


LIVING IN ISOLATION

Trapped in an Illusory Open Space:
the Isolation of Nabi Samwil and Beit Ikse





The villages of Beit Iksa and Nabi Samwil lie on two hilltops on the North-Western side of Jerusalem. The wonderful view from these pinnacles which sweetly descend into the seemingly open valley and their proximity to the city of Jerusalem would make the two villages extremely enjoyable and quiet spots where to settle down, away from the chaos yet so close to the Holy city. In fact, the reality in which the communities of Beit Iksa and Nabi Samwil live in is astonishingly different and distant. The policies and practices that Israel has adopted as the Occupying Power have permanently and negatively altered the life, demography and future perspective of these communities, while violating the human rights of their members. The de-facto isolation imposed on the two villages reveals that the openness of the surrounding valleys and the closeness to Jerusalem are eventually mere illusions that do not correspond with the actual reality.

BEIT IKSA AND NABI SAMWIL: AN OVERVIEW

Beit Iksa and Nabi Samwil are located on the eastern side of the Armistice Line of 1949 (Green Line) and on the western side of the wall, which isolates them from the rest of the West Bank. The two villages lie outside the unlawfully expanded boundaries of the Jerusalem municipality and are surrounded by the illegal Israeli settlements of Giv'at Ze'ev, Giv'on, Giv'on Hahadasha, Har Shmuel and Ramot, partially established on lands confiscated from the two Palestinian communities¹.

1. The Applied Research Institute – Jerusalem (ARIJ), “An Nabi Samwil Village Profile”, 2012. And B'tselem, “Isolated: Israel cuts village of Beit Iksa off from East Jerusalem and the rest of the West Bank”, 2016. http://vprofile.arij.org/jerusalem/pdfs/vprofile/An%20Nabi%20Samwil_EN.pdf, https://www.btselem.org/freedom_of_movement/20160817_isolation_of_beit_iksa

Nabi Samwil is currently inhabited by around 302 people² from five main families³, and covers an area of approximately 2260 dunums⁴. During and in the immediate aftermath of the Six-Day War, around 1000 Nabi Samwil residents fled to Jordan, while those that remained in the village, around 200 individuals, were forcibly evicted from their 52 original homes which Israeli military forces bulldozed on 22nd March 1971 and were forcibly transferred to buildings that had been abandoned in 1967⁵. This made the ICRC delegation to the West Bank conclude that “the village [...] was in fact destroyed by Israeli armed forces” (emphasis added)⁶. The village has been designated as Area C under the “Oslo Accords”, under full Israeli control, and, after 1995, was declared by Israel a “national park” allegedly because of the presence of an archeological site around the mosque. The consequent building and planning restrictions halted and impeded any possible growth of the village; at the same time, through continuous land purchases and outright expropriations targeting Nabi Samwil, Israel has been able to ensure the expansion of the settlements that today

[org/freedom_of_movement/20160817_isolation_of_beit_iksa](http://www.alhaq.org/advocacy/topics/population-transfer-and-residency-right/1272-hidden-in-plain-sight-the-village-of-nabi-samwil)

2. Al Haq, “Hidden in Plain Sight: the Village of Nabi Samwil”, 2018. <http://www.alhaq.org/advocacy/topics/population-transfer-and-residency-right/1272-hidden-in-plain-sight-the-village-of-nabi-samwil>

