

On which Side is the Grass Greener?

National parks in Israel and the West Bank



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Emek Shaveh

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Written by: Chemi Shiff

Comments: Yonathan Mizrahi

Translator: Dana Hercbergs

Graphic Design: Lior Cohen

Maps: Lior Cohen, Shai Efrati

Photographs: Emek Shaveh

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Emek Shaveh (cc) | Email: info@alt-arch.org | website www.alt-arch.org

Emek Shaveh is an organization of archaeologists and heritage professionals focusing on the role of tangible cultural heritage in Israeli society and in the Israeli-Palestinian conflict. We view archaeology as a resource for strengthening understanding between different peoples and cultures.



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Introduction

There are 346 national parks and nature reserves in Israel, constituting approximately 25% of the country's territory. The system of laws that regulates national parks and nature reserves grants the **Nature and Parks Authority (INPA)**, the body that manages them, wide-reaching influence in all aspects of their promotion, development, management and operation. This places the Nature and Parks Authority as a central player in shaping the public space in Israel and in the design and management of the country's heritage sites.

The national parks and nature reserves in Area C of the West Bank are managed by the **Civil Administration** and are designated as "parks." The parks cover an area of 498,500 dunam, approximately 14.5% of Area C. Their function is to enable public access to nature reserves and various archaeological and historic sites.¹ The size of some of the parks in Area C is only tens of dunams, such as the Salman al-Farsi Park, which is located within the settlement of Yitzhar (25 dunams). Other parks consist of thousands of dunams, such as the Prat Valley (Wadi Qelt) and Sartaba, each of which exceeds 28,000 dunams.

It is important to note that since Israel has annexed East Jerusalem, the body responsible for parks in East Jerusalem is the Nature and Parks Authority, and not the Civil Administration.

This report addresses the legal issues relevant to national parks in Israel and East Jerusalem, and parks in the West Bank, and demonstrates the decisive impact of a number of such parks on the lives of Palestinians living in or near parks in the West Bank and East Jerusalem.

The Law in Israel

In 1998, the **National Parks, Nature Reserves, National Sites and Memorial Sites Law** was enacted. This law was intended to consolidate the procedures regarding the declaration, management, and operation of heritage sites (national parks) and sites intended to preserve unique natural values (nature reserves) under one body: the **Nature and Parks Authority**.

The Nature and Parks Authority has two main functions:

- A. Participation in the planning and establishment of national parks and nature reserves.
- B. The creation of tourist guidance systems and educational programs for visitors to the national parks.

In order to carry out these two functions, the Nature and Parks Authority has been given several authorities:

1. **Construction and infrastructure:** In accordance with Article 7 of the law, the Nature and Parks Authority is entitled to build structures and access roads so as to provide various services to visitors at the parks.
2. **Delegation of authority:** The Nature and Parks Authority is empowered to establish corporations, independently or in cooperation with other bodies, to facilitate the development of national parks (Article 7).
3. **Designating park areas:** Once an area has been declared a **national park**, this designation takes precedence over any other considerations, with the exception of property rights that predate the declaration. In addition, once a location has been declared a national park, any planning and development activity within the boundaries of the national park requires a permit from the Nature and Parks Authority (INPA) before it can be advanced through the various planning committees (Article 25, 30-29). The law does not clarify which actions require a special permit from the INPA: For instance, does the renovation of fences, terraces or buildings require a permit? Does planting trees in an area that was used for agricultural purposes prior to its designation as a national park require a special permit? These ambiguities are often to the detriment of the landowners. In addition, the Nature and Parks Authority Law states that the regulations derived from this law also take precedence over the municipal bylaws of the local council in which the national park is situated (Article 31).

