

LIVING IN ISOLATION

Lost Connection: the Relentless Search for Serenity of the Community of Tuba



I Series: Living in Isolation

Lost Connection



As Ahmed carries the two water jugs down the sandy hillside, the two plastic jerry cans do not look as heavy as their actual weight. His moves look habitual, and the view from the top of the hill seems to be way too familiar to him.

The vastness and ostensible boundlessness of the desert dunes lying ahead do not seem to fascinate or scare him. Those hills, too, are way too familiar to him. Amid that seemingly-infinite space, he would have his reference points, as he was taught by the older shepherds from his community as he was growing up. Ahmed was born and raised in the village of Tuba, a small inhabited area lying on the hills south of the southern Palestinian city of Hebron. As part of the so-called Masafer Yatta, a region including all the villages surrounding the city of Yatta¹ and under the full control of Israel, the foreign power which has been occupying militarily

the Palestinian territories since 1967², Tuba hosts a community of around 100 people from 14 different families³.

Like Ahmed, some of them live in caves while others have managed to build tents or tiny concrete houses for their rapidly-expanding families. Yet doing the works at night. Yet praying for their homes not to be turned into ruins soon.

The shepherds of the village dictate the rhythm of life to the whole community; breeding and grazing flocks of sheep and goats represents the main economic and everyday activity of the majority of the men living here. Yet only on those days that seem quiet. The women in the village take care of their dwellings and their land, farming and cultivating seasonal fruits and vegetables. Yet only those that do not need much water. Life in Tuba looks peaceful, yet it is not quite so.

1- B'tselem, 2013. "The South Hebron Hills"
Available at https://www.btselem.org/south_hebron_hills

2- Israel holds the status of Occupying Power according to International Law.

3- The entire report is mostly based on observation and on the interview with Ahmed, a young man from the village of Tuba, conducted by COSPE in June 2019. The data and information from other sources will be cited accordingly.



BLESSED: THE NATURAL ISOLATION OF TUBA.

Once, these dunes were a blessing to the people of Tuba.

When Ahmed's grandad decided to move to Tuba, in 1967, just before the outbreak of the Six-Days War, with his wife, daughters and sons, he was choosing a quiet life, away from the bigger and overpopulated towns. He chose the life of the shepherd, in harmony with his flock and with his land which used to give refuge and nourishment to his family and animals. He chose the last strip of fertile soil, not far away from a water source, just before the area, on the Southern and Eastern sides, turns into the desert. He chose to join a very small community that had already moved there, had been living in caves and tents, and had created a favorable environment where he could find the serenity he had yearned for since 1948, the year of the "Nakba" or "catastrophe", of the establishment of the state of Israel and of the forced displacement of Ahmed's grand-grandparents and their families from their village of origin, Khirbat al-Qaryatayn, which had been destroyed and included in Israel's boundaries. During its first years, the Israeli military occupation

of the West Bank did not completely upset the life of the small community, which gradually strengthened its bonds with the surrounding villages and with Yatta, the bigger town and commercial hub in the area. While keeping a slow yet uninterrupted connection with the communities nearby, the people of Tuba were living in an enjoyable oasis, a place of retreat, half surrounded by the scary peace and silence of the desert. The natural isolation of Tuba was a blessing to its residents.

UNTIL THE SETTLERS ARRIVED

Today, Tuba overlooks a lush green hill, which starkly contrasts with the yellowish and brownish, dry, barren lands surrounding it and where Ahmed's grandfather used to live before he moved, in 1967. Since 19974, the green grove hosts the illegal Israeli outpost of Havat Ma'on, a nascent settlement on occupied Palestinian land which has been built without the official approval and recognition of the Israeli Ministry of Interior⁵ and is illegal according to both Israeli and international law⁶. A group of Israeli

4- B'tselem, 2013. "The South Hebron Hills".

5- Institute for Middle East Understanding (IMEU), 2013. "Settlement: Havat Maon". Available at https://imeu.org/photo_essay/settlement-havat-maon

6- According to Article 49 of the IV Geneva Convention relative to the protection of civilian persons in time of war of 12 august 1949 which

affirms that, among other things, "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". Available at https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf. And as it has been established and repeatedly recognized by the International Community, and reaffirmed in UN Security Council Resolution 2334 of December 2016.



settlers established the outpost very close to the bigger settlement of Ma'on which had been erected, with the official approval of the Israeli government, in 1981. Since that year, and even more since the establishment of Havat Ma'on, around one km away from Tuba, the community of the village and of the surrounding villages have been living a nightmare which has worsened their condition of isolation from a blessing to an endless curse.

Although Havat Ma'on was initially dismantled from its original location still very close to Tuba, following the decision of former Israeli Prime Minister Ehud Barak in 1999⁷, the community of settlers soon resettled in the grove nearby, where they live and grow old today. The violence of the Israeli settlers of Havat Ma'on have deeply scarred especially the people of Tuba, both children and grown-ups, as well as the Palestinian communities living in the area, and their abuses have been, and still are, covered and backed by the Israeli army and police who fail to intervene and leave the crimes unpunished⁸. The community of Tuba is mostly hit by the violent attacks of settlers who, from time to time, break into the village armed and with their faces covered. As Ahmed recalls, for instance, in 2006 they once

raided the small village, slaughtering the sheep and killing a donkey, and, on that same year, the settlers broke into Tuba at night and burnt the grain harvest of one whole year.