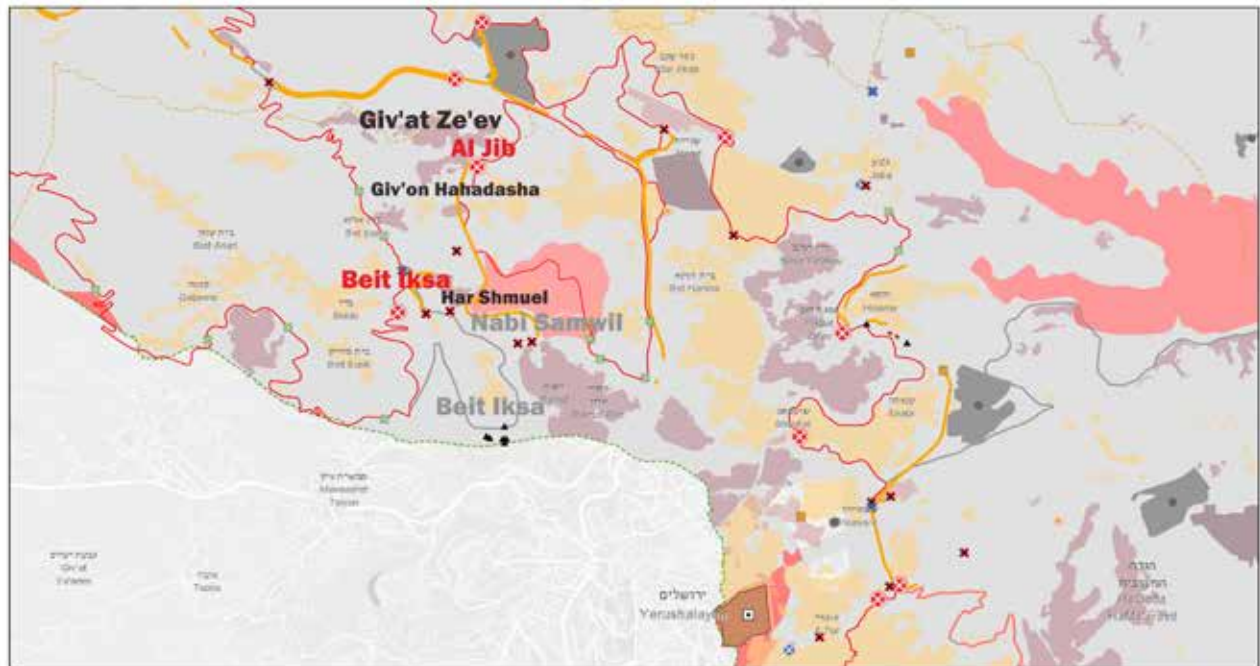
3. COSPE, Interview with the Head of the Women's Association of Nabi Samwil, 29 March 2019.

4. ARIJ, “An Nabi Samwil”, 2012.

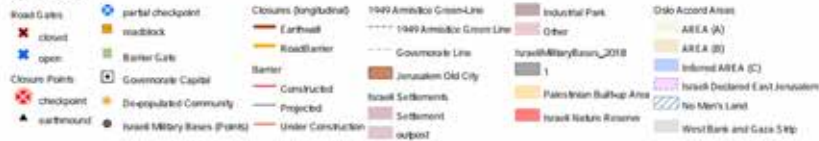
5. UN General Assembly, “UN Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”, 5 October 1971, A/8389, para. 48(c)(1), <https://unispal.un.org/DPA/DPR/unispal.nsf/0/BC776349EAE6F28852563E6005EDF08>

6. Al Haq, “Hidden in Plain Sight”, 2018.

North West Jerusalem Governorate (oPt)



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surround the shrinking village.

The village of Beit Ikksa lives in a very similar situation. The expansion of the settlements of Ramot and Har Shmuel, the construction of the Tel Aviv-Jerusalem railway and the bypass roads 436 and 4915, connecting the settlements in the area, entailed the confiscation of significant swathes of land from the village of Beit Ikksa, amounting to 1692 dunums since 1967⁷. Besides, through the erection of the wall, Israel annexed more than 95% of the total land belonging to the community before the construction of the wall. Nowadays the village stretches over an area of 7980 dunums, 92.59% of which has been designated as "Area C" under Israeli civil and military control⁸. Like in Nabi Samwil, this implies the de-facto impossibility to build, rehabilitate and expand the village, and, indeed, only 257 dunums of land are developed and built within the village⁹. After the flight of around 400 people

7. Al Haq, "Factsheet: Jerusalem" (internal document), 2019

8. Al Haq, "Jerusalem", 2019.

9. Al Haq, "Jerusalem", 2019.

during and in the aftermath of the Second Intifada of 2000, the population of Beit Ikksa today amounts to around 1900 people¹⁰.

TRAPPED INTO AN ILLUSORY OPEN SPACE

Hundreds of villages in the West Bank, and particularly in Area C, are subjected to continuous demolitions and expropriations, yet what makes Beit Ikksa and Nabi Samwil exceptional cases that are worth studying is their isolation. Israeli practices and policies, especially since the beginning of the Second Intifada in 2000, have separated the communities from both the West Bank and East Jerusalem¹¹. They lie in a beautiful, yet grey area, and the physical and non-physical barriers surrounding them trap their people in invisible cages.

10. The Applied Research Institute – Jerusalem (ARIJ), "Beit Ikksa Village Profile", 2012. http://vprofile.arij.org/jerusalem/pdfs/vprofile/Beit%20Ikksa_EN.pdf

11. COSPE, Interview in Nabi Samwil, and Interview with the Head of Beit Ikksa village council, 29 March 2019

HOW IS THE ISOLATION ENGENDERED?

