

Alternative NGO Report:

Information for Establishing List of Issues for the State of Israel before the
The Committee on Civil and Political Rights (ICCPR)

Submitted by

Negev Coexistence Forum for Civil Equality (NCF)

Negev Coexistence Forum
For Civil Equality

منتدى التعايش السلمي في
النقب من أجل المساواة المدنية

פורום דו-קיום בנגב
לשוויון אזרחי



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I. Executive Summary

This alternative report was prepared by the Negev Coexistence Forum for Civil Equality. It provides information for adopting The List of Issues Prior to Reporting (LOIPR) for the State of Israel under the auspices of the United Nations Committee on Civil and Political Rights (CCPR). The report focuses on Israel's implementation of the International Convention on Civil and Political Rights (ICCPR) regarding the Arab-Bedouin population in the Negev-Naqab, Israel's southern desert region, in order to provide the committee with additional information and a critical perspective regarding what is occurring in the Negev.

ICCPR provides a legally-binding framework that indigenous people, such as the Negev Bedouin, can use to call attention to cases of civil and political discrimination.¹ As a signatory, Israel has a legal obligation to comply with its provisions. As documented in this report, however, the Negev Bedouin are subject to a number of civic and political discriminatory Israeli laws, policies and practices, which stem from the state's determination to increase the region's Jewish population at the expense of its indigenous citizens.

For instance, the state unequally distributes services and access to resources and land, attempts to concentrate the Bedouin into specific townships and fails to recognize traditional rights to land. Further, unlike Bedouin villages, not only have Jewish farms in the Negev recently been retroactively approved by the state, but ten new Jewish settlements have also been approved. Thousands of Bedouin, on the other hand, face forced displacement under the proposed Praver-Amidror Plan, a governmental plan that was formulated with little to no input from the Bedouin community and approved by the Israeli cabinet on 11 September 2011. Most Bedouin reject the Plan and refuse to renounce their land claims and abandon their ancestral land.

Half of the Negev Bedouin population lives in so-called "unrecognized villages" which lack basic services such as running water, electricity, waste removal, telephone lines, paved roads, schools and medical clinics. Residents in these villages have experienced an escalation in home demolitions over the past years by the Israeli authorities, which are using increasingly aggressive force. Additionally, the seven existing government-planned, Bedouin towns are not equipped, contrary to the state's position, to absorb the influx of an estimated 30,000 new residents in the event that the proposed Praver-Amidror Plan is implemented. These towns rank at the bottom of all social and economic indicators and suffer from the highest unemployment rates in Israel.

In closing, the NCF makes recommendations where the State of Israel could further advance its compliance with ICCPR with respect to the Arab-Bedouin of the Negev.

¹ "International Covenant on Civil and Political Rights," <http://www2.ohchr.org/english/law/ccpr.htm>

II. List of Tables and Maps

Figure 1: The neglected Muslim cemetery in Be'er Sheva (photograph taken in January 2012)

Figure 2: A water tank in Twayel Abu Jarwal is destroyed by the state (August 2010)

Figure 3: A water tank in Al-Arakib is confiscated by the state on 10 August 2010 (during the 3rd demolition operation of the village)

Table 1: Size and population data for a number of regional councils in the Negev.

Table 2: Jewish and Arab communities in the Be'er Sheva District.

II. Introduction

Presentation of NGO

NEGEV COEXISTENCE FORUM FOR CIVIL EQUALITY (NCF) – In 1997, a group of concerned Arab and Jewish residents of the Negev (the southern desert region of Israel) established the Negev Coexistence Forum for Civil Equality to provide a framework for Jewish-Arab collaborative efforts in the struggle for civil equality and the advancement of mutual tolerance and coexistence. The Forum, also known as “Dukium” in Hebrew, is unique in being the only Arab-Jewish organization established in the Negev that remains focused solely on the specific problems confronting the Negev.

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Methodology of Report

This report discusses a range of important considerations and information for adopting The List of Issues Prior to Reporting (LOIPR) for the State of Israel under the auspices of the United Nations Committee on Civil and Political Rights Elimination. The information relayed in this report pertains only to the indigenous Bedouin-Arab population in the Negev-Naqab, who are Israeli citizens yet also a marginalized sector of society. The report therefore focuses on the Bedouin-Arabs conditions under four articles in the UN International Covenant on Civil and Political Rights, namely articles 18, and 25-27, concerning access to the political system, equality before the law and rights of minorities to cultural, linguistic and religious practice and belief. We would like to emphasize that we have chosen to discuss the indigenous Bedouin-Arab population in the Negev because of its unique characteristics, the poverty and hardship the Bedouin are experiencing, and the discrimination that has been directed towards them for decades. This report was prepared by the Negev Coexistence Forum, a coalition of Bedouin, Israeli and internationals which work closely with the Bedouin-Arab community in the Negev-Naqab (both in the recognized and unrecognized villages) and have expert knowledge of this indigenous group.

Historical Context

The Bedouin-Arabs of the Negev, the southern desert region of Israel, are an indigenous people. They were traditionally a semi-nomadic people, however by the mid-19th century, the eight Bedouin clans that had populated the Negev for centuries began to settle down. They regarded the Negev as their territory and divided the region between themselves, subsisting on dry farming and small cattle such as sheep and goats. They relied on livestock and cultivated about 2.5 million dunams of land.² Following the establishment of the State of Israel in 1948, when the desert became part of the newly formed state, the Bedouin were displaced from most of their lands and only ten to 15 per cent of the original population remained. The majority of the population was expelled to neighboring countries, while those who remained were forcibly removed from the land that their families had grazed for generations and transferred to the Eastern Negev, which has less rain and less fertile soil. Deportations of Bedouin continued until the mid-1950s and only 11,000 were counted in the 1960 census.

The remaining 11 Bedouin tribes were concentrated in an area known as the “Siyag” – which literally means a territory limited by borders – where some seven other tribes were already living. The Bedouin were informed that this move was a temporary measure. Until military rule over the Arab population was dismantled in 1966, the Bedouin were not permitted to enter or exit this limited 1,000 to 1,500 square kilometer area without a permit from the military governor.

After military rule ended, the State began to introduce other legal mechanisms in order to concentrate the remaining Bedouin and further their dispossession. This included the use, for example, of the Absentee Property Act (1950) and the Land Acquisition Act (1953). Additionally, the state developed three townships in order to concentrate the Bedouin into even smaller areas on the premise that the government was modernizing them and improving their standard of living. Pursuant to new laws, such as the 1965 Planning and Construction Law, most of the Bedouins’ land was zoned as agricultural. This meant that no buildings or houses were permitted, and that all the existing structures were illegal.

This is where we can identify for the first time the phenomena of the so-called “unrecognized villages”. In the eyes of the state, all the villages, even those that existed before the State of Israel was founded, have no legal existence. This process continued in the 1970s, when Israel established a process allowing the Bedouin to file land ownership claims. A total of 3,200 claims were registered, however in 2003 (30 years later) the government also began to file counter-claims. As the Bedouin were required to produce ownership documents such as land registration and formal deeds that most did not possess, they were unsuccessful in every case that was brought before the court and 88,000 dunams of land was subsequently registered as State land.³ Additionally, the state confiscated land for public purposes, under the Negev Land Acquisition Law of 1981 (also known as the “The Peace Law”), in order to create an Industrial Zone and a toxic waste dump in Ramat-Hovav.

² Dunams are the measure of landholdings in Israel and the Occupied Palestinian Territories. A dunam is equal to 1,000 square meters, approximately a quarter of an acre or 0.1 hectares.

³ An interview by Haia Noach, Executive Director of NCF, with Eli Atzmon, former Deputy Director of the Bedouin Administration on 22 January 2012.

Current Socio-economic Situation

Government-planned towns

Following the end of military rule in 1966, the Israeli government began to urbanize the Bedouin, creating townships with dense urban planning. Today, there are seven government-planned townships in the Negev which are home to more than 100,000 Bedouin: Rahat, Tel Sheva, Segev Shalom, Lakia, Arara, Quseifa and Hura. These townships are rife with crime and unemployment and rank among the lowest socio-economic municipalities in Israel. The towns also contributed to a breakdown of traditional Bedouin social structure by combining many different tribes and clans in one city. Further, there is no room inside the city for livestock, considered essential to Bedouin livelihood and identity.

As of the end of 2010, there were an estimated 124,000 Bedouin living in the planned townships, according to the Central Bureau of Statistics.

Newly recognized townships

Over the past decade, the state has recognized ten new villages and organized their administrations into what is now known as the Abu-Basma regional council: Tarabin, Kochle, Makchol, Derijat, Al-Qrein, Moleda (Wadi-Rowein and Tlaa Rashid), Bir Hadaj, Qasser a-Sir, Um-Batin and Abu-Krinat (Um Mitnam). In 2006, the villages of Abu-Tlul and Al Forha were also recognized and joined the Abu-Basma regional council. While these villages have been officially recognized, a gloomy picture is portrayed even by the state's own auditing findings regarding the services available within the regional council.⁴ At the end of 2010, 25,000 people were living within the boundaries of the Abu Basma regional council, according to the Central Bureau of Statistics.

"Unrecognized villages": non-existent and illegal

According to the Central Bureau of Statistics, a further 53,000 Bedouin live in the so-called "unrecognized villages," which are considered by the Israeli authorities as being simultaneously non-existent and illegal.⁵ On the one hand, these villages are non-existent in that they do not appear on any commercial maps or government planning documents and no road signs indicate

⁴ State Comptroller Report 2010, pp. 695-697, <<http://www.mevaker.gov.il/serve/showHtml.asp?bookid=604&id=193&frompage=701&contentid=12085&parentid=12085&bctype=2&startpage=10&direction=1&sw=1280&hw=954&cn=%E4%EE%E5%F2%F6%E4%20%E4%E0%E6%E5%F8%E9%FA%20%E0%E1%E5%20%E1%F1%EE%E4>> at 19 January 2012 (in Hebrew).

⁵ A Google map of the unrecognized villages, newly recognized villages and planned towns, prepared by the NCF is available at <<http://maps.google.com/maps/ms?hl=en&vpsrc=1&ctz=-120&vps=2&ie=UTF8&oe=UTF8&msa=0&msid=205327981431344849094.0004b031204f174daff35>>

their existence. Residents are not even permitted to put the name of their village on their official identification cards. Further, as they do not officially exist, they do not have local building plans – a requirement for housing and infrastructure. This means there are no water pipes, homes are not connected to the national electricity grid, there are no phone lines, roads are not developed, and medical clinics and schools are absent. As there is no municipality serving these villages, basic services such as rubbish removal and sewerage are not provided, nor can the residents exercise their right to participate in municipal elections.

On the other hand, as it is impossible to acquire a building permit in these unrecognized villages, all homes are rendered illegal and face the constant threat of demolition. Since the 1970s, the government has routinely demolished thousands of homes in unrecognized villages and in recent years, this policy has slowly intensified. In February 2010, the authorities vowed to triple the yearly quota of home demolitions as a means to coerce the Bedouin communities to abandon their ancestral lands.⁶

House demolitions illustrate the State's practice of double standards and discriminatory actions. While it demolishes the homes of its Bedouin citizens or at the least, fails to recognize them, it has retrospectively authorized the illegal establishment of several Jewish settlements and farms in the Negev. By way of background, “individual farms” are a tool used by the state to provide individual Jewish families with hundreds and sometimes thousands of dunams of land for their exclusive use, and keep the land out of the reach of Arab citizens of Israel in the Negev. An amendment passed in July 2010 retroactively recognized dozens of relatively new individual farms and conferred upon the Negev Development Authority the power to make recommendations to the Israel Land Administration (ILA) to allocate lands for additional individual settlements. This amendment affords official status to Jewish farms, while the unrecognized Bedouin villages are denied recognized status and continue to live without basic services.

