

A D V A ^ז**ה** ^כ**ו** ^ר**ד** ^מ**א**
C E N T E R

INFORMATION ON EQUALITY AND SOCIAL JUSTICE IN ISRAEL
מידע על שוויון וצדק חברתי בישראל
مركز «أدفا» - معلومات حول المساواة والعدالة الاجتماعية في إسرائيل

Invisible Citizens: Israeli Government Policy Toward the Negev Bedouin

Executive Summary

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February 2006

Introduction

The Bedouin living in the Negev constitute the only group of Arab citizens of Israel that still has a large-scale hold on the land, a hold that the state officially denies in principle, while recognizing in practice. The Bedouin still hold on to a sizeable tract of land, despite the fact that at the time of the establishment of the state, they were expelled from the lands on which they lived, despite the fact that subsequently they were compelled to move to a new, more arid area, and despite the fact that large land confiscations were made even of those arid lands.

At the same time, the Bedouin living in the Negev also constitute the only large social group in Israel about which it can be said, that it still does not stand on firm ground. Since 1948, the Bedouin have been struggling to obtain full, official recognition of their ownership rights to the lands on which they live, as well as the same government services that other Israelis receive, so that they can carry on a normal community and cultural life. While the Bedouin continue to struggle for these aims, the government continues its efforts to expel and relocate them in the fewest possible settlements. In addition, it excludes the Bedouin from its development plans, as if they constituted a group that was entirely superfluous to the Israeli economy and society.

The Bedouin who live in unrecognized villages exist in what amounts to a legal and political bubble. These Israelis are not allowed to construct a permanent dwelling, do not have the right to put the name of their village in their ID cards, lack a local government and the right to vote and to be elected to local office, do not receive the full range of public services that other citizens receive, and lack the basic property right of home purchase and sale. Moreover, they are ruled by bodies set up by the state for the express purpose of controlling them.

In like manner, Bedouin residing in government-created towns live in a political and cultural bubble of their own. On the one hand, they lack the infrastructure and employment opportunities that might enable them to engage in economic activity and enjoy a standard of living similar to that of neighboring Jewish localities; on the other, like the unrecognized villages, they are not usually included in government development plans, whether these are national or regional in scope.

At the present time, the Bedouin lack the resources that might enable them to develop economically, and they are at the bottom of the government's priorities. At the same time, the population of the Negev, of which the Bedouin constitute about 25 percent, is weak and divided; each social group tries to promote itself, without cooperating with its neighbors. In such a situation, the Bedouin are the biggest losers, but in the long run, all residents of the Negev stand to lose.

The 1948 Upheaval

On the eve of the establishment of the State of Israel, the population of the Negev included some 70,000 Bedouin, who resided primarily in the northwestern part of the Negev. During the 1948 war, most of the Bedouin either fled or were driven out. At

the end of the war, 11,000 Bedouin remained. The government of Israel relocated them to the *Sayig* region, in the northeastern part of the Negev - the area between Beer Sheba and what are now the Jewish towns of Arad, Dimona and Yeruham.

In 1950, the “Absentees Property Law” was passed. This law allowed the state to confiscate and register in its own name lands belonging to Palestinian Arabs who had fled or been expelled during the war, including lands belonging to Bedouin who were no longer residing in Israel or had been transferred to the *Sayig*. In 1953 another piece of legislation, the “Land Acquisition (Validation of Acts and Compensation) Law,” legitimized those confiscations.