Despite the wide-ranging powers granted to the Nature and Parks Authority, there are a number of mechanisms to oversee how national parks are declared, managed and operated:

- 1. Internal Oversight:** The INPA has an internal oversight mechanism consisting of two forums. The first is the **Plenum of the Nature and Parks Authority Council** with 19 members, including representatives of the government, scientific institutions, and public representatives (Article 13). The role of the Plenum is to formulate the general policy of the Nature and Parks Authority and to develop a plan for the implementation of this policy (Article 14). The range of representatives in the Plenum is intended to ensure that the decisions will reflect the public interest. An additional committee tasked with internal supervision is the **Nature and Parks Authority Council**, which has 28 members. Like the Plenum, council members represent a variety of professional backgrounds, and include government representatives, representatives of bodies such as the Israel Antiquities Authority and the Jewish National Fund, members of scientific institutions, and public representatives. The role of the Council is to advise both the Nature and Parks Authority and decision-makers, such as the Minister of the Environment, the Minister of the Interior and the planning institutions, on issues relating to the protection of the environment and the declaration of additional areas as national parks (Article 2).
- 2. Public Transparency:** According to Article 22 of the Law, the declaration of a national park may be approved on the condition that the designated area is disclosed to the local council in which it is intended to be established. In addition, the local council must be allowed 60 days to retroactively oppose a process involving the rescinding of municipal authority over this area.
- 3. Cooperation with other professional bodies:** The law stipulates that the Nature and Parks Authority must fulfill the requirements of state professional bodies entrusted with the protection and management of cultural and physical resources within the national park. For example, the INPA is required to comply with the requirements of the Ministry of Religious Services with respect to a sacred site located within the national park; with the Ministry of Defense regarding military areas; and with the Israel Antiquities Authority regarding an archaeological site located within the park's jurisdiction (Article 22).

Ostensibly, these oversight mechanisms should suffice to ensure that the INPA act transparently and out of consideration for the interests of all segments of society. However, decisions regarding national parks are often made without an open public debate and without genuine concern for the needs of all residents. The most obvious example of how national parks can be disadvantageous for the people living in or near them are instances where the designation of an area as a nature reserve or a national park results in restrictions and prohibitions on residents who wish to cultivate their land, although it is precisely thanks to these residents and their ancestors that these places have become so attractive and well preserved. For example, the lands of the Emek Tzurim National Park in Jerusalem are privately owned by Palestinians and leased to residents of 'Isawiya. One of the main justifications for declaring the area a national park was the desire to protect the olive trees that preserve the "agricultural landscape of the desert perimeter." However, since the declaration of the national park, the land's tenants have been prevented from harvesting their olives.