The Violence of Settlers and the Responsibility of Israel

The violent episodes against the people of Tuba have included live shootings, physical assaults and stone throwing against shepherds, schoolchildren and passersby, damage to livestock, trees and property, arsons, and incursions into the village. These same acts committed by Israeli settlers from the illegal outpost of Havat Ma'on against the Palestinian community under examination, as well as the other communities living in the area, infringe upon several fundamental rights and liberties which the Palestinians are entitled to under both International Humanitarian Law and International Human Rights Law.

Israel, as the Occupying Power, should ensure the rights enshrined in IHL treaties and customs to the people inhabiting the occupied territories, defined by article 4 of the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Times of War as "protected persons"; at the same time, Israel has a positive obligation under International Human Rights Law and according to Article 2(1) and 2(3) respectively of the International Convention on Civil and Political Rights (ICCPR) to "ensure to all individuals

7- CNN, 1999. "Israeli removal of settlers prompts praise, criticism". Available at <http://edition.cnn.com/WORLD/meast/9911/10/mideast.settlements.03/index.html>

8- B'tselem, 2013. "The South Hebron Hills". See also Operation Dove Facebook post dated 5th July 2019, available at this link



within its territory and subject to its jurisdiction the rights recognized in the [Covenant]" and to "(3) ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity"⁹. When a State fails to fulfill the positive obligation to ensure that the rights of the people under its jurisdiction are not violated, then it is in breach of its responsibility under both IHL and IHRL. The failure to investigate with due diligence, hence failing to deter the repetition of settlers' crime gives rise to Israel's responsibility for the human rights violations committed by Israeli civilians against Palestinians, and further perpetuates the phenomenon.

Fleeing Flocks

The shepherds from Tuba have been the major targets of Havat Ma'on settlers' violence.

The Israelis physically assault, threaten with batons or weapons Palestinian shepherds while they are grazing their flocks on the land between the village and the outpost, most of the times scaring the sheep and their owners away, as activists from

Operation Dove, an Italian peace organization, have documented on the 10th of March 2019¹⁰ and in many other instances¹¹. This kind of episodes usually occurs under the eyes of the Israeli military, and sometimes the police, previously notified by the settlers, and the move of the Israeli authorities is usually to bar the Palestinians from the land surrounding the outpost of Havat Ma'on and the settlement of Ma'on¹², indulging the settlers' will and illegitimate claims over a land that has been for the most part declared as "State Land"¹³; according to International Humanitarian Law, state or public land is meant to be used by the Palestinian public in the occupied territory¹⁴ while, throughout the entire West Bank, Israel bars the occupied people from it and considers it Israeli property¹⁵. Needless to say, Ahmed's family had been living and grazing on those same plots since 1948. The consequences on a community of shepherds like Tuba have been catastrophic vis-à-vis the integrity and wellbeing of the residents as well as their freedom and possibility to pasture, which has been the main economic activity since the very establishment of the small village.

9- UN General Assembly, International Covenant on Civil and Political Rights (ICCPR), Article 2, 1966.

10- Available at this link

11- See this video, this video or this post

12- As documented here, here and in this video

13- See Annex 2, "Firing Zone 918 and State Land in the area of Tuba".

14- ACRI, 2013. "Information Sheet – Allocation of State Land in the OPT". Available at <https://law.acri.org.il/en/2013/04/23/info-sheet-state-land-opt/>

15- B'tselem, 2019. "Settlements". Available at <https://www.btselem.org/settlements>



The Right to Life, Security of Person and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The physical and psychological abuses and threats of the Israeli settlers against the shepherds, schoolchildren and other people of Tuba have repeatedly threatened their life, protected by Article 6 of the ICCPR as a right “inherent” to every human being. The same attacks have violated the right to “security of person”, enshrined in Article 9 of the overmentioned Covenant, as it concerns the “freedom from injury to the body and the mind, or bodily and mental integrity”¹⁶. If the settlers are directly responsible for violating the right by intentionally inflicting bodily or mental injury, Israel is in breach of its obligation to “protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors”¹⁷, as provided by General Comment n. 35 of the Human Rights Committee, and has failed to respond appropriately to patterns of violence that have been repeating for decades, in breach of its responsibilities not only under this article, as specified in the box on “The violence of settlers and the Responsibility of Israel”. The violation of the dignity, and physical and mental integrity of the Palestinians of Tuba by Israeli settlers further amounts to cruel, inhuman or degrading treatment, as prohibited by Article 7 of the ICCPR, even if inflicted by individuals acting “in a private capacity”, as the CCPR established in General Comment n. 20, and may amount to “torture” when the settlers from Havat Ma’on

inflict physical or mental pain to intimidate their Palestinian neighbors “with the consent or acquiescence of a public official or other person acting in an official capacity”¹⁸, namely under the eyes of the Israeli military. Incursions in particular violate Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which protects the right to an adequate standard of living and entails, according to General Comment 4, “the right to live somewhere in security, peace and dignity” and the right to and “adequate shelter” with “adequate security”¹⁹; the same incursions do not respect the prohibition of “arbitrary or unlawful interference with [their] privacy, family, home or correspondence”, established in Article 17 of the ICCPR.

