

# LIVING IN ISOLATION

Fenced-off: Paradoxical Spaces  
in the occupied Palestinian territories



# I Series: Living in Isolation

## Fenced-off: Paradoxical Spaces in the occupied Palestinian territories

Places can be paradoxical. Especially in the Palestinian territories. The process of fragmentation of this land resulting from Israel's occupation policies and practices, and the simultaneous establishment and expansion of Israeli illegal settlements and outposts, have generated physical spaces that are as paradoxical and unique as they are real. Two houses in the Palestinian villages of Al Walaja and Beit Ijza represent these spaces, where the occupation fully materializes; enclaves of enclaves, these realities are nevertheless very lively, and if the past stories of the families that have been living within these spaces embody the sufferings and hardships of a life under occupation, their present intentions reflect the Palestinian people's determination and willingness to stay on their own land.

### A "SMALL JAIL"<sup>1</sup> ON DISFIGURED TERRACES: THE VILLAGE OF AL WALAJA

A brownish, rectangular house lying on the side of a hill in the village of Al Walaja, west of Bethlehem, represents one of the paradoxical spaces created by Israel's occupation policies and practices. The residents of Al Walaja are Palestinian refugees who were forced to flee during the 1948 war from the hills where the original Al Walaja used to lie, just in front of the area where they live nowadays. After having lost their houses and lands on the other side of the valley, Al Walaja refugees settled down on their farmlands, determined to go back to their original village yet eventually forced to establish new houses when years of displacement made their possibility to return more and more remote. Still longing for their lands on the opposite side of the valley but located West of the Green Line, around 2,500 residents<sup>2</sup> live on an area of around 3,000 dunums<sup>3</sup>,

partly unlawfully annexed by Israel to the Jerusalem Municipality and partly designated as Area C under Israeli administrative and military control.

Al Walaja and its community have suffered from continuous expropriations of lands which have dramatically reduced the extension of the village and which Israel carried out through diverse illegitimate means. Indeed, in 1948, the village lost 75% of its original 17,800 dunums of land, while in 1967 more than half of the remaining village was de-facto annexed by Israel because included within the unilaterally-declared Municipal boundaries of Jerusalem, in open contravention of International Law<sup>4</sup>. In the 1970s, the construction of the settlements of Gilo and Har Gilo on 123 dunums of land belonging to the village shrank it further, while the continuous expansions of these two illegal settlements is resulting in continuous confiscations<sup>5</sup>. Moreover, the erection of the wall subtracted additional land to its community and isolated 1,200 dunums of its farmland on the Israeli side, making it physically inaccessible and even declaring it Israeli national park in 2013<sup>6</sup>, which entailed further restrictions on its cultivation. The current route of the wall leaves an entrance only to the whole village where flying checkpoints of Israeli soldiers, at times and without prior notice, hinder or impede the passage altogether<sup>7</sup>. Through the construction of a new checkpoint 2.5km west to the current one in order to isolate Al Walaja community

at <https://electronicintifada.net/content/photos-al-walaja-village-faces-slow-death-israel-takes-its-land/13264>

4. UNRWA, 2014. "Mini profile: Al Walaja. Bethlehem Governorate". Available at [https://www.unrwa.org/userfiles/image/articles/2013/The\\_International\\_Court\\_of\\_Justice\\_AlWalaja\\_mini\\_profile.pdf](https://www.unrwa.org/userfiles/image/articles/2013/The_International_Court_of_Justice_AlWalaja_mini_profile.pdf)

5. *Ibidem*.

6. Peace Now, 2018. "The Jerusalem Municipality Opens a Spring for Israelis Only". Available at <https://peacenow.org.il/en/jerusalem-municipality-opens-spring-israelis>

7. B'tselem, 2013. "Separation Barrier surrounding al-Walajah to leave family isolated". Available at [https://www.btselem.org/separation\\_barrier/20130624\\_hajajleh\\_family\\_isolated\\_in\\_al\\_walajah](https://www.btselem.org/separation_barrier/20130624_hajajleh_family_isolated_in_al_walajah)

1. These are the words of Omar Hajajleh, a resident of Al Walaja, protagonist of the following report, that COSPE interviewed in June 2019.

2. Ir Amim, 2012. "Walajeh – a village under siege". Available at <http://www.ir-amim.org.il/en/report/walajeh-%E2%80%93-village-under-siege>

3. One dunum equals to 1000m<sup>2</sup>. Pag, A., 2014. "In photos: al-Walaja village faces 'slow death' as Israel takes its land", the Electronic Intifada. Available



from the nearby spring of Ein Hanya, Israel is additionally restricting the access to these lands to their legitimate Palestinian owners, indirectly expropriating them and eventually depriving the community of almost all their farmlands<sup>8</sup>. Al Walaja residents, hence, have witnessed the gradual yet massive shrinking of their own village, planned and engendered by Israel since 1948; they have been forced to rearrange their lives, once fully dedicated to agriculture and in complete harmony with the surrounding nature<sup>9</sup>, and to get used to live in a village that has been dispossessed of all its resources, encircled by a concrete and metal wall, and where any form of development is made impossible by the policies and practices of the Occupying Power<sup>10</sup>.