⁶ Haia Noach, A Report on the Right to Housing: Housing Demolitions of Bedouin Arabs in the Negev-Naqab (2010) Negev Coexistence Forum for Civil Equality
<http://dukium.org/user_uploads/pdfs/NCF_Human_Rights_Day_2010_report%207Dec2010_v4.pdf> at 15 January 2012.

IV. Substantive Section

Article 18: Freedom of Thought, Conscience and Religion

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Conversion of the Big Mosque of Be'er Sheva into an Islamic Museum

The NCF refutes assertions that “Israeli Law grants freedom of worship and ensures the safekeeping of and access to holy places to members of all faiths” following events in Be'er Sheva.⁷ In June 2011, the Israeli High Court ruled that the Big Mosque in Be'er Sheva, which dates back to 1906, should be converted into an Islamic museum, consequently denying the Muslim community the opportunity to practice their religion and use the mosque as a place of worship.⁸ The court also rejected the Be'er Sheva municipality's request that the building be used as a general museum.⁹

The Be'er Sheva municipality's opposition to designating the mosque as a building for the purpose of praying or for the purpose of a Muslim cultural center is a matter of civic discrimination against the Muslim population of the city. Approximately 6,000 Muslims live in Be'er Sheva today and thousands from across the Negev visit the city on a daily basis, yet as a result of this ruling, not a single mosque operates in Be'er Sheva today. In sharp contrast, there are more than 200 synagogues for the city's Jewish community.

Contrary to the court's ruling, the NCF has observed that the activities of the new Islamic museum are, in reality, general in nature and not focused on Islamic culture specifically. For instance, its first exhibition, which opened on 20 November 2011, featured photographs of the city of Be'er Sheva during Ottoman rule, the British Mandate and modern times. There was little, if any, relevance to Islamic culture. Furthermore, the NCF received reports from students that, during a tour of the mosque, the guide inaccurately recounted that the building had never been used for praying. Such comments are offensive to the Muslim community.

The NCF also notes that the graveyard in the Old City in Be'er Sheva is neglected and in a poor state, as shown in the picture below, and it is not sufficiently marked as a Muslim cemetery. Furthermore, the location of the cemetery – between the Old City and the new city – holds a

⁷ CERD/C/ISR/14-16, p 82.

⁸ 7311/02 Association for Support and Defence of Bedouin Rights in Israel and others vs. the Be'er Sheva Cityhall and others.

⁹ Jack Khoury, 'High Court rules Be'er Sheva mosque to be used as Islamic museum', Ha'aretz, Israel, 23 June 2011 <<http://www.haaretz.com/news/national/high-court-rules-be-er-sheva-mosque-to-be-used-as-islamicmuseum-1.369278>> at 19 January 2012.

very high real estate value. As a result, over the years, the area of the cemetery has been reduced and transformed into main roads and parking lots.



Figure 1: The neglected Muslim cemetery in Be'er Sheva (photograph taken in January 2012)

Mosques in the Unrecognized Villages are Not Funded by the State

There are more than 100 mosques in unrecognized Bedouin villages in the Negev. However, none of these mosques are funded by the state and are entirely supported by private donations from the villages' residents. This practice is discriminatory in so far as synagogues are partly built using state funds. The only opportunity for state funding lies in small donations for texts and for cleaning of the mosques. The salaries of approximately 24 imams and muezzin, serving part of the Arab-Bedouin in the Negev, however, have been paid by the state over the last couple of years.

The NCF also draws the Committee's attention to the fact that, since there are no legal avenues for authorized construction in the unrecognized villages, mosques are built without permits and are therefore subject to the risk of demolition. On 25 December 2008, a mosque in Wadi Al Na'am, which also served as a community center, was demolished following a demolition order dated 21 August 2008.¹⁰ In November 2011, another mosque near the recognized Bedouin city of Rahat was demolished by its owners in order to avoid demolition costs.¹¹

¹⁰ Negev Coexistence Forum for Civil Equality, 'House demolitions in the Negev', <http://www.dukium.org/user_uploads/pdfs/demolitions_archive.pdf> at 26 January 2012.

¹¹ ILA web site, http://www.mmi.gov.il/HodaotmmiInt/show_h.asp?key=1069&CodeMaarecet=1 at 19 January 2012 (in Hebrew).

Article 25: Electoral Rights

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Equal Governing and Administrative Representation

The NCF submits that the state continues to fail to respect the right of the Bedouin “to take part in the conduct of public affairs,” as described under Article 25, with respect to the Abu Basma regional council. The Abu Basma regional council only represents Arab localities, and unlike Jewish regional councils, it does not enjoy territorial continuity. Its boundaries are limited to the cluster of houses within the villages. As a result, the Bedouin within the Abu Basma regional council cannot benefit from the income generated by industrial zones, quarries or military bases, as would be the case for Jewish councils. For example, when compared to Ramat Negev and Tamar – which have annual incomes of 50 million NIS and 64 million NIS, respectively – the Abu-Basma regional council’s income is negligible.¹²

According to the State Comptroller report of 20 December 2011, the Abu Basma Regional Council occupies 50,000 dunams of land, comprising of ten Bedouin villages and approximately 30,000 residents¹³ (only 5,000 of which are registered).¹⁴ By comparison, as can be seen in the table below, a sample of surrounding councils reveals that Jewish councils have jurisdiction over much larger tracts of land while having much lower populations

¹² Yanir Yanga, “The councils in the Negev are struggling the municipal taxes income demanding social justice,” Ha’aretz <<http://www.haaretz.co.il/news/education/1.1693747?=>> at April 26, 2012 (in Hebrew).

¹³ State Comptroller Report 2010, 12 December 2011, p 691

<<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=604&id=193&contentid=&parentid=undefined&sw=1280&hw=954>> at 24 January 2012 (in Hebrew).

¹⁴ Ibid, p 701.

Council	Demographics	Geographical size (dunams)	Number of villages	Population size	Dunams per persons
Abu Basma	Arab-Bedouin	50,000 ¹⁵	10	30,000 ¹⁶	1.66
Ramat Negev ¹⁷	Jewish	4,300,000	12	5,500	781.81
Bney Shimon ¹⁸	Jewish	440,000	13	7,100	61.97
Eshkol ¹⁹	Jewish	1,000,000	32	11,000	90.91
Tamar ²⁰	Jewish	1,650,000	6	1,300	1269.23

Table 1: Size and population data for a number of regional councils in the Negev.

Lack of Community Consultation

At every stage, major governmental decisions have been made with little to no input from Bedouin leadership. The Abu Basma regional council is not led by Bedouin and is governed from offices in Be'er Sheva. The process by which the Praver-Amidror Plan was approved is a particularly egregious example of the Israeli government determining the future of a large number of its citizens without consulting with them, either as individuals or as a social group. The text of the plan was not made available until 20 February 2012, months after it was originally published. This made it inaccessible to the vast majority of the Bedouin population.

Ultimately, the Bedouin have no access to the major decisions that will shape their lives, and are deprived of the right to participate in this decision making process.

Failure to hold elections for the Abu Basma regional council

On 9 February 2011, the Supreme Court ruled on a petition jointly filed by the Association of Civil Rights in Israel (ACRI), residents within the Abu Basma regional council area and the

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ramat-Negev web site, retrieved 25 January 2012, <http://www.ramat-negev.org.il/main.php?m=1143>

Note: Ramat-Negev includes also 23 farms and 3 educational settlements.

¹⁸ Wikipedia, retrieved 25 January 2012.

¹⁹ Ibid.

²⁰ Ibid.

NCF, challenging the Abu Basma Bill on Regional Council Elections. This bill allowed the Interior Minister to postpone the council's first ever elections since its establishment in 2003. The Abu Basma regional council includes ten villages with a collective population of about 25,000 Arab Bedouin. The Supreme Court declared that elections for the Abu Basma regional council should be held no later than November 2012, and the Minister of Interior was ordered to facilitate the elections. The Court also stated that the law represented a grave infringement on democratic values and on the obligation Israel has to ensure regular and transparent democratic elections.

As far as the NCF is aware, minimal preparations for these elections have been undertaken, and only one meeting to explain what is required of the local committees has been held to date. Additionally, ACRI has sent three letters to the Director of the Ministry of Interior and the Director of the Abu Basma regional council, enquiring as to what steps have been taken to hold the elections and requesting a copy of the program. ACRI pressed the fact that it was vital to hold the elections, as it is a right to elect and be elected.

While ACRI received a letter from the state saying that the elections will be held on time, NCF suspects that no elections will be held in the Abu Basma regional council in 2012.

Article 26: Equality before the Law

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Low success of appealing home demolition orders in court

On 6 December 2011, the Magistrates Court cancelled 51 home demolition orders in the unrecognized village of Alsira (Case No. 2137-09). The residents of Alsira anticipated, however, that the state would appeal this decision, and this indeed happened in April 2012. Further, in the 2008 case of the Ali Abu Scheta family, the Magistrates Court decided to postpone house demolitions, as there was no alternative housing solution for the owners. The District Court, however, overturned this decision.²¹

These are the only cases known to us where there was some success in appealing to the courts. The only advantage in this course of action is the fact that people gain more time with shelter for their family. By contrast, since January 2012, dozens of structures have been demolished in the Negev, in both unrecognized villages and townships. On January 9, for example, one home was demolished in the unrecognized village of Alsira, while the unrecognized village of Al-Arakib was completely destroyed four times in 2012.²²

Additionally, the Kiryat Gat Magistrates' Court rejected a motion to cancel 33 home demolition orders in the unrecognized village of Umm al-Hieran in December 2011 (Case No. 2136-09). According to lawyers from Adalah, the Legal Center for Arab Minority Rights in Israel, which represented 19 Bedouin home owners in the case, "the decision paves the way for the establishment of the exclusively Jewish town of "Hiran" on the same land."²³

Adalah filed a petition to the Israeli High Court in January 2012, challenging the decision to uphold the demolition orders on the 33 homes, arguing that they are contrary to the National Planning and Building Law (1965).²⁴

Official state recognition does not protect against housing demolitions in Bedouin communities, either. The state did not demolish houses within the zones planned for the townships (referred to as the "Blue Line") until a decision issued in February 2010 by District Court Judge Sarah Dovrat. Judge Dovrat issued orders to demolish 65 houses within the jurisdiction of the

²¹ Negev Coexistence Forum for Civil Equality, Newsletter March 2008, <http://www.dukium.org/user_uploads/News-Letters/NL11_HEB3.pdf> at 24 January 2012.

²² Negev Co-Existence Forum for Civil Equality, "House Demolitions," <http://www.dukium.org/eng/?page_id=885> at April 24, 2012.

²³ Adalah, "Adalah appeals court decision upholding home demolition orders in unrecognized Arab Bedouin village of Umm al-Hieran in the Naqab," 26 January 2012 <http://www.adalah.org/eng/pressreleases/26_1_12.html> at 24 April 2012.

²⁴ C.A. (Civil Appeal) 2541/12, "Salib Abu al-Qi'an vs. The Government Authority for Water and Sewage" at 26 April 2012.

settlements in the Abu Basma regional council.²⁵ In April 2011, Abu Basma filed a petition to the Supreme Court against the decision.²⁶

In another example, the village of Al Forah was recognized by the state in 2006,²⁷ yet on 25 May 2011, a large double-story house where three families lived was demolished. The owners had successfully appealed to the court for an injunction rendering the demolition illegal, but the house was eventually still demolished.