Forbidden Paths

People from Tuba are today forced to walk or drive along these endless roads winding through the desert valleys if they want to reach the Palestinian villages and towns nearby.

The violence of the settlers living in the settlement and outpost of Ma’on and Havat Ma’on has severely restricted the liberty of movement of the community and significantly hindered any kind of connection with the village of At-Tuwani and the city of Yatta,

16- UN Human Rights Committee (HRC), “General comment no. 35, Article 9 (Liberty and security of person)”. 16 December 2014, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/553e0f984.html>

17- See supra at note 2.

18- 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>

19- UN Committee on Economic, Social and Cultural Rights (CESCR), “General Comment no. 4, Article 11”. 13 December 1991, E/1992/23, available at: <https://www.refworld.org/docid/47a7079a1.html>



“If on the first three days the trip to and back from school went smoothly, the fourth day was a real tragedy”

the two main reference points where Tuba residents would have access to basic services and goods. Episodes of aggressions and physical assaults to Palestinians from Tuba while going or coming back from the nearest residential or commercial areas on the North-Western side of the village have resulted in suffering and the de-facto impossibility to travel on the shorter roads, which are also the closest to the outpost and settlement. The road that was once used by the Palestinian community to reach the village of At-Tuwani, around 2km away, today has become practically inaccessible since, due to its location just between the settlement of Ma'on and the nearby outpost, it has exposed people from Tuba using that path, in particular between the year 2000 and 2002, to the unspeakable aggressions of the settlers and the arbitrary arrests, detentions and fines of the Israeli police²⁰. Until, in 2002, the Palestinians were ultimately barred from the road and forced to look for alternative paths.

²⁰- As Ahmed recalls, settlers used to alert the Israeli police whenever they saw a Palestinian travelling on that road, and the police used to arrest and detain the man, woman or child in the nearest police station of Kiriyyat Arba to then release him/her on bails of thousands of NIS

Protecting Children through Impunity

Hamze, Ahmed's brother, just finished his last year of high school in At-Tuwani. He and other schoolchildren from Tuba have been the only ones allowed to travel along the shorter road, the one located between the settlement and outpost. Yet at a very high price. Indeed, in 2004, after two years of long trips of hours, the community of Tuba, encouraged by international and Israeli activists who offered physical accompaniment to the residents as well as the kids on their way to and from At-Tuwani, decided to walk through shorter paths around the grove of Havat Ma'on and, ultimately, through the infamous road closed to Palestinians since 2002. "If on the first three days the trip to and back from school went smoothly, the fourth day was a real tragedy"; Ahmed recollected.

Eleven masked settlers hid behind the trees, and, as soon as the children started walking close to the grove, accompanied by Italian and American volunteers from Operation Dove and the Christian Peacemakers Team, an international organization of civilian peace corps, they encircled the unarmed group and began to chase and beat them. The little boys and girls did not manage to run away, so that

(New Israeli Shekels) and intimidate them to sign declarations in Hebrew to pledge not to use the road again, or otherwise to be punished with a fine or even with jail.



two of them were badly hurt, while two of the volunteers were badly beaten and ended up with broken legs and hands.

This year, Hamze and his friends' trip to school, like in the last fourteen years, has been very unusual since, in 2004, immediately after the tragic episode, the Knesset Committee on the Rights of the Child decided to provide a military escort of Israeli soldiers to walk along the short path with the schoolchildren of Tuba. To protect the kids, sure, yet leaving the crimes of the Israeli settlers from Havat Ma'on unpunished²¹ while forcing the children to trust those same soldiers that raid or demolish their or their friends or parents' houses.

The military escort itself, its frequently documented absences, delays and misconducts²², have not ensured safe trips along the short route and have sometimes forced the kids to either walk along a 2-hours long trail or to pass through the outpost only escorted by civilian volunteers²³.

The right to education and the right to work

The violent behavior of settlers against children going to and back from school, the failure of the authorities to hold them accountable and deter future violence, and the misconducts, delays and absences of the Israeli military escort that is supposed to accompany the kids, all contribute to breach the right of the children of Tuba to education, enshrined by Article 13 of the ICESCR and Article 28 of the Convention on the Rights of the Child (CRC). Israel is not avoiding, and is either acquiescing or directly responsible for, measures that "hinder or prevent the enjoyment of the right to education"²⁴, while the school is not within "safe physical reach", as provided by General Comment 13 of the Committee on Economic, Social and Cultural Rights. As party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Israel should be committed to "the continuous improvement of the situation of children without discrimination as well as for their development and education in conditions of peace and security"²⁵, responsibility which the Occupying Power is not truly fulfilling. Similarly, the right to "the opportunity to gain [a] living by work which [a person] freely chooses or accepts" is not guaranteed either since shepherds cannot freely graze their flock around the village due to settlers' violence, and, for the same reason, Tuba residents cannot easily reach the closest villages where they may be able to find work opportunities, in violation of Article 6 of the ICESCR.

