

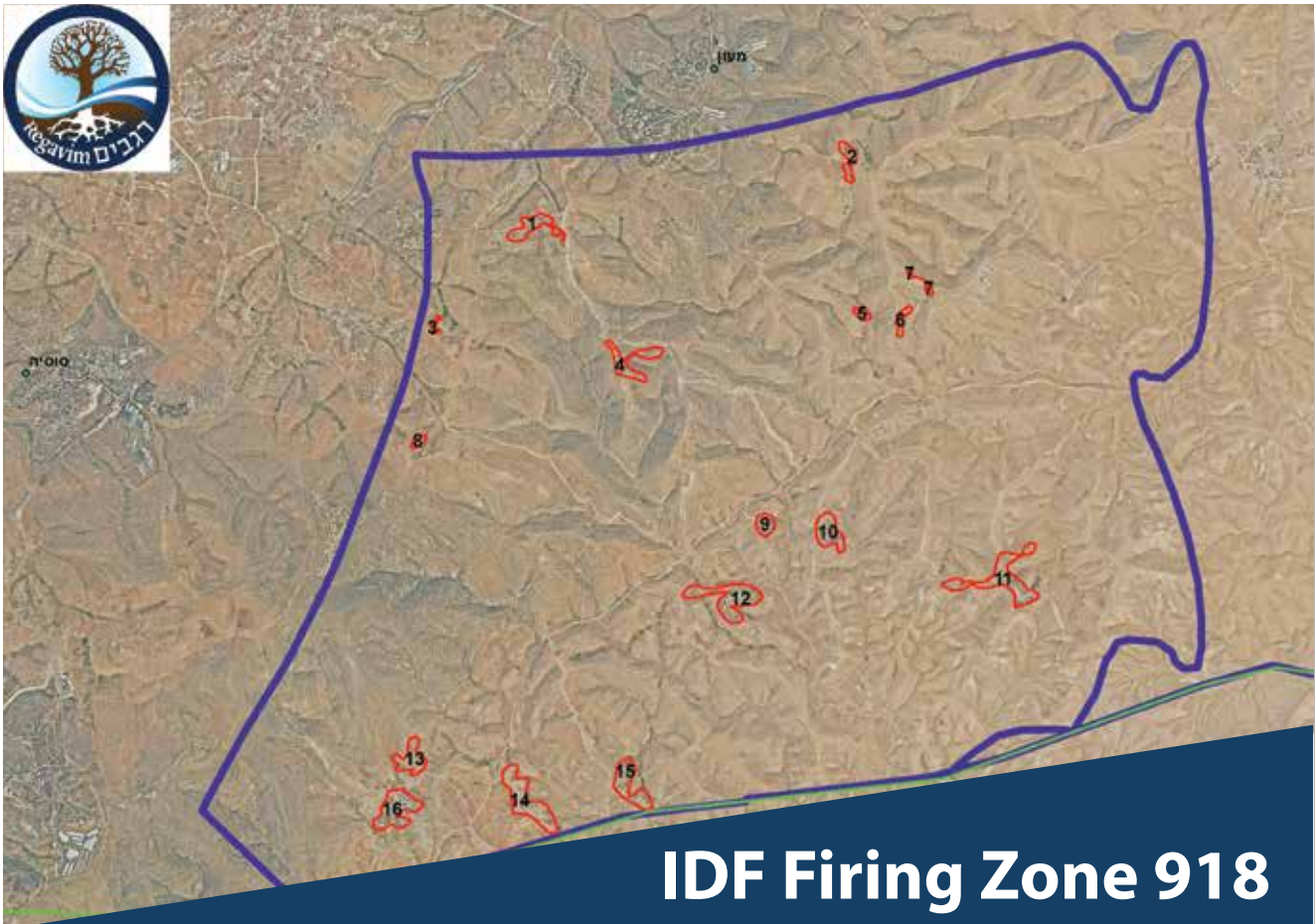


Desert Blooms:

Fact and Fiction in the South Hebron Region
The Case of “Masafer Yatta”

Shvat 5783 // January 2023





IDF Firing Zone 918

IDF Firing Zone 918 covers an area of some 33,000 dunams (33 km²) of Har Hebron, east of the town of Yatta, south of Maon, along the 'green line' up to the Arad Valley. It was designated as a training ground for IDF exercises in the early 1980s by military 'designation order (Closure Order 2/80/ב of 8 June 1980). The original order was amended several times in the years that followed in order to enable the IDF to make use of the area for different types of military training.