The Law in the West Bank

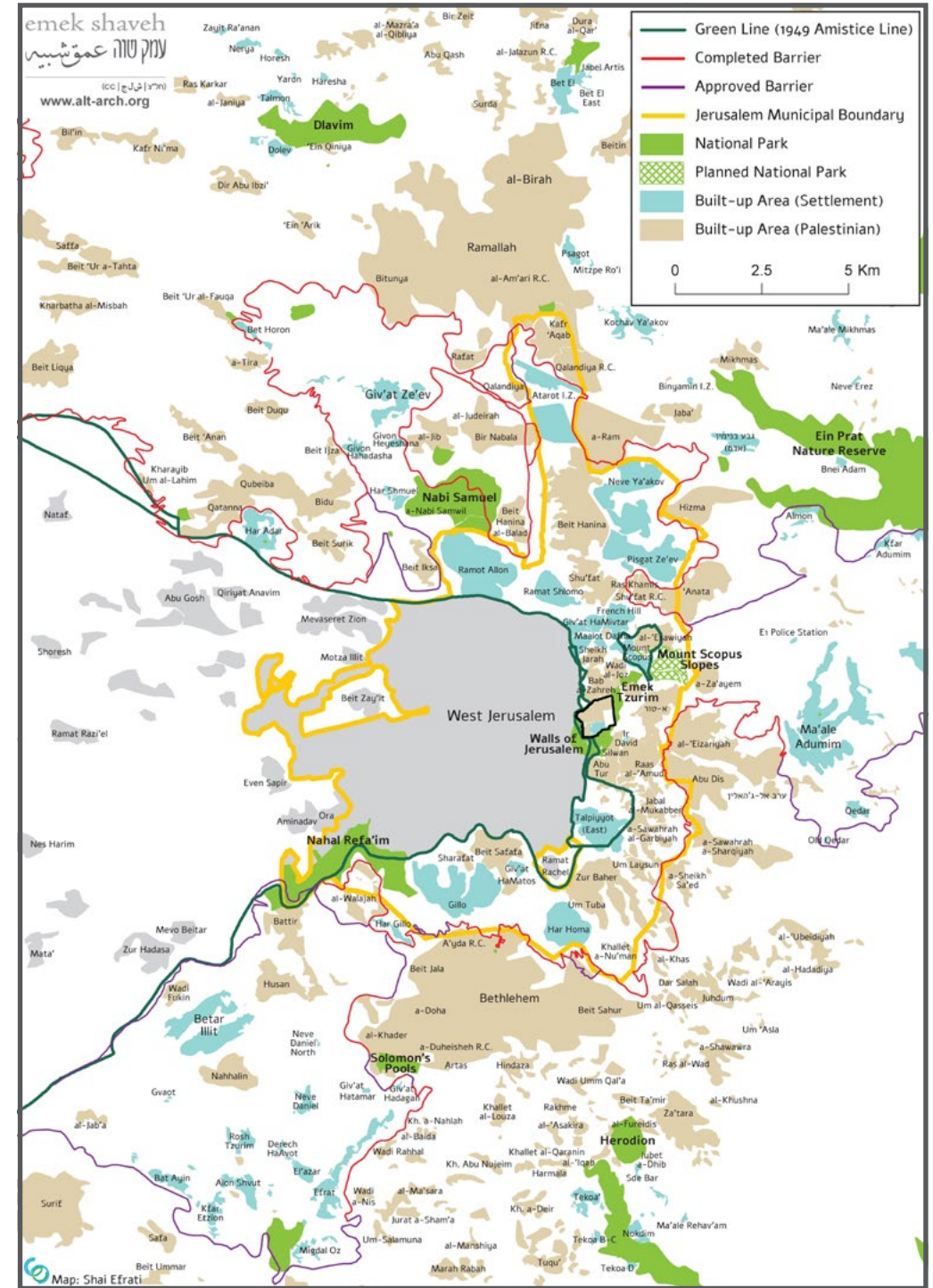
The Civil Administration is a military unit with the following responsibilities:

- A. Implementing government policy in the West Bank.
- B. Managing daily life and addressing the civilian needs of West Bank residents.
- C. Coordinating the activities of the government ministries, the IDF, and the security establishment in the West Bank.²

The Civil Administration includes units of **staff officers** who are responsible for managing the various needs of the residents of the Occupied Territories. One of the units of the Civil Administration is the **Staff Officer (SO) for Nature Reserves and National Parks**. Since Israeli law does not apply to the West Bank, the Staff Officer for the Nature Reserves and National Parks operates under **Order 373**, a military order that regulates their operation. This order came into effect in 1970 and replaced a previous order (Order 81 regarding Parks) which came into effect in 1967, at the end of the Six-Day War.

Order 373 states that once an area in the West Bank has been **declared a park**, it is the duty of the commander of the area to appoint an authority to manage its affairs (section 4), such as determining rules of conduct in parks, carrying out various construction activities, setting entrance fees, and appointing inspectors (sections 5-7). Order 373 does not stipulate who can be appointed as a managing authority.

In practice, the parks in the West Bank are managed by the **Staff Officer for Nature Reserves and National Parks** and by the National Parks Authority, which the former appointed to manage many parks. Visitors to the parks and reserves in the West Bank can use membership cards issued by the National Parks Authority, and observe the National Parks Authority flags that line the entrances to many of the parks. The blurring of the boundaries between the National Parks Authority and of the Staff Officer obscures the physical and legal boundaries between the West Bank and Israel.