Physical Barriers: The Wall and the Checkpoints

The major physical barrier that has engendered the isolation of the two villages is the wall. When Israel built the wall, between the year 2004 and 2007, it wended through the West Bank territories, very much East to the Green Line. The deviation of the wall from the actual path of the Armistice Line cut both Beit Iksa and Nabi Samwil¹² off from the neighboring Palestinian villages. Israel, then, built two checkpoints to regulate the movement of people in and out of the two villages, with the main objective of impeding West Bank Palestinians to access Jerusalem via Beit Iksa and Nabi Samwil. Therefore, the checkpoints constitute an additional element of isolation for the two communities. Although the major impact of the construction of the wall and the checkpoints on the two villages was their isolation, the erection of these physical obstacles additionally entailed the confiscation of large swathes of land, reducing both the extension and the availability of natural resources of the villages involved¹³.

The Permit and Surveillance System

The passage through the two checkpoints, installed respectively at the entrance of Beit Iksa and of Al Jeeb, the closest West Bank village to Nabi Samwil, is regulated by a special permit system. In both the communities, only those individuals officially registered as residents on their identity card are allowed to pass by showing their ID only. In Nabi Samwil, the soldiers at the checkpoint have the residents' names, ID numbers, and car plates in a list, which, however, is based on an official registration carried out a decade ago during an Israeli military raid, and is consequently neither complete nor up-to-date¹⁴. Visitors, non-residents, and even employees working regularly in the villages must ask for permits, following lengthy procedures. In Beit Iksa, visitors need to be accompanied at the checkpoint by a resident and, if the soldiers allow them in, they have to leave their IDs and must exit the village no later

12. COSPE, Interview in Beit Iksa village council, 2019

13. ARIJ, "Beit Iksa", 2012

14. Al Haq, "Hidden in Plain Sight", 2018.

than midnight on the same day¹⁵. On the other hand, Palestinian visitors that want to enter in Nabi Samwil must coordinate officially with the Israeli Civil Administration, a long procedure which is also required for bringing "commercial quantities" of goods or larger items inside¹⁶.

A different kind of permit system further limits the movement of both the communities towards the close yet mostly inaccessible Jerusalem. Although there are no physical barriers between the two villages and the city, the majority of the inhabitants of Nabi Samwil and Beit Iksa cannot go to Jerusalem because they are mainly West Bank ID holders and only few of them still retain the Jerusalem ID.

Since the building of the wall and the two checkpoints, Israel has erected a security tower on the same hilltop where Nabi Samwil is located which, among other

things, aims at ensuring the respect for this restrictive permit system; the tower closely monitors the movement of the Palestinian residents of both the villages and intercepts them when walking across the valleys that lead to Jerusalem¹⁷. It hence subjects the two communities to uninterrupted surveillance and Palestinians caught while going to Jerusalem without a permit are likely to face punitive measures, like fines, detention or even arrest¹⁸.

As a result, the permit and surveillance system has



established an additional de-facto barrier that ultimately impedes the free movement of the resi-

15. COSPE, Interview in Beit Iksa, 2019.

16. Al Haq, "Hidden in Plain Sight", 2018.

17. Al Haq, "Hidden in Plain Sight", 2018.

18. Al Haq, "Hidden in Plain Sight", 2018.



dents.

Endless Travels

The road system has further contributed to the actual isolation of Beit Iksa and Nabi Samwil also towards what is today the closest accessible city, Ramallah. Already since 2002, before the construction of the wall and the checkpoint, the residents of Beit Iksa, as well as Palestinians from surrounding villages, have been barred from using bypass road 443 to go to Ramallah, which is still for the de-facto exclusive use of settlers and Israelis¹⁹. Moreover, in 2010, Israel closed the road connecting Beit Iksa to bypass road 436, which links the settlements located North-West of Jerusalem to the city, hence impeding the residents to reach not only Jerusalem but also the Al Jeeb checkpoint²⁰. Today, people living in Beit Iksa have to travel through long roads in poor conditions to reach Ramallah and the other villages nearby. Similarly, Nabi Samwil lies on bypass road 436, yet its residents cannot use it with the exception of the tract between the village and Al Jeeb checkpoint.

Further Practices of Isolation

The practices the Israeli forces employ to maintain

19. B'tselem, "Route 443- West Bank road for Israelis only", 2011. https://www.btselem.org/freedom_of_movement/road_443

20. B'tselem, "Isolated: Israel cuts village of Beit Iksa off", 2016.

the isolation of the two communities are various. First, according to the testimonies of people from the two communities, the decision to make someone or something enter or exit the villages relies on the mood of the soldiers at the checkpoints. In other words, the procedure of coordination for the crossing of visitors and goods does not ensure their passage, making the arbitrariness of this process an additional non-physical barrier.