Demolitions on structures built without permits in recognized Bedouin towns also took place throughout 2012 in the Negev. For example, in Lakia, three homes were demolished on March 6, while the Israeli Ministry of Interior demolished two homes and residents demolished three homes by themselves, to avoid the cost of the demolition, on February 19. Additionally, one structure was demolished in Segev-Shalom on January 18 and one home was demolished in Hura on January 9.²⁸

El Uqbi Family Verdict

On 15 March 2012, after long months of deliberations in the Be'er Sheva District Court on the subject of land ownership in the Al-Arakib (unrecognized village) area, Judge Sarah Dovrat rejected the El Uqbi family's claims to the land.

According to Israeli professor Oren Yiftachel, the District Court's verdict ratifies the law's basic assumptions, which accompany every legal deliberation concerning Bedouin lands in the Negev. "The Israeli rule states that non registration of land in 1921, and at the same time inability to prove ownership prior to 1858, turns the traditional owners to trespassers of "dead land," so called owned by the State. This rule turns in fact all the Bedouin lands to State lands."²⁹

The Judge's verdict isn't surprising, especially when reading the findings of Judge Goldberg, who said in 2008, when requested by the government to prepare a detailed report for solving the conflict between the Bedouin citizens and the State: "In view of the State's claim that most of the lands in the Negev are of the 'Mawat' type ["dead land"] and therefore have to be registered as State's lands, the Bedouins will always have the worst of it in legal disputes concerning land ownership."³⁰

The fact that by 2008, the verdict given in the El Uqbi case, four years later, could have already been anticipated undermines the basic assumption that every person is entitled to equal justice before the law. The Israeli Bedouin citizens are not restricted in their right to justice, nor in

²⁵ Ilana Koniell, "Judge: demolish the Bedouin houses in the Negev, and where is the legal advisor of the government?" 16 February 2010, *YNet* <www.ynet.co.il/articles/0,7340,L-3849450,00.html> at 29 January 2012 (in Hebrew).

²⁶ Re-appeal an administrative petition 2219/10 Head of the Abu Basma planning committee vs. Regavim NGO

²⁷ Government decision 4704, 19 February 2006, Prime Minister Office, <<http://www.pmo.gov.il/PMO/Archive/Decisions/2006/02/des4707.htm>> at 19 January 2012 (in Hebrew)

²⁸ Negev Co-Existence Forum for Civil Equality, "House Demolitions," <http://www.dukium.org/eng/?page_id=885> at April 24, 2012.

²⁹ Yiftachel, Oren (2012), "Arakib Lands – Trial Justice and all in between them: comments on the verdict of the Al-Oqbi land trial"

³⁰ Goldberg Committee Report (2008) p. 19.

access to legal processes, however, their claims will continually be rejected by the courts, as evidenced by the case of the El Uqbi family and by the statements of Yiftachel and Goldberg.

State practice of counter claims

Instead of treating the Arab-Bedouins as “equal before the law” and as “entitled without any discrimination to the equal protection of the law,” as is outlined in Article 26, the Israeli state uses its judicial system as a tool against the Arab Bedouins. This practice is especially clear when examining the state’s filing of counter land claims against the original land claims of the Arab-Bedouin.

In the early 1970s, the government declared the Northern Negev – including the Siyag area where most of the Negev Bedouin live – subjected to a land re-arrangement process. All Bedouin citizens were asked, in accordance with the 1969 Land Settlement Ordinance, to file any land claims they had. A total of 3,200 claims were registered over approximately 991,000 dunams (247,000 acres) of land.³¹ From that time until approximately 2008, land settlements were reached regarding only 150,000 dunams of land.³²

The Albeck Committee, established in 1975 by the government to address Bedouin land claims, determined that Bedouin have no legal rights to the land yet urged the government not to approve of Bedouin evictions without compensation. Thus, it recommended that the government act in “good will” and go beyond the strict formal law,³³ by granting Bedouin some compensation through negotiations, on the condition that claimants give up any claim to the land and move to one of the state-planned townships.³⁴ The government, acting in accordance with the committee’s recommendations, started a process of negotiation and concurrently froze all land claims.³⁵ The Israeli Land Authority (ILA) conducted the negotiation, using the Albeck compensation scheme as a basis for treating Bedouin claims.³⁶

In 2004, following a government decision³⁷ and the adoption of a new development plan for the Negev, the State Attorney’s office of the Southern District and the ILA began pursuing a

³¹ Haia Noach, *The existent and non-existent villages* (2009), p. 64, Pardes (in Hebrew).

³² Goldberg Committee Report (2008), p. 14, Ministry of Housing and Infrastructure, <http://moch.gov.il/SiteCollectionDocuments/odot/doch_goldberg/Doch_Vaada_Shofet_Goldberg.pdf> at 19 January 2012 (in Hebrew)

³³ Albeck Report (1975:1).

³⁴ By this point, there were two Bedouin townships.

³⁵ Shlomo Swirski and Yael Hasson, ‘Invisible Citizens: Israel Government Policy Toward the Negev Bedouin’, Adva Center, February 2006, p 24 <<http://www.adva.org/UPLOADED/NegevEnglishFull.pdf>> at 26 January 2012.

³⁶ Roughly speaking the Albeck compensation scheme offered a variety and a combination of compensation for alternative land, money and water for agriculture. Claimants are entitled to receive monetary compensation equal to 65 percent of their claimed land (land value is assessed based on its value in 1948, not at the time of payment). Alternatively, for a claim above 400 dunams, the claimant may get 20 percent of the claim in alternative land and 30 percent in monetary compensation, or receive 4 dunams with water rights. For claims between 100-199 dunams, the claimant may receive one dunam with water rights; two dunams for claims between 200-299 dunams; or three dunams for claims between 300-399 dunams. Albeck Report (1975: 2-3) The recent official proposal is within resolution 1028 of the council of ILA. Previous resolutions were, 813; 932; and 996, see, Israel Land Administration, <www.mmi.gov.il> at 11 July 2011.

³⁷ Government Decision no. 216 (Arab 1) “A plan for the Bedouin sector in the Negev” 14.4.2003.

strategy of “counter-claiming” in court against 30 years worth of approximately 3,000 unsettled land claims left frozen after 1975. In other words, the State submitted land claims on the same land that had been claimed by Bedouin claimants since the 1970s. According to the ILA, the counter-claim strategy is part of a “strategy of protecting state resources...[and] safeguarding its land reserves for the benefit of the whole population.”³⁸ The 2015 Negev Development Plan included “an arrangement for the land issue to be resolved through counter-claims of ownership by the government using the courts.”³⁹

When a land claim is counter-claimed, the land officer is required, under article 43 of the 1969 Land Settlement Ordinance, to transfer the conflicting claims to the relevant District Court, in our case the Be’er Sheva District Court.⁴⁰ State land rights are being taken up at the behest of the land settlement officer, regardless of whether the state submitted a claim to a specific parcel of land. Through this process, the state, represented by the ILA and its Bedouin Development Administration, submit counter land claims, which then places the onus on the Bedouin to prove ownership over land claims initiated by the land settlement officer. It seems that the State prefers that the District Court examine state land rights rather than the land settlement officer, since this process legitimizes the state’s opposition to legalizing land rights to Bedouin claimants.

According to the testimony in May 2008 of Ilan Yishoron, former Director General of the Bedouin Development Administration of the ILA, the state had submitted about 450 counter-claims (of the about 2,840 remaining land claims) to the land settlement officer, who transferred 223 of them to the Be’er Sheva District Court. Furthermore, according to a recent statement by Yishoron, under his new position as the Deputy Director of the Authority responsible for arranging Bedouin settlements in the Negev (the body that replaced the Bedouin Development Administration), the State has won about 200 counter-claims.⁴¹ Eli Atzmon, former Deputy Director General of the Bedouin Development Administration of the ILA, reports that the state won 88,000 dunams through this legal mechanism. To date, the Israeli courts have confirmed the government’s legal position, leading to a 100 percent success rate in favor of the state.

Under the counter-claim policy, the Israeli government switched from the “negotiation” approach to a confrontational one with the Bedouin. Having the court deny the land rights of the Bedouin – or perhaps more accurately, using the court to confirm the state’s position of denying land rights to the Bedouin – legitimizes the state’s position, and places the burden of proof on the Bedouin to prove land ownership in the event that the state files a counter claim. As noted by Havatzelet Yahel, the head of the Land Unit in the State Attorney’s Office in the Negev, regarding the counter-claim policy, “as history shows, and according to my experience, the parallel method of implementing the legal procedure is essential as it encourages compromise

³⁸ Israel Land Authority (2009). ILA web site , 19 January 2012,

http://www.mmi.gov.il/static/HanhalaPirsumim/Beduin_information%20hebrew.pdf.

³⁹ Human Rights Watch, Off the map: Land and Housing Rights Violations in Israel’s Unrecognized Bedouin Villages (2008) p. 19 <http://www.hrw.org/en/node/62284/section/4#_ftn26> at 24 January 2012.

⁴⁰ Under the British settlement process as dictated by the 1928 Land Settlement Ordinance, it is the land officer who examines the conflicting claims and gives a decision. The Israeli Ordinance requests the land officer to refer the conflicting claims to the District Court.

⁴¹ At the annual conference of the planners union, Ilan Yeshoron, Deputy Director of the Authority responsible of Bedouin land and housing matters spoke during a special panel, “Going forward to solve the Bedouin problem” at Ben-Gurion University, February 10th 2011.

and agreed upon settlements.”⁴² According to the Israeli State Comptroller, the government sought to speed up the counter-claim process in order to increase its chances of gaining title to the Bedouin lands, stating that “the greater the delay in registering the lands in the name of the state, the greater the risk of losing the titles to such lands”.⁴³

The counter-claim strategy has had “severe implications” for the Bedouin, many of whom have withdrawn from (or avoided) court hearings due to the low likelihood of successfully challenging the State’s legal position, the high legal costs, “lack of trust in the legal system”, or lack of formal documentation.⁴⁴

Finally, in conjunction with a variety of other tactics, the counter-claim measures reinforced the image of the Bedouin as illegal claimants without title to the land or appropriate, “modern” evidence of ownership. The construction of a legal argument that makes it impossible for Bedouin to prove land rights, and the 100 percent success rate of the State in court cases, alienates the Bedouin from the law, the judiciary and from a state that should serve them equally as citizens. In the described scenario, British colonial rule proved historically to be more favorable to the colonized Bedouin than the Israeli state.

As of 2008, according to the Goldberg Committee report,⁴⁵ 380 land claims out of 3,220 (12 percent of the total land claims) had been settled, covering an area of 205,670 dunams (about 18 percent of total claimed lands). A large number of these “settled claims” (80,000 dunams) were forcibly settled in accordance with a law known as the Peace Law, following the Israeli-Egyptian peace agreement and the relocation of a military airport to Tel Malchata, a Bedouin area.⁴⁶ It is also important to note that while thousands of dunams remain unsettled, the Israeli government has treated, and continues to treat these disputed lands as state land, and not lands

⁴² Havatezelet, Yahel (2006) “Land disputes between the Negev Bedouin and Israel.” 11:2 Israel Studies 1–22, pp.14.

⁴³ Israel State Comptroller, Report 52B, 2001, at 116.

<<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=235&id=153&contentid=&parentid=undefined&sw=1366&hw=698>> at 12 April 2011 (in Hebrew).

⁴⁴ Negev Coexistence Forum for Civil Equality, “The Bedouin-Arabs in the Negev-Naqab Desert: Response to the Report of the State of Israel on Implementing the Covenant on Civil and Political Rights” (Aug. 2009), at 17–18.

