



The Vanishing Negev

Land Use Policy and Practice
in the Negev 2005- 2021

Past, Present and Future

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This report, the product of intensive fieldwork, in-depth research and exacting analysis, which provides an unprecedented knowledge-base regarding all of the parameters that impact the Negev,

is dedicated to the memory of Leonard M. White

(אליעזר מלך ווייט)

May the efforts to protect the Land of Israel represented in and by this study create an everlasting bond between his soul and the land King David called

“The Land of the Living, The Land of Life” - Eretz Yisrael.

A digital version of this report, including links to citations and sources, can be accessed on our website: www.regavim.org/publications/position-papers/



Executive Summary

Regulation of illegal settlements and land ownership

The pages that follow are a study of mass-scale illegal construction in the Negev, focusing in particular on the development of this phenomenon in the years 2005 - 2021, and on the means by which settlement in the region can be regulated and organized.

The question of regulation of the illegal settlements of the Negev is integrally related to the issue of land-status regulation in this region. As of this writing, there are approximately 470,000 dunams (470 km² or 115,200 acres) of land in the Negev for which Bedouin maintain unresolved ownership claims. These claimants hold no recognized land title or deed, and the land is not registered in their names; nonetheless, within the Bedouin community, their ownership is considered inviolable: According to Bedouin customary law, no one may settle on land that another Bedouin claims as his own, whether or not it is officially registered as the property of the State of Israel or another individual.

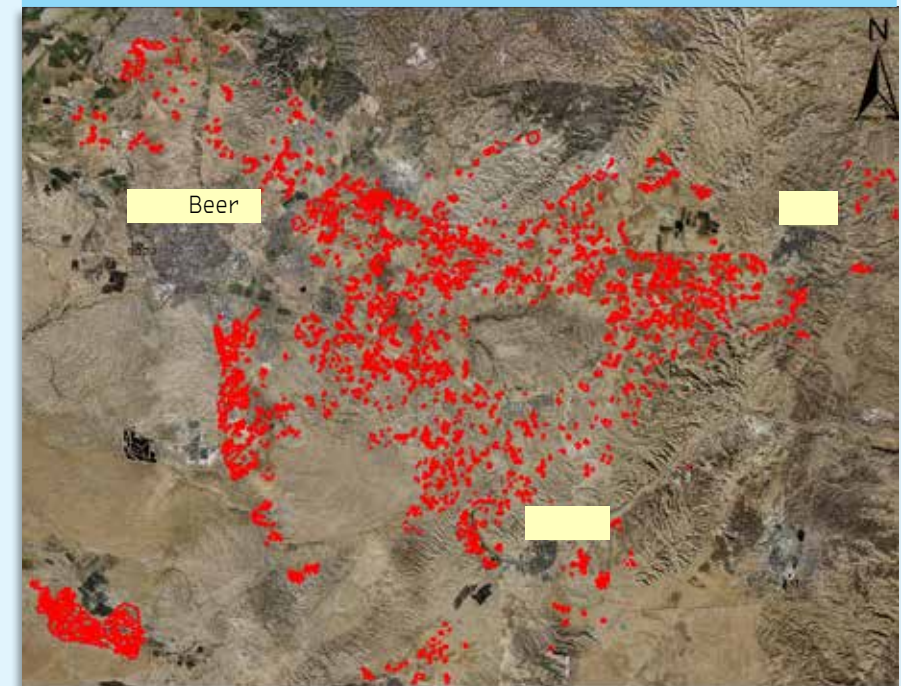
These issues impact many other areas, from the Bedouin community's standard of living, through the regulation of settlement and the development of the Negev for the benefit of all residents of the region, to the erosion of governance in the Negev.

As of January 2021, the Bedouin population of the Negev stands at 278, 616. Of this number, 82,084 reside in illegal settlements and 174,420 in the seven townships; the remaining 22,112 live in the rural regional municipalities (the Abu Bassma settlements).

The fertility rate of the Bedouin population of the Negev is the highest in Israel, and among the highest in the world. As a result, the population of the illegal encampments and the number of new illegal structures that comprise these sprawling clusters of settlement increase at a rapidly accelerating pace each year. At the same time, the number of ownership claimants - the descendants of the original claimants - continues to grow exponentially, making efficient, timely resolution of ownership claims and regulation of illegal settlements increasingly urgent.

From the establishment of the state until 1966, the Bedouin, who maintained a nomadic lifestyle, lived under military rule in an area known as the *Sayig*, spanning some 1.1 million dunams in the triangle between Dimona, Arad and Be'er Sheva. In 1966, military rule was lifted, and between 1966 and 1990 the state established 7 all-Bedouin towns (each with the status of a local municipality): Rahat, Tel Sheva, Segev Shalom, Hura, Ar'ara, Kseifeh and Laqiya (**"the seven townships"**).