Nawal: "Even when there is coordination for transporting simple goods like rice or eggs, it happened that the soldiers at the checkpoint did not let the goods in. It is a totally arbitrary process."

Similarly, Beit Iksa residents bringing goods inside face continuous delays and searches at the checkpoint while owners of businesses and shops inside have to collect their merchandise at the checkpoint, since suppliers of goods are not allowed to enter²¹. In the end, as the people from both Beit Iksa and Nabi Samwil reported, like the passage of visitors and goods, the crossing of residents is at the total discretion of the soldiers, who may shut down the checkpoints altogether, denying even medical assistance to sick people in need²². In fact, the Al Jeeb checkpoint is closed to Nabi Samwil residents on a regular basis, especially during Jewish holidays, when, if the residents try to exit, they are likely to

21. COSPE, Interview in Beit Iksa, 2019.

22. COSPE, Interviews, 2019.

face violence from Israeli settlers living nearby. Residents of Nabi Samwil have found themselves stuck inside the village also on working days, because Israeli forces at the Al Jeeb checkpoint may close it for hours, provoking long delays and dramatically affecting the everyday tasks and activities of the residents who are still living there²³.

Nawal: "My son was coming back from Ramallah, on a Jewish holiday. He tried to enter the checkpoint but was stopped there and forced to wait until the day after".

Majida: "On the day of the Jewish Easter, I was at the hospital and a friend wanted to visit me. He left the village with his car and, not only he was prevented from crossing the checkpoint to enter the West Bank. He had to pass through a group of settlers who started to throw stones at his car".

In addition, the unavailability, inadequacy and discriminatory character of the transportation system represent further layers of isolation. For instance, the only public transportation available to Nabi Samwil residents is one West-Bank licensed bus, a minivan and one taxi for emergencies. At the same time, Israeli-licensed taxis are either very costly for the residents, because of the long travels they inevitably have to cover or their drivers simply refuse to pick up West-Bank ID holders²⁴.

Liberty of movement

Article 12 of the International Covenant on Civil and Political Rights states: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement [...]"²⁵.

Israeli policies and practices in the villages violate Article 12 of the ICCPR. Indeed, this right cannot be restricted, except when the restrictions are "provided by law, are necessary to protect national security, public order (order public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the [ICCPR]²⁶". In line with the International Court of Justice and its 2004 "Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Territory", the restrictions on liberty of movement

23. COSPE, Interview in Nabi Samwil, 2019.

24. Al Haq, "Hidden in Plain Sight", 2019

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

26. UN GA, ICCPR, Article 12.

imposed by Israel on the oPt through the erection of the wall, and, in this case, on the communities of Beit Iksa and Nabi Samwil, do not meet the exceptional conditions in which the restrictions would be permitted and lawful²⁷; moreover, they are neither proportional nor appropriate and do not conform to the principles of equality and non-discrimination, enshrined in the General Comment 27 of Human Rights Committee, since Israeli settlers living in the same area do not face any kind of restriction and are totally free to move²⁸. Likewise, International Humanitarian Law, and in particular Article 27 of the IV Geneva Convention of 1949 and its Commentary, provides that the freedom of movement can be restricted "as may be necessary as a result of war", a condition that does not hold in the case of the two communities, which makes Israel, the Occupying Power, in clear violation of IHL as well²⁹.

Former UN Secretary General Ban Ki-moon, in his report dated January 2016 on the Human Rights Situation in the Occupied Palestinian Territory, including East Jerusalem, noted that, "Freedom of movement is also a prerequisite for the enjoyment of a broad range of civil, political, economic, social and cultural rights [...]" Thus, restrictions to freedom of movement can lead to limitations on a range of other human rights³⁰. The subsequent analysis on the



27. 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>

28. 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>

29. Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Article 27. <https://ihl-databases.icrc.org/ihl/b0d5f4c1f-4b8102041256739003e6366/ffcb180d4e99cb26c-12563cd0051bbd9>

30. UN Secretary General, "Report. Human Rights situation in the Occupied Palestinian Territory, including East Jerusalem",

consequences of isolation and movement restrictions will show how the violation of this fundamental freedom directly and indirectly infringes upon other rights of the communities of both Nabi Samwil and Beit Iksa.