*Omar: "You see, Al Walaja is a small jail. The Israeli soldiers may decide to close the only entrance of the village and the residents suddenly find themselves locked inside. Today there is no checkpoint, but there may be tomorrow, or the day after. We cannot know."<sup>11</sup>*

8 Leifer, J., 2018. "In one Palestinian village, the whole story of the occupation", +972. Available at <https://972mag.com/in-one-palestinian-village-the-whole-story-of-the-occupation/133903/>

9 Ir Amim, 2012. "Walajeh".

10 For example, continuous home demolitions because of the impossibility to obtain permits to build and to have a Master Plan approved by the Israeli authorities, both in the area designated as Area C and that unlawfully included in the Jerusalem Municipality (the village residents presented a plan in 2009, which was rejected). See UNRWA, "Mini profile".

11 COSPE, June 2019. Interview with Omar Hajajleh.

## INHABITING AN ABSURD REALITY: THE STORY OF OMAR AND HIS FAMILY<sup>12</sup>

Omar sits in his porch outside his house. Still wearing his undershirt and sleepy, after the afternoon nap, he nevertheless starts telling about the week before, when he and his family found themselves trapped inside their own house, a paradoxical space created by Israeli occupation policies. Eager to share his vicissitudes, his words start flowing naturally from his mouth, and, without any interruption, he speaks about his house and its tormented history.

### Omar's house: how it looks today

The house of Omar and his family lies on the side of the hill where the village of Al Walaja is located, yet the whole property has been illegally included within the borders of the Jerusalem Municipality, which makes any kind of new construction or renovation work de-facto impossible because of the difficulties to obtain the permits from the competent Israeli authorities<sup>13</sup>. The visitor sitting in the contiguous garden or the front porch can see Jerusalem, its surrounding valleys and the illegal Israeli settlement of Gilo, but, on the other side of the building, the landscape is stunningly different; the small gate

12 The next three sections of the report are mainly based on observation and on two interviews to Omar Hajajleh conducted by COSPE in June 2019.

13. B'tselem, 2013. "Separation Barrier".

at the entrance of the house faces an eight-meter-high iron fence entirely covered by barbed wire<sup>14</sup> which dramatically disfigures the beautiful natural landscape and cuts the house off the village of Al Walaja, isolating it on the Israeli side of the wall. Even if there seems to be no way in or out, since the only visible road leading to the close Palestinian town of Beit Jala is closed by a permanent gate, a dark underground tunnel passes underneath the fence and the contiguous patrol road and connects Omar's property to Al Walaja. The contact with the rest of the community, however, is conditional to the ability to open the heavy iron gate placed at the very end of the tunnel and erected, according to Israeli defense officials, for security needs<sup>15</sup>. Today, Omar has a remote to open and close the gate, so he and his family only can enter or exit with their own car and bring goods. No more than ten visitors at a time are allowed to enter and stay inside the property from 6AM until midnight, and only if they have obtained a special permit which Omar has to request to the Israeli-Palestinian Liaison office at least 48 hours in advance<sup>16</sup>.



### Liberty of movement

The physical barriers that encircle the two houses described in the report severely restrict the freedom of movement of Omar, Suleiman and their families. In these two specific instances, Israel is violating Article 12 of the ICCPR which guarantees the liberty of movement of people and, at the same time, specifies the exceptional instances in which this right can be restricted<sup>17</sup>; limitations are permissible only if they do not nullify the right, are governed by the requirements of necessity and are consistent with the other rights recognized in the Covenant<sup>18</sup>. In the cases of Al Walaja and Beit Ijza, the limitation on the two families' freedom of movement is not consistent with the other rights since, as explained below, it results in serious violations of other human rights. Moreover, necessity does not govern or justify the limitation on the freedom of movement of these people because the two families do not constitute a "grave and imminent peril" against which the State needs to be safeguarded<sup>19</sup>. In ad-

*"I am here and I want to stay here for the rest of my life. God will protect me"*

dition, even if Israel would justify the restrictions as necessary measures to "protect national security"<sup>20</sup>, it has nevertheless been the Occupying Power itself to engender the "situation of necessity" by erecting the wall on a route much east to the Green Line and unlawfully annexing the two houses on the Israeli side, so necessity cannot be invoked<sup>21</sup>. And even in case limitations should be considered necessary, the essential requirements of proportionality and appropriateness should be met, choosing to apply the less intrusive ones. This has evidently not been done in the cases under examination. Indeed, the International Court of Justice, in its 2004 "Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Territory", confirms the unlawfulness of the restrictions on the right to freedom of movement imposed by Israel in the oPt through the erection of the Barrier<sup>22</sup>.

Also, the restrictions on the freedom of movement imposed on the two families do not respect the principles of equality and non-discrimination<sup>23</sup>. The physical barriers that encircle the houses restrict the ability of the two families specifically to move in and out of their property, as well as those of their relatives and visitors. Their being Palestinians, and West Bank ID holders, then adds a further layer of discrimination compared to the Israeli settlers illegally residing in the same area and fully enjoying their freedom of movement.