The State of Israel and the Lands Claimed by the Bedouin

The State of Israel does not officially recognize land ownership rights of Bedouin. This position rests on an Ottoman Land Order of 1858 and on a Land Order of the British Mandate Government of 1921, which was itself based on the order from Ottoman times. The Ottoman Order referred to “dead” (*mawat*) lands that were uncultivated and located within one and a half miles from a permanent settlement. It stated that whoever cultivated such lands could register them in their names. At the time of the promulgation of the original order, there were no permanent settlements in the Negev, a fact that made all the lands *mawat* lands. Still, the Bedouin cultivated some of those lands, but for a variety of reasons, they did not register them. The British Mandate Order once again asked that persons cultivating *mawat* lands register them in their own names. As before, the Bedouin did not bother to register their lands, for a variety of reasons, among them problems of accessibility and fear of taxation. The British even carried out a campaign for land registration, beginning in the north and working their way southward. They did not manage to get as far south as the Negev before evacuating Palestine in 1948. On the basis of these two precedents, Israel determined that lands used or claimed by the Bedouin did not belong to them but rather to the state.

The state used two strategies to establish its ownership over lands claimed by the Bedouin: firstly, transferring Bedouin to a small number of government-created towns; secondly, offering compensation to Bedouin claimants.

Relocation and Concentration in Government-Created Townships

At the end of the 1950s, government agencies turned to the issue of what to do with the Bedouin living in the Negev. Although there was general agreement regarding the desirability of limiting them to as small an area as possible, two different approaches can be discerned. One was that of Moshe Dayan, who proposed resettling the Bedouin in integrated Jewish-Arab localities, in the center of the country. The other was that of Yigal Alon, who was of the opinion that the Bedouin ought to be concentrated into two or three large settlements in the *Sayig* area.

The Bedouin strongly resisted the idea of removal from the Negev. In this they were supported by the Jewish parties of the Left. In the end, Moshe Dayan’s proposal was abandoned in favor of Yigal Alon’s. In March 1962, an inter-ministerial committee recommended the creation of permanent Bedouin settlements in the *Sayig* area,

encompassing 7,600 dunams – a very small part of the area claimed by the Bedouin. This recommendation became the cornerstone of all government actions for the next forty years.

On Land Claims and Compensation

Parallel to the attempt to concentrate the Bedouin in a small number of settlements, a process was begun of contesting ownership claims for lands in the *Sayig* area. As early as 1950, Bedouin took their land claims to court. For its part, the state contended that the Bedouin had no proof of ownership; moreover, it contended that the certificates of tax payment cited as proof of ownership had gotten lost in the state archives.

In 1969, the state set up a legal mechanism for dealing with land questions. The Bedouin submitted ownership claims for a total of 991,000 dunams of land, 200,000 of which were outside the *Sayig* area that the state had already registered in its own name. Today, the scope of disputed lands amounts to 650,000 dunams.

In 1975 a committee chaired by attorney Plia Albeck formulated a settlement proposal that guides government actions to this day. The Albeck Commission recommendations were based on three principles. The first was non-recognition of the ownership rights of the lands on which the Bedouin were living or had lived in the past, following the Ottoman and British precedents. The second principle was willingness to offer the Bedouin, *ex gratia* (by favor rather than legal obligation), compensation for the lands they claimed; here the contention was that non-compensation “is not acceptable from a humane point of view, and it can be assumed that the High Court would not accept [a settlement that did not involve compensation]”. The third principle was that the award of compensation was to be conditioned on the Bedouin’ relinquishing the lands they claimed and settling in one of the government townships. For Bedouin who agreed to relocate and who claimed lands consisting of 400 dunams or more – a minority – the Albeck Commission recommended that the state accede to their ownership of 20% of the land and compensate them for the loss of the remaining 80%.

The implications of the Albeck recommendations were simple: the Bedouin were to give up their claims to most of their lands. The offer was turned down. Some time later, the Bedouin made a counter-offer: the state would accede to their ownership of 40% of their lands and compensate them for the remainder, at a higher rate than that offered by the Albeck Commission. Their offer was not accepted.