In the 1980s and 1990s, the firing zone was used for live-fire exercises by a number of IDF units, including the Israel Air Force (IAF). During this period, the Civil Administration carried out active law enforcement procedures, removing illegal structures that were built in violation of the military designation order. At the same time, Arab farmers and shepherds were given access to the firing zone during lulls in the training schedule (generally over weekends and on Jewish and Israeli holidays). The government went so far as to agree not to use the zone for live training during two specified periods annually, to allow seasonal planting and harvesting of crops and grazing of livestock.

HCI 517/00: The First Petition

In the year 2000, a group of 85 Arabs (later joined by an additional 112) appealed to the High Court of Justice against demolition orders that had been issued for the illegal structures they had built in the firing zone. A temporary injunction issued as a result of this petition "froze" the situation on the ground – in other words, suspended demolition of the existing structures, prohibited new construction, and permitted the appellants to continue to use the area for grazing and "temporary residence for purposes of grazing" in part of the zone.

The Ministry of Defense's response to the petition stressed the necessity of the firing zone for security uses, while outlining the temporary and seasonal nature of the agricultural use by some of the appellants, as well as the absence of any permanent settlement in the firing zone.

The petition was heard and deliberated upon for 12 years (!).

In August 2012 a decision was handed down, extending the temporary injunction and the agreed-upon arrangements (freezing the situation on the ground, permitting grazing and seasonal agricultural access two months per year as well as year-round residence in the northeastern section of the firing zone, where only "dry" maneuvers and drills would be carried out).

Under the protective umbrella of the temporary injunction, and thanks to the state's attorney's foot-dragging management of the case, enforcement procedures were, in fact, frozen – but extensive illegal construction continued in full force.

The Second Petition: HCI 413/13

In January 2013, a new petition was filed in the High Court of Justice. By that time, the firing zone was strewn with illegal structures and mass – scale invasion that disrupted and even prevented the IDF from carrying out training maneuvers and using the firing zone for its intended purpose, causing a reduction in military use of the area and changes in the IDF's training regimen.

In this second petition, the appellants – people who were illegally squatting in the firing zone, represented by the Association for Civil Rights in Israel (ACRI) – demanded not only that the demolition orders be rescinded, but that the structures in the firing zone be legalized and registered and the order designating the area a military zone be canceled as well. The petitioners argued that their residence in the area pre-dated the military order, rendering it invalid.

Once again, the High Court of Justice issued a temporary injunction and sent the sides to arbitrate their differences before Justice (Emeritus) Yitzchak Zamir; the arbitration broke down and was eventually abandoned. Nonetheless, the government suspended enforcement activity, while the appellants continued their illegal construction and land appropriation.

Under the protection of the legal process, which continued for more than two decades, some 12 illegal Arab outposts and "villages" (and a number of satellite outposts) were established in Firing Zone 918, under the guidance of the Palestinian Authority and with the financial and technical support of European concerns, including the European Union itself. At the entrance to these "villages," some of which are built on Israeli state land, stand large billboards declaring that they are part of "The State of Palestine." The desert terrain of the firing zone, which had been completely barren until the early 2000s, now houses hundreds of illegal structures: residences and agricultural structures, mosques, schools and public buildings; massive road works and infrastructure projects provide access, water and electricity to these outposts, and have enabled agricultural works that have taken over thousands of dunams of land.

The High Court of Justice Decision

In May 2022, a decision was handed down on HCJ 413/13. The High Court of Justice rejected the petition, and harshly criticized the appellants for abusing the legal process and violating the injunctions that should have prevented any further construction over the intervening decades. In the High Court's opinion, the appellants' lack of good faith was sufficient grounds to reject their petition outright.

The High Court also found that a significant number of the appellants owned permanent residences in the Palestinian Authority-controlled town of Yatta. As for the question of "historic" residence in the firing zone, the justices noted that while a High Court petition, in general, is not the appropriate forum for in-depth clarification of complex factual matters, in this particular case the question of permanent residence prior to the military designation of the firing zone is not a complex factual question, as the aerial photographs (some dating back as far as 1967) submitted by both sides - including photographs entered as evidence by the appellants themselves - present a clear picture, even to a non-professional observer: Until 1980, the photographs show no signs of any residential presence of any kind, and certainly no permanent residence; over the course of the 1990s, and more particularly beginning in 2000, the aerial photographs document a construction boom in the firing zone.

The evidence presented by the aerial photographs regarding the absence of permanent structures prior to 1980, alongside the evidence of a surge in construction under the umbrella of legal process - in violation of High Court injunctions - are supported by two additional facts that remain undisputed: First, live-fire exercises were carried out by the Israel Air Force from the time of the military designation in 1980 through 1993; and second, enforcement actions had been taken by the relevant authorities from 1980 through 2000, documentation of which was presented to the court.