By compromising the liberty of movement of the two families, Israel jeopardizes their concrete enjoyment of several other rights, such as the right to education, health,

14. Hasson, N., 2017. "'Living in a Prison, Though I Have the Key': All Alone on the Wrong Side of Israel's Separation Barrier", Ha'aretz. Available at <https://www.haaretz.com/israel-news/.premium.MAGAZINE-living-in-a-prison-though-i-have-the-key-1.5629025>

15. Hasson, 2017. "Living in a Prison".

16. Hasson, 2017. "Living in a Prison".

17. UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, 1966, Article 12. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

18. OHCHR, "CCPR General Comment No. 27: Article 12 (Freedom of Movement)", 1999. CCPR/C/21/Rev.1/Add.9. <https://www.refworld.org/pdfid/45139c394.pdf>

19. *ILC Draft articles on Responsibility of States for Internationally*

*Wrongful Acts*, 2001, Article 25 (1)(a). [http://legal.un.org/ilc/texts/instruments/english/commentaries/9\\_6\\_2001.pdf](http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf)

20. UN GA, ICCPR, 1966, Article 12(3).

21. *ILC Draft articles*, 2011, Article 25(2)(b).

22. International Court of Justice (ICJ), "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Advisory Opinion of 9 July 2004". <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

23. OHCHR, "CCPR General Comment No. 27: Article 12 (Freedom of Movement)", 1999.



and work, as enshrined in the ICESCR, since they could find themselves locked inside their property and unable to reach the school, the closest clinic and their workplace.

### A crescendo of violent pressure and resilient responses

Nowadays, Omar lives in the house with his wife, and his three sons. While he works on his farmland and grazes the sheep, his wife mainly takes care of the house and his children are still young students. The paradoxical space they live in, which is nowadays causing continuous disruptions to their daily lives, represents the absurd materialization of a recent history of threats and abuses from Israeli authorities woven together with resilient responses and active nonviolent resistance of the family.

Omar's story cannot be separated from that of the whole community of Al Walaja which, as he recounts, experienced three "Nakba", or "catastrophes", in 1948, in 1967, and more recently with the erection of the wall, and which transformed the village from a thriving, fertile, and vast space into an open-air prison surrounded by a concrete and iron cage. Then, "When Israel decided to isolate [his] beautiful house, lands and all of [them] from the rest of the community", that was his "fourth Nakba", which made his life a nightmare that was nevertheless real. Even if the erection of the eight-meter-

high fence around his house began in 2010, his sufferings had started much earlier. In fact, it was his father to face the first pressures from Israeli authorities when, in 1978, they offered him a huge sum of money in exchange of his house and land; the Palestinian responded by throwing his sandal at the visitors and told them, as Omar recalls today, "Listen, this land belongs to me and my family, and the ones who will live in it and take care of it will be me, my children, my grandchildren and grand-grandchildren". Omar inherited this determination, and his resilient and smart reactions and responses to the threats and violence of the Occupying Power were always inspired by those of his father. For example, in 2010, three government representatives visited him to announce the construction of the wall on his land and to try to persuade him to give his property up by giving him four different options. As Omar recalls, they offered him an open cheque, the possibility to rent the house to Israelis for 99 years, the option to partner up with them for the construction of a hotel on that land, and even offered him to exchange his 32 dunums of land for another land of 64 dunums located in either Bethlehem or Beit Jala, two Palestinian villages nearby. He refused all the options and, following his father's steps, he asserted, "I am here and I want to stay here for the rest of my life. God will protect me".

"I will lock your God in a closet, then we will see

who supports you. We will show you what life really is”<sup>24</sup>. These intimidations of one of the government representatives and the failed negotiations openly anticipated and marked the beginning of a series of more or less open abuses and pressure that ranged from psychological and verbal to physical violence, threatening the very life of Omar, his wife and their three children.

### Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The psychological, verbal and physical violence that Israeli authorities have inflicted upon the two families, with the main intent of pushing them to abandon their houses, violates Article 7 of the ICCPR which protects persons against “torture or [any] cruel, inhuman or degrading treatment or punishment”<sup>25</sup>. In particular, the actions of the Israeli military, police, and other Israeli public officials amount to a form of torture, as defined in Article 1 of the Convention Against Torture, ratified by Israel, which defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as [...] intimidating or coercing him or a third person [...] when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”<sup>26</sup>. Moreover, the same abuses contravene to the international law principle of non-discrimination, amount to “arbitrary or unlawful interference with [their] privacy, family, home or correspondence”, as prohibited by Article 17 of the IC-CPR<sup>27</sup>, and constitute a form of persecution, which is a crime against humanity according to article 7(1)(h) of the Rome Statute<sup>28</sup>.