Squatters' Camps in the Negev



The westernized character of these townships did not necessarily reflect or respond to the social and cultural characteristics or the needs of the Bedouin population. These townships suffered from chronic deficiencies in terms of municipal services and employment opportunities, and to this day they continue to languish at the bottom of the socio-economic scale. As a result, many of the residents of the illegal encampments refused to relocate to these failed communities.

Additionally, nearly 45% of the area of the seven townships is comprised of land for which individual Bedouin claim ownership, and a considerable portion of the residential plots developed or zoned by the government are on this land, resulting in the Bedouin's refusal to relocate to these plots, and ongoing obstruction of development and infrastructure projects. For these reasons, the seven townships continue to suffer from inferior infrastructure systems and desolate neighborhoods that coexist alongside populated, developed ones. After years of stagnation, most of the plots for which there are ownership claims were designated for "natural growth," - for descendants of the claimants - rather than for resettlement of families that remained in the illegal squatters' camps outside the township boundaries, creating a shortage of plots for relocation of Bedouin who are not descendants of land claimants.

The Abu Bassma Settlements

The government sought a solution for the Bedouin residents of the illegal encampments, but rather than creating organized communities through a careful process of detailed planning that would provide electricity and sewage infrastructure, the government took the path of whitewashing or retroactively legalizing existing clusters of illegal structures, cobbling them together to form municipalities. From 2003-2006, these illegal clusters were given official recognition and post-facto permits as new rural municipal entities. One exception was Tarabin a-Sanaa, which was planned and built in an organized fashion “from scratch,” on registered state land. In 2003, the Abu Bassma Regional Council was established, bringing together 11 of these “legalized” villages.

In 2012, the Abu Bassma Regional Council was divided into The Al Qassum Regional Council, which includes Umm Batin, El Sayyed, Darijat, Kohlah, Sa’wa (formerly Molada) Makchul and Tarabin a-Sanaa, and the Naveh Midbar Regional Council, comprised of Abu Qrenat, Bir Hadaj, Kasr a-Sir and Abu Tlul.

As soon as the legalization plan was announced, the land reserves designated for the newly-recognized villages filled up with illegal structures, including massive villas, agricultural structures, commercial structures, fenced-off areas and more - in order to stake claims to the land that would soon be within the boundaries of the soon-to-be-established villages. The new structures joined hundreds of others that pre-dated the “legalization” plan, all of which interfered with - and eventually overwhelmed - the planning process. The result was large settlements spread over vast swaths of land, with no viable infrastructure systems and no possibility of creating them. Some of these settlements developed characteristics of rural communities, while others resemble massive illegal squatters’ camps rather than new legal settlements.

Other than the Bir Hadaj and Tarabin a-Sanaa villages, which were established for the most part on state land, the legalized settlements, like the seven townships before them, include sections for which there are outstanding ownership claims. This too has made it difficult for the government to develop these communities, to connect them to water and electricity, or to complete the process of physical regulation; efforts to do so have been blocked by ownership claimants. Additionally, because the land cannot be officially registered due to these ownership disputes, the Israel Lands Authority does not grant the approval necessary for building permits.

In order to encourage Bedouin from the illegal encampments to relocate to these legalized settlements, the government continues to offer economic incentives. Since the 1970s, every young Bedouin has been entitled to a parcel

of land between 800-1000 square meters - gratis - as well as subsidies to cover the costs of development. Over the years, the state has increased these incentives, which currently include a cash grant of NIS 250,000 in addition to the free plot of land.

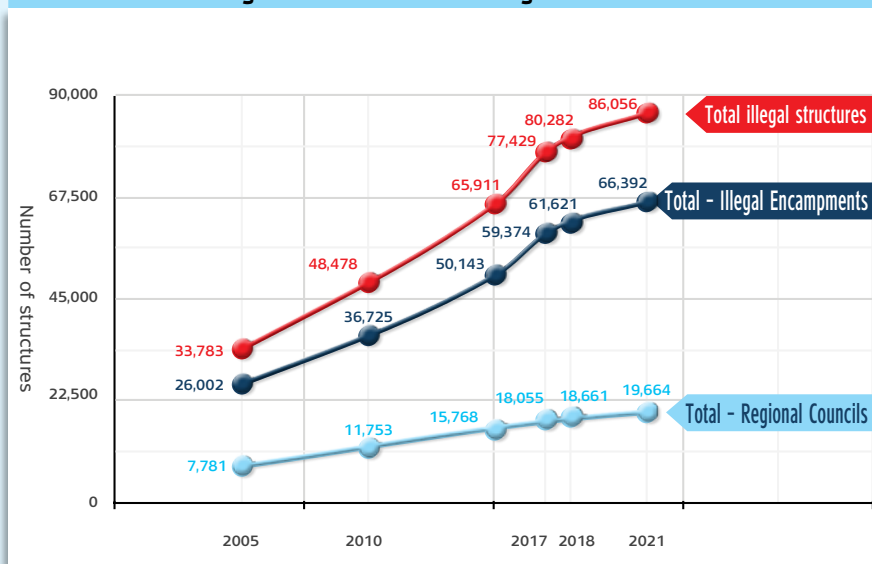
In practice, the incentives have achieved the opposite of their intended goal. Because the incentives are a one-time offer per family, and these families are well aware that the value of the plots of land continues to rise and the incentive payments continue to be more and more generous, they choose to wait until their children come of age, at which time each of them will be eligible individually. When these children come of age, they too consider the next generation - and remain in the illegal squatters’ camps. This is exacerbated by the fact that the legal communities are not an attractive alternative to the squatters’ camps: The standard of living is no different, and the basic services provided to residents are virtually identical - but residents of the illegal encampments pay no taxes. In fact, there is considerable reverse migration, from the legal communities to the illegal encampments.