⁴⁵ A committee founded by the Israeli government to recommend on solutions to the land and housing issues of the Negev Bedouin-Arabs, see Israel Government Resolutions 631 (July 15, 2007), 1999 (July 15, 2007), and 2491 (October 28, 2007). On the Goldberg Committee, see Amara Ahmad (2008b), “The Goldberg Committee: Legal and Extra-Legal Means in Solving the Naqab Bedouin Case,” 8:2 Hagar Studies in Culture, Polity and Identities 227–243; see also, Goldberg Committee Report (2008). See Goldberg Committee (2008) Final report of the Committee to Propose a Policy for Arranging Bedouin Settlement in the Negev, December 11, <http://www.moch.gov.il/spokesman/pages/doverlistitem.aspx?listid=5b390c93-15b2-4841-87e3-abf31c1af63d&webid=fe384cf7-21cd-49eb-8bbb-71ed64f47de0&itemid=42> (Hebrew; accessed April, 15, 2010).

⁴⁶ See Goldberg Committee (2008) Final report of the Committee to Propose a Policy for Arranging Bedouin Settlement in the Negev, December 11,

<http://www.moch.gov.il/spokesman/pages/doverlistitem.aspx?listid=5b390c93-15b2-4841-87e3-abf31c1af63d&webid=fe384cf7-21cd-49eb-8bbb-71ed64f47de0&itemid=42> (Hebrew; accessed April, 15, 2010); see also, The 1980 Negev Land Acquisition Law (Peace Treaty with Egypt); see also, Hasson & Swirski (2006: 19–21). The government then used the land to build, in addition to the Nevatim airbase, the state planned townships of Kseife and A’ra’ra for Bedouin families displaced from the site. The Law included a compensation formula, but the amount of compensation offered for the expropriated land was much less than that given to Jewish settlers removed from the Sinai at the same time. The GOI designated an amount of NIS 245 million (at 2005 value) for the evacuated 7,000 Bedouins, while the cost of the evacuation of approximately 5,000 Jewish settlers from Sinai was NIS 3.4 billion (at 2004 value) for paid compensation and another NIS 2.1 billion for their resettlement in about 19 agricultural localities.

under ownership disputes.

Admission Committees Law

In March 2011, the Admission Committees Law was passed by the Knesset, authorizing the activity of “admission committees” in approximately 475 rural villages in the Negev and the Galilee that have fewer than 400 families. The law also legitimizes the use of “social suitability” criterion to determine whether to accept or reject individuals who wish to live in these towns.⁴⁷ Adalah, the Legal Center for Arab Minority Rights in Israel, found that “these towns compose 46 percent of all communities in Israel and 65 percent of all rural communities.”⁴⁸

According to the state, the purpose of the legislation is to protect the “unique character of rural villages and to maintain social cohesion”.⁴⁹ But, the practical effect of the new law is that Arab-Bedouin families can be effectively barred from living in rural villages on discriminatory grounds.

In April 2010, for example, the Admissions Committee of Moshav Nevatim, a Jewish agricultural community south of Be’er Sheva, rejected the request of a Bedouin family to move into a rented home. The Tarabin family’s application was rejected on the grounds that the family was “incompatible with the community”. Legal proceedings were filed by Adalah to demonstrate that the decision was based on discriminatory considerations.⁵⁰ On 21 March 2010, the Supreme Court ordered the Tarabin family to appear before an admissions committee. It overturned the District Court’s decision, and ruled that the family was allowed to live in Nevatim provided they complied with all the moshav’s conditions. However, the moshav has yet to allow the family to live in the community and the legal case is pending as of August 2011.⁵¹

Today, a group of civil society actors, including Adalah, is challenging the Admissions Committees law in the Supreme Court, demanding its cancellation (HCJ 2504/11, Adalah, et al v. The Knesset, et al).⁵² As recently as 26 January 2012, the Attorney General defended the law, asserting before the court that it is proportionate and that there is no basis on which to invalidate it. Further, it “balances the needs of small communities in the periphery to accept like-minded people who will preserve the towns’ social cohesion, with the obligation to assure that land is allocated in a non-discriminatory manner.”⁵³

⁴⁷ Adalah, “Israeli Attorney General Supports Discriminatory Admission Committees Law,” http://www.adalah.org/eng/pressreleases/29_1_12.html.

⁴⁸ Ibid.

⁴⁹ Ron Friedman and Rebecca Anna Stoil, ‘NGOs to petition against “racist laws”’, Jerusalem Post, Israel 24 March 2011 < <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=213560> > at 15 January 2012.

⁵⁰ Adalah, ‘Admissions Committee of Moshav Nevatim Rejects Arab Bedouin Family Request to Move into House Rented from Jewish Family’ (Press Release, 22 April 2010) at <http://www.OLDADALAH.org/eng/pressreleases/pr.php?file=22_04_10> at 15 January 2012.

⁵¹ Adalah, “Adalah Litigation Docket August 2011,” < http://www.adalah.org/upfiles/2011/Adalah_Litigation_Docket_August_2011.pdf > at April 24, 2012.

⁵² http://www.adalah.org/upfiles/2011/Adalah_Litigation_Docket_August_2011.pdf.

⁵³ Tomer Zarchin and Jack Khoury, ‘Israeli AG defends controversial law on admissions panels’, Haaretz, Israel, 26 January 2012 <<http://www.haaretz.com/news/national/israeli-ag-defends-controversial-law-onadmissions-panels-1.409233>> at 26 January 2012.

Legalization of Jewish settlements in the Negev at the expense of the Bedouin

The policies and actions against the Negev Bedouin illustrate the State's practice of double standards and discriminatory actions. While it fails to recognize or demolishes the homes of its Bedouin citizens, and approves the Praver-Amidor Plan that will demolish dozens of villages, it has retrospectively authorized the illegal establishment of several Jewish individual farms in the Negev-Naqab and has approved plans for several more. By way of background, "individual farm" is the term used to describe the state practice of providing individual Jewish families with hundreds and sometimes thousands of dunams of land for their exclusive use. This policy has the purpose of keeping land out of the reach of Arab citizens of Israel in the Negev.

An amendment to the Negev Development Authority Law (1991) that passed in July 2010 retroactively recognized dozens of relatively new individual settlements (originally established without approval) and conferred upon the Negev Development Authority the power to make recommendations to the Israel Land Administration (ILA) to allocate lands for individual settlements.⁵⁴ This amendment affords official status to Jewish farms while the unrecognized Bedouin villages are denied status and continue to live without basic services.

As noted by Dirasat, the Arab Center for Law and Policy, while over 1,000 Jewish settlements have been established since the establishment of Israel in 1948, the seven Bedouin villages in the Negev are the only new Arab towns or villages that have been created in Israel. While the Arab community's population has grown by eight times since 1948, its land area has been halved during the same period.⁵⁵ In the Negev, the Bedouin population represents 30 percent of the population, yet it is living in less than five percent of the land. Thus, while the state rapidly creates new Jewish settlements, it discriminatorily disregards the urgent housing needs of its Bedouin citizens. This discriminatory policy has resulted in a much higher population density in the Bedouin villages compared to the Jewish villages, as can be seen from the table below.

Table 2. Jewish and Arab communities in the Be'er Sheva District.⁵⁶

	Jewish community	Bedouin community
Number of villages	112	45
Total number of residents	34,500	80,000
Average number of residents in the smallest villages	50	300
Average number of residents in the largest villages	1,300	5,000
The average number of residents in each villages	309	1,740

⁵⁴ Refer to pps 591-3 <<http://www.knesset.gov.il/Laws/Data/law/2250/2250.pdf>> at 26 January 2012 (in Hebrew).

⁵⁵ Dirasat, 'Housing in Israel: The unique situation of Arab-Palestinian Citizens', 16 September 2011 <<http://www.dirasat-aclp.org/index.asp?i=691>> at 22 January 2012.

⁵⁶ Association of Civil Rights in Israel, 'Principles for Arranging Recognition of Bedouin Villages in the Negev', (Position Paper, May 2011), Chapter II <<http://www.acri.org.il/en/wp-content/uploads/2011/09/Praver-Policy-Paper-May2011.pdf>> at 29 January 2012.

In September 2011, it was announced that ten new rural Jewish villages would be developed on the outskirts of Arad in the Negev. Around 1,500 housing units are anticipated in each settlement. The Prime Minister's Office described the project as part of a "Zionist vision for making the Negev flourish, and in line with the government's policies of development, progress, attracting the population to the periphery and increasing the availability of housing."⁵⁷ While the publicly stated reason for the decision is to promote and develop the peripheral regions and lower the cost of housing, the absence of alternatives and the abundance of other, already-planned housing units, reveals that the true discriminatory intention behind the decision is to prevent the Bedouin from assuming occupation of the area. Research data from the ILA and several municipalities reveals that there are already more than 30,000 new housing units planned for the area, so there is no pressing need for these villages. This is in addition to the approval of a number of other Jewish establishments over the past few years. For example, in Kasif, 10,000 new housing units will be built for the Ultra Orthodox Jewish community.⁵⁸

The Knesset's Research and Information Center conducted a study of the decision to approve the ten settlements around Arad and quoted Yaron Ben Ezra, Director-General of the Jewish Agency's settlement division, as saying, "The goal of the plan is to grab the last remaining piece of land and thereby prevent further Bedouin incursion into any more state land and the development of an Arab belt from the south of Mount Hebron toward Arad and approaching Dimona and Yeruham, and the area extending toward Be'er Sheva".⁵⁹

⁵⁷ Zafir Rinat, 'Government to okay plan for 10 new Negev communities', Haaretz, Israel, 18 September 2011 <<http://www.haaretz.com/print-edition/news/government-to-okay-plan-for-10-new-negev-communities-1.385066>> at 9 January 2012.

⁵⁸ Ranit Nahum-Halevy, 'Judaization of the Negev at any cost', Haaretz, Israel, 9 January 2012 <<http://www.haaretz.com/print-edition/business/judaization-of-the-negev-at-any-cost-1.406251>> at 26 January 2012.

⁵⁹ Ranit Nahum-Halevy, 'Judaization of the Negev at any cost', Haaretz, 9 January 2012 <<http://www.haaretz.com/print-edition/business/judaization-of-the-negev-at-any-cost-1.406251>> at 9 January 2012

Article 27: Rights of Minorities

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The situation of the Bedouin in the Negev has been identified as a matter of concern by both the Human Rights Committee, in its review of Israel's compliance with the International Covenant on Civil and Political Rights⁶⁰, and by the Committee on the Elimination of All Forms of Racial Discrimination (CERD), in its review of Israel's compliance with the Convention on the Elimination of All Forms of Racial Discrimination⁶¹. In particular, the Human Rights Committee has stated that Israel "should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on agriculture".

The Special Rapporteur on the rights of indigenous peoples also notes that the United Nations Declaration on the Rights of Indigenous Peoples sheds further light on the obligations of the State in relation to the Bedouin.⁶² Despite this, the state has failed to identify the Negev Bedouin as an indigenous minority in Israel. In the document entitled "Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya" and dated 22 August 2011, Prof. Anaya rejected the state's position that it did not accept the classification of its Bedouin citizens as an indigenous people. Prof. Anaya stated that:

... the longstanding presence of Bedouin people throughout a geographic region that includes Israel, and observes that in many respects, the Bedouin people share in the characteristics of indigenous peoples worldwide, including a connection to lands and the maintenance of cultural traditions that are distinct from those of majority populations. Further, the grievances of the Bedouin, stemming from their distinct cultural identities and their connection to their traditional lands, can be identified as representing the types of problems to which the international human rights regime related to indigenous peoples has been designed to respond.⁶³

As this statement indicates, as indigenous peoples, Bedouin cultural traditions are largely reliant on a connection to, and access to, the land. By extension, as NCF previously asserted, any attempts by state actors to cut Bedouin ties to their land, either by directly moving them out of villages or denying them access to services needed for their survival in a particular location, is a direct violation of Article 27, inasmuch as it denies the Bedouin the right "to enjoy their own culture", which is intimately tied to the land.