*“Listen, this land belongs to me and my family, and the ones who will live in it and take care of it will be me, my children, my grandchildren and grand-grandchildren”*

24. As Omar reported in the interview conducted by COSPE in June 2019.

25. UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, 1966, Article 7.

26. UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1984, Article 1. <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

27. UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, 1966, Article 17.

28. International Criminal Court, *The Rome Statute of the International Criminal Court*, Article 7(1)(h). <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>



Indeed, on that same year, during a demonstration the whole village had organized against the construction of the segment of the wall that would have cut Omar’s house off the rest of the village, his, at the time, 8-year-old child was badly beaten and injured in the head by a group of Israeli soldiers. That episode was followed by additional psychological violence the Israeli army exerted on the family by driving outside the house during the night, parking just beside the building, and putting very loud music; the fear and stress this initially provoked then turned into the resilient reaction of Omar, who, on one of these occasions, went out of the house and started to dance in front of the soldiers. A subsequent, and much crueler episode, however, had a much more tragic ending. In 2011, while his wife was alone in the house, three Israeli female soldiers knocked the kitchen door and physically assaulted the woman; they tied her hands, pulled her outside the house and violently dragged her up the hill. Until she started to bleed. She was 8-months pregnant and that day, due to the physical violence inflicted on her by the three soldiers, she lost her baby. “It was a boy”, Omar recalled disheartened.

### Right to family life

The paradoxical space and the limitations in the freedom of movement engendered by the erection of the barriers currently encircling the two houses infringe upon their inhabitants’ right to family life, protected under both IHRL and IHL. In particular, the sole fact of inhabiting these coercive environments does not give the families “the widest possible protection and assistance”<sup>29</sup>, in contravention of Article 10 of the ICESCR, and the consequences of the outright abuses have threatened its very existence and growth, as in the case of the abortion suffered by Omar’s wife as a result of the Israeli soldiers’ violence on her. Moreover, the abrupt and unpredictable impossibility to leave the house or the difficulties of relatives to visit the two families may not enable them to freely share family occasions and ceremonies.

29. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966, Article 10.

The peak of violence and the major threat to the physical integrity of Omar and his loved ones was the attempted demolition of the house in October 2011. An explosion, allegedly carried out as part of the works for the erection of the wall, severely damaged the little house, which, however, did not collapse. Just before the explosion, the Israeli military had locked Omar and his family inside the house, which, as Omar recalled, made them believe that the Israelis were intentionally trying to kill the family and destroy the house. "I was drinking tea and the glass did not even move", Omar resiliently said to the soldiers when they entered the house immediately afterwards. In fact, Omar and his wife lived minutes of fear, just before the explosion, yet when immediately after the detonation hidden under the bed, they realized that the house was still standing, they thought it was a miracle. The following winter, however, rainwater started to penetrate the house through the cracks on the walls and the ceiling that the explosion had provoked, which made the small building extremely fragile and unlivable. The consequences of the humidity on the health and wellbeing of Omar and his loved ones, especially his kids, even worsened the already present and uninterrupted condition of alertness and worry caused by the more or less open threats of the Israeli authorities.

### Right to Health

The coercive environment the two families live in does not ensure their "enjoyment of the highest attainable standard of physical and mental health", as enshrined in Article 12 of the ICESCR<sup>30</sup>. Israel has violated this fundamental right through the outright violence and abuses of its authorities against Omar, Suleiman and their loved ones, and through the creation of inhabitable spaces which have negative consequences on the physical and psychological wellbeing especially of the youngest ones, as reported by the interviewees. Moreover, the potential movement restrictions that may unpredictably be imposed on the families may entail no timely access to healthcare services.

"Every time they come, I know that something is going to happen to us and the house", Omar stated.

"I want to meet you", a representative of the Israeli Ministry of Interior told Omar in a phone call in 2014. And this statement, indeed, anticipated new troubles, this time concerning the passage through the wall that was slowly encircling the tiny brownish house. After having refused the meeting, Omar brought the case to the High Court, supported by one local and five international lawyers; months of negotiations and consultations with the Israe-

30. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966, Article 12. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

li counterparts ended with the erection of the gate and a list of conditions that Omar would have had to respect in order not to be locked inside his own house. During the month of Ramadan, however, he "broke the rules". He set up a buzzer at the entrance of his property to enable his wife to know when the children arrived home and open the gate with the only remote the family was given; according to Omar's testimony, Israeli soldiers and police, without even passing through the High Court, established that a buzzer was threatening the security of the state of Israel and did not hesitate to lock the gate for eight days. Omar and his family were stuck inside and spent their days waiting for their friends and relatives to come and pass food under the gate, and they were hence prevented from celebrating Ramadan. Eventually, the family's lawyer pushed the Israeli authorities to reopen the gate who, however, deprived Omar of his permit to work in Jerusalem as a retaliatory measure against him.

### Right to Freedom of Religion

When Omar and his family, during the holy month of Ramadan, were prevented from exiting their property, for eight days, they could neither go to the mosque to pray nor could they share the *iftar*, that is the evening meal with which Muslims end their daily fast at sunset, with their families and friends, a practice which is fundamental in Islam. Israel, hence, infringed upon the family's right to freedom of religion which, according to Article 18 of the ICCPR, includes also "freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching"<sup>31</sup>.