Rather than shrinking, the illegal encampments continue to grow, both in size and population - not despite the relocation-compensation package offered by the Israeli government, but because of it.

Illegal construction

From the end of the military rule in 1966 through 1994, every year another 200-300 new illegal structures were built in the Negev. Between 1994 and 2003, the average skyrocketed, with some 3,000 new illegal structures built annually. In 2005, there were **33,783** illegal structures in the Negev; between 2005 and 2010 another 14,700 were added to that number. By 2015, there were **65,911** illegal structures in the Negev, and in the following two-year period, by 2017, an additional 11,529 were added - an annual average of more than 5,750. By 2018, there were **80, 282** illegal structures in the Negev, of them 18,661 in the Abu Bassma settlements and 61,621 in the illegal encampments. In the 2018-2021 period, another 5,774 illegal structures were built, so that by 2021 the total number of illegal structures in the Negev stood at **86,056**.

Illegal Structures in the Negev 2005-2021



The structures of the illegal encampments, home to 82,000 Bedouin (comprising less than 1% of the total population of the State of Israel), are spread across some 2,000 clusters that cover nearly 600,000 dunams (600 square kilometers). By way of comparison, the remaining 99% of Israel's population populates an area of some 940 square kilometers (the total built-up area, including residential, commercial, industrial, trade and office structures). The area of the illegal squatters' camps is 11.5 times greater than the area of Tel Aviv, where some 460,000 people live.

The consequences of the rampant illegal construction in the Negev are far-reaching and long term, and include very serious harm to the State of Israel's governance in the Negev, where the rule of law has broken down. It also has a detrimental impact on planning and development of the Bedouin communities and on the Negev as a whole, both in the short term and for future generations. It has a very negative impact on the quality of life, and leads to rising levels of violence and crime, as well as an extraordinarily high rate of road accidents, and harms the environment and the ecosystem.

Government attempts to resolve ownership claims

Until 1979, some 3,200 ownership claims were submitted by Bedouin citizens in the Negev, covering an area of 776,856 dunams. The Israeli government's policy regarding these claims has zigzagged: At times, the state attempted to resolve ownership claims through the judicial process, including submission of counterclaims as a means of precipitating a judicial decision; in every case the counterclaims process resulted in registration of the disputed land to state ownership. Other times, the state suspended the process of judicial counterclaims and incentivized Bedouin squatters to settle ownership claims through arbitration and compromise, relying on cash and land-swap compensation packages that become more and more lucrative over the years. Either way, the process of resolving ownership claims has been a slow, painstaking one. As of 2017, a full 50 years after the ownership claims were first filed with the special registrar's office in Be'er Sheva, the State of Israel had managed to reach agreements and resolve claims for only 160,000 dunams (with the largest number of agreements recorded in 1980, in the context of the peace treaty with Egypt, when Israel Air Force bases had to be relocated from the Sinai Peninsula to the Nevatim Airforce Base and some 5000 Israeli Bedouin who had been squatting on the land had to be relocated quickly). There were also legal proceedings conducted regarding 140,000 dunams, at the end of which the land was registered to the State of Israel. Some 470,000 dunams of land remain in dispute. As time goes by and claimants' heirs come of age, the number of claimants continues to grow, as we have noted, making compromise and resolution of ownership claims less and less attractive and lucrative to those who now hold an interest in only a fraction of the original claim.

In an attempt to establish a comprehensive policy for the Bedouin sector in the Negev, including the land claims and related issues that we have described, over the years a number of committees and other frameworks have been established, with each presenting its own proposals, plans and documents. In practice, the core challenges were passed from one committee to the next, and from one government to its successor, and no comprehensive policy or multi-year, budgeted program was formulated. The breakthrough came with the Goldberg Commission, mandated to formulate policy and propose legislative amendments for the regulation of Bedouin settlement in the Negev. The Goldberg Commission's report, presented to the government in December 2008, contended that the problems of settlement and ownership claims were intertwined, and that it would be impossible to resolve one without the other.