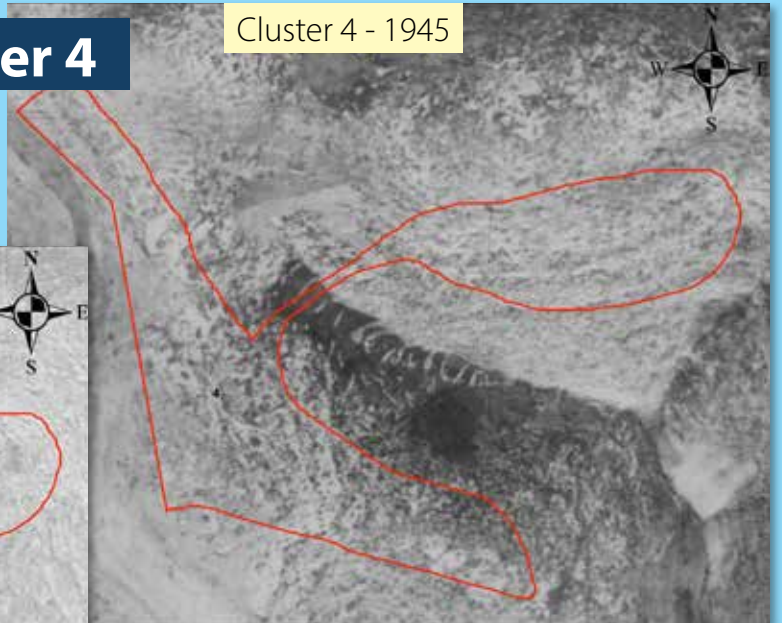
The appellants' claim of permanent residence in the area prior to the military designation of the firing zone was thus proven to be false.

In October 2022 a panel of justices headed by Chief Justice Esther Hayut rejected a request for an additional hearing. More than two decades after the first petition was filed, the High Court of Justice gave the government the green light to evacuate the squatters from the firing zone. After failing to achieve their goal in court, organizations from the extreme political left unleashed an international campaign of defamation and delegitimization, dredging up the very same claims that had been roundly debunked in the court.

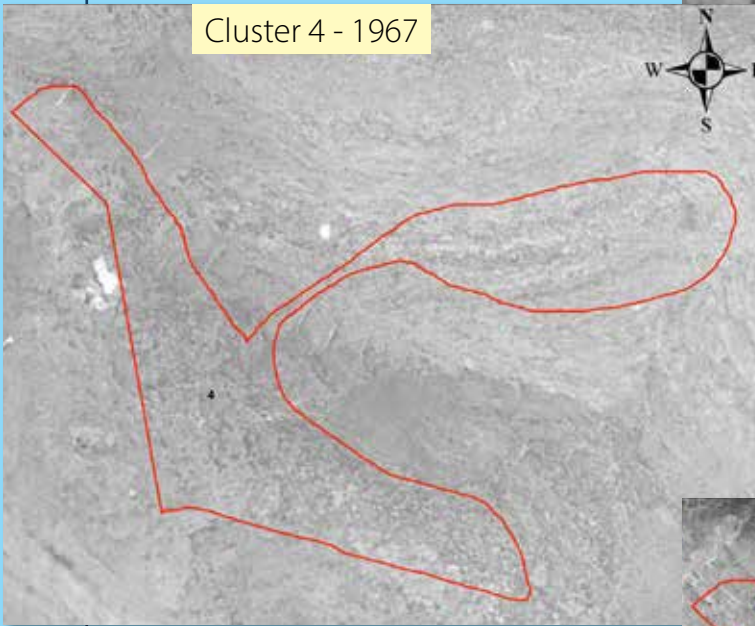
In summary: After wasting precious time and resources, the State of Israel must restore governance in the area by removing the squatters and enabling the IDF to resume training and maneuvers that are so critical to the security of the State and its citizens.