21- Hass, 2018. "Palestinian Kids' Long Trek to School – past the Settler with the Handgun", Haaretz. Available at <https://www.haaretz.com/israel-news/MAGAZINE-palestinian-kids-long-trek-to-school-beyond-the-settler-with-the-gun-1.6492193>

22- As documented by Operation Dove volunteers, who monitor the military escort throughout the entire school year, for instance here

23- As it happened in the episode described by Amira Hass in the over-mentioned article, "Palestinian Kids' Long Trek to School", Haaretz, 2018.

24- CESCR, "General Comment 13, the Right to Education (Article 13)": 8 December 1999, E/C.12/1999/10, available at: <https://www.refworld.org/docid/4538838c22.html>

25- UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. 25 May 2000, A/RES/54/263, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACRC.aspx>



No Other Way

Ahmed drives back and forth from Tuba, at least twice a day, spending hours on the car to reach the village of At-Tuwani which, as the crow flies, is only 2 kilometers far.

Today, all the people from the village, with the exception of schoolkids, are obliged to walk at least around 45 minutes on a very difficult trail all around and very far from Havat Ma'on to reach the village of At-Tuwani, still risking to be assaulted, threatened or harassed by the settlers, as reported by the international volunteers accompanying them²⁶. Most of the times, however, especially when they move by car or donkey, they have to embark on a trip of more than 6 kilometers on a very long dirt track, which has been used since the closure of the short road in 2002 and which draws an almost entire circle, that goes South-East, then West, to finally go back towards the North and crosses several Palestinian villages in the desert. The alternative road for cars is a 30-minute drive to reach bypass road 317, a long artery that connects all the settlements in the area to Route 60, the road that leads to Jerusalem. Although this second option is shorter, the conditions

of the road itself do not make it truly accessible to vehicles. In fact, both the roads are for the most part dirt tracks because the Israeli Civil Administration does not release permits to Palestinians in that area to build or pave roads, and from time to time the Israeli authorities have demolished tracts of roads or blocked with cement blocks or dirt mounds²⁷, eventually impeding altogether the movement of the residents of Tuba. The inaccessibility of roads, due to the violence of settlers and worsened by the impossibility to build and asphalt streets, have repeatedly resulted in medical emergencies. In 2003, Ahmed's mother went into labor and, because the ambulance could not reach the village in any possible way, she was forced to reach the closest accessible place by donkey and through the longest road, in order also to avoid taking the risk of being assaulted by settlers. Likewise, in 2010, a 6-year-old girl was badly beaten by the settlers on her way back from school, after she and the other pupils were forced to take the longer road because the military escort had not showed up, and she had to be carried by donkey to reach the ambulance waiting for her on the bypass road. The community of Tuba is hence trapped in a different, more complex and

²⁶-For instance, on September 7 2018, two settlers threw stones with slingshots at people walking towards Tuba, as reported by Amira Hass in "Palestinian Kids' Long Trek to School – Past the Settler With the Handgun". Or also, see here

²⁷- In the summer of 2018, the council of Masafer Yatta secretly built a segment of the long road overnight, yet the Israeli army and Civil Administration soon intervened to stop the works and block the passage with dirt mound and ditches, as Ahmed explains and as Operation Dove volunteers reported here.



imposed isolation which results from the risk of being assaulted by the settlers living nearby and the unavailability and inaccessibility of alternative, decent roads that would be less likely to put the life and physical integrity of the people travelling along them in jeopardy.

The Right to Liberty of Movement and the Right to Health

The violence of the settlers of Havat Ma'on severely deters the movement of the people of Tuba from and to the closest Palestinian village of At-Tuwani. Their right to liberty of movement, as enshrined in Article 12 of the ICCPR, is, hence, violated, as, whenever they leave the village, they are under serious threat of being physically assaulted or harassed. Their ability and freedom to move is substantially restricted and is, most of the times, conditional to the presence of Operation Dove volunteers accompanying and warning them whenever they notice the presence of settlers in the area, while monitoring and documenting any episode of violence or harassment. Moreover, by barring the Palestinians of Tuba from using specific roads while refusing to release permits to pave roads and simultaneously and uninterruptedly demolishing or blocking those that are still somewhat accessible to cars and donkeys, the Occupying Power is further breaching Article 12 of the ICCPR. The restrictions it is directly imposing on their liberty of movement are not permissible since, contrarily to what Article 12(3) defines as lawful limitations, firstly, they are not consistent with the other rights recognized in the ICCPR and result in serious violations in other human rights, like the

right to education or the right to health. Secondly, necessity does not govern or justify the limitation on the freedom of movement of these people because the community does not constitute a "grave and imminent peril" against which the State needs to "safeguard an essential interest" (Article 25 (1)(a) of the ILC Draft articles on Responsibility of States for Internationally Wrongful Acts), while the measures are neither proportional nor appropriate to "protect national security, public order (ordre public), public health or morals and the rights and freedoms of others" (article 12(3)). Conversely from what General Comment 27 of the Human Rights Committee provides, the restrictions on the freedom of movement of Tuba residents de-facto impair the essence of the right, while they do not respect the principles of equality and non-discrimination since Israeli settlers illegally residing in the same area enjoy fully enjoy this liberty.