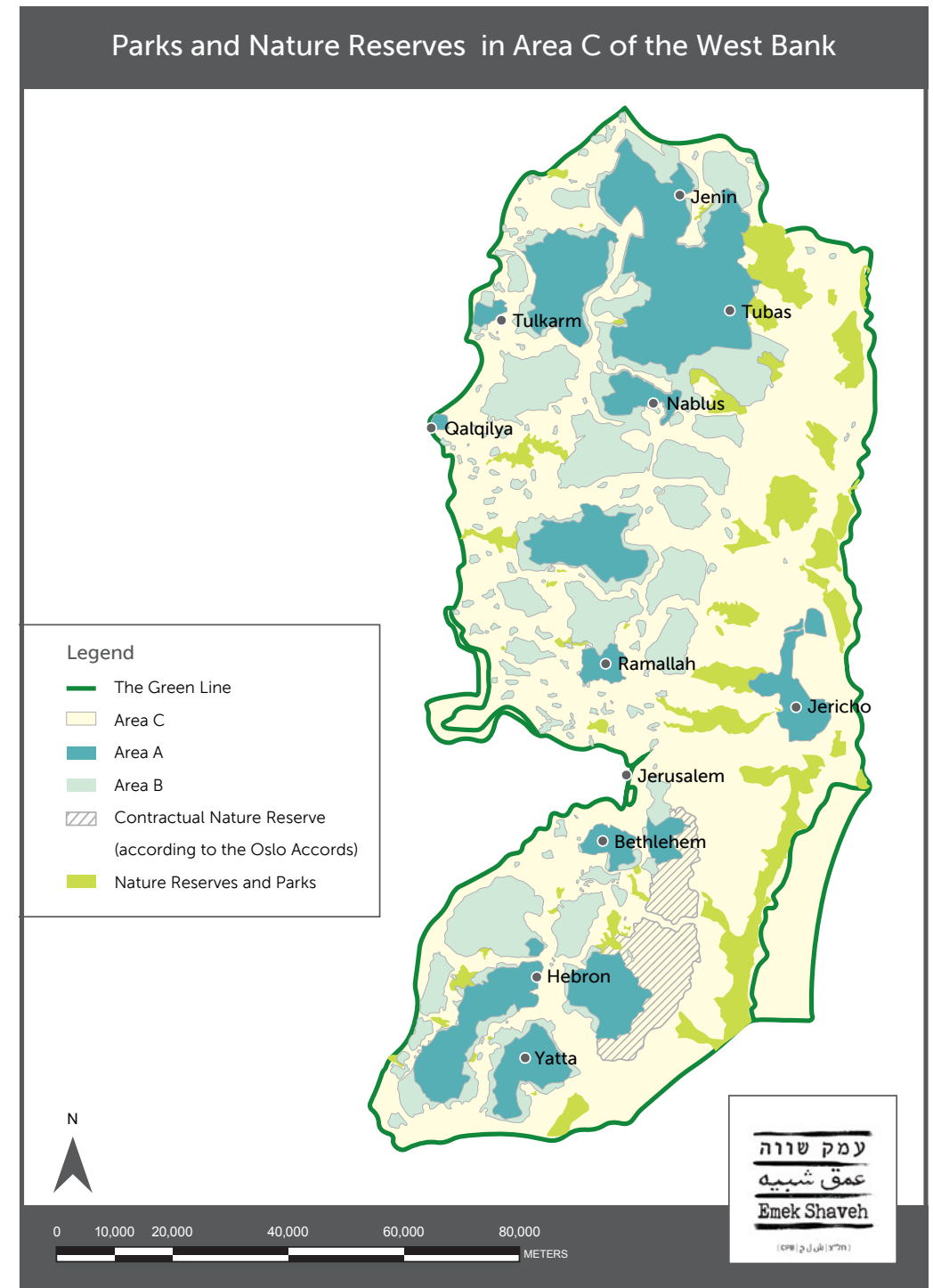


National parks and nature reserves in the Jerusalem area

The parks and the settlement enterprise

Most of the areas declared as nature reserves and parks in Area C are concentrated in the Jordan Valley and the Judean Desert. Even within Israel, the most widespread designation of land as national parks is in the Negev desert region. The **Har HaNegev Nature Reserve**, located in the crater area, spans over one million dunams, and the **Judean Desert Nature Reserve** spans approximately 600,000 dunams, from the Ein Gedi region south to Hatzeva in the Arava. The nature reserves in Area C primarily affect the mobility of the Bedouin and their ability to establish or expand permanent settlements. A case in point is the nature reserve of **Ein Prat**, which lies west of Jericho and borders the settlement of Talmon (Anata). In the area of the **Ein Prat National Park** there are lands belonging to the residents of Anata, Hizma, and Jaba'. These residents have no proper access to their lands and are prohibited from cultivating them. Residents of the villages of Za'tara, a-Fureidis, Jab al-Dib and Beit Ammar are also affected by the designation of their lands as part of the Herodium Park, and are not allowed to renovate or expand their homes. **Nabi Samuel** is a park declared inside the village of Nabi Samwil, where the residents are barred from renovating their houses and cultivating their lands (See below for a case study of Nabi Samwil). By contrast, in Israel there are no instances in which the rights of residents living inside nature reserves and national parks are violated.³

In recent years the Ministry of Tourism and the Civil Administration have made considerable investments in parks in the West Bank. For example, at the end of fiscal year 2017, 12.1 million NIS were allocated to parks such as Qumran, Mount Gerizim, Herodium, Nabi Samuel⁴ etc. This investment supplemented the already existing budget earmarked for the development of parks in the West Bank by the Civil Administration.



Nature reserves and parks in the West Bank (Area C)

Case Studies:

Conflict between laws and principles