⁶⁰ CCPR/C/ISR/CO/3, para. 24 (2010).

⁶¹ CERD/C/ISR/CO/13, para. 25 (2007).

⁶² "Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya", A/HRC/18/35/Add.1, 22 August 2011, p 30 <<http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/A-HRC-18-35-Add-1.pdf>> at 26 January 2012.

⁶³ Ibid.

For instance, moves by the Israeli government to relocate the Bedouin into urban townships deny them their right to practice their culture since the towns don't give them enough land to graze animals or to live close to extended family members, both of which are examples of Bedouin cultural norms and practices. Furthermore, the denial of basic services, such as healthcare, water, and housing, must be viewed as a means used by the state to force the Bedouin to leave their lands, and again, is an infringement on their right to maintain their culture.

Discrimination in planning processes

Be'er-Sheva Metropolis District Plan

In 2000, the authorities began the planning procedures for part of the Be'er Sheva Metropolis District Plan (No. 23/14/4).⁶⁴ The Plan seeks to regulate the planning situation of the greater Negev area, with consideration being given to the population's needs, restrictions, environmental effects, etc. Several objections to the plan were submitted. The NCF opposes the Plan, which identifies the zones where villages can be recognized on the premise that there are areas designated for Bedouin villages and areas where Bedouin villages will not be recognized and ultimately demolished.

The National Planning and Development Committee asked Adv. Talma Duchan to investigate the objections and submit a report. Duchan recommended, among other things, that the Plan recognize the need to include the category of "rural settlement," arrange planning status for additional settlements, and recognize the villages of Atir, Umm el-Hieran and Tel Arad. On 17 November 2010, a day after the Committee's decision to recognize these three villages on the basis of Duchan's recommendation, the Prime Minister's Office intervened and reversed the decision.⁶⁵ For one day, the villages were recognized, however, the exceptional intervention by the Prime Minister's Office in the Committee's decision revoked this recognition. At the date of this report, the Minister of Interior has not approved the Metropolis plan.

Dispossession under the Prawer-Amidor Plan⁶⁶

As mentioned in our "Follow-up to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights," submitted on 20 December 2011, the Israeli Prime Minister's Public Policy Office released, in May 2011, the Prawer Plan. This plan would forcibly displace 30,000 Bedouin citizens from their current homes and villages in the Negev. National Security Adviser Yaakov Amidror later revised the plan, before its approval by the Israeli cabinet on September 11, 2011. The amendments included in this revision were the result

⁶⁴ Bimkom Planners for Planning Rights, Objections to the partial district outline plan 14/4/23, October 2007, p. 3, Bimkom, <<http://www.bimkom.org/dynContent/articles/ObjectBeerSheva.pdf>> at 19 January 2011 (in Hebrew).

⁶⁵ "Prime Minister's Office intervened and prevented committee's recognition of two Bedouin villages", *Haaretz*, Israel, 17 November 2010, <<http://www.haaretz.co.il/news/politics/1.1230339>> at 29 January 2012 (in Hebrew).

⁶⁶ Full text (Hebrew) of the Prawer-Amidor Proposed Bill, www.dukium.org/heb/wp-content/uploads/2011/09/Prawer_Bill.pdf

of political pressure from the right, which viewed the plan – hereafter referred to as the Prawer-Amidor Plan – as too generous towards the Bedouin population.

The NCF continues to reject the state's claim that the Prawer-Amidor Plan "is based on the recommendations of the Goldberg Committee and on intensive staff work that was conducted in the past year and included consultations with representatives of various segments of the Bedouin community".⁶⁷

The Prawer-Amidor Plan departs significantly from the findings and principles of the Goldberg Committee – a government committee that released a report in 2008 on so-called "Bedouin settlement" issues in the Negev – and ignores its central recommendations. For instance, the Goldberg Committee stated that the government should "recognize, in so far as possible, every one of the unrecognized villages" provided that the decision does not contradict the official plans for the southern district of Israel (Article 110).⁶⁸ The first solution offered by the Prawer-Amidor Plan, however, is the transfer and concentration of the population into the government-planned towns and the recognition of new villages is the lowest priority.⁶⁹ Additionally, the Goldberg Committee recognized the Bedouin's historic ties to the land and that it is incumbent upon the state to treat the Bedouin as equal citizens with full transparency and involve them as partners in the planning process that will determine their future. Regrettably, the Prawer-Amidor Plan contradicts the recommendations of the Goldberg Committee, which, at the time, represented a fundamental turning point in the attitude of state institutions towards the Negev Bedouin.

There was no consultation process with the Bedouin community regarding the formulation of the Prawer-Amidor Plan. In other words, despite the strong recommendations of the Goldberg Committee, there was no opportunity for the affected indigenous community to provide their input. Any implementation plan that is forcefully and unilaterally imposed upon this already disadvantaged community will only further undermine the delicate social fabric of the Negev and inflame Arab-Jewish relations.

The Prawer-Amidor Plan is discriminatory

The resulting Prawer-Amidor Plan is unsatisfactory and discriminatory on a number of levels.

- Disputed land ownership claims must be settled as a precondition for any of the planning solutions offered to the residents of unrecognized villages.⁷⁰ Much less than half of the current land claims will be recognized by the state. The land claims represent five percent of the entire Negev area, which is negligible in light of the fact that the Bedouin represent 32 percent of the Negev population. We estimate that eventually, the Bedouin

⁶⁷ Implementation notice of the Goldberg Report, Prime Minister's Office

<<http://www.pmo.gov.il/PMO/PM+Office/Departments/policyplanning/goldberg.htm>> at 24 April 2012 (in Hebrew).

⁶⁸ Association for Civil Rights in Israel, 'Summary of the Implementation Outline to the Goldberg Report for the Arrangement of Bedouin Settlement in the Negev', p 3.

⁶⁹ Ibid.

⁷⁰ Ibid, p 5.

will receive compensation for ten percent or less of their remaining land claims and not necessarily on their original land.⁷¹

- The compensation will amount to up to a maximum of 50 percent of any land ownership claim. Most of this compensation will be monetary and not in-kind compensation of alternative lands.⁷² Additionally, it will be paid only after half of the area claimed has been relinquished to the state.
- The right to receive compensation is based upon ownership claims filed by Bedouin under the 1971 land arrangement. Additionally, contrary to the Goldberg Report, compensation is only available to those whose claim was not rejected by the registrar or the courts and those who were not served with counter-claims and subsequently lost.⁷³
- If the land is not currently under the control of the claimant, they have no opportunity to receive compensation in the form of land. This entirely disregards the Negev Bedouin's history of decades of forced displacement and discriminates between those who are currently living on their land and those who were relocated and are not living on their land.
- The plan also imposes considerable and arbitrary geographical limits. No settlement west of Route 40 will be permitted – except for the pre-existing three: Rahat, Tarabin and Bir-Hadaj – and no compensation in the form of land will be granted in this area. The plan is clearly seeking to concentrate the Bedouin into a confined region.⁷⁴
- The criteria set out in the plan as to which towns will be recognized (population density, size and economic capacity), is unclear and will not be equally applied to Jewish towns in the Negev.
- The plan deliberately lacks details. It fails to specify the names of the villages that will be affected, for instance, and not a single map or list of villages is included in the report. The former director general of the Prime Minister's Office, Eyal Gabai, estimated that 30,000 people will be removed from where they are living now.⁷⁵
- The level of compensation offered under the plan is unrealistic and applied uniformly. It is unrelated to the actual value of the land, as it does not take into account location and the level of supply and demand in the market. As a result, the compensation is well undervalued. According to ILA Decision 1028, those with or without land claims who relocate from the unrecognized villages will receive a lot and approximately 100,000 NIS, a sum which will only allow them to build sub-standard housing or shacks.

The Israeli government expects to implement the Prawer-Amidror Plan within five years. This is an unduly limited period of time that will coerce the Bedouin to abandon their rights and claims to their land. It is highly unlikely that satisfactory solutions and compensation will be reached and implemented within this timeframe. Further, after the five-year timeframe expires, any remaining land claims will be immediately registered in the name of the state. This is

⁷¹ An interview by Haia Noach, Executive Director of NCF, with Eli Atzmon, former Deputy Director of the Bedouin Administration on 22 January 2012.

⁷² Association for Civil Rights in Israel, 'Summary of the Implementation Outline to the Goldberg Report for the Arrangement of Bedouin Settlement in the Negev', p 9.

⁷³ Ibid, p 7.

⁷⁴ Prawer-Amidror Bill, Article 54, <www.dukium.org/heb/wp-content/uploads/2011/09/Prawer_Bill.pdf>.

⁷⁵ Jack Khoury, Zafir Rina and Oz Rosenberg, 'Cabinet approves plan to relocate Negev Bedouin', Ha'aretz, Israel, 19 September 2011 <<http://www.haaretz.com/print-edition/news/cabinet-approves-plan-to-relocatenegev-bedouin-1.383842>> at 22 January 2012.

unprecedented.

Inadequate compensation

There are an estimated 200,000 people currently living in both recognized and unrecognized Bedouin villages in the Negev. If the Praver-Amidror Plan were to be implemented, the NCF understands that there will be a shortfall of approximately 27,000 lots in the recognized towns for Bedouin families.⁷⁶ The state is currently unable to meet the demand of new lots in the government-planned townships, and subsequently, is without the additional accommodation needed to implement the Praver-Amidror Plan.

In the Negev today, approximately 830,000 dunams of land are subject to ownership claims by the Bedouin. Of this figure, approximately:

- 455,000 dunams will not be recognized by the state for compensation;
- 250,000 dunams will receive only financial compensation (no compensation in the form of land);
- 42,000 dunams of terraced land will receive monetary compensation, and be deducted from the remaining 125,000 dunams;
- Half of the remaining 83,000 dunams (that is, 41,500 dunams) will receive compensation in the form of land (only part of which will be the original lands).

Furthermore, the NCF understands that:

- 200,000 dunams of land claims exist in the central Negev. Since the land was registered in the name of the state, however, no compensation will be offered for it;
- 88,000 dunams are subject to counter claims by the state, so no compensation will be offered;
- 130,000 dunams have already been confiscated by the state with no compensation;
- 250,000 dunams in the Western Negev will only receive financial compensation, as there are presently no Bedouin living there;
- 37,000 dunams of land were registered as the state's, without compensation, even though Bedouin were living on the land;
- 120,000 dunams are inside the townships, but since the compensation does not reflect the true value of the land and some families wish to maintain ownership for future generations, people are not accepting the state's offer.⁷⁷

The NCF submits that the compensation offered by the state is merely symbolic and does not reflect the land's true value. Most of the land in dispute will not be included in this arrangement, but rather left for future generations to resolve. Furthermore, the Praver-Amidror Plan only deals with a small portion of the 830,000 dunams in dispute and registering the land in the name of the state will not bring an end to the conflict. The Plan also offers no solutions to lots located within residential zones in the recognized townships, while the level of compensation offered –

⁷⁶ An interview by Haia Noach, Executive Director of NCF, with Eli Atzmon, former Deputy Director of the Bedouin Administration on 22 January 2012.