In 1980, the government expelled some 5,000 Bedouin from the area of Tel Malhatah, within the *Sayig*, to make way for the Nevatim military airport, following the peace agreement with Egypt, which required evacuation of the Israel Defense Forces from the Sinai Peninsula, including the military airports there. The Bedouin were offered compensation in the spirit of the original government proposal of 1975. This compensation was much smaller than the compensation offered at the very same time to Jewish citizens who had settled in the Sinai Peninsula. The Bedouin turned down the offer, so the state opted for a means at its disposal: expulsion and compensation, by means of special legislation, “The Negev Land Acquisition (Peace Treaty With Egypt) Law – 1980.” Although the compensation was ungenerous, “The Peace Law”

involved further recognition of the Bedouin claims to the land, by virtue of the state's continuing readiness to pay compensation. Another important precedent set by the same law was that compensation could include not only money but also alternative agricultural land and water rights. In this manner, the state recognized the fact that many Bedouin were farmers, thus creating an opening for new possibilities that included the receipt of cultivable land and lands for pasturage, leasing arrangements, water allocations, and the like.

Soon afterwards, in May 1984, a High Court decision was handed down on a petition submitted by Bedouin asking for recognition of their ownership rights of lands in the *Sayig* area. The Court, under Justice Abraham Halima, decided unequivocally in favor of the state, declaring that the Negev lands were *mawat* lands and as such belonged to the state. This severe verdict did not put an end to compromise attempts that had preceded it. However, it certified a state of stalemate: on the one hand, the Bedouin were prevented from developing the lands on which they lived and setting up infrastructures, permanent housing and businesses, and on the other hand, the state was prevented from making any use of these lands without first compensating the Bedouin. Needless to say, those adversely affected by the stalemate were the Bedouin.

Since then, the state of Israel has on occasion updated the terms of its offer. At the time of writing, the most recent offer was to be found in decision # 1028 of May 2, 2005, of the Israel Land Administration. This compensation offer was only slightly higher than those of 1975 and 1980, and in return the Bedouin were asked to forgo their claims, to leave the lands on which they were living, and to agree to have them registered in the name of the state.

The Sharon administration hardened the state position, by serving counter claims on the lands claimed by the Bedouin. Up to June 2005, 100 counter claims were served regarding an area amounting to 85,000 dunams; in the meantime, verdicts have been handed down for 10 of the counter claims, relating to 10,000 dunams.

A Unique and Inferior Citizenship Status

The Bedouin in the Negev are unique not only in their having been transferred en masse to an area outside the area in which they lived prior to 1948, but also in the fact that they have a unique and inferior citizenship status. This is reflected, firstly, in the fact that the state communicates with its Bedouin citizens through mediating institutions set up especially for this purpose, which act independently and without coordination with other state institutions. Secondly, during most of the years since the establishment of the state, the Bedouin had no local government, not even in the recognized settlements. Finally the Bedouin did not enjoy – and some do not enjoy even today – basic civil rights like the right to vote and be elected to local office and the right to register their place of residence in their identity cards.

Special Mediating Institutions

Until 1966 the Bedouin in the Negev, like the rest of the Palestinians who became citizens of Israel, lived under military government. The military government generally served as the only representative of the government in all matters. For its part, the military governor did not communicate with Bedouin citizens as individuals, but rather through the mediation of the tribal sheiks. The status of the military government began to weaken in the 1960s, and it was abolished in 1966.

For the Bedouin, the place of the military government was taken by the Israel Lands Authority, created in 1960 as part of the Ministry of Agriculture. In 1986 a “Bedouin Authority” was established within the Israel Land Administration. Since that time, the Bedouin Authority has become the main governmental body charged with the responsibility for anything and everything affecting the 150,000 Bedouin residents of the Negev, in the recognized towns as well as in the unrecognized ones. Among others, the Bedouin Authority is responsible for planning and developing existing settlements, planning new settlements, allocating lands for public buildings, taking care of matters pertaining to agriculture, handling compromises on ownership claims, and allocating drinking water.