Besides the Isolation: Restrictive Building and Planning Regime

Besides the isolation, additional Israel's policies and practices in the area create further constraints which prevent the villages from growing. Indeed, in Area C, around 99% of the requests for building permits are rejected by the Israeli Civil Administration³¹. This restrictive building and planning regime imposed on the two villages, which starkly contrasts with the de-facto absence of restrictions on the establishment and expansion of settlements and outposts³², impedes the accommodation of growing families, obstructs the building of new infrastructures, and eventually prevents the amelioration of living conditions. Sometimes, however, families decide to build, renovate or expand houses, even when they have not been granted permission from the ICA. In these cases, they are likely to face confiscations or demolitions of their property, practices that are common in Area C and that further contribute to the creation of a coercive and unlivable environment. Due to these additional policies, isolation has a ripple effect on the communities, since they have become extremely dependent on the outside world, yet they cannot freely communicate and maintain ties with it.

Right to Choose One's Residence and the Destruction and Confiscation of Private Property

The demolitions and confiscations of private homes and property, and the restrictive building and planning regime violate both IHRL and IHL. In particular, Israel's forcible eviction of Nabi Samwil residents in 1971 infringed upon the right of the Palestinian community to freely choose its own residence and be protected against any form of internal displacement, as enshrined in Article 12 of the

20 January 2016. A/ HRC/31/44, para. 6. <https://unispal.un.org/DPA/DPR/unispal.nsf/0/F5FDF4FCEC5C722985257F-62006D2E2F>

31. Al Haq, "Hidden in Plain Sight", 2018.

32. Jerusalem Post, "On Election Eve, Netanyahu Advances Plans for 4,615 New Settler Homes", 7 April 2019. <https://www.jpost.com/Israel-News/On-election-eve-Netanyahu-advances-plans-for-4615-new-settler-homes-586054>

ICCPR and the related General Comment. Vis-à-vis IHL provisions, Israel is violating Article 46 of the Hague Regulations, which prohibits the confiscation of private property in both Beit Iksa and Nabi Samwil³³. Moreover, the continuous administrative demolitions carried out by Israel in the two villages cannot be justified by military necessity³⁴ and, for this reason, constitute severe breaches of Article 53 of the IV Geneva Convention³⁵.

THE CONSEQUENCES OF ISOLATION

The impact of the isolation on the daily lives of Nabi Samwil and Beit Iksa has been significant, multifaceted and multilayered.

On Economy

The isolation has choked the economy and reversed the growth of both the communities. Commercial activities cannot be established or grow because of the constraints in the transportation of goods inside the villages and the de-facto impossibility to build. Likewise, the stagnation of the agricultural sector, mainly caused by the expropriation and confiscation of land and agricultural tools³⁶, is pushing residents to look for employment opportunities in the West Bank, yet not in Jerusalem where the job market has become inaccessible to the two communities³⁷.

Right to work

Through the erection of physical and non-physical barriers around the two villages, the two communities do not fully enjoy their right to work, enshrined in Article 6 of the

33. Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907. Article 46. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/0/1d-1726425f6955aec125641e0038bfd6>

34. Al Haq, "Hidden in Plain Sight", 2018. In particular, Al Haq refers to ICRC Commentary of 1958 to the IV Geneva Convention, which clarifies that, "The occupying forces may therefore undertake the total or partial destruction of certain private or public property in the occupied territory when imperative military requirements so demand". The Commentary specifies that it is the Occupying Power's responsibility to judge the importance of these military requirements and to interpret the clause in a "reasonable manner: whenever it is felt essential to resort to destruction, the occupying authorities must try to keep a sense of proportion in comparing the military advantages to be gained with the damage done".

35. Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Article 53. <https://ihl-databases.icrc.org/ihl/WebART/380-600060?OpenDocument>

36. COSPE, Interviews. 2019.

37. COSPE, Interview in Nabi Samwil. 2019.



ICESCR. The obstacles the residents face in working both inside and outside the villages do not ensure that they have the right to “the opportunity to gain [their] living by work which [they] freely choose or accept”³⁸. Furthermore, Israel’s measures of isolation result in absent or restricted access to employment, which is discriminatory against the residents of the village and further violates Article 6, as defined in General Comment 18³⁹.

On Education and Healthcare

The isolation of the two communities limits the availability, accessibility and adequacy of the basic services that residents can use, like education and health, due to the poor conditions of existing infrastructures and to the difficulties of both service providers to come to work inside and residents to exit, even in medical emergencies.

In Nabi Samwil, children are compelled to cross the Al Jeeb checkpoint twice a day in order to get to the closest school; the delays, closures, body searches and psychological abuses they face at the checkpoint make the commute to and back from school a moment of humiliation and fear which they, never-

38. UN General Assembly, International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 6, 1966. <https://www.ohchr.org/en/professionalinterest/pages/cesr.aspx>

39. OHCHR, “The Right to Work. General Comment No. 18”. 2005. <https://www.refworld.org/docid/4415453b4.html>

theless, have to get used to⁴⁰.