As we have seen, although the law sets mechanisms for supervising the activities of the Nature and Parks Authority, there are national parks that violate property rights, the right to freedom of religion, and undermine the goal of protecting antiquities. The communities suffering from these violations tend to belong to non-hegemonic groups such as Palestinians, Bedouins, and others. The following examples illustrate this claim.

Nabi Samuel National Park - a village, an antiquities site, and a sacred site:

Nabi Samuel (Nabi Samwil) National Park is located in Area C, outside the municipal boundaries of Jerusalem (one kilometer from the neighborhood of Ramot) and is under the jurisdiction of the Civil Administration. The park was declared in 1995, and spans over 3,500 dunams. It features unique Mediterranean scrub and antiquities. Jewish and Muslim traditions identify the site as the burial place of the Prophet Samuel, and there is a mosque and a synagogue in the area.

Archaeological excavations conducted at the site by the Staff Officer for Archaeology of the Civil Administration found evidence for the settlement of the site since the 7th century BCE. The main architectural remains exposed at the site were of a fortress and a moat dated to the Crusader period (12th century CE). According to Christian tradition, Nabi Samuel is the Mount of Joy, the place from which the Crusaders first saw Jerusalem after they had conquered it from the Muslims. During the Mamluk (13th-16th centuries CE) and the Ottoman (16th-20th centuries CE) periods, the fortress continued to serve the Muslim population. The mosque was constructed⁵ during this period, and later, a Palestinian village was built on the remains of the fortress. Due to the site's strategic importance – its dominant position in the area and its location on a central road linking the coastal plain to Jerusalem – fierce battles took place there throughout the 20th century: in the First World War there were decisive battles between the Ottoman and the British armies; during the Israeli War of Independence, the Palmach, a Zionist paramilitary unit, carried out a failed attempt to conquer the village of Nabi Samuel; and Israel succeeded in

conquering it only in 1967. During that time, more than 1,000 residents lived there, most of whom fled. Today, about 200 people reside in the village.