The restrictions on the liberty of movement leads to limitations and outright violations of several other rights, and an example is the right to health, which, in the overmentioned cases of medical emergencies is breached as a consequence of the de-facto impossibility to move and inaccessibility of roads. Moreover, as a UN Fact-Finding Mission concluded in a report on the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People in the oPt, settler violence also "gravely affects the right to the enjoyment of the highest attainable standard of physical and mental health"²⁸, as enshrined in Article 12 of the ICESCR; the continuous exposure to unpredictable threats, attacks, and incursions has a serious toll on the physical and psychological wellbeing of the community of Tuba.

28- UN HRC, Report of the Independent International Fact-finding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian People Throughout the Occupied Palestinian Territory,

including East Jerusalem, A/HRC/22/63, 7 February 2013. Available at https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf



RAZED TO THE GROUND

Each single family in the village has seen its house demolished, at least once.

In Tuba, roads cannot be paved, houses cannot be built, like any other structure or infrastructure. The Occupying Power does not approve construction plans in the area and does not release building permits to the community. On top of building and planning restrictions, Israel is progressively demolishing and has delivered “demolition orders” to all the buildings, with the exception of the caves, from houses and wells to sheep pens, which have been standing in the village for years. Not for decades, though, since the occupying state razed the entire village of Tuba to the ground in 1997, with the exception of the caves²⁹. In 1999, the Israeli military forcibly evacuated the community of Tuba from its village and transferred to the area of Yatta, on the opposite side of the bypass road 317³⁰, together with 11 other villages in the South-Eastern Hebron Hills which, like Tuba, had been standing there since before the beginning of the

military occupation of Palestine³¹. Israel justified the crime with the fact that they were illegally residing in a “live-fire zone”, designated as Firing Zone 918 in the 1970s³². As Ahmed recollected, the forced expulsion came after months of threats of and actual arrests from the Israeli police to push the entire community to leave the area: Ahmed’s uncle was detained without charge for one week. After the expulsion, most of the families settled in At-Tuwani, determined to go back to their lands; after having filed a petition to the High Court of Justice with the support of the Association for Civil Rights in Israel (ACRI)³³, the Court issued an interim injunction, of, hence, a temporary character, permitting the Palestinians to return to their villages, or to what remained of them namely the caves, in March 2000³⁴. In the following years, the Israeli Civil Administration, however, did not allow any new construction, bulldozed any structure that was built without the de-facto impossible-to-get permits, and, in 2012, after the military had conducted live-fire exercises in the area, the Defense Minister communicated to the Court the intention of

29- According to Ahmed’s testimony.

30- See B’tselem, 2013, “Barrier along Route 317”, which explains Israel’s failed attempt to annex the area South of the route. Available at https://www.btselem.org/south_hebron_hills/fence_along_road_317

31- B’tselem, 2013. “Masafer Yatta communities whose land has been declared a firing zone”. Available at https://www.btselem.org/south_hebron_hills/masafer_yatta

32- B’tselem, 2013. “Masafer Yatta”.

33- ACRI, 2016. “Info-sheet: The 12 Villages of Firing Zone 918 in the South Hebron Hills”. Available at <https://law.acri.org.il/en/2016/02/21/firing-zone-918-infosheet/>

34- B’tselem, 2013. “Masafer Yatta”.



the Occupying Power to demolish eight villages in the firing zone.

The residents of Tuba, on the other hand, were permitted to stay in the area that is still today within Firing Zone 918 yet not in the “active” zone³⁵, which means that the military could conduct exercise yet without live fire. Nevertheless, construction is still not permitted, and the Israelis keep bulldozing structures in Tuba, as it happened on the 20th of March 2019 when the District Coordination Office (DCO) demolished a house, helped by the sound bombs of the Israeli military and the arrest of a 22-year-old protesting peacefully against the demolition of the Israeli police³⁶.

Legal Implications of Firing Zone 918

The designation of the area where Tuba lies today as “Firing Zone 918” represents in itself a breach of International Humanitarian Law, and in particular a rule of custom which has also been codified in Article 55 of the Hague Regulations, according to which public immovable property must be administered in line with the rules of usufruct. The unlawful declaration of the land as a closed military zone resulted in the forcible eviction that Israel carried out in 1999, which represented a huge violation of Article 12 of the ICCPR that, in addition to the right to liberty of movement, provides that individuals shall be free to choose their own residence and

be protected against any form of internal displacement. The near impossibility to build or renew houses and infrastructure, together with the continuous demolitions and confiscations of structures, both consequences of living in Firing Zone 918, represent further violations of IHL and IHRL Israel is responsible for. The restrictive building and planning regime the Occupying Power has imposed on the community violates article 43 of the IV Hague Convention since it does not address the needs of the protected persons and totally changes the laws that were in force in the country before the beginning of the occupation. Moreover, if the confiscation of private property represents a violation of Article 46 of the Hague Regulations, the continuous administrative demolitions carried out by Israel in the village cannot be justified by military necessity and, for this reason, constitute severe breaches of Article 53 of the IV Geneva Convention, which prohibits the destruction of private property. In particular, when Israel razed the village of Tuba to the ground in 1997, it committed a “grave breach” of IHL, as outlined in article 147 of the IV Geneva Convention, which amounts to a war crime.