⁷⁷ Ibid.

both monetary and in the form of land – is much worse today than in 2006. The market value of the land, in transactions between the Bedouin, is ten times higher than that offered by the state.⁷⁸ In other words, there is little incentive under this Plan to evacuate the villages and virtually no support from the Bedouin since what is being offered in the economic plan will only provide for their minimal needs. Furthermore, most of the Bedouin have rejected the Prawer-Amidoror Plan because they wish to remain in their villages and live on their ancestral lands. As indigenous citizens, the state should respect this fundamental right.

Given the importance of fulfilling the Prawer-Amidoror Plan for all parties involved within the predetermined timeframe, great emphasis will be put on enforcing the Plan on the ground. The housing solutions will be promoted as much as possible through discussion, but if this discussion is not successful, the solutions will be promoted even if the residents do not cooperate, and even if the solutions will not be agreeable to them.

The NCF expects that the state is preparing to use force to implement the Prawer-Amidoror Plan, especially given a recent report that the Israeli police established a unit to enforce evacuations and demolition of Bedouin homes and villages. The unit is comprised of 200 police officers and was created with the cooperation of the Prime Minister's Office. It is expected to be deployed at the beginning of August 1, 2012.⁷⁹

Fiscal Discrimination

The National Strategic Plan for the Development of the Negev was established pursuant to Resolution 4415 in November 2005. The plan includes a 10-year program at the cost of 17 billion NIS. Its four objectives are: to increase the Negev population by 70 percent; raise the number of employed people by 83 percent; reduce wage differences in the Jewish population in the Negev compared to the national average; and increase the number of students to the national average while also increasing the number of Bedouin students from 2.2 percent to five percent in 2015. It aims to develop five key areas in the Negev: economic development, education, housing, infrastructure and environmental development, and community and leadership (article 3).⁸⁰ According to the government, another goal of the Plan is the creation of approximately 20,000 jobs for the Negev population within 10 years. However, Resolution 4415 provided that 17,000 to 25,000 working positions would be created for the Bedouin in 2015.⁸¹

Furthermore, it appears that the Plan was not implemented and that the financial resources earmarked for it were not invested. Originally, the cabinet decided to invest an overall sum of 17

⁷⁸ Ibid.

⁷⁹ "Israel Police establishes unit to enforce demolition of Bedouin homes," *Haaretz*, Israel, 17 April 2012, <<http://www.haaretz.com/national/israel-police-establishes-unit-to-enforce-demolition-of-bedouin-homes-1.424805>> at April 24, 2012.

⁸⁰ Government Decision 4415, 20 November 2005, Prime Minister Office, <<http://www.pmo.gov.il/PMO/Archive/Decisions/2005/11/des4415.htm>> at 29 January 2012 (in Hebrew).

⁸¹ Economic Development, Industry and employment attachment, Prime Minister Office <http://www.pmo.gov.il/NR/rdonlyres/D6CE813E-BB2E-422D-BAB5-EBDF2E6D1D4D/0/dev_indus.pdf> at 19 January 2012 (in Hebrew).

billion NIS to implement the Plan between 2006 and 2015 (article 5).⁸² Due to the Second Lebanon War, however, the Plan was frozen in 2006 and resources that were designated for the Negev were diverted to the Galilee.⁸³ In November 2006, the Government resolved to commence a modified plan with a reduced budget of 400 million NIS annually. The main government institution responsible for the implementation of the plan is the Ministry for the Development of the Negev and the Galilee, created in 2005. From the beginning, however, the Ministry failed to establish a specific body in charge of the National Strategic Plan. According to the 2008 State Comptroller report, the budget for the alternate plan was only partially invested in the Negev. The figures show that in 2006, the government committed itself to invest 1 billion NIS into the program; nonetheless, it was never operational. At the end of 2006, the government decided to invest 400 million NIS in a one-year program (for 2007), but again, this was only partially implemented.⁸⁴

The National Strategic Plan ostensibly includes the Arab-Bedouin community in the Negev and details a comprehensive proposal for its development. However, the plan neglects to address the very two issues that are central to any improvement in the Bedouins' living conditions: land ownership and the unrecognized villages.⁸⁵ As a result, solutions and resources aren't provided to allow spatial development for the benefit of the Bedouins and the allocation of housing.

In contrast, the Plan does address the issue of employment and education for the Bedouin population. It fails, however, to take into consideration the population's current and future needs. For example, taking into account the high unemployment rate among the Bedouin population, the 20,000 planned workplaces for Bedouin are insufficient (and not implemented). In Rahat, the largest Arab-Bedouin city, 30.7 percent of the population was participating in the work force in 2008, compared to an average in the Negev of 57 percent.⁸⁶

Even though there are no official statistics for the unrecognized villages, it can safely be assumed that the unemployment rate there is even higher due to the fact that the villages have even fewer job opportunities and no infrastructure.⁸⁷ Moreover, the government's employment

⁸² Government Decision 4415, 20 November 2005, Prime Minister Office, <<http://www.pmo.gov.il/PMO/Archive/Decisions/2005/11/des4415.htm>> at 29 January 2012 (in Hebrew). <http://www.pmo.gov.il/NR/rdonlyres/D6CE813E-BB2E-422D-BAB5-EBDF2E6D1D4D/0/dev_indus.pdf> (p. b-63) at 26 April 2012 (in Hebrew).

⁸³ Shlomo Swirski, 'Current Plans for Development the Negev: A Critical Perspective', Adva Center, January 2007, p. 26 <<http://www.adva.org/uploaded/AdvaNegevJanuary2007.pdf>> at 26 January 2012.

⁸⁴ State Comptroller Report 2008, 59 B, p. 813 <<http://www.mevaker.gov.il/serve/showHtml.asp?bookid=545&id=191&frompage=827&contentid=10215&parentid=10213&bctype=1&startpage=14&direction=1&sw=1280&hw=954&cn=%E4%EE%F9%F8%E3%20%EC%F4%E9%FA%E5%E7%20%E4%F0%E2%E1%20%E5%E4%E2%EC%E9%EC>> at 24 January 2012 (in Hebrew).

⁸⁵ Negev Coexistence Forum for Civil Equality, 'The Bedouin-Arabs in the Negev-Naqab Desert in Israel' (2009), Report to the UN Committee for Civil and Political Rights (CCPR), p. 24 <http://dukium.org/user_uploads/pdfs/Response_to_State%20Report.pdf> at 24 January 2012.

⁸⁶ Negev Bedouin Statistical Yearbook No. 3 2010, Negev Center of Regional Development, Ben Gurion University, Table D/11: Participation Rates in the Annual Civil Workforce among Persons Aged 15 and Above, by Locality, 2008, in percentages, p. 110. <<http://web.bgu.ac.il/NR/rdonlyres/04BC4DDD-6D60-4B11-A1CA-FE1B107C2535/117066/hebrewbooksideJuly.pdf>> at 24 January 2012.

Israeli Employment Service Website, 18 July 2010 <<http://www.taasuka.gov.il/NR/rdonlyres/F48B5F3DA78E-4A87-BEBF-6093329728A3/0/selecteddata0310.pdf>> at 24 January 2012 (in Hebrew).

⁸⁷ Israeli Employment Service Website, 18 July 2010 <<http://www.taasuka.gov.il/NR/rdonlyres/F48B5F3DA78E-4A87-BEBF-6093329728A3/0/selecteddata0310.pdf>> at 24 January 2012 (in Hebrew).

plan focuses on economic branches such as high-tech industries that require a high level of qualifications and education. Bedouins comprise only 2.2 percent of all university students and there is no allowance in the plan to provide the necessary training for Bedouins to enter these types of professions.⁸⁸ Assuming Bedouins will benefit from high-tech job opportunities is, therefore, unrealistic.

According to a statement released by the Ministry of Industry and Commerce, the new Employment Center for the Bedouin Sector, as part of the Center for Regional Development, was inaugurated in April 2010⁸⁹, five years after the commencement of the Plan.

The Authority for the Regularization of the Bedouin Settlement in the Negev

The NCF asserts that the Authority for the Regulation of the Bedouin Settlement in the Negev – the body responsible for regulating land ownership claims, regulating permanent places of residence, providing assistance in finding employment, and coordinating education, welfare and community services – is another means by which the government exerts control over the Bedouin population. The activities of the Authority prevent direct ties from being established between the townships and the various ministries.

Discrimination in access to public services

Health

According to a position paper by our colleagues at Physicians for Human Rights (PHR-Israel), dated 23 November 2011, there continues to be basic disparities in the allocation of health resources and inequalities in basic health indicators within the Bedouin sector.⁹⁰ This results from the fact that the principle of non-discrimination in medical treatment is not extended to the unrecognized Bedouin villages. The state denies access to adequate health services as a means to coerce the residents of the unrecognized villages to relocate to the government-planned townships and to relinquish ownership of their land. The state fails to provide adequate infrastructure in the unrecognized villages and offer essential services including healthcare clinics.

PHR-Israel reveals the following alarming facts and statistics:

- Currently, only 12 health clinics in the unrecognized villages serve a population of approximately 83,000 residents.
- In 34 of the unrecognized villages, there are no medical services whatsoever.

⁸⁸ Adalah, 8 July 2010, 'Negev 2015: A National Strategic Plan for the Development of the Negev' <<http://www.adalah.org/features/naqab/naqabplan2015-28jan07.pdf>> at 24 January 2012 (in Hebrew).

⁸⁹ Ministry of Industry and Trade Labour, <<http://www.moit.gov.il/NR/exeres/32402B39-D0D6-4CF4-B6E7-D02AFDA8C8EC.htm>> at 22 January 2012.

⁹⁰ Physicians for Human Rights-Israel, 'Position Paper: Discrimination in Access to Health', 23 November 2011.

- There is one nurse per 3,751 residents of the unrecognized villages, compared to a ratio of one nurse per 657 Jewish residents in nearby kibbutzim and settlements.
- There is one doctor per 3,116 residents of the unrecognized villages, compared to a ratio of one doctor per 892 Jewish residents in nearby kibbutzim and settlements. The worst example is the unrecognized village of Talha Rashid, where PHR-Israel discovered that the ratio is one doctor per 5,110 residents.
- The average number of reception hours of physicians for every 1,000 residents in the unrecognized villages is 13 hours per week, compared to 21 hours per week in the nearby Jewish settlements.
- More than 50 percent of medical staff does not speak Arabic, creating a dangerous language barrier between the medical personnel and the patients, especially women and children. Part of the information leaflets and handouts are also available only in Hebrew. (This is a direct violation of the Bedouin's right to "use their own language," as described under Article 27.)
- Only 90 percent of infants born to Bedouin families are vaccinated as part of the Health Ministry's vaccination program, compared to 99 percent of babies born to Jewish parents.
- The rate of Bedouin babies born weighing less than 1.5 kg was higher than the rate in the general population: 1.4 percent for Bedouins, compared to 1.1 percent.
- Research from 2008 found that 14.1 percent of Bedouin eighth-grade schoolchildren suffer from asthma, compared to 7.2 percent of Jewish eighth-graders. A second survey, dating from 2009, found a slightly lower rate among the Bedouin students (10.7 percent).

Infant Mortality Rate in Israel

The state outlines that the infant mortality rate among Bedouins in 2008 declined from the rate recorded in 2005, and that it has funded several special projects to improve the health of, and expand the health-care services provided to Bedouins living in unrecognized villages. Additionally, it provides that it continues to open Mother and Child Health Clinics in unauthorized villages and that new Clinics are being built to serve the population.⁹¹ The reality on the ground is vastly different, however, than what is painted by the state.