Following Israel's occupation of Nabi Samuel, the authorities began to subject the residents to a long and exhausting process of dispossession from their lands and their historical connection to the place. At first they were granted almost no building permits, and in 1971, the IDF destroyed the village, which was built atop the ancient tel (archaeological mound), and moved its residents to a nearby hill. Most of the present-day village houses are classified as “illegal”⁶

The park area intended for visitors is only 300 dunams, a small portion of the total declared park lands which spans 3,500 dunam. This indicates that the motive for the declaration of the area as a park was mainly political. Entrance to the park is free of charge. In recent years, the site has undergone extensive development which includes archaeological excavations, paving trails and renovations. The explanatory leaflet distributed at the entrance to the site describes the remnants of the Crusader fortress and structures from earlier periods (mostly from the Hellenistic period). The text includes Christian and Jewish references that emphasize the site's religious importance. There is no mention of the centuries-old Arab settlement anywhere (on signs or the pamphlet); the minaret of the mosque at the top of the tomb of the Prophet Samuel stands as the only evidence of this. Almost all of the remains of the Palestinian village were removed from the ancient mound in order to uncover earlier remains, and the Muslim cemetery at the heart of the antiquities site is fenced in and closed off. While the village residents are permitted to enter and use the cemetery, there is no sign indicating who is buried there.

The Nabi Samuel National Park disrupts and restricts the lives of the Nabi Samwil residents in many ways. It prevents them from building or renovating their homes and cultivating their land, and robs them of sources of livelihood. On the basis of the military order 373 regarding national parks, residents were denied the right to plant olive trees and to carry out repairs and expansions of their agricultural terraces and residential homes without permission from the Nature and Parks Authority. Residents' applications for permits were not approved. The Civil Administration's Staff Officer for Parks and Nature Reserves does not even allow residents to provide services to visitors to the National Park: food and drink stalls have been removed, car wash equipment confiscated, and the residents are not taking an active part in operating the site.⁷

The national park also violates the right to freedom of religious worship. According to the Law for the Preservation of Holy Sites (Article 1), the Nature and Parks Authority is required to allow free access to the mosque located on the site. Residents of the village pray at the mosque, but since the construction of the separation barrier between Nabi Samwil and the villages of al-Jib and Bir Nabala, there has been a sharp decline in the number of worshipers. Without a permit, residents of the villages located beyond the barrier are prevented from reaching the mosque. At the same time, the Ministry of Religious Affairs invested NIS 7 million in renovations and infrastructure for the benefit of those who visit the Tomb of the Prophet Samuel. Most of the investment is aimed at increasing Jewish tourism to the site⁸ on special occasions such as the *hillula* - the commemoration of the Prophet Samuel, which takes place in the month of May (or thereabouts, depending on the Hebrew calendar). During the three days of the *hillula*, the village is closed to Palestinian non-residents, while the locals are forced to coordinate entering and exiting the village with the Civil Administration.⁹



Nabi Samuel site today



Interior of the mosque following renovations



Nabi Samwil, 1910

Herodium Park

The Herodium Park was declared in 1985. It spans more than 1,000 dunams and is located several kilometers southeast of Bethlehem. In the heart of the park is an archaeological site identified as a fortress palace built by King Herod in the 1st century BCE. Several monumental buildings were discovered at the site: a large swimming pool surrounded by stoas, a double wall featuring three sentry towers in a semicircle, a circular tower, and a monumental burial structure which many identify as Herod's tomb. During the Bar Kokhba revolt in the 2nd century BCE, the rebels held the fort for a short time. During the Byzantine period (5th-7th centuries CE) monks lived at the site, and a settlement with two churches was built at its base. The village of al-Fureidis was established there in the 20th century.¹⁰