“The forced expulsion came after months of threats and actual arrests from the Israeli police to push the entire community to leave the area”

35- See Annex 1, “Map of the South Hebron Hills”.

36- See Operation Dove, post on Facebook dated 21st March 2019. Available at this link



Drying Out

Saleh wants to collect as much water as he can, all at once. The only water tap in his house is not connected to the water system, and the well becomes the main source of this precious commodity.

Building and planning restrictions translate into the impossibility to build infrastructure to collect water or to install pipelines which would connect the village to the water network serving all the settlements and outposts in the area, as well as the Palestinian village of At-Tuwani nearby which represents an exceptional case among the Palestinian communities in the South Hebron Hills.

In February 2019, the Israeli Civil Administration cut and confiscated the pipelines, funded by European governments, that the Masafer Yatta council of villages had partially installed to connect some villages in the Firing Zone 918 to the water network; the demolition and confiscation lasted more than 6 hours, during which the Israeli Border Police arrested two Palestinians trying to oppose the crime and one officer openly stated that they were demolishing water lines to “replace Arabs with Jews”³⁸. Already in 2006, although the ICA, under the pressure of Israeli and international organizations, gave permission to

the people of Tuba to install pipes, the potentially, and likely, aggressive reaction of the settlers nearby then convinced the Israeli Authority to ultimately impede the works. Consequently, as Ahmed recalls, the resilient people of Tuba advanced the alternative request to use the short road passing between the outpost of Havt Ma'on and the settlement of Ma'on in order to be able to transport the tanks up to the village more easily; the request was rejected immediately, which showed the Israeli authorities “openly serving the interests and indulging the will of the settlers”, as Ahmed believes.

Hamze is helping his older brothers, and the rest of the young men of the community, to take care of the system that enables households in Tuba to have some water, even if a very limited amount, inside their homes.

Today, the residents of Tuba draw the rainwater collected in a well during the winter through a system of pumps, a cistern and pipes, provided by the Israeli-Palestinian organization Comet-ME in 2011, which bring the water inside the houses and caves where the families live. If the rainwater of the fall and winter months usually serves the community until August, this year, the scarce rains

38- Hass, 2019. “Palestinian Villages Had Running Water. Israel Put a Stop to It”, Haaretz. Available at <https://www.haaretz.com/israel-news/>.

premium-why-doesn-t-israel-want-palestinians-to-have-running-water-1.6959524 . Additional information on the demolition [here](#)



“Surrounded by the settlements and the desert, the community of Tuba is nowadays living in an imposed isolation”

have compelled the families to start buying water tanks starting from the beginning of May. The community buys the tanks in Yatta, from the Israeli water company Mekorot. If the price of the water itself is already much more costly to Palestinians in the area, who pay up to 35NIS per cubic meter, than to the settlers, some of whom are provided water for free, the transportation exponentially raises the price since the trucks have to drive long and inaccessible roads to reach the village; a family spends around 800 NIS for around 20 m³ of water³⁹, enough for two weeks maximum. Due to all these factors, the water consumption in the village and in the entire area is very low, around 28 liters per capita per day, which starkly contrasts with the 211 liters per capita per day registered in the Israeli settlements in the South Hebron Hills, as reported by B'tselem in 2013⁴⁰

39- As Ahmed reported.

40- “The South Hebron Hills”.

Lights off

The wind blowing on the dunes illuminates the small houses and caves of Tuba.

The community has not been permitted to hook up to the electric power grids either, those that, like the water network, serve all the settlements and outposts around yet not the Palestinian villages. Until 2006, indeed, Tuba residents did not have electricity at all. It was only in 2006 that the Head of the At-Tuwani village council bought provided the community with generators which, however, were extremely costly because of the high price of the fuel they needed to work, and, as a result, most of the families could not truly afford it. In 2011, Comet-ME, with the support of the German government and in collaboration with Danish and Swiss NGOs, equipped the village with a wind turbine and nine solar panels.

The constant sunlight cheers the community up and, from time to time, enables them to turn the TV on. The windmill and the solar panels equally supply the basic electric needs of the families and are part of a project Comet-ME has been working on since 2008 to introduce alternative and renewable energy to the villages in the whole area of the South Hebron Hills⁴¹.



In Tuba, each family pays 100 NIS per month as a deposit to cover the expenses for the maintenance of the energy devices, which a Comet-ME employee takes care of once per month, and is allotted electricity according to its relative size. The community is also responsible for the windmill and the solar panels, and residents receive periodical trainings from the organization, which ultimately increases the energetic independence of the entire village. Still, all the devices may be demolished or confiscated at any time.

The Right to an Adequate Standard of Living and to Family Life

The building restrictions and demolitions of pipes, roads and houses, the Occupying power is in breach of several, fundamental rights, namely the right to a decent standard of living and to family life. Article 11 of the ICESCR protects the right to an adequate standard of living which includes both the right to adequate housing and, as the CESCR explains in its General Comment no. 15, the right to water. Housing in Tuba is not adequate since, first and foremost, the

frequent and indiscriminate demolitions do not guarantee the residents "the right to live somewhere in security, peace and dignity"⁴²; moreover, due to the location, houses in the village may not fulfill the condition of "accessibility" defined in the overmentioned General Comment. Besides, because of building restrictions, many families live in cave, hence house are inhabitable, services are not available and the inhabitants do not enjoy legal security of tenure and are, consequently, not protected from possible forced evictions.