Fatima: “I had a very important university exam one day. Unfortunately, that day was a Jewish holiday, and the soldiers had closed the checkpoint. So, I was not able to take the exam and failed it.”⁴¹

The principal of Beit Ikksa boys’ school: “When a teacher is late or denied entry, the students miss a class. This weakens the entire school, creates confusion and disrupts the schedule. In the long run you see the results in the students’ grades.”⁴²

Right to Education

Israeli practices violate Article 13 of the ICESCR, which establishes the right of everyone to education. In Beit Ikksa, the impediments the teachers of the local school face to cross the checkpoint do not ensure the full availability of education. Likewise, in Nabi Samwil, while primary education is available, the availability and accessibility of secondary and higher education is not guaranteed since schools are not within “safe physical reach”⁴³. Moreover, the Occupying Power is neither actively pursuing nor is it allowing the Palestinian Authority to pursue a system of schools at all levels, and it is not improving the material conditions of teaching staff. According to Article

40. Al Haq, “Hidden in Plain Sight”, 2018.

41. COSPE, Interview in Nabi Samwil. 2019.

42. B’tselem, “Israel cuts the village of Beit Ikksa off”, 2016.

43. OHCHR, “CESCR General Comment no. 13. The right to education”. 1999. https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf



28 of the Convention on the Rights of the Child, States should “take measures to encourage regular attendance at schools and the reduction of drop-out rates⁴⁴”; the coercive measures Israel has imposed on the two communities are going in the exact opposite direction, pushing students to abandon their studies. Most importantly, the Occupying Power is not ensuring the “continuous improvement of the situation of [Palestinian] children without discrimination” and is not guaranteeing conditions of peace and security for their development and education, as enshrined in the Optional Protocol to the CRC on the involvement of children in armed conflict⁴⁵.

Right to Health

The limited accessibility of residents to adequate health-care services, and sometimes their outright unavailability violate the communities’ right to “the highest attainable standard of physical and mental health” and Israel’s responsibility to create the conditions “which would assure to all medical service and medical attention in the event of sickness”, as enshrined in Article 12 of the ICESCR⁴⁶. The accessibility of health facilities is discriminatory against the two communities; in addition, Israel is not guaranteeing the underlying determinants of health, as delineated in General Comment No. 14, like adequate sanitation and a healthy environment, which further infringes upon the communities’ fundamental right to health⁴⁷.

44. UN General Assembly, Convention on the Rights of the Child (CRC), Article 28, 1989. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

45. UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000. <https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx>

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

47. OHCHR, “CESCR General Comment No. 14: The Right to

Right to an adequate standard of living and housing

Article 11 of the ICESCR establishes the right of everyone “to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of this right⁴⁸”.

Through threats of and actual demolitions and confiscations, paired with the choking isolation, Israel infringes upon the right to an adequate standard of living. Following the criteria delineated in General Comment 4, the housing in both the communities, and particularly in Nabi Samwil, is not adequate, since many residents do not enjoy legal security of tenure and are not legally protected against forced evictions, harassments or other threats⁴⁹. Moreover, the unavailability and inhabitability of many houses and infrastructures, the inaccessibility and the distance of the villages from employment opportunities, healthcare and schools, make the whole housing system inadequate according to the ICESCR. Still referring to Article 11, Israel’s coercive policies and practices give no hope for a future realization of this right, since the living conditions are currently worsening.

On Social and Family Life

The social and family life of the members of the two communities is severely disrupted by the isolation and the coercive environment they live in. The closure of the villages hampers the residents’ ability to maintain the bond with their relatives and friends from outside, to keep their traditions, as going to the suq or Al Aqsa in Jerusalem, and to create new families, that are also hindered by the restrictive building and planning regime⁵⁰.

Head of the Beit Ikxa Village Council: “Once, during Ramadan, a minibus carrying part of a family coming to Beit Ikxa to spend the Iftar, which is the breaking of the daily fast, was stopped at the checkpoint and prevented to enter. The family members inside the village had to drive to the checkpoint to bring food to the relatives

the Highest Attainable Standard of Health (Art. 12)” 2000. <https://www.refworld.org/docid/4538838d0.html>

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

49. 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>.

50. COSPE, Interviews, 2019.

stuck there and had to break the fast on the street”

Nawal: “Many people in the village stopped to go out because of the many difficulties they would face. They prefer to stay home. Isolation creates further isolation.”