The Bedouin Authority has aroused considerable criticism, whether from the Bedouin or from human rights organizations. Recently a number of attempts have been made to abolish it or to reduce its authority. Thus, for example, the Israel National Security Council recommended that the powers of the Bedouin Authority be limited to matters of land ownership and that other powers be transferred to other agencies.

In addition to being responsible for the Bedouin Authority, the Israel Land Administration provides the main financing for the “Green Patrol,” a body charged with safeguarding state lands from trespassers. Among other things, the Green Patrol is infamous for destroying illegal structures built by Bedouin on lands claimed by the state and for seizing Bedouin flocks grazing on property considered as belonging to the state.

Another unique governing agency, set up especially for the Bedouin population, is the Bedouin Education Authority, created as part of the Ministry of Education in 1981. This body is responsible for education services in unrecognized villages. In practice, the Bedouin Education Authority has become the official ruling body in all matters of education affecting the Bedouin community. Recently the Ministry of Education has indicated that it intends to abolish the body, but as of writing it still exists.

Local Governments Ruled From the Outside

The unique civil status of the Bedouin is reflected in the fact that during most of the years that have elapsed since the establishment of the state, the Bedouin have not had their own local government. Until the establishment of government-created towns, they were ruled first by the military government and then by the Bedouin Authority. After their transfer to government towns, they found themselves under the rule of Jewish absentee office holders. In two government-created towns, Tel Sheva (established in 1968) and Rahat (1971), the first municipal elections were held in

1993 and 1989, respectively. The other five towns held their first local elections only in 2000.

Citizens Without an Address

The State of Israel has yet to accord recognition to dozens of Bedouin settlements in the Negev (even those existing prior to 1948), and thus their names do not appear in the identification cards of their residents. In other words, at the present time, some 76,000 Israeli citizens have no address. Instead of an address, the residence of Bedouin citizens living in unrecognized settlements is indicated by the tribe to which they belong.

As mentioned above, residents of unrecognized settlements do not have the right to vote and to be elected to local public office, as they have no local governments. Even in cases in which Bedouin settlements are located within the confines of a Jewish local entity, Bedouin residents do not have the right to vote in elections or to be elected to office, even if they have to pay local taxes for lands leased for the purpose of cultivation.

Government-Created Towns: A Story of Under-Development

Today, slightly more than half of the Bedouin in the Negev live in seven recognized towns: Tel Sheva, Rahat, Kuseife, Arara, Hora, Segev Shalom, and Laqye. Despite the fact that most of these towns have been in existence for at least twenty years, they still lack appropriate infrastructures. They are unable to provide work for their residents or social services at a reasonable level. As such, they do not constitute a viable alternative for residents of unrecognized villages.

The recognized villages suffer from a number of outstanding disadvantages:

- Small area of jurisdiction, in comparison with Jewish localities in the Negev, which severely limits possibilities for development;
- The lowest municipal budgets in Israel;
- Significantly lower water allotments than neighboring Jewish localities;
- Sewerage infrastructures non-existent or inadequate;
- Inadequate interior road systems, which for some of the localities means no access to main arteries. All towns, with the exception of Rahat, have only one access road;
- Lack of internal or external public transportation services, thus severely limiting access to the labor market, to institutions of higher learning, to hospitals, to social services and to financial and governmental services;
- Lack of reliable telephone lines;
- Lack of public facilities like banks, public libraries, post offices, parking lots or community centers;
- A large number of classes (sometimes even whole schools) operating in temporary instead of permanent structures.

The situation of the recognized Bedouin towns has become a permanent topic of discussion at Cabinet meetings. In 2003, the Sharon administration made a commitment to implement a 6-year plan in the course of which the government was to

invest 1.1 billion shekels in recognized Bedouin localities. However, almost 80% of this sum is no more than the regularly budgeted sums in the operating budgets of the various ministries. Furthermore, a good portion of the budget was allocated to law enforcement agencies like the Green Patrol. Finally, although the total commitment was not particularly high, only 37% of it was actually spent.