In regard to settlement, the Goldberg Commission recommended "recognizing" or "legalizing" clusters that were large enough to subsist as municipalities, and

relocating those clusters that could not be regulated or legalized, subsuming them within legal townships or rural settlements. Additional recommendations included establishing an enforcement framework that would act vigorously and decisively against new illegal construction, streamlining and concentrating enforcement authority, and fast-tracking legislation to carry out the processes of legalization and relocation.

IN LIGHT of the Goldberg Commission's recommendations, a team, headed by Ehud Prawer, Director of the Planning and Policy Division in the Office of the Prime Minister, was tasked with implementing the Goldberg Commission's recommendations, and the Prawer Committee submitted draft legislation for regulation of Bedouin settlement in the Negev. When this legislation was passed, Minister Binyamin Ze'ev Begin was appointed to lead the implementation process, and a government directive was issued that launched a five-year plan with a budget of NIS 1.2 billion for the social and economic development of the recognized Bedouin settlements in the Negev, providing support for the population of those settlements. Minister Begin launched a "listening process," in which he met with hundreds of representatives of the Bedouin community, which he summarized in a report that included a series of amendments to the legislation submitted by the Prawer team - for the most part mandating increased incentives and compensation packages. Begin, like Goldberg, stressed that the questions of Bedouin settlement and ownership claims were inextricably intertwined, and he warned against any further delay in regulating and registering the ownership of land in the Negev.

In 2013 the government tabled legislation, "Law Concerning the Regulation of Bedouin Settlement in the Negev 5773-2013," based on the Goldberg Commission's recommendations, the draft legislation proposed by the Prawer Committee and the amendments proposed by the Begin Committee. In December 2013, against the backdrop of fierce opposition to the legislation by representatives of the Bedouin community and Members of Knesset who spoke for them, and in light of changes made to the original wording of the legislation based on recommendations of the Regavim Movement that were not to his liking, Minister Begin withdrew the bill.

THE resulting legislative vacuum, exacerbated by the government's failure to formulate and communicate coherent, cohesive policy, continues to be filled by a variety of organizations. Operative issues, such as land offers, compensation ceilings, relocation incentives and formulas for compensation are recorded in unilateral decisions of the Israel Lands Authority.

In 2015, Uri Ariel was appointed Minister of Agriculture, and was given ministerial responsibility for the Government Authority for Regulation of

Bedouin Settlement in the Negev ("the Bedouin Authority"). In 2017, Minister Ariel decided to change the approach and to separate the settlement issue from the resolution of ownership claims. He developed a plan of massive scope, and the government adopted it as its Five-Year Plan for Socioeconomic Development of Bedouin Society in the Negev 2017-2021, with a budget of NIS 3 billion. The plan's objectives included improving the socioeconomic status of the Bedouin population, development and stabilization of the settlements from an economic, social and communal perspective, closing education and other gaps and mainstreaming the Bedouin population in Israel's society and economy.

Regarding development of the settlements, Minister Ariel's goal was to complete planning, regulation, development and marketing of 25,000 residential units in the Bedouin municipalities. To meet this goal, tens of thousands of plots of land were prepared and marketed, while at the same time enforcement against new illegal construction was significantly increased.

But there was a catch: The plots that were planned and marketed went mainly to "natural growth," meeting the needs of the second generation of the families that were already living in the legal communities. Thousands of other plots were essentially "whitewash" projects within the Abu Bassma villages or post-facto legalization of "internal squatters' camps" (in other words, structures that had been built illegally within the municipality's borders, either violating or disregarding the municipal plans that had been approved for the settlement). Once again, the government stuck to the path of legalization, despite its myriad deficiencies, rather than initiating a methodical process of planning.

WHILE these decisions were taking shape, enforcement was lagging far behind the pace of new illegal construction throughout the Negev - very far behind. Even worse, due to the lack of comprehensive policy and clear enforcement guidelines, whatever enforcement was carried out served the goal of legalizing internal squatters' clusters, rather than serving the original purpose of resettlement of squatters from the outlying encampments into the legal communities and returning poached land to state hands.

In short, the relocation of squatters out of the sprawling illegal encampments into legal communities was neglected; the failure to make the necessary preparations for absorbing the squatters into legal communities was coupled with failure to enforce the law against new illegal construction in the illegal encampments.

The attempts made by Prawer, Begin and Ariel each had deficiencies and difficulties; the most critical of these lacunae were:

1. Inconsistent, zigzagging policy regarding resolution of ownership claims;
2. Failure to consider Bedouin traditional law, which was not taken into account in the planning of the seven original townships, was given no consideration in the process of legalizing the Abu Bassma villages, nor is it a consideration in proposed solutions for absorption of relocated squatters;
3. Lack of comprehensive policy and clear, detailed law enforcement plans against illegal construction and for the evacuation of squatters' camps. The "carrots" offered by each of the plans were hungrily consumed, but the "sticks" were left propped in a forgotten corner of the room.