Fact vs Fiction: Cluster 4

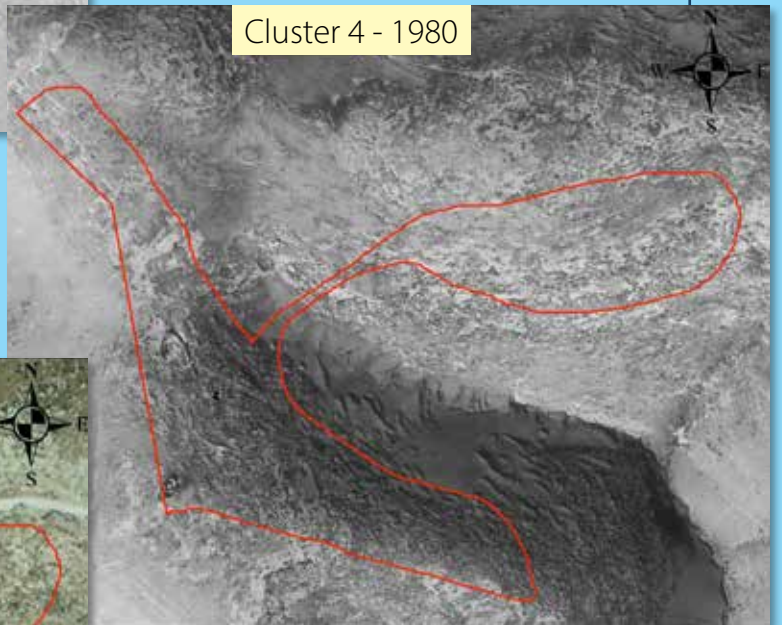
Cluster 4 - 1945



Cluster 4 - 1967



Cluster 4 - 1980



Cluster 4 - 2008



Cluster 4 - 2022



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clusters >>



Select excerpts – HCJ 413/13

Paragraph 26: "...the petitions should be dismissed due to the lack of good faith (absence of "clean hands") on the part of the Petitioners. Orders were issued for the eviction of the Petitioners, who provided no document whatsoever showing they have property rights to lands located in the firing zone. The Petitioners were shielded by the interim injunctions issued over the years forbidding their relocation from the zone, beginning in 1997, when the first petitions were filed with this Court by some of the Petitioners herein, and subsequently, more extensively, after the previous petitions were filed and additional interim injunctions were issued. Some of the interim injunctions given in other proceedings were expressly predicated on the local residents (some of whom are Petitioners herein) refraining from continued illegal construction on the site (e.g.: interim injunction issued in HCJ 805/05 dated 17 February 2005; interim injunction issued in the demolition order petition dated 11 January 2017, and clarification dated 14 June 2020). Nevertheless, construction in the zone (which, needless to say, is unlawful and permit-less given the lack of planning feasibility inside the firing zone) has increased in recent years.

Paragraph 33: "...I shall begin at the end and note that the clear conclusion arising from the materials brought before us is that prior to the declaration of the firing zone, there was no permanent habitation within its boundaries.

Paragraph 34: "...a review of the aerial photographs filed by both the Respondents and the Petitioners reveals, even to the unprofessional, untrained, layman's eye, the clear, unequivocal conclusion that the law is on the side of the Respondents."

"...this is a significant cache of aerial photographs that reveals a clear, unequivocal situation. While no signs of habitation can be observed in the area prior to 1980, certainly not permanent habitation in the entire area, the photographs clearly show a construction boom in the Khirbe communities throughout the 1990s, and particularly since 2000.

Paragraph 37: "...the fact that the Air Force conducted airstrike exercises prior to the declaration of the firing zone and up until 1993 (a fact which was undisputed by the Petitioners) also bolsters the aforesaid conclusion that there was no permanent habitation in the area at the time.

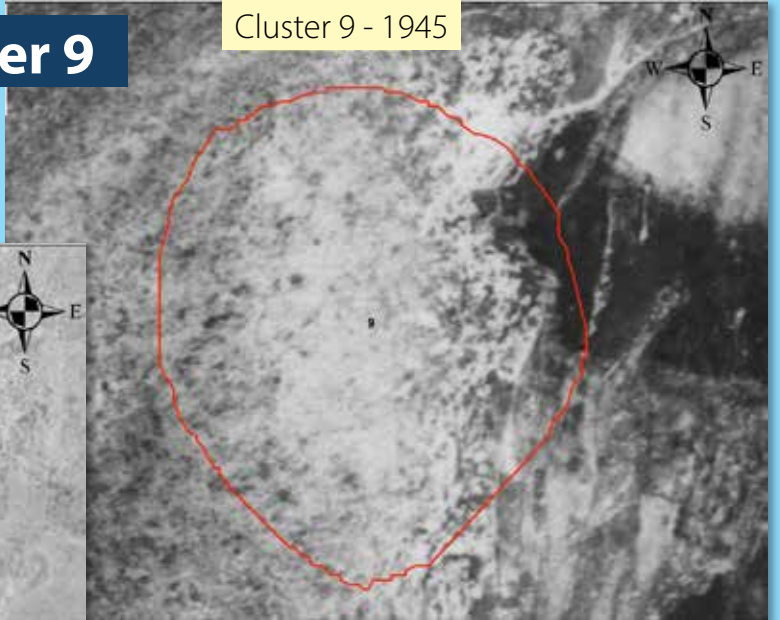
Paragraph 38: "... the Respondents present an assortment of documents recording the actions of various official bodies, through which it is possible to trace developments that have occurred in the area since the designation. Thus, activity reports of the Enforcement Unit and other official bodies between 1980 and 2000 paint a clear picture whereby there was no permanent habitation in the firing zone prior to its declaration."