As an additional strategy to exert pressure on Omar, representatives of the Israeli Ministries of Interior, Defense and Finance offered him the Jerusalem ID twice, once in 2000 then again in 2010; yet, he refused both of the times. Indeed, he first believes that accepting the residency would have meant implicitly recognizing Israel's legitimacy and authority over him, his family and his lands. Moreover, he did not want to start paying taxes to Israel because, besides being in contradiction to his own values, that would have been economically unsustainable. Third, Omar immediately understood that the offer was part of a strategy Israel resorted to in order to confiscate his property following his inability to pay all the taxes. Hence, like many other Al Walaja inhabitants, Israeli authorities consider him to be an "illegal" resident because living within the unilaterally-declared Jerusalem municipal boundaries without the residency card<sup>32</sup>.

31. UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, Article 18, 1966.

32. Leifer, J., 2018. "In one Palestinian village".



Today, Omar is grateful for the support and solidarity of Palestinian, Israeli and international organizations and single individuals and the visibility that followed, since he believes this mobilization was part of the reason why his house is still standing. He wants people to come, see, and tell their friends and families about the absurd and coercive space imposed by the Israeli occupation on a Palestinian family of refugees. "This is the occupation", asserts Omar. Yet he does not look upset. Only a few days before he found himself without a job, but he nevertheless promptly rearranged his life and got back to grazing his flock and taking care of his trees. Like only the Palestinians can do, he takes anything as it comes and walks firmly through his destiny without ever losing sight of his will and dreams. Like his house, he is still standing solidly under the uninterrupted and ongoing pressure of the Israeli authorities. Omar's life is in total harmony with his suffered yet beloved land. "Taking care of the land requires time and patience", he says while he makes tea under his 99-year-old olive tree. Omar listens to his land, he catches its rhythm and follows it; the loud noise of the occupation tries to alter that rhythm and yet Omar and his land still dance together, like an inseparable couple, to the same music.

### BEIT IJZA: HOME OF THE SECOND PARADOXICAL SPACE

The second absurd space that has resulted from Israeli occupation policies and the erection of the

wall is located in the small village of Beit Ijza. The village lies north-west of Jerusalem and constitutes one of the eight Palestinian villages belonging to the so-called "Biddu enclave"<sup>33</sup>. This area has been completely encircled by the wall and bypass road 443<sup>34</sup>, a street that is for the major part inaccessible to Palestinians, and is hence cut off from the surrounding villages and connected to the rest of the West Bank through tunnels and underground roads. In particular, the village of Beit Ijza, according to the last census of 2006, has a total population of 629 people and covers an area of 2572 dunums<sup>35</sup>, 93.3% of which has been designated as Area C<sup>36</sup>, under full Israeli control. The construction of the wall in 2004 and the establishment and continuous expansion of the Giv'at Ze'ev and Giv'on HaHadasha settlements have resulted in land expropriations and confiscations, accounting respectively to 340 dunums buried under the wall<sup>37</sup> and 168 dunums for the construction of the settlements<sup>38</sup>, which have dramatically

33 UNRWA, 2014. "Mini profile: Biddu enclave, Jerusalem governorate". Available at [https://www.unrwa.org/sites/default/files/biddu\\_mini\\_profile\\_oct\\_2014.pdf](https://www.unrwa.org/sites/default/files/biddu_mini_profile_oct_2014.pdf)

34. Ghosheh, A. "Farmer's income stuck on the 'other' side of the barrier". UNRWA Archives, 13 November 2012.

35. The Applied Research Institute – Jerusalem (ARIJ) 2012. "Beit Ijza Village Profile".

36. Al Haq, 2019. Factsheet on North-West Jerusalem (internal document).

37. OCHA oPt. "Biddu Enclave - West Bank | August 2012 (Part 2)", available at [https://www.youtube.com/watch?v=5Q6-eM\\_oQ44](https://www.youtube.com/watch?v=5Q6-eM_oQ44)

38. ARIJ, 2012. "Beit Ijza".



reduced the extension of Beit Ijza and negatively affected its agricultural character. In addition, a spring and 860 dunums of land owned and cultivated by the village residents have been isolated on the Israeli side of the wall, and today they can be accessed solely via specific agricultural gates which can be crossed only with “prior coordination” with the Israeli army and with specific permits issued by the Israeli Liaison Office<sup>39</sup>.

#### A SNAPSHOT: THE GHARIB FAMILY HOUSE TODAY<sup>40</sup>

If the effects of the construction of the wall and of the nearby settlements have been extremely severe on the entire village of Beit Ijza, the impact they had on the Gharib family has been even more direct and extreme, and has materialized in the paradoxical space the family inhabits today. Although the small garden around the house makes the tiny and suffocating space a little more enjoyable, especially for the eight kids that currently live here with Suleiman and Sadat and their wives, their house still resembles a prison. A six-meter-high steel fence surrounds it on three sides<sup>41</sup>, just a few meters away from its walls, and separates it from the houses of the neighbors, Israeli settlers of Giv'on HaHadasha. The house is accessible through a fenced and surveilled corridor which runs from a big yellow gate, over the patrol road siding the wall, which here is a fence topped by barbed wire, and ends in the tiny garden surrounding the even tinier white house. The gate is currently open, and both residents and visitors can enter and exit the house, yet the 15 cameras placed all around surveil the whole area and record any person going to or leaving the house.