These lacunae have had direct and immediate consequences:

1. The State of Israel has not yet succeeded in resolving ownership claims, and no resolution of this problem is in sight.
2. Infrastructure in the legal settlements - and particularly in the Abu Bassma communities - is severely lacking. Some of these legal towns and villages contain large sections of desolate, phantom neighborhoods and roads that lead nowhere; other sections bear far more resemblance to squatters' camps than to normal, modern settlements.
3. Illegal construction is out of control, and the population of the illegal hinterland is growing by leaps and bounds.

A broader consequence of the massive scale of illegal construction in this region is that the State of Israel is losing its governance in the Negev. For all intents and purposes, the situation has devolved into a free-for-all, reflected in skyrocketing crime rates, high rates of truancy and attrition from the education system, a very high incidence of polygamy and more. Disenfranchisement among Bedouin teens and young adults and the widening chasm between Bedouin society and Israeli society at large are expressed in shrinking rates of conscription to the IDF, a highly disproportionate rate of involvement in serious road accidents, and a general atmosphere of lawlessness that is victimizing the residents of the Negev and beyond - Bedouin and Jews alike.

The State of Israel must take courageous, swift action in four specific areas:

1. **Policy:**

The government must establish and promote clear policy, and create an independent policy body within the Office of the Prime Minister tasked with formulating and enunciating comprehensive policy parameters to be implemented consistently over the coming years.

2. **Development of settlements:**

Planning and preparation of settlements to absorb residents of all of the illegal encampments;

Expansion of existing settlements exclusively on state land for which there are no unresolved ownership claims, based on the availability of land in each of the settlements.

3. **Regulation of the illegal encampments and enforcement against illegal construction:**

Creation of a methodical multi-year plan for the resettlement of residents of the illegal encampments in permanent, legal communities, according to a detailed, predetermined map (either to single-tribe settlements, or to an urban, pan-tribal settlement) and according to a non-negotiable timetable upon which compensation will be contingent.

A clear, detailed program for regulation of the illegal construction in the Abu Bassma villages and demolition of structures that cannot be given permits or whose owners do not wish to pursue legalization.

Increasing manpower in enforcement bodies, improving regulation-related enforcement and enforcement against illegal construction.

4. **Resolution of ownership claims:**

A final, non-negotiable timetable must be established for resolution of ownership claims with a diminishing scale of compensation that decreases with time. When the time allotted for negotiation expires, the government must resume the process of judicial counterclaims and the registration of land to state ownership.

TIME IS RUNNING OUT. It's time to shake off the indifference. We need courageous, dedicated, strong and responsible leaders who are not afraid to carry the weight of this process and who have the necessary strategic vision to act. It's time to return the State of Israel's governance to the Negev.

I. Background



AS OF May 2021, the population of Israel stood at 9,246,000,¹ occupying an overall area of just over 940 square kilometers.²

Over 80,000 people - less than one percent of the population of the State of Israel - live in what is known as the Bedouin *pezurah* i.e., illegal squatters' camps located outside authorized settlements, in the Negev. These unlawful encampments span approximately 600 square kilometers and contain more than 85,000 illegal structures, most of which are scattered across about 2,000 unrecognized and unregulated clusters.