Right to family and cultural life

The severe impact the isolation and other coercive practices are having on the residents of Beit Iksa and Nabi Samwil violates their rights to family life. This right, protected under IHL in the Hague Regulations and IV Geneva Convention, is also enshrined in Article 10 of the ICESCR, under IHRL. Families, which according to IHRL constitute the “natural and fundamental group unit[s] of society”, should be given “the widest possible protection and assistance [...] particularly for [their] establishment⁵¹”. Article 23 of the ICCPR further establishes, “The right of men and women of marriageable age to marry and to found a family”, which, according to General Comment 19, translates into the possibility to procreate and live together⁵². This possibility is either hampered or denied altogether by Israeli occupation policies and practices of isolation, building restrictions, and limited services while families are guaranteed no protection.

Israeli practices that disrupt the social life of both the communities, through, for instance, the many limitations in organizing ceremonies and share them with non-residents, or to access their cultural heritage, specifically in the case of Nabi Samwil, violate their right to take part to cultural life defined in Article 15 of the ICESCR.

THE REACTIONS AND RESPONSES OF THE COMMUNITIES

Fleeing the villages: Forcible Transfer

For the many factors explained above, many residents are pushed to leave the two villages. The communities of Nabi Samwil and Beit Iksa are shrinking, year after year, and those that leave are mainly youth.

Head of Beit Iksa village council: “Although the few job opportunities in Beit Iksa still enable a part of the community to work inside, the emigration of youth from the village is increasing. The continuous
51. UN General Assembly, International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 10, 1966. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>
52. OHCHR, “CCPR General Comment No. 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses”, 1990. <https://www.refworld.org/docid/45139bd74.html>

delays and impediments to attend university classes or go to work made them leave.”

The impact of the isolation and of other occupation policies on the demography of these two communities is very serious and, in the case of Nabi Samwil, is threatening its very existence⁵³. During the weekdays, the village is almost deserted since living inside while working in the West Bank is very costly, especially for the youth, both in terms of time and money⁵⁴.

Nawal: “If the checkpoint closes, the residents cannot go out from the village and risk either to arrive very late or to lose one full day of work. This is the reason why most of the youth has left, in order to save both money and time.”

The flight of the residents away from their villages, caused by the isolation and the coercive environment imposed by Israel, constitute a form of indirect forcible transfer. These people are forced to flee because they lost control over and ownership of their lives while being prevented from meeting even their most basic needs. Moreover, especially in the case of Nabi Samwil, the creation of a system of coercion has continued a process of forcible transfer which, in the past, was direct and carried out through outright evictions and demolitions⁵⁵.

Forcible Transfer

The indirect and direct forcible transfers that Israel carried out in the two villages constitute grave breaches of IHL. Article 49 of the IV Geneva Convention prohibits the individual or mass forcible transfer of the protected population, allowing only for the evacuation of one area if the security of the population or imperative military reasons so demand⁵⁶. However, none of these motivations were applicable in the case of the evacuation of Nabi Samwil residents in 1971. Moreover, the phenomenon of more and more residents leaving the two villages still constitute a form of “forcible transfer” since it is carried out either by outright expulsion or by threat of force or coercion, “such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power or by taking advantage of a coercive environment⁵⁷”. The

53. Al Haq, “Hidden in Plain Sight”, 2018.

54. COSPE, Interview in Nabi Samwil, 2019.

55. Al Haq, “Hidden in Plain Sight”, 2018.

56. Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Article 49. <https://ihl-databases.icrc.org/ihl/WebART/380-600056>

57. International Criminal Court, “The Rome Statute Elements



coercive measures listed correspond to those imposed on the two villages.

Alternative Responses: The Resilience of Women⁵⁸

Although the de-facto impossibility to live a decent and serene life and the absence of prospects for a brighter future have contributed to a general feeling of hopelessness, some members of the communities have decided to stay in the villages. They remain, but most of the times they purely survive. However, women are not giving up and have mobilized to oppose the isolation and the other coercive practices of the Israeli authorities. In Nabi Samwil, for instance, there are two active community-based organizations of women, the Women Association and the Benet Baladna Association, that manage to involve the female components of the community in several liberating activities. Their enthusiasm and resilience enabled them to overcome the many difficulties they encountered in the past, like the demolition, in August 2016, of the main structure that

of Crimes"; Article 6(e).

58. The paragraph presents major findings of the interviews carried out by COSPE in the two villages.

"The more they separate us from Jerusalem, the more we feel attached to the city."

used to host the Women Association.

During the interviews conducted, women also appeared very motivated to do anything to maintain and preserve the ties of the two communities with the city of Jerusalem.