#### THE RECENT PAST OF THE HOUSE: UNFOLDING ITS PROGRESSIVE ENCIRCLEMENT

##### A story of pressure and outright violations...

The whole property today covers an area of less than one dunum. When the Gharib family built the house, in 1977, their property extended for 110 dunums. At the time, the location looked perfect: on top of a hill, only a few kilometers away from Jerusalem, and on fertile land planted with grapes, olive trees and apricots. Until Israeli settlers began to settle down in the area nearby. This triggered escalating pressure and violence against the Gharib family and led to the creation of the paradoxical space of

39. *Ibidem*.

40. The next three sections of the report are mainly based on observation and interviews of two members of the Gharib family, Suleiman and Sadat, conducted by COSPE in May and June 2019.

41. Reksjø, H. & York, M. “‘I will never give up our house’: Sabri Gharib kept promise to resist Israeli settlement until his final day”. The Electronic Intifada. 20 April 2012.

today.

As Suleiman recalls, a group of settlers first came to his father, Sabri, in 1978 and asked him to sell them four dunums of his land. Unfortunately, in 1984, the same request, which Sabri had declined several times, became an outright expropriation carried out by the Israeli army. In the years that followed, Israel started to target the family with threats of violence or direct coercion with the ultimate objective of pushing them to cede their property to the settlers, abandon their home, and leave “out of exhaustion and humiliation”, as Suleiman explained. In 1990, Israel expropriated further 45 dunums from Sabri’s land, on which just shortly after the young Suleiman started to see new buildings popping up, one after the other, which gradually gave shape to the Giv'on HaHadasha settlement.

In 1999, the Israeli army forced the whole family out of the house, allegedly for security reasons; the soldiers occupied it and made it unlivable, destroying all the furniture inside.

#### Right to an adequate standard of living

Israel, as the Occupying Power, would have the responsibility to take “appropriate steps to ensure the realization” of the right to an adequate standard of living, enshrined in Article 11 of the ICESCR and which includes, among other, “adequate [...] housing”<sup>42</sup>. According to General Comment 4, housing is “adequate” when, among other things, legal security of tenure is guaranteed and the house is habitable<sup>43</sup>. The past confiscations and expropriations, especially suffered by the Gharib family, prove that the families do not possess a sufficient degree of security of tenure, not enjoying any suitable legal guarantee in that sense. Moreover, neither of the houses is habitable since the CESCR defines habitability in terms of “adequate space and [protection] from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors”<sup>44</sup>. In the case of the family in Beit Ijza, space is not adequate while the attempted destruction of Omar’s house forced him to live in a house that was on the brink of collapse and extremely humid, which even affected the health of his children, as he reported. Moreover, in both the cases, “the physical safety of occupants” is not guaranteed while the many barriers around the houses do not ensure access, and the freedom to exit the property, even to the family members, which violates the condition of accessibility and their ability to access services and other facilities. Finally, each individual shall have the right “to live somewhere in security, peace and dignity”<sup>45</sup>, and the stories of the two families show a different picture, of Israel abruptly violating this right.

42. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966, Article 11. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

43. OHCHR, “CESCR General Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)”. 1991. <https://www.refworld.org/pdfid/47a7079a1.pdf>

44. *Ibidem*.

45. *Ibidem*.



Six months after, following a legal fight, Sabri and his family managed to go back to the house, yet Suleiman and all the other young men of the family were still barred from it and had to sneak inside secretly every time they wanted to visit their loved ones. That episode constituted the beginning of what Suleiman defined a “persecution” against especially the male members of his family who, since then, had to endure continuous threats to their physical safety, arrests, and imprisonments on top of constant house raids that spread fear also among the women and children of the family. Sabri was imprisoned more than 30 times, and Suleiman believes that it was Israel’s pressure and its consequent psychological and physical scars to provoke his father’s death in 2012.

While the family was witnessing the growth of this foreign community next door, and the consequent increasing military presence, the decision of the Israeli government to build a wall after the end of the Second Intifada posed a new threat to the family and the tiny yet solid house. The threat became real in 2003, when Israel started to erect the wall around Beit Ijza, where, like in the rest of the West Bank, it cut through Palestinian land and followed a route much east to the Armistice Line of 1949<sup>46</sup>. The manifested intention to physically include on the Israeli side of the barrier the main settlements that had been built on the occupied Palestinian territories led, in this case, to the de-facto annexation of the land where the settlement of Giv’on HaHadasha had been expanding since the beginning of

the 1990s and where it lies and grows today. That same land that used to belong to Beit Ijza, and, partially, to Suleiman and his family. In 2006, the wall in the area was finalized, and the house of Sabri and his descendants was left on the wrong side, cut off from the Palestinian village where it belonged yet contiguous to the illegal settlement.