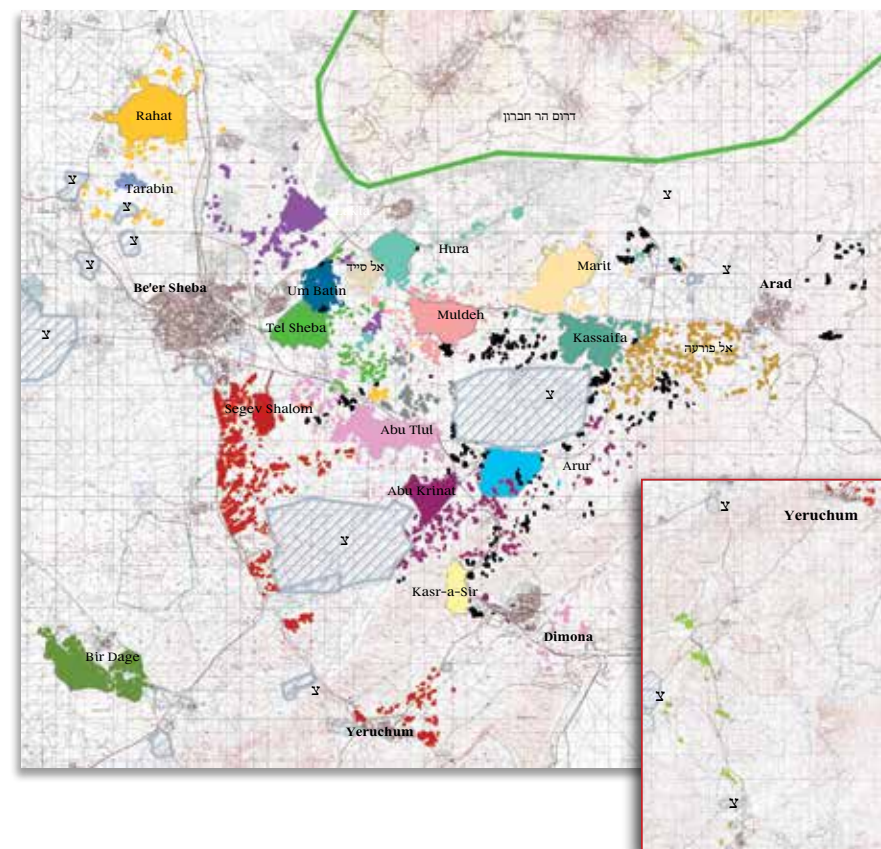
As part of the effort to regulate Bedouin settlement in the Negev, many of these clusters were retroactively recognized more than 15 years ago as part of 11 rural settlements. These townships contain about 20,000 illegal structures, the vast majority of which still lack building permits and have yet to be registered, inspected or legalized, accounting for approximately one-third of all illegal construction in the Negev.

This, in a nutshell, describes the issue of illegal Bedouin settlement in the Negev.

WHILE the Bedouin lifestyle has its roots in a long-standing tradition of nomadic life, this unique but familiar "off-the-grid" existence has been in decline for many years. The nomadic lifestyle comes at a cost, both in terms of inferior infrastructure, services and progressive improvement of standards of living as well as the possibility of equality of civil opportunity, leading to social and economic conditions that foster crime, delinquency and disadvantage. Regulating Bedouin settlement is thus essential in order to improve the standard of living of Israel's Bedouin citizens. An increasing number of Bedouin, in the Negev as throughout the Middle East, are beginning to embrace modern life in regulated settlements, which offer access to education, healthcare and other government services.

The State of Israel, too, shares an interest in regulating Bedouin settlement - and the sooner the better. Unregulated construction disrupts planning and development. Every day that passes further increases the spread of squatters'

מפת ההתיישבות הבדואית בנגב



camps, resulting in a further surge in the number of illegal structures, making it even more difficult to provide essential resources and services. Furthermore, illegal construction has a detrimental effect on the Negev's open spaces, hindering regional development and the ability of the state to use its land to provide for the needs of the State of Israel as a whole, to plan and designate land for other purposes in the present and future. Additionally, the poor quality of life in the illegal encampments provides fertile ground for the growth of crime and delinquency, which harms both Bedouin society and all residents of the Negev - and beyond. Illegal construction also has very negative environmental and ecological impacts.

In more general terms, large-scale illegal construction in the Negev is catastrophic in terms of the state's governance. The vacuum of law and order is being filled by the law of the jungle, and as the former mayor of Be'er Sheva,

1 The Central Bureau of Statistics, Monthly Statistical Survey of Israel - July 2021.
2 The Central Bureau of Statistics, "Land Uses in Israel", Statistical 173, December 2018. https://old.cbs.gov.il/statistical/stat_n173.pdf. (Hereinafter: Statistical 173). The figure of 940 square kilometers, which includes built-up residential, industrial and commercial areas, is updated for 2013. However, in view of the Israel Planning Directorate's current policy - to densify construction and mix uses - it is assumed that this figure has increased only slightly in recent years.

Judge (emeritus) Eliyau Nawi famously said: “Up to Gadera, there is God and government. From Gadera to Be’er Sheva, there is God but no government. South of Be’er Sheva, there is neither God nor government.”

In the pages below, we will examine the subject of settlement in greater detail.

SOME of the Negev’s Bedouin have claimed ownership of lands in the region since the late 1970s, when the State of Israel initiated a process that became known as “registration of ownership claims.” Bedouin residents of the area filed 3,200 claims, in the context of which they claimed ownership of 776,856 dunams (a common middle-eastern measure of land area equivalent to 1,000 square meters or roughly a quarter acre), which constitutes 3.5% of the overall territory of the State of Israel. The claimants continue to inhabit a portion of the areas for which they claim ownership; this is the *pezurah*, and they refuse to vacate these claimed lands. Other parts of the claimed land are located within the jurisdiction of cities and towns in the western Negev, such as Ofakim and Netivot, as well as in the recognized Bedouin townships in the central Negev. Additional areas that have been claimed are neither inhabited nor cultivated. In legal terms, the law of the State of Israel (as well as the British and Ottoman legal systems that preceded them) do not recognize the tribal conventions upon which the Bedouin base these land claims. In all legal proceedings that have been held on this subject, the state has proven in court that the ownership claims are unfounded, and the claims have subsequently been rejected by the courts.