According to the Ministry of Health southern division, the infant mortality rate among Bedouins was 13.6 per 1,000 live births in 2010.⁹² According to the 2010 Comptroller Report, the rate in 2009 was 12.2 per 1,000 live births.⁹³ The same report also reveals that the state failed to complete its own program of establishing maternity care stations in the unrecognized villages, and that although the plan was prolonged until the end of the auditing period, the state did not complete building the stations.⁹⁴ In fact, the state closed the maternity care stations in Abu-Tlul,

⁹¹ State Comptroller Report 2010, 12 December 2011, pp 751

<<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=604&id=193&contentid=&parentid=undefined&sw=1280&hw=954>> at 24 January 2012 (in Hebrew).

⁹² Dan Even, 'Increase in Bedouin infant mortality', Haaretz, Israel, 24 April 2011

<<http://www.haaretz.co.il/news/health/1.1172018>> at 29 January 2012 (in Hebrew).

⁹³ State Comptroller Report 2010, 12 December 2011, pp 751

<<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=604&id=193&contentid=&parentid=undefined&sw=1280&hw=954>> at 24 January 2012 (in Hebrew).

⁹⁴ Ibid, pp 753-4.

Wadi Al-Na'am and Qasr al-Sir in 2009 because there were insufficient medical personnel to staff them.⁹⁵ The people of Abu-Tlul and Wadi Al-Na'am appealed to the Supreme Court, which ordered that they be reopened. While the three clinics were reopened, the clinic in the village of Wadi Al-Na'am, which serves thousands of people, is open only one day a week.

Lack of Water Services

An incident in January 2012 illustrates why the NCF rejects the state's assertion that, "the Bedouins living in existing Bedouin towns enjoy the same services provided to all Israeli citizens".⁹⁶ It was reported, and not for the first time, that for a two-week period, the residents of Lafia, one of the government-established Bedouin towns, were only receiving water for one to two hours per day from the region's water company, Neveh Midbar.⁹⁷

According to the state's 2010 Comptroller Report, water is only supplied to a fraction of the residents in the Abu Basma regional council. The residents of Kochle and Makhol, two newly recognized villages, have no running water at all (either from the council or from private suppliers). In other villages, water is scarce and it runs in pipes on the ground and is stored in water tanks.⁹⁸ Except for the village of Tarabin, there is insufficient infrastructure to supply water to all the local residents.⁹⁹ Most villages have only one access point to water and it is intended to supply the whole village.¹⁰⁰

Denial of water in the unrecognized villages

The state holds the position that it is "practically impossible to supply ... services [such as water] to sporadic places which disregard the national construction and planning programs".¹⁰¹ As a result of this, there are today an estimated 60,000 Bedouin in the unrecognized villages with no access to running water. The NCF provides the following remarks to this statement:

First, several of the "sporadic places" referred to by the state consist of hundreds of residents, including, for instance, the village of Sawawin, which has a population of around 1,500 people.

⁹⁵ Adalah, 'Following Adalah's Petition Israeli Health Ministry Reopens Mother and Child Clinics in Unrecognized Arab Bedouin Villages in the Naqab, (Press Release, 11 August 2010)

<http://www.adalah.org/eng/pressreleases/pr.php?file=11_08_10> at 24 January 2012.

⁹⁶ "Follow-up to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights," Compiled by the Ministry of Justice, State of Israel, October 2011, p. 32.

⁹⁷ Ranit Nahum-Halevy, 'Negev Bedouin town left without water after repeated theft of central pump', Haaretz, Israel, 9 January 2012 <<http://www.haaretz.com/print-edition/news/negev-bedouin-town-left-without-waterafter-repeated-theft-of-central-pump-1.406219>> at 9 January 2012.

⁹⁸ State Comptroller Report 2010, 12 December 2011, p 692

<<http://www.mevaker.gov.il/serve/contentTree.asp?bookid=604&id=193&contentid=&parentid=undefined&sw=1280&hw=954>> at 24 January 2012 (in Hebrew).

⁹⁹ Ibid, p 706.

¹⁰⁰ Ibid, p 707.

¹⁰¹ "Follow-up to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights," Compiled by the Ministry of Justice, State of Israel, October 2011, p. 32.

Secondly, the state does not merely fail to provide water to the unrecognized villages but, as was seen in Twayel Abu Jarwal in 2008 and Al-Arakib in 2010 and 2011, it actually actively destroys and confiscates water containers, free-standing water tanks, and tractors and trailers which transport water to the villages (view photographs on page 33). During the repeated demolitions of the unrecognized village of Al-Arakib, numerous items used to store water were destroyed by bulldozers and sometimes buried in the sand to ensure that the residents couldn't salvage them. Such equipment is prohibitively costly to replace, forcing residents to abandon their land and relocate to Bedouin townships.

Thirdly, there are no national construction and planning programs in place in the unrecognized villages for the residents to, in the words of the state, "disregard". Residents are unable to apply for permits to build and are faced with no option but to construct "illegal" dwellings. Even in locations where there is a housing zone in place, such as Omer and other municipalities in the Negev, Bedouin citizens are unable to apply for building permits.

Finally, the state's policy regarding water connections in the Negev is discriminatory against the Bedouin since new Jewish individual farms are directly connected to the main water supply after their establishment. This is the case even if there are fewer than ten people living there, while in the Bedouin villages, in order to ask for water, one needs at least ten families, and sometimes there are hundreds of people who have to no access to running water.

In June 2011, the Israeli Supreme Court ruled, in a landmark decision, that all citizens have the right to minimal water access, regardless of the legal status of their community, or of pending demolition orders against their homes.¹⁰²

Despite this ruling, however, the Israeli government continues to deny Bedouins in the unrecognized villages minimum access to water. The 500 residents of Umm al-Hieran, for example, get water from an access point eight kilometers from their village, which they are forced to buy and transport in unsanitary tanks at exorbitant costs. In January 2012, the Haifa District Court, sitting as a Water Tribunal, rejected the residents' demand to be connected to a clean water network, arguing that the villagers already had minimum access to water. The Court suggested that they buy water from private citizens in towns connected to the water network, or move into nearby government-planned Bedouin townships.

On March 27, 2012, Adalah, the Legal Center for Arab Minority Rights in Israel, launched an appeal to the Israeli Supreme Court demanding that the residents be connected to the water network since supplying water is a constitutional duty of the state.¹⁰³

¹⁰² Israeli Supreme Court, Civil Appeal No. 9535/06, <<http://www.adalah.org/upfiles/2012/Orah%20-%20Abu%20Masad%20Ruling%20-%20English%20translation%209.2.2012.pdf>> at April 24, 2012.

¹⁰³ Israeli Supreme Court Civil Appeal No. 51011-09/11 <http://www.adalah.org/admin/Downloads/SPics/8559327.pdf> at April 26, 2012 (in Hebrew).



Figure 2: A water tank in Twayel Abu Jarwal being destroyed by the state (August 2010)



Figure 3: A water tank in Al Arakib is confiscated by the state on 10 August 2010 (during the 3rd demolition operation of the village)

High cost of water

Bedouin who are not connected to the main water pipe are forced to purchase water from those who have a permit. In addition to this expense, most villages are remotely located, forcing residents to purchase or rent equipment such as tractors and water tankers to transport the water to their villages. As a result, the cost of water for such families can be as much as ten times higher than the price paid by those with a water connection. In some cases, water accounts for 20 percent of a family's living expenses. Some communities install their own network of above ground pipes throughout the village, which again, is another costly exercise. These expenses are an additional burden on populations that are already severely disadvantaged and living under the poverty line. Additionally, old and unmaintained water tanks needed to transport water to the villages pose a significant health risk.

State Intimidation

The state's method of encouraging Bedouin relocation to the recognized townships is actually a three pronged policy of intimidation exerted in the so-called "unrecognized villages": home demolitions; denial of access to basic services; and state demands to cover the cost of demolition operations. In other words, rather than encourage the residents to relocate with fair incentives, the state exerts pressure on them through various methods.

Home demolitions

The state issues demolition orders on houses that were built without permits. However, it fails to provide an avenue for authorized construction within the unrecognized villages (except for a handful of schools and clinics). Since the villages are not acknowledged by the state, there are no building plans, and as result, the Negev Bedouin must resort to illegal construction. In fact, according to a recent study by Dirasat, the Arab Center for Law and Policy, about a quarter of all Arab towns and villages in Israel lack detailed development plans and have no hope of receiving building permits.¹⁰⁴

In 2011, more than 1,000 Bedouin homes in the Negev were demolished; double the number of the previous year.¹⁰⁵ This is a record of the demolitions directly documented by the NCF and as such represents only a portion of the total demolitions. Many families make the difficult decision to demolish their own homes under threat of being charged the cost of the demolition by the state. Data for such owner-demolitions are known only by the state and thus explains the discrepancy in total figures recorded by the state and the NCF.

¹⁰⁴ Fadi Eyadat, 'Study: Gov't policy prevents building permits in Arab communities', Ha'aretz, Israel, 30 July 2010 <<http://www.haaretz.com/print-edition/news/study-gov-t-policy-prevents-building-permits-in-arabcommunities-1.304894>> at 22 January 2012.

¹⁰⁵ Haia Noach, A Report on the Right to Housing: Housing Demolitions of Bedouin Arabs in the Negev-Naqab (2010) Negev Coexistence Forum for Civil Equality <http://dukium.org/user_uploads/pdfs/NCF_Human_Rights_Day_2010_report%207Dec2010_v4.pdf> at 15 January 2012.

State litigation and proposed bills to recover cost of demolition operations

The Negev Bedouin are under increasing pressure to demolish their own homes to avoid financial charges and salvage personal belongings. In July 2011, the state filed a lawsuit against 34 residents of Al-Arakib (an unrecognized village demolished over 30 times since July 2010) to recover the sum of 1.8 million NIS (more than \$500,000 USD) as part of the costs of the demolition operations.¹⁰⁶ Bedouin rights activist Nuri El Uqbi faced a similar demand in June 2010 and was subsequently charged with 300,000 NIS (\$85,000) for the state's expenses (police and "green patrol") for the demolition of his shack and tents, and his eviction.¹⁰⁷ Ultimately, he was ordered by the court to pay 37,000 NIS.

The way in which high demolition costs coerce the Bedouin into demolishing their own homes and other structures is clear. For instance, during the week-long "Operation Determined Arm," carried out by the Israeli Land Authority in November 2011, of the 33 Bedouin homes demolished, 14 were destroyed by the owners out of fear of being charged for the cost of the demolition and of having property seized by the state.¹⁰⁸

In late June 2011, Member of Knesset, Dr. Hana Sweid, advised the NCF that a proposed bill will see the full costs of home demolitions imposed on homeowners and that this will in effect apply predominately to Arabs and Bedouin within the internationally recognized borders of the State of Israel. The bill was approved by the Constitution, Law, and Justice Committee of the Knesset for the first reading and it must be approved again for the second and third readings and then go to the plenum. The bill is expected to be presented to the Knesset plenum for the second and third reading this year.

Under the existing law, only the court has the authority to issue a demolition order, coupled with an order for the cost of the operation to be incurred by the homeowner. This proposed amendment concerns the second type of demolition order; that is, those issued by the head of the Planning Committee and known as Administrative Demolition Orders. Presently, the head of the Planning Committee is not authorized to impose the cost of a demolition upon the homeowner. The proposed amendment, however, will enable the head of the Planning Committee to seek an order from the court that the owner be held responsible for the full cost of a demolition.

The costs of demolition operations can range from the clerical work involved, to the cost of the police force that secures the demolition, to the trucks and bulldozers. Such expenses will undoubtedly amount to tens of thousands of NIS for a single demolition and hundreds of demolitions occur each year in the Negev. It is well known that the socio-economic status of the

¹⁰⁶ Joanna Paraszczyk, 'State sues Bedouin of al-Arakib village for NIS 1.8m', Jerusalem Post, Israel, 27 July 2011 <<http://www.jpost.com/NationalNews/Article.aspx?id=231200>> at 26 January 2012.