The gate, fences, cameras, and electric sensors at the entrance and all around the house were set up as a consequence. In particular, the gate, when it was erected, used to be controlled from a military base located far away from the house<sup>47</sup>; the family members had to call the base every time and wait to be recognized before being able to enter, which sometimes took up to three hours. Some women of the family, after they got married, lost their right to enter their house and were requested to coordinate with the Israeli Civil Administration in order to get special permits that would have given them access to the house, a procedure which was imposed on visitors as well. Even if today the gate is open, it happened that the Israeli army shut it down completely, without any prior advice, hence exercising arbitrary control over the movement of the Gharib family and their possible visitors. Indeed, in 2010, the military exercised pressure on the family to push them to leave by closing the gate for six months, and opening it for only one or two hours each day<sup>48</sup>.

Besides the creation of an open-air prison around Suleiman’s house, the erection of the wall also resulted in the de-facto expropriation or isola-

46. B’tselem, “The Separation Barrier”. 11 November 2017. Available at [https://www.btselem.org/separation\\_barrier](https://www.btselem.org/separation_barrier)

47. Reksjø, H, 2012. “I will never give up our house”.

48. *Ibidem*

tion of the family's land on the other side. In particular, according to a member of the Gharib family, out of the 110 dunums that used to belong to his grandparents, 96 were confiscated for the expansion of Giv'on HaHadasha while 13 dunums were cut off from the only dunum left through the construction of the fence; like most of the farmers in the village, Suleiman and his brothers face continuous obstacles to access their property on the other side of the fence since permits are not easy to obtain and, even when they manage to get them, the system of coordination with the army does not ensure access. This year, for instance, Suleiman's brother was denied the permit. Moreover, in May 2019, Suleiman reported that the so-called "agricultural" gates were being open two days per week and that they would have been entirely closed the rest of the time.

The neighbors of Suleiman and his family are Israeli settlers from Giv'on HaHadasha, those same persons that live in houses that had been illegally built on land that used to belong to their Palestinian neighbors. They are the same persons whose residence on that land entailed the construction of the wall on its current route, which jails the Gharib family. The neighbors are also those people whose wellbeing Israel claims to safeguard through the discriminatory occupation policies and practices which result into serious human rights violations of the surrounding Palestinian communities. According to a 2017 census, the population of the settlement amounts to around 1139 people<sup>49</sup>. As Suleiman reported, settlers from Giv'on HaHadasha have harassed and even attacked physically him and his family repeatedly; the most serious incident happened when around 100 settlers surrounded the tiny house *en masse* and started throwing rocks and Molotov cocktails at the house with the entire family barricaded inside<sup>50</sup>.

### ...and a tale of resilience

If the wall, and the system of gate, cameras and fences, represent the most visible sign of Israeli oppression over the family, the timeline of the events that preceded and followed the construction of the wall reveal the endless pressure and violence of Israeli authorities, military, police and settlers that Suleiman and his relatives had to face in the last decades just to be able to leave in their own house. Abuses to which the family responded with extreme resilience and steadfastness. But abuses that have not ended yet.

49. <https://www.citypopulation.de/php/israel-westbanksettlements.php?cityid=3644>

50. Reksjø, H., 2012. "I will never give up our house".

Since the very beginning, starting from Sabri, the family response to Israel was firm; they would have not given up their land easily and would have resisted with all their means any attempt to do so. The first offer to buy the land came from Israeli settlers in 1978, and was adamantly rejected by Sabri, like the many other offers advanced to the family to sell the house ever since. Legal fights and the support of lawyers were fundamental in many victories of the family against the pressure of Israel, as in the case of the fence that today separates the house from the settlement that has been built 2 m away from the small building instead of being erected at Israel's planned distance of 60cm. The family, together with friends and relatives, also actively mobilized to peacefully oppose the occupation practices directly targeting them. For instance, on several occasions, they pulled out fences that were set up on Sabri's land to progressively enlarge the contiguous settlement. They also organized protests before and during the construction of the wall in the area, with the objective of changing its route and not cutting the house off. Moreover, when the gate was still controlled from the military base, they re-

*"We have the right to stay here. It is simply our land"*

frained from asking permits for visitors and coordinating with the ICA in order to delegitimize the imposed coordination system. Also, the, even meager, support from

Palestinian and international activists and organizations in some occasions helped the family to achieve small victories; for instance, the gate today is open also because of the pressure exercised by the Red Crescent Society and other organizations which brought the case to the Israeli High Court.

The protests and acts of nonviolent resistance, however, did not only bear positive results. Indeed, the Israeli army violently repressed several demonstrations organized to oppose the erection of the wall and even causing deaths; Israeli soldiers killed Samir, one of Suleiman's brothers.