Unrecognized Villages: A Story of Invisible Citizens

Some 76,000 Bedouin citizens live in 45 settlements that have not been accorded recognition by the government and do not appear on official maps of Israel. Some of these settlements date back to the pre-1948 period and others were established in the 1950s, after the Bedouin tribes were displaced from the northwestern part of the Negev to the *Sayig* region.

The unrecognized settlements do not receive regular government services and they have no local government. Most of the homes and other buildings are not constructed of solid materials, for fear of their being dismantled by the authorities. In addition, the unrecognized villages lack public facilities and access roads. In about half of the households there is no running water and residents have to use a variety of methods to obtain water. The settlements are not connected to electricity, so that there are no refrigerators in most of the homes and there is no lighting in the streets. Likewise, the settlements lack a sewerage system, a fact that has severe environmental and sanitary implications. Open rivers of sewerage from neighboring Jewish towns traverse some of the settlements. None of the localities has a waste disposal system. Health care, education and social services are in poor shape: existing clinics provide only the most basic of services and they are few in number. Finally, schools and social services are of inferior quality.

In May 1997, residents of the unrecognized settlements established “The Regional Council for Unrecognized Villages” in response to a new master plan for the South that excluded the unrecognized settlements. The plan included removing some of the residents from their lands, and some of the Bedouin settlements stood to lose a considerable part of their territory. The Council was composed of heads of local village committees, and its purpose was to obtain recognition for the 45 unrecognized villages.

This action, along with the actions of additional Bedouin organizations and activists, resulted in a number of achievements: firstly, the Council constituted an important factor in the 2000 breakthrough decision made by the Barak administration, recognizing 9 out of the 45 unrecognized villages and establishing Regional Council Abu Basma as the local government for nine of the villages. In addition, the decision stipulated that the settlement of land disputes would no longer be a condition for the receipt of governmental services. Finally, it stated that residents of the unrecognized villages were to take part in the decisions affecting them.

The Bedouin organizations and activists became central partners in the legal proceedings against the master plan for the South. In 2000, with the help of the Israel Association for Civil Rights, residents of the unrecognized villages petitioned the High Court over exclusion of the villages from the plan. The Court issued a temporary injunction order instructing the National Council for Planning and Construction to go

back to the drawing board and come up with a new plan that would include the unrecognized Bedouin villages. This was to be done in consultation with representatives of village residents, taking into account the alternative plan submitted by the Regional Council of the Unrecognized Villages in the Negev.

The High Court order and the decision of the Barak administration constitute important achievements. At the same time, five years have elapsed since those precedents were made without any progress on the ground. Moreover, it appears that the government has adopted the tactic of foot dragging. This is reflected in the slow pace at which the new regional master plan is being prepared, in contrast with the fast pace of implementation of another government decision - to establish dozens of Jewish settlements and farms in the Negev. In addition, the High Court recommendation that Bedouin residents be involved in the planning process has been adopted on a very limited scale.

The decision taken by the Sharon administration in September 2003 on a multiple-year plan for the Bedouin in the Negev is the most recent decision on the matter. While this decision reiterated the decision of the Barak administration to accord recognition to some of the villages and also mentioned the development of infrastructures and services, the central focus of the Sharon decision was law enforcement. Recently, a decision was made to set up new agencies to deal with enforcement of land ownership verdicts.

The Regional Council of Unrecognized Villages in the Negev perceived the Sharon plan as a “declaration of war” on residents of unrecognized villages, primarily because of its emphasis on law enforcement.

Insufficient Allocations, Insufficient Implementation

From Israel’s national budget, one may receive the erroneous impression that the government allocates significant sums to improving the situation of the Bedouin population of the Negev. However, the fact is that some of the sums allocated are not actually utilized. This is exemplified in the budget line for planning and development, which is supposed to include the establishment of new neighborhoods and the improvement of infrastructures in existing ones, under the budget of the Bedouin Authority. Over the years, the average implementation of this budget line has been no higher than 40%. As this is no secret to the authorities, the continued allocation of relatively large sums to the development of Bedouin localities is a sham.