The same article also protects the right to water, defined in General Comment no. 15 of the CESCR as the "right to access water of adequate quality and in sufficient quantity to meet human needs" and "entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water". Water in Tuba is scarce, extremely expensive, inaccessible; hence, the community does not enjoy this inalienable right, which is at the very basis of life and human dignity⁴³. The impossibility to build and live in a safe shelter does not protect the right to family life, enshrined in Article 10 of the ICESCR.

The fact of inhabiting these coercive environments does not give the families "the widest possible protection and assistance" and the consequences of the demolitions, impossibility to build, together with the outright abuses of both the Israeli military and settlers have threatened its very existence and growth.

41- B'tselem, 2013. "The South Hebron Hills".

42- UN Committee on Economic, Social and Cultural Rights (CESCR), "General Comment no. 4, Article 11". 13 December 1991, E/1992/23, available at: <https://www.refworld.org/docid/47a7079a1.html>

43- UNHRC, "The human right to safe drinking water and sanitation". 2 October 2014. UN Doc. A/HRC/RES/27/7; See UNGA Res 64/292. 28 July 2010. UN Doc A/64/292; UNGA Res 68/157. 18 December 2013. UN Doc A/68/157.



Double Standards for a Double Purpose

Surrounded on two sides by Israeli settlements and outposts, not only of Ma'on and Havat Ma'on, but also of Carmel and Avigayil, and on the other two sides by active Firing Zone 918, once the desert while today an area of military training, the community of Tuba is nowadays living in an imposed isolation.

The military occupation and the de-facto colonization of the Palestinian territories conducted by Israel through the establishment and expansion of illegal settlements have resulted in continuous and unpunished violence against the Palestinians and in building restrictions and uninterrupted demolitions and confiscations which have segregated the community and hindered its growth and very existence.

The case of Tuba shows the huge disparity between Israeli settlers and indigenous Palestinian communities and the interest of the Occupying Power to preserve and fulfill the interests and control over the land of the former while creating a coercive

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and unlivable environment to push the latter to flee. Grave crimes of the former left unpunished while arbitrarily arresting the latter⁴⁴, allocating more land and resources to the former⁴⁵ while subtracting more and more land to the pastures of the latter, allowing the former to plan and build without restrictions while imposing planning and building criteria that are impossible to meet on the latter, the inherently discriminatory and oppressive policies and practices of the Israeli authorities on the occupied village of Tuba people seem all to be aiming at the forcible transfer of the Palestinian community, and of all the communities in the Masafer Yatta, and at the fragmentation of the territorial contiguity of the occupied people in the South Hebron Hills, which, as throughout the whole West Bank, inevitably produces fractures in the social fabric, too.

44- In 2014, a settler from Ma'on once accused four children, aged between 11 and 15, of having eaten cherries from the trees belonging to the settlement; after having been notified, the army immediately called the police which brought the kids to the nearest police station and interrogated two of them without the presence of their parents. See Matar, 2014. "Young Palestinian girls detained on suspicion of - eating cherries", +972. Available at <https://972mag.com/young-palestinian-girls-detained-on-suspicion-of-eating-cherries/91411/>

45- As documented by B'tselem in "The South Hebron Hill", in 2009, while the village of At-Tuwani, which managed to have a master plan approved by the ICA, was allocated 52 dunums (1 dunum equals to 1000m²) in total, which neither included all the built-up area nor did it allow for any further development, the Israeli Civil Administration simultaneously allocated 385 dunums to the settlement of Ma'on even though the two communities had a similarly-sized population.



Discrimination and Forcible Transfer

The systematic failure of Israel to investigate and prosecute the settlers responsible for the repeated violence against the inhabitants of Tuba have shown the lack of interest and political will of the Occupying Power to end the climate of impunity and to deter further and future abuses and severe human rights violations of these private individuals against their Palestinian neighbors. The indulgence on the ideologically-motivated crimes of the settlers, which already represent a form of discrimination, worsens the systematic racial discrimination already carried out by the state through a discriminatory system of laws and practices, in violation of the International Convention on the Elimination of All Forms of Racial Discrimination that Israel ratified in 1979. The case of Tuba shows that Israel has indeed created two separate systems of rights and privileges, which violates the sacrosanct principle of international law of equality and non-discrimination, favoring Israeli citizens at the expense of the Palestinian population. The favorable treatments and policies adopted for the benefit of the settlers perpetuate the growth of settlements and outposts, illegal according to Article 49 of the IV Geneva Convention. At the same time, the discriminatory laws and practices against the Palestinians constitute measures that aim at pushing the community away from its village; the creation of such a coercive environment represents an attempt of forcible transfer, which is prohibited by IHL and amounts to a war crime according to the Article 8 of the Rome Statute.

Saleh and the Future of Tuba

Saleh, Ahmed's brother, is one of the faces of the resilience that characterizes the community of Tuba.