Woman from Beit Ikksa: "The more they [the Israeli authorities] separate us from Jerusalem, the more we feel attached to the city."

Fatima: "We still have the courage to go to Jerusalem because we still feel so close to it."

Majida: "The food tastes different in Jerusalem. This is why we just cannot stop going to the suq there."

Women within the two communities represent extremely precious resources that keep the two villages alive and re-

silient, yet their voices are still silenced instead of being amplified. The absence of genuine support from the rest of the community is discouraging them and making them feel increasingly hopeless and disenchanting.

Fragmenting the West Bank: The Right to Self-Determination

The isolation of the villages of Beit Ikksa and Nabi



Samwil and, at the same time, the uninterrupted establishment and expansion of Israeli illegal settlements in the area that lies on the North-Western side of Jerusalem, have deepened and exacerbated the geographical, political, economic and social fragmentation of the entire West Bank. Israel has disrupted the territorial unity, contiguity and integrity of the occupied Palestinian territory, de-facto infringing upon the sacrosanct and fundamental right of the Palestinian people to self-determination.

"No other concept is as powerful, visceral, emotional, unruly, as steep in creating aspirations and hopes as self-determination⁵⁹". The Palestinian communities of Nabi Samwil and Beit Iksa need their hopes and aspirations back. They need their fundamental rights back, to finally live a life of peace, security and dignity.

Right to self-determination

In the words of former UN Secretary General Ban Ki-moon, "Movement restrictions undermine individuals' rights to health care, work, education and family life, and result in the rupture of social, economic, cultural and family ties. Cumulatively, these violations undermine the right of Palestinians to self-determination⁶⁰".

59. Unrepresented Nations and Peoples Organization, "Self-determination", 21 September 2017. <https://www.unpo.org/article/4957>

60. UN Secretary General, "Report. Human Rights situation in

The right to self-determination is a core principle of international law and, by virtue of its erga omnes status, it is the responsibility of all states to ensure that it is respected. This right is enshrined in Article 1 common to both the ICESCR and ICCPR: "All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

Articles 1 and 55 of the UN Charter, other International Covenants on Human Rights, the Universal Declaration of Human Rights and other relevant UN resolutions and declarations consecrate this inalienable right of the Palestinian people. The International Court of Justice has already determined that, in particular, the construction of the Wall has severely impeded the Palestinian people to enjoy their right to self-determination⁶¹. "No other concept is as powerful, visceral, emotional, unruly, as steep in creating aspirations and hopes as self-determination". The Palestinian communities of Nabi Samwil and Beit Iksa need their hopes and aspirations back. They need their fundamental rights back, to finally live a life of peace, security and dignity⁶².

the Occupied Palestinian Territory, including East Jerusalem", 20 January 2016. A/ HRC/31/44. <https://unispal.un.org/DPA/ DPR/unispal.nsf/0/F5FDF4FCEC5C722985257F62006D2E2F>
61. ICJ, "On the legal consequences of the Wall", 2004.
62. Unrepresented Nations and Peoples Organization, "Self-determination", 21 September 2017. <https://www.unpo.org/article/4957>

Final Recommendations

COSPE welcomes Italy's 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.

Moreover COSPE calls upon the Italian Parliament and Government 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 in the two villages and in the occupied territory more at large, namely, among others, the severe movement restrictions discriminatorily imposed on the Palestinians, the practices of destruction, confiscation and expropriation of Palestinian land and property, and to demand timely reparation for the benefits of the victims;

- To deplore Israel's coercive measures resulting in the forced displacement of entire communities recalling that they may constitute war crimes and may further amount to persecution, which is a crime against humanity under International Criminal Law, and that, likewise, "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" is a grave breach of IHL and may amount to war crime;

- To urge Israel to cease and reverse the process of fragmentation of the occupied territory, which is isolating Palestinian communities into separate enclaves, by stopping the works of

construction of the wall, including in and around East Jerusalem, and dismantling the structure therein situated;

- To refrain from recognizing the unilateral annexation of land 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;

- To refrain from providing aid or assistance to Israel in its illegal settlement enterprise and in its other policies and practices in contravention of IHRL and IHL;

- 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;

- To publicly and officially recognize the State of Palestine, in line with its vote in favor of General Assembly Resolution 67/19 of 2012 which accorded to Palestine the non-member observer state status at the United Nations;

- To increase the co-operation with the legitimate representatives of the Palestinian people, in the view of ensuring a viable State of Palestine and its sovereignty over its territory;

- To support international judiciary action aiming at guaranteeing Palestinian rights and safeness and at fighting impunity for international crimes.



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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