further raise awareness for the Project. Syrians must have the final say in what happens with Syrian natural resources on Syrian land.

i I. Conway & N. Brik, *Selling Settlements: The Occupied Golan's Settlement Industries*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 3.

ii Annex II.

iii K. Kathy, *Water is Life: The Legality and Consequences of Israeli Exploitation of the Water Resources of the Occupied Syrian Golan in: Forgotten Occupation – Life in the Syrian Golan after 50 Year of Israeli Occupation*, Al-Marsad – Arab Human Rights Centre in Golan Heights (2018), p. 119.



# ANNEX I

טורבינות רוח צפון רמת הגולן – מפת התוכנית



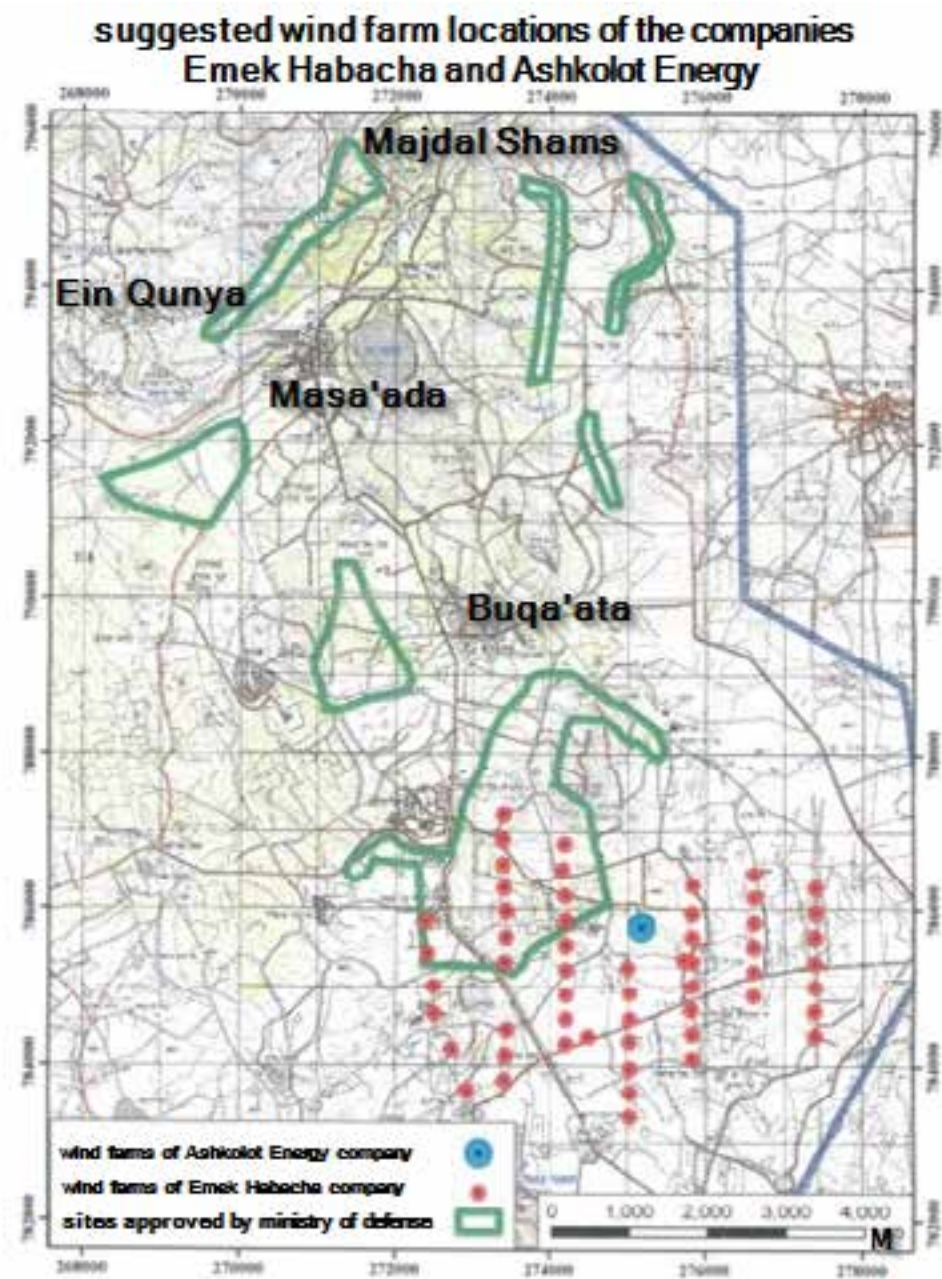
Map of Energix's completed planned wind farm project (2017).