Little Prospect for Self-Propelled Economic Development

During most of the 20th century the main source of livelihood for the Bedouin was agriculture. However, Bedouin agriculture experienced serious setbacks under Israeli rule. Firstly, the Bedouin lost a large portion of their lands when they were transferred to the *Sayig* area. Secondly, the *Sayig* lands are more arid than those in the northwestern Negev. Thirdly, the state views the *Sayig* lands as its own, and thus it allows cultivation only under conditions of leasing. This phenomenon is not limited to the Bedouin, as 93% of the land in Israel is owned by the state and most Jewish farmers also lease their land from the state; the difference is that while Jewish farmers lease the land for a period of 49 years, with the option of renewing the lease, and also

have the possibility of leasing additional land under one-year contracts, the Bedouin have only one option, which is the annual lease. Thus every year Bedouin farmers need to ask the authorities for a renewal of their leases. There is always the possibility that the lease will not be renewed or that applicants will receive different plots.

Fourthly, Bedouin farmers receive smaller water allotments than their Jewish neighbors; some farmers do not receive any water allotment at all, and they have no choice but to pay for the water they use at household rates, which are 3.5 times higher than agricultural ones. Bedouin farmers do not receive the government subsidies that Jewish farmers receive in drought years.

As a result of their inability to make a living from agriculture alone, during the period of the British Mandate, Bedouin also sought work as hired laborers. Between 1948 and 1966, the Bedouin were under military rule that kept them more or less confined to the *Sayig* area. Every exit necessitated obtaining a permit from the military government. The policy of giving out permits took into account, among other things, the economic interests of the Jewish population: during most of the 1950s, unemployment in the Negev was very high, and the authorities feared that the Bedouin, who worked for low wages and had no labor protection, would take away the jobs of Jewish immigrants. Only when Jewish employers had difficulty obtaining Jewish laborers, did they turn to the military governor for labor power. Then Bedouin found jobs in road construction, agriculture, and extractive industries. Very few were employed as semi-skilled laborers (carpenters, mechanics and the like).

During the same period, the Bedouin resorted to smuggling as a source of income. However, this source dried up after the 1967 war, with Israel's occupation of the West Bank, the Gaza Strip and the Sinai Peninsula.

Business activity among the Bedouin is extremely limited. Bedouin towns lack the proper infrastructures that might provide employment opportunities. Despite the fact that they are the poorest localities in Israel, Bedouin towns do not have the status of "Development Area A," which bestows tax breaks on investors. Existing business firms are small and their effect on employment rates is negligent. Corporations with plants in the Negev, like Motorola and the Dead Sea Works, employ very few Bedouin, if any at all. Employment in the military does not constitute a significant employment alternative either. The number of Bedouin youth who volunteer is not more than a few hundred, and they constitute a minority among their age cohort. The armed forces do not provide a significant contribution to the employment opportunities of those who complete three years of voluntary military service, either, as their military professions are of little use in the civilian labor market.

The Employment Picture

Not many figures are available on the employment patterns of Bedouin. Residents of unrecognized villages are not even included in the annual samples of the Labor Force Surveys of the Central Bureau of Statistics. In the framework of this study, we performed an analysis of the employment situation of Bedouin in the Negev, based on the Labor Force Survey of 2003 for residents of recognized towns.

Our analysis shows that in 2003, 64% of persons aged 15 years of age and over were in the labor force (labor force = employed persons + persons looking for work), a proportion similar to that of Jews in the Beer Sheba district (60%). However, while unemployment for Jews was 11.6%, unemployment for Bedouin was 34.7%.

Finally, we found that wages were lower for Bedouin: the Bedouin settlements are at the bottom of the wage ladder, though it should be noted that average wages in Bedouin localities are not much lower than average wages in Jewish development towns in the Negev.