Complicating matters is the Bedouin community’s supposed adherence to traditional Bedouin law. Thus, an inviolable internal Bedouin law dictates that no Bedouin may settle on land that has been claimed by another Bedouin. In reality, however, the disregard of this social convention has often led to violent conflict and even bloodshed.

FOR years, the State of Israel has attempted to resolve ownership claims through compromise and legal process. These efforts have had little success, and have progressed at a snail’s pace. As a result, even when land has been officially registered as state land, even when a clear and unequivocal legal ruling is handed down rejecting claims of private ownership, even when the state makes use of land that is duly registered for public use, Bedouin “customary law” still continues to take precedence among the Bedouin themselves, and this has far-reaching implications for the development and regulation of Bedouin settlements. This, in essence, is the issue of ownership claims or land regularization, which we will expand upon below.

For many years, many entities, including governmental agencies and their

representatives, have held the steadfast belief that progress in resolving the settlement issue could not be achieved without first addressing the issue of ownership claims. The Regavim Movement has long maintained that these issues should be addressed separately, that resettlement of Bedouin squatters can and should proceed regardless of the resolution of ownership claims. This approach is based on the fact that there is sufficient state land in the Negev to accommodate the relocation of inhabitants of the illegal squatters’ camps in a program of resettlement and construction in legal, organized communities equipped with the necessary infrastructure to provide all civil services.

Regavim’s position is consistent with Israeli law, which clearly distinguishes between land ownership and the right to build on that land. Even if the State of Israel hypothetically recognized the Bedouin’s ownership of the lands in the illegal encampments, this would not necessarily grant them the right to build on these lands.

In 2017, the authorities shifted their position and began to work on regulating Bedouin settlements, mainly on state lands, regardless of ownership. They conceived and implemented a generously budgeted five-year plan for the social, economic, and communal advancement and development of the Bedouin sector in the Negev. This plan included the preparation of lots for construction of tens of thousands of housing units for the Bedouin population of the Negev.³

However, although the state continues to distribute a fair number of “carrots,” it has yet to formulate a comprehensive and long-term plan for enforcement of the law against illegal construction and for the orderly removal of structures from the illegal squatters’ camps, and for relocation of the residents to permanent, legal settlements. Given that incentives alone are insufficient to solve the problem, an enforcement plan and its implementation are crucial to ensure that the considerable resources invested in development and incentives are not misspent.

Since its inception, the State of Israel has adopted an unpredictable and inconsistent policy when it comes to regulating Bedouin settlement in the Negev.

THIS STUDY will examine how the lack of a clear and consistent policy manifests itself in the way ownership claims

3 Press release by the Bedouin Authority, “Government approves Five-Year Plan for the Economic and Social Development of the Bedouin Sector in the Negev (16 February 2017); and “Protocol and Minutes (no. 1) of the Knesset Interior and Environmental Protection Committee’s subcommittee for improvement of the situation of the Bedouin population in the south, dated 20 October 2020.

are handled, in settlement regulation policy, in planning and construction policy in the Negev, and in enforcement policy -independently, and in concert.

This inconsistent approach has resulted in a severe lack of governance in the Negev, while perpetuating the underdevelopment of large segments of Bedouin society. Successive Israeli governments have chosen to kick the can down the road, as it were, from one government to the next, and those who attempted to tackle the issue faced backlash and subsequently withdrew, further exacerbating the already precarious situation.

Despite the obvious and understandable difficulties involved in solving such complex problems, the only feasible, viable way to resolve them is through a stable government that formulates and legislates a multi-year policy implemented within a predetermined and time-constrained framework.

Although every Israeli citizen driving to Eilat is exposed to the problem of illegal Bedouin construction in the Negev, as are the residents of the Negev who are affected by the issue on a daily basis, Israel's geographic and political center appears to be largely indifferent to the problem. However, the consequences of this indifference come at a high price. As the years pass, the problem only worsens, making it increasingly difficult to solve.

II. From Ottoman Rule through the Repeal of Military Governance



The Ottoman Period

Until the early 20th century, the Bedouin tribes that currently reside in the Negev had been nomadic, travelling between Saudi Arabia, the Sinai Peninsula and the northern area of the Land of Israel. Although the Ottoman Empire was the official sovereign over the Land of Israel at the end of this period, governance in the Negev region was limited. There were no permanent settlements in the Negev. Various confederations of Bedouin tribes, or meta-tribes comprised of several sub-tribes, inhabited the region. Each would migrate with their herds across territories that could range from a few to several thousand kilometers of land controlled by that particular meta-tribe. The size of the territory depended on the strength of the tribe and on the outcomes of internecine wars. The Bedouin controlled the water sources, pasture lands and transit routes in their territory by force of arms, and internal conflicts were resolved with little to no governmental intervention. In the Middle East, the Bedouin conducted themselves according to a cohesive system of customary law, which emphasized the importance of the group over the individual, and which had an effective enforcement mechanism.⁴

In the late 19th century, the Ottoman government began to take steps to oversee and establish control and authority over the Bedouin, as well as to transition them from nomadism to sedentarism. To this end, they founded the city of Be'er Sheva as a the regional administrative hub⁵, and encouraged the Bedouin to settle there by providing them with lots for construction of private homes, and by building schools, a flour mill, and a market. The central government also began to increasingly intervene in inter-tribal conflicts, and to levy various taxes.