Site presentation: In the 1950s and 1960s, archaeological excavations were conducted at Herodium by the Franciscan Biblical Institute (Studium Biblicum Franciscanum) in Jerusalem, and since 1980 the Hebrew University has conducted the excavations, which focus on uncovering findings from Herod's reign.¹¹ The national park likewise emphasizes the remains from this period. Despite their importance, one can question the decision to focus exclusively on this period¹² as it obscures the variety of questions arising from archaeological research, thus limiting the visitor's understanding of the site. Alongside remains from the Herodian period, it would have been appropriate to display finds from the monks' settlement from Byzantine times which represent a fascinating and unique phenomenon that has been the subject of extensive research. Currently visitors to the site have no opportunity to appreciate the finds from the Byzantine period.

Treatment of the Palestinian population: Several Palestinian villages are located around the Herodium site: Fureidis, Za'tara, Jib al-Dib, Beit 'Ammar, and others. All these villages own land or homes within the park area. Their owners cannot cultivate their lands or even renovate their homes without the approval of the Civil Administration's **Staff Officer for Nature Reserves and National Parks**. This prohibition applies to the renovation of the interiors of homes and even to repairing a ceiling to prevent leaks. The policy of authorizing the cultivation of the land is not clear to the residents either: some are entitled to continue to cultivate their lands while others have been prohibited from doing so. In the national park there are many signs directing visitors to restaurants, bed and

breakfasts and other attractions, all located in nearby Jewish settlements. There are no Palestinian workers at the site.



Herodium and Za'tara



Lower Herodium and Za'tara

The Emek Tzurim National Park and the neighborhood of a-Sawaneh

The Emek Tzurim National Park is located in East Jerusalem and is part of a comprehensive plan by the Nature and Parks Authority to create a “green belt” that will augment the Jerusalem Walls National Park, which surrounds the walls of the Old City and extends from the Abu Tor neighborhood in the southwest, to the village of Isawiya and a-Tur in northeast Jerusalem. The Emek Tzurim National Park stretches over 165 dunams and most of it is on land taken from the neighborhood of a-Sawaneh. While the Jerusalem Walls National Park contains heritage sites that relate to all the cultures and religions of the area, the Emek Tzurim National Park has no unique natural and heritage sites. It seems that the main reason for the establishment of the Emek Tzurim National Park is to make it difficult for the residents of a-Sawaneh, located on the western slope of Mount Scopus, to build on and develop the lands they own. The neighborhood of a-Sawaneh is built very densely. Master plans for the neighborhood date from 1976 and are ill equipped to allow for much needed development and expansion of the village. As a result, the residents of a-Sawaneh are suffering from serious overcrowding, which has intensified since 2000 with the declaration of the Emek Tzurim National Park¹³ over the last strip of open land in the village. Today, residents are not allowed to advance building plans in their neighborhood.

The absence of public spaces and the potential for leisure and cultural activity: Urban spaces in Israel and around the world include areas and buildings that serve as cultural, sport, and recreation centers. In the neighborhoods of West Jerusalem there are community centers, playgrounds, playing fields, movie and theater halls, pools, etc. The Emek Zurim National Park has eliminated the few remaining public areas in the neighborhood. In the vicinity of the national park is a playground that was used by the students of the nearby school and by the residents of the neighborhood, but in 2011 the Nature and Parks Authority claimed that the playground was located within the national park and accordingly demolished the fence that surrounded the lot repeatedly. It ceased doing so only after it was proven in the High Court that the plot is in fact located outside the area of the national park. By comparison, in the Yemin Moshe neighborhood in West Jerusalem, which is also located within the Jerusalem Walls National Park, the construction of a museum was permitted as was the expansion of the Jerusalem Cinematheque.¹⁴



Emek Tzurim valley - view to the south-west of Palestinian neighborhoods, followed by Israeli neighborhoods