He is 20-years old and has just begun his university studies in International Law. In this way, he believes he will be able to provide legal support to the families still residing in Tuba whenever the Israeli settlers and occupation authorities threaten or enforce unlawful, unfair and discriminatory policies against the Palestinian village. Saleh lives with his parents, brothers and sisters in a cave, the only place where they feel secure in a very insecure and dangerous environment, the safe haven where the fear, worries and unpredictability of the occupation seem to vanish, even if only for the duration of a shared lunch.

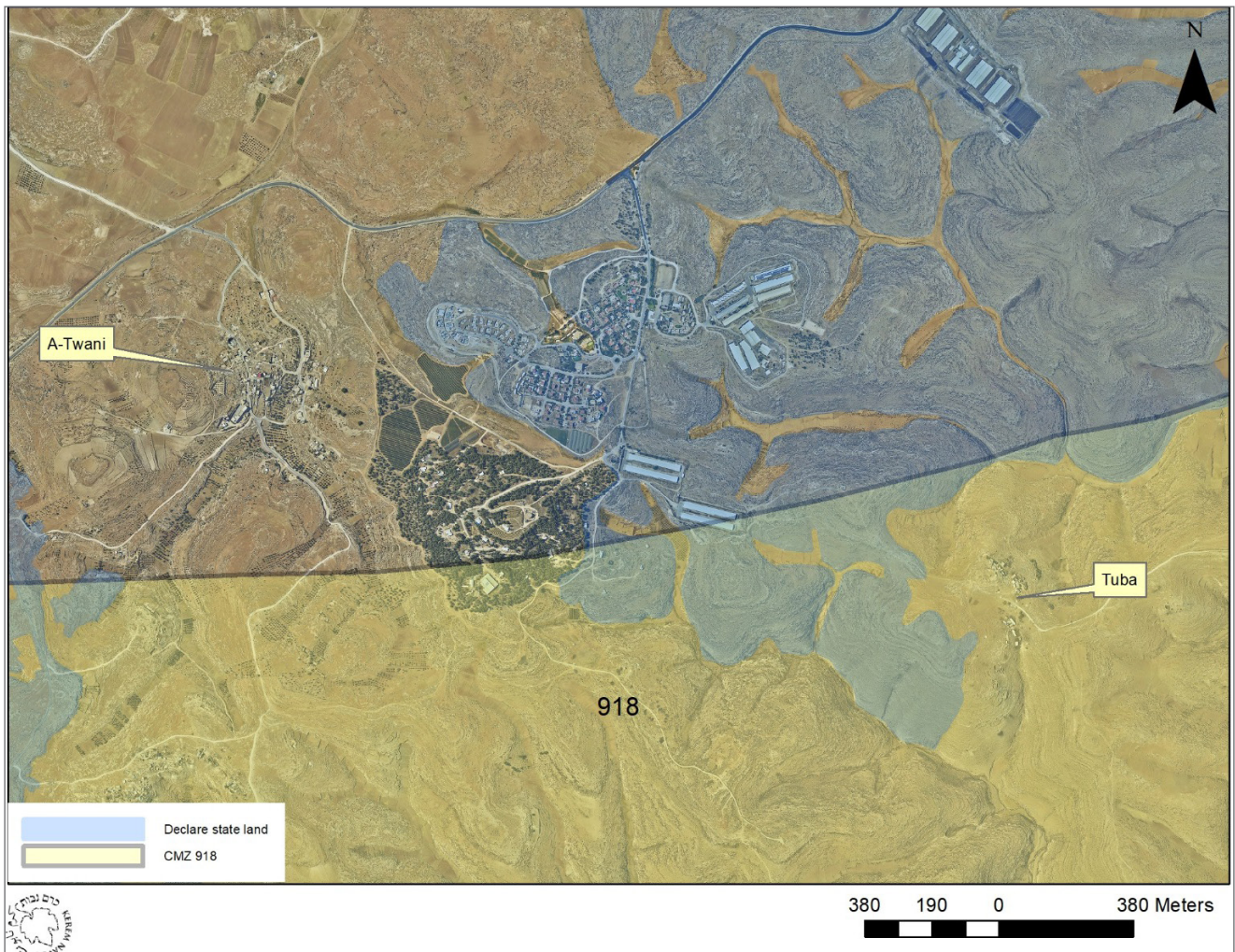
FINAL RECOMMENDATIONS

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 community of Tuba and in the occupied territory more at large, namely, among others, the infringements of the right to life, liberty of movement, security of person, an adequate standard of living, and health;
- To urge Israel to fulfil its positive obligation under IHRL to ensure that the rights the Palestinian community is entitled to are respected and not breached by private persons or entities, namely Israeli settlers, and hence ensure due diligence to prevent, punish, investigate or redress the harm caused by those same acts, recalling that a failure to investigate in the violations and to prosecute those responsible would give rise to State responsibility for those same violations;
- To demand Israel to immediately freeze and reverse the planning, establishment and expansion of Israeli settlements, which are illegal according to International Law, and the parallel process of repeated demolitions of structures and infrastructure targeting Tuba, and many other Palestinian villages in the area and throughout the West Bank, which amount to breaches of International Humanitarian Law and aim at the forcible transfer of the Palestinians, a war crime;
- 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.



Annex 2:
FIRING ZONE 918 AND STATE LAND IN THE AREA OF TUBA





TOGETHER FOR CHANGE

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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