Resource:  
Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017), p. 17.



Map of Energix's planned farms with former proposed turbine locations crossed out.

Resource:  
Wind Turbine Programs: Northern Golan Heights, Survey of Public Attitudes, Energix Renewable Energies Ltd. (2017), p. 25



Locations for proposed wind farm projects south of the Syrian villages in the Golan.  
Prepared by: Dr. Nazeh Brik

Resource:  
<https://www.golan.org.il/files/openareas/crews/vaadat2.ppt>

# ANNEX II

## CHARTS FOR WIND AND SOLAR FARM PROJECTS IN THE OCCUPIED SYRIAN GOLAN

### PROPOSED WIND FARMS IN THE OCCUPIED GOLAN, 2014

Locality- No.	Area Name	Number of Turbines (Estimated)
5+1	Sendyan / Ekesh	40
4-2	Reches Ghassaneyya / H'azaqa	32
6	Har Bne Zfat / Alone Habashan (Tal Abu Qatif)	4
7	Marom Golan	16
8	Tal Faras	7
10+9	Yunatan / Tamar	7
11	Ein Zevan	
12	El Rom / Emek Habacha	49
13	Odem (between Odem and Buqa'ata)	
14	Yaa'r Odem	4
17-15	Har Ram / east of Ram-Lake	19
18	Namrod	

Prepared by: Dr. Nazeh Brik

Resource:

Golan Regional Council, Master Plan of Renewable Energy  
<https://www.golan.org.il/files/hakal/energy.pdf>



<b><u>PROPOSED SOLAR FARMS IN THE OCCUPIED GOLAN, 2014</u></b>	
Locality-No.	Area Name
2-1	Shaa'l (Settlement)
3	Yunatan (Settlement)
7-4	Nahal El -A'l (Settlement)
11-8	East of Road 982
13-12	North East of Mizar (Settlement)
Prepared by: Dr. Nazeh Brik Resource: Golan Regional Council, Master Plan of Renewable Energy <a href="https://www.golan.org.il/files/hakal/energy.pdf">https://www.golan.org.il/files/hakal/energy.pdf</a>	

<b><u>PLANS FOR THE CONSTRUCTION OF WIND FARMS IN THE OCCUPIED GOLAN, DECEMBER 2017</u></b>				
Site Name	Plan-Nr.	Number of Turbines	Mega Watt (MW)	Status of The Plan
Masa'ada	TTL 47	48	144	Approved for publication under sections 78-77
Emek Harohot	TTL 77	65	169	Approved for publication under sections 78-77
Rowah Barasheet	TTL 78	65	130	Published for comments and objections, submitted to the Supreme Court (Bagatz)
Emek Habacha	G/ 18674	40	120	Approved
Ghasaneyya	G/ 15467	7	14	Approved, partial realization
Prepared by: Dr. Nazeh Brik Resource: <a href="http://din-online.info/pdf/kn200.pdf">http://din-online.info/pdf/kn200.pdf</a>				





Energix's Clean Wind Energy Project has brought back to the collective memory of the native Syrian community the tragedy of the displacement of the inhabitants of S'heita village and Israel's practices of restriction, confiscation, intimidation, and manipulation there. The village of S'heita was uprooted by Israeli military order in early 1970 and its population was forcibly displaced. A large part of the land targeted by the proposed wind energy project belongs to the people displaced from S'heita. The community rifts caused by the plan have revived the tragedy of S'heita and the problems that accompanied its population's displacement. These problems continue to this day and float to the surface of every debate on the issue.

This report seeks to highlight the implications of Energix's project and its impacts on the Syrian community. The report emphasizes how wind energy development in the Golan, especially through this new project, violates inherent human rights, international law, and the core principles of corporate social responsibility. Although the report focuses on one specific project, it identifies many of the common characteristics of settlement businesses in the Golan, which violate international law and harm the native community.

**Al-Marsad extends special thanks to MISEREOR  
for supporting its core activities**