Emek Tzurim Valley and the Hebrew University

Conclusion

The National Parks, Nature Reserves, National Sites and Memorial Sites Law places extensive powers in the hands of the Nature and Parks Authority, for the purpose of ensuring appropriate representation of the various heritage sites within national parks. However, an examination of the conduct of the National Parks Authority in Jerusalem and the Staff Officer for Parks and Nature Reserves in the West Bank demonstrates that the declaration and management of parks serve as a political tool to promote Israeli interests at the expense of the basic rights of Palestinians living in or near the sites.

This political tool is apparent in several ways:

- A. The way national parks prominently feature a narrative that stems from Jewish-Israeli heritage and from Israeli interests. Other legacies and narratives are almost absent, including archaeological layers from the Byzantine and Muslim periods.
- B. In each of the sites discussed here, the National Parks Law was used to stop construction and development by Palestinians, to prevent access, and restrict their ability to gain a livelihood at the parks.
- C. Palestinian residents do not benefit from the economic and cultural resources of the national parks, which they perceive as inaccessible and threatening.

The Civil Administration and the Nature and Parks Authority should take steps to preserve the heritage and natural sites in a way that does not discriminate against entire populations on the basis of their national identity, and to turn the national parks into places that faithfully represent the various legacies that shape the region in which we all live.

Endnotes

- 1) See the State Comptroller's annual report on the [Nature Reserves and National Parks Authority](#) for 2014 [Hebrew].
- 2) From the Civil Administration website.
- 3) The Yemin Moshe neighborhood in Jerusalem is also located in the area of the Jerusalem Walls National Park, but an urban building scheme was approved by the INPA for the neighborhood's residents.
- 4) The Finance Committee, December 2017, End of year transfers have begun. The Finance Committee has approved budgetary transfers to the sum of NIS 4.8 billion, (Heb), Israeli Knesset.
- 5) Magen, Y. and Dadon, M. 1998. Nabi Samuel, *Kadmoniyot* 118, pp. 62-77; Magen, Y. and Dadon, M. 1994. The Tomb of Samuel the Prophet, *Ariel* 106-105, pp. 25-29 [Hebrew].
- 6) Landau, I. 2014. [What is the difference between a tourist park and fences and roadblocks? In Nabi Samuel there is no difference](#) *Don't die stupid: the blog of Idan Landau* (Heb).
- 7) For more information see: Mizrachi, Y. and Sulymani G, Nabi Samwil: [A Village Trapped in a National Park](#), Jerusalem, 2013, Emek Shaveh.
- 8) Dettel, L. 2014. [The Ministry of Religious Services presents: NIS 10 million for the conversion of soldiers; NIS 7 million for the renovation of a burial site \(Heb\)](#), *TheMarker*, December, 2014.
- 9) Emek Shaveh, 2016. [Public celebration of Samuel the prophet turns the Nabi Samuel into an ultra-Orthodox ancient site, while locking in the Palestinian village for three days](#). Jerusalem: Emek Shaveh.
- 10) Veeder, A., Suleimani, G., and Y. Mizrachi. 2015. [The role of ancient sites in the political struggle in the Bethlehem area \("Gush Etzion"\) and their economic and educational potential](#). Jerusalem: Emek Shaveh.
- 11) From the site's excavator Ehud Netzer's notes: [A renewed look at Herodium in light of the new discoveries](#) [Hebrew].
- 12) This choice is part of the process of glorifying King Herod. For further reading, see Shavit, Y. 2013. [How Herod turned from a Monster into a National Hero](#), *Haaretz* online [Hebrew].
- 13) B'Tselem, 2014. [Tzurim Valley National Park](#).
- 14) Kulka, T., Cohen-Bar, A., and S. Kronish. 2012. [From Public to National: National Parks in East Jerusalem](#), pp. 26-29. Bimkom.