### Right to Life

The physical abuses and abrupt violence of Israeli authorities against the two families have threatened the right to life of their members. Besides the physical assault to Omar's eight-year-old child and the attack against his wife which provoked a miscarriage eight months into her pregnancy, the outright killing of one of Suleiman's brothers during the demonstrations held against the erection of the wall makes Israel in violation of the sacrosanct and inalienable right to life, "inherent" to every human being and which "no one should be arbitrarily deprived of", as enshrined in Article 6 of the ICCPR<sup>51</sup>.

51. UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, 1966, Article 6.



### Right to Peaceful Assembly

The violent repression of the demonstrations both the families took part to, supported by their communities and Israeli and international activists, implies Israel's violation of Article 21 of the ICCPR which enshrines the right of peaceful assembly. In fact, no "national security" reason can be invoked given the peaceful nature of the demonstration, and the use of force by the Israeli authorities, which provoked many casualties and even a victim, was absolutely disproportionate.

Moreover, their determination to keep the land did not succeed when Israel resorted to outright confiscations and built the wall; their perseverance and tenacity could not win over direct coercion, especially in an occupied territory where the military has full powers over the occupied population and laws are inherently discriminatory. Indeed, even if the High Court, five years ago, ruled in favor of giving back three dunums of land to the Gharib family, as the legitimate owners, today on those same portions of land settlers are still parking their cars. To this date, pressure, harassments and violence targeting the family have not stopped; recently, as Suleiman recalled, representatives of the Israeli government have been trying to fragment the family by advancing offers to sell the house to him and his brothers separately.

### Forcible Transfer

The restriction on liberty of movement imposed on the two families, and the consequent infringement of several fundamental rights, constitute measures that aim at pushing the families to leave their houses and properties, which represents an attempt of forced displacement in violation of Article 12 of the ICCPR protecting the right to choose residence. The psychological and physical pressure that Israel has exerted on Omar, Suleiman and their

relatives, unveils the real intention of the Occupying Power, whose actions constitute attempts of indirect forcible transfer.

Although the Israeli occupation practices have taken a huge toll over the whole family, Suleiman, his brothers, wife, children and the rest of his numerous relatives continue to determinedly oppose the pressure, harassments and violence. The house is never left empty. The new generations are being taught not to give up, and to embrace the persistence and steadfastness of their parents, as their parents did with Sabri and his brothers. As Suleiman asserted, "*We have the right to stay here. It is our land*", and this family is determined to uphold this right even if this implies a life in a paradoxical, absurd, and otherwise unlivable space.

### CONCLUSION

The life of Omar and Suleiman and their families inside the paradoxical spaces the Israeli occupation engendered are stories of continuous pressure and abuses, yet their words reveal an uncommon and tremendous resilience. A resilience that is rooted in the past, inherited from their fathers and grandfathers, practiced in their present, and projected in the future, passed onto their children and younger generations. Yet their resilience may not and should not be enough. The deep injustices that have created and perpetuated these paradoxical realities while progressively intensifying the deprivation and abuses of the Palestinians inhabiting them need to be addressed and redressed. A house should never be a space of humiliation and sufferings. A house must be home, where families can live peacefully and independently and children can develop freely their own potential.

## FINAL RECOMMENDATIONS

COSPE calls upon third states to adhere to their responsibilities under International Law and, in particular:

- To publicly condemn and call on Israel to immediately cease the IHL and IHRL violations it is committing against the two families and in the occupied territory more at large, namely, among others, the infringements of the right to life, liberty of movement, an adequate standard of living, family life, freedom of religion and health and to demand timely reparations and guarantees of non-repetition for the benefits of the victims;
- To deplore Israel's coercive measures and outright violence against the concerned families, which constitute acts of torture, a form of persecution, which is a crime against humanity under International Criminal Law, and attempts of forcible transfer;
- To urge Israel to cease and reverse the process of fragmentation of the occupied territory and comply with the recommendations of the ICJ in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory by dismantling the structure situated in the oPt, including around the concerned houses, and stopping the works of construction of the wall, including in and around East Jerusalem;
- To refrain from recognizing the unilateral annexation of land by force and the other unlawful changes in the character, status and demography of the occupied territory recalling the prohibition of acquisition of territory through the use of force which constitutes an act of aggression;
- To support international judiciary action aiming at guaranteeing Palestinian rights and safeness and at fighting impunity for international crimes

- To recognize and uphold the inalienable, permanent and unqualified right of the Palestinian people to self-determination, and ensure that the Palestinians retain permanent sovereignty over the land, natural wealth and resources in the occupied territory;
- To urge Israel to establish a time-bound plan to end the occupation of the Palestinian territory, including East Jerusalem.



Finally, COSPE welcomes the European Union positions and commitments in conformity with international law on the non-recognition of Israel's sovereignty over the territories occupied since June 1967, namely the Golan Heights, the Gaza Strip and the West Bank, including East Jerusalem.



**COSPE** is an Italian NGO established in 1983, and operating in 24 countries. COSPE works in Palestine since 1995, mainly in supporting life of Palestinian population, in particular in favour of youth and women.

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