"... the Respondents provided a clear evidentiary picture whereby there was no permanent habitation prior to the declaration."

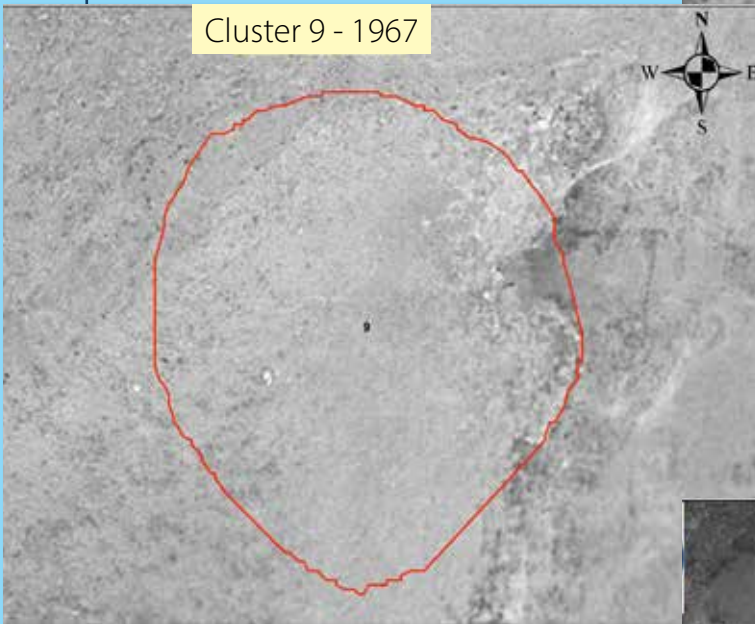
Paragraph 41: "...Havakook notes they are "seasonal dwellings for the grazing season," while "all these families have permanent dwellings in their parent villages and the caves prevalent in the Khirbe communities in the area serve the shepherds' families as temporary housing and places to keep flocks at night during the grazing season" (pp. 35-36). Havakook reiterates that at the time of writing (1984), it was possible to observe that every year, shepherds from the nearby villages remained in these Khirbe communities and, "at winter's end, the shepherding families once again abandon the caves used during the grazing months and relocate to their parent villages or to other, more promising grazing areas" (pp. 56).

Fact vs Fiction: Cluster 9

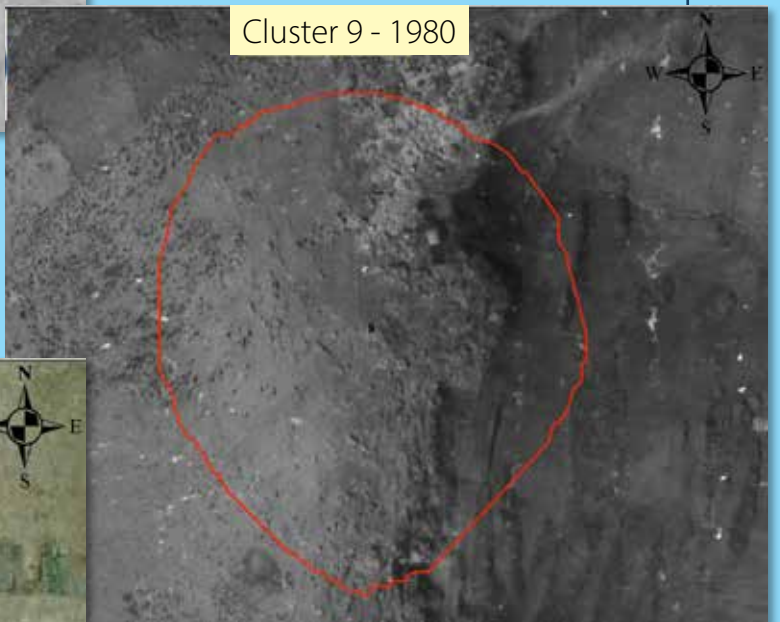
Cluster 9 - 1945



Cluster 9 - 1967



Cluster 9 - 1980



Cluster 9 - 2008



Cluster 9 - 2022



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