¹⁰⁷ Koriel Ilana, 'The symbol of the Bedouin struggle will compensate the state for his eviction', YNet, Israel <<http://www.ynet.co.il/articles/0,7340,L-3916385,00.html>> at 19 January 2012 (in Hebrew).

Nasser Rago, Nuri Al Oqbi and the race trail Na Lehakir web site, <<http://baduannaqab.wordpress.com/2011/01/06/%D7%A0%D7%95%D7%A8%D7%99-%D7%90%D7%9C-%D7%A2%D7%95%D7%A7%D7%91%D7%99-%D7%95%D7%9E%D7%A9%D7%A4%D7%98-%D7%94%D7%92%D7%96%D7%A2-%D7%A0%D7%90%D7%A1%D7%A8-%D7%A8%D7%99%D7%92%D7%95/>> at 19 January 2012 (in Hebrew).

¹⁰⁸ Einat Paz-Frankel "'Operation Determined Arm': 33 buildings of Negev Bedouin destroyed', Globes, Israel, 6 July 2011 <<http://www.globes.co.il/news/article.aspx?did=1000695383>> at 15 January 2012 (in Hebrew).

Bedouin is already the lowest in the country, with a majority of families living well below the official poverty line.¹⁰⁹ If approved, this law will have a debilitating effect on a community that is already struggling to live in dignity.

Additionally, the NCF further learnt that as a result of intervention by MK Ze'ev Elkin (Likud), this amendment would not apply in the Occupied Palestinian Territories with respect to the demolition of illegal outposts established by Jewish settlers. This reveals the true objective of the proposal: to further oppress the Bedouin population in the Negev, which faces the constant threat of demolitions.

Existing townships unable to accommodate the Bedouin population

The current population residing in the unrecognized villages, according to the Central Bureau of Statistics, stands at 53,000 across a total of 35 villages. The NCF rejects the state's position that the existing towns (Lakia, Hura, Kssaife, Arara, Tel-Sheva, Tarabin and Segev Shalom and Rahat) are able to accommodate the needs of this Bedouin population.¹¹⁰ According to current calculations, an additional 25,700 lots within the existing townships would be required in order to absorb the population currently living within the unrecognized villages, not taking into account population growth.¹¹¹ This is assuming that the population voluntarily moves to the townships and are not forcibly relocated.

The state describes the following new towns in the process of planning and development: Abu Krinat – located on 7,320 dunams and designated to accommodate around 15,000 people by 2020; Bir Hadaj – an agricultural town located on 6,550 dunams, and designated to accommodate approximately 12,500 people by 2020; Kaser A-Sir – located on 5,000 dunams and designated to accommodate around 8,000 people by 2020; Makchul- Marit – three neighborhoods spread over 6,300 dunams and designated to accommodate approximately 12,000 people by 2020; Um Batin – located on 6,700 dunams and designated to accommodate around 8,000 people by 2020; Moleda – located on 11,000 dunams; and Darijat. Further, an additional three towns are undergoing statutory approval procedures are Abdeh, Abu-Tlul, and Al-Forah.

The towns are neither attractive nor offer acceptable residential options, as little has been invested by the government in their development.¹¹² Between 2008 and 2010, only a fraction of government budgets for planning and development was allocated for the development of existing and new Bedouin towns.¹¹³ Consequently, these towns are among the most socio-economically-

¹⁰⁹ Suleiman Abu-Bader and Daniel Gottlieb, 'Poverty, Education and Employment in the Arab-Bedouin Society: A Comparative View', The Van Leer Jerusalem Institute and National Insurance Institute, June 2009, <http://www.btl.gov.il/Publications/research/Documents/mechkar_98.pdf> at 22 January 2012.

¹¹⁰ "Follow-up to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights," Compiled by the Ministry of Justice, State of Israel, October 2011, p. 32.

¹¹¹ An interview by Haia Noach, Executive Director of NCF, with Eli Atzmon, former Deputy Director of the Bedouin Administration on 22 January 2012.

¹¹² Human Rights Watch, Off the map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages (2008) p. 17 <http://www.hrw.org/en/node/62284/section/4#_ftn26> at 24 January 2012.

¹¹³ Mossawa Center, Report on the state budget suggestions for the years 2009-2010 (2009) <<http://www.mossawacenter.org/files/files/File/budget%202009/State%20Budget%202009-2010.pdf>> at 15 January 2012 (in Hebrew).

disadvantaged in Israel. They suffer from high rates of poverty, unemployment and crime, low levels of education and poor health. Most of the towns are overcrowded and ill-equipped to absorb new residents.

The state claims that, “there are more than 2,800 vacant lots available for occupancy by Bedouins living in the “Diaspora” [the name the state is using for unrecognized villages] throughout the existing permanent towns and in addition, more than 6,900 lots which can be developed upon demand”.¹¹⁴ Nevertheless, the NCF is aware of hundreds of families in Lakia, for example, (including the Abu-Bader, Abu-Abayed, Abu-Rtayosh, and Zbarga families, and others) who have been waiting for several years for lots within the Bedouin townships and are presently living in very poor conditions. Additionally, there are approximately 2,000 new married couples each year that must live with their families while they wait for vacant lots.

Townships do not accommodate the Bedouin’s cultural and traditional needs

The seven existing towns, established without consulting the Bedouin community about their wishes, fail to accommodate the cultural and traditional needs of the Bedouin. As a result, the townships were built without taking into account Arab-Bedouin traditional livelihood and particular cultural needs. Forced urbanization obliterated their nomadic traditions and their rural way of life. Those now living in these government-planned townships no longer have adequate space to maintain traditional Bedouin practices, such as agriculture and herding. The towns have disrupted the social fabric and hierarchies of Bedouin communities.¹¹⁵

Poor infrastructure in the Bedouin towns

The NCF notes that while the state does provide basic infrastructure such as schools, health clinics, water and electricity in these townships, there is considerable disparity in the standard of service between them and similar Jewish settlements. This discrepancy is most apparent in the education sector. The education system in government-planned Bedouins towns is chronically under-resourced. Not only are the classrooms typically in a dilapidated state due to prohibitively expensive maintenance costs but also schools lack laboratories, playgrounds and other equipment and special facilities.¹¹⁶

The approximately 4,000 residents of Abu Tlul, a village that was recognized in 2006 and is now part of the Abu Basma regional council, for example, have been denied access to a high school despite a 2007 Israeli Supreme Court ruling. At the time, the Court ordered the Ministry of

¹¹⁴ Israel’s Replies to List of Issues to be taken up in Connection with the Consideration of Israel’s Third Periodic Report concerning articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ISR/3), Ministry of Justice, September 2011, p. 42.

¹¹⁵ Catherine Weibel, *The Bedouins: Squatters on their own land* (2010) Oxfam International <<http://blogs.oxfam.org/en/blog/10-02-16-bedouin-squatters-their-own-land>> at 15 January 2012.

¹¹⁶ Negev Coexistence Forum for Civil Equality, ‘The Arab-Bedouin in the Negev-Naqab Desert in Israel: Response to the Report of the State on Implementing the Covenant on Economic, Social and Cultural Rights’, October 2012, p 11 <http://dukium.org/user_uploads/pdfs/Dukium_Final_Shadow_report_1Nov10.pdf> at 29 January 2012.

Education, the Ministry of Interior and the Israel Land Administration to build a high school in Abu Tulul and open it by September 2009. To date, the high school has still not been built, and the Israeli authorities say they are still in the planning stages.¹¹⁷

Additionally, a lack of basic employment services in Bedouin townships has a large impact on the already high rates of unemployment plaguing the Bedouin community. For instance, with the exception of the city of Rahat, there are no employment offices in any of the Bedouin towns. Similarly, there are no services of the Ministry of the Interior available in these towns, except in Rahat, where only partial services are available. None of the Bedouin communities have offices for public housing or rental assistance services. According to regulations of the Ministry of Construction and Housing, none of the Arab communities in the Negev, with the exception of Rahat, are eligible for receiving rental assistance. By contrast, all Jewish settlements that were sampled, together with well-established Jewish settlements such as Lehavim, are eligible for rental assistance.¹¹⁸

There are fewer buses running each day in the Bedouin townships compared to Jewish settlements in the Negev. Furthermore, there is no public transportation available at all in the communities belonging to the Abu Basma regional council. In the Abu Basma regional council and in two neighborhoods in Lakia, there is no infrastructure for telephone services (lines, cables, etc). In Tel Sheva, telephone infrastructure exists, however it not in use.¹¹⁹

There are two banking branches in Rahat, and one in Hura; all other Bedouin communities do not have any banking services.

¹¹⁷ Adalah, “Education Ministry Ignores Israeli Supreme Court Decision Ordering the Opening of the First High School in Arab Bedouin Unrecognized Village of Abu Tulul in the Naqab”, September 2009, <http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_29_9> at April 24, 2012.

¹¹⁸ “Accessibility of Government, Commercial, Public and Health Services in Arab Settlements and Structural Discrimination Against Arab Employees in Government Offices in the Negev: Picture of the Situation,” Doron Kasanti & Haia Noach, NCF, 21 March 2012.

¹¹⁹ Ibid.

V. Conclusions and Recommendations

In summary, freedom to choose one's own residence is repeatedly withheld from every Bedouin residing in the Negev, as evidenced by the restriction of their living space in the Sayag to this day, to the potential forced relocation of thousands through implementation of the Praver-Amidror Plan.

The NCF would like to emphasize that Bedouin villages are not a disruption to the public order but rather contradictory to planning laws that are inherently discriminatory against Bedouin populations. Forced urbanization is not a viable solution but an element of a policy of dispossession that threatens both Arab-Bedouin rights to land and resources and their way of life as an indigenous minority.

This report focused on the Bedouin-Arabs conditions under four articles in the UN International Covenant on Civil and Political Rights, namely articles 18, and 25-27, concerning access to the political system, equality before the law and rights of minorities to cultural, linguistic and religious practice and belief. Moreover, it laid out the most up-to-date Israeli state violations of the rights of the Arab-Bedouin minority. The current government policy is systematically institutionalizing civic and political discrimination by separating Bedouin citizens not only from their land and traditional cultural practices, but from their rights as citizens, such as housing, access to water, and equality under the law. All of these are in clear violation of Articles 18, and 25-27.

In conclusion, we hope that the United Nations Committee on Civil and Political Rights will take into consideration this information and NCF's recommendations in adopting The List of Issues Prior to Reporting (LOIPR) for the State of Israel.

Recommendations for establishing the lists of issues for the State of Israel

- To respect the Bedouin population's right to their ancestral land and their traditional livelihood,
- To abandon the proposed Praver-Amidror Plan.
- To establish a fair and effective land claim procedure for the Bedouin to invoke in order to have the rights to their land and resources recognized.
- To immediately cease the policy of demolishing houses and unrecognized villages.
- To abandon its efforts to charge the Bedouin for the cost of demolishing their homes.
- To respect the United Nations Declaration on the Rights of Indigenous Peoples and not forcibly remove the Bedouin from their land without their free, prior and informed consent and after agreement on just and fair compensation.
- To ensure the delivery of essential services to the Bedouin in both recognized and unrecognized villages in order to guarantee their access to health and welfare services, education, water, electricity and other infrastructure.
- To implement equal planning criteria to the Jewish and Bedouin population in the Negev

and to allow different sized villages and not only townships and large, densely populated villages.

- To recognize its Bedouin citizens as an indigenous people.
- To ensure that Bedouin citizens participate genuinely and effectively in their own local governance including land-use, planning and public service.