Through the mediation of the Ottoman government, the various meta-tribes reached a compromise regarding the boundaries of their grazing areas. The heads of the tribes agreed not to enter or settle in areas where other tribes lived, or



cultivate land without the consent of the recognized meta-tribe.⁶ This created a balance between the tribes and a new “territorial order.” While the marking of the boundaries and the Turkish government’s recognition of the tribal grazing areas, as well as the decline in violence surrounding them, corresponded with the Bedouin tribes’ internal agreements regarding the territory of the various meta-tribes, these were merely internal Bedouin conventions and laws, which were not recognized by the Ottoman Land Law ⁷ that dominated the empire for hundreds of years.⁸

4 Havatzelet Yahel, “Land Disputes between the Negev Bedouin and Israel,” *Yaar* 17, 54 (2017) (hereinafter: H. Yahel, *Yaar*); Joseph Ben-David, “The Bedouin in the Negev 1900-1960,” <https://lib.cet.ac.il/pages/item.asp?item=13005> (hereinafter: Ben-David); Havatzelet Yahel, “Beyond the Letter of the Law: Process to Formulate a Compromise in the Negev Bedouin Ownership Claims in the 1970s,” *Iyunim Bitekumat Yisrael* 28 (2017) (hereinafter: H. Yahel, *Beyond the Letter of the Law*).

5 Civil Appeal 4220/12, the late Sliman Muhammad al-Uqbi et al. v. the State of Israel; judgment dated 14 May 2015 (hereinafter: CA 4220/12 al-Uqbi), based on the article by the researcher Yasmin Achbi, and on the article by Ruth Kark; Ben-David.

6 Shiri Spector Ben-Ari, “Bedouin Settlement in the Negev,” Knesset Research and Information Center (2013). <https://main.knesset.gov.il/Activity/Info/MMM/Pages/document.aspx?docId=f4eb6d8d-f1f7-e411-80c8-00155d01107c&businessType=1> (hereinafter: Ben-Ari, Knesset).

7 Report of the Justice Goldberg Commission regarding the regulation of Bedouin settlement in the Negev, dated 1 December 2008 <https://www.gov.il/he/departments/publications/reports/goldberg> (hereinafter: Goldberg Report).

8 Other scholars have claimed that the internal agreements between the Bedouin tribes received statutory and proprietary recognition and approval from both the Ottoman and British governments (see for example: Yeftahel, Keder and Amara “Re-examination of the ‘Dead Negev Doctrine,’ property rights in the Bedouin expanse,” *Mishpat Umimshal* 14, 2012 This position, which was cited as a central reference point for the claim of ownership of various lands in the Negev, was rejected and refuted in a landmark decision of the Supreme Court (CA 4220/12 al-Uqbi v. the State of Israel) in which it was ruled that: “...the fact that the sources presented by the appellants note that in the Ottoman period the Bedouin divided up the rights to the Negev lands amongst themselves in accordance with traditional Bedouin



The main street of Beer Sheva, early 1900s

The order and security that resulted from the establishment of the rule of law in the region marked the beginning of the semi-nomadic period, in which each tribe wandered and lived within a defined and recognized area, rather than over the entire expanse, allowing for the expansion of livelihood options and development of agricultural cultivation, rather than solely on grazing. The arrival of farmer immigrants from Egypt to the Negev further stimulated interest in agriculture.

The stabilization of the central government of the Ottoman Empire, the decrease in nomadism and the increased demand for agriculture, along with a growing interest in the Negev lands taken by Gaza and Hebron Arabs and later, also by Jews, drove up property values. Individuals began to breach the group tradition of joint land use and claim that certain parts of the tribal space belonged to them- first to groups within the tribe, and later to clans and individuals.⁹

.....
law, they do provide sufficient evidence for this matter. At most, they prove that this division bore significance on the Bedouin-tribal level, but they do not prove that it was officially recognized by the Ottoman government. Thus, most of the sources to which the appellants refer in this context do not in any way indicate that the Ottoman authorities recognized the property rights of the Bedouin that arose from traditional Bedouin law.”

9 Ben-David; H. Yahel, Beyond the Letter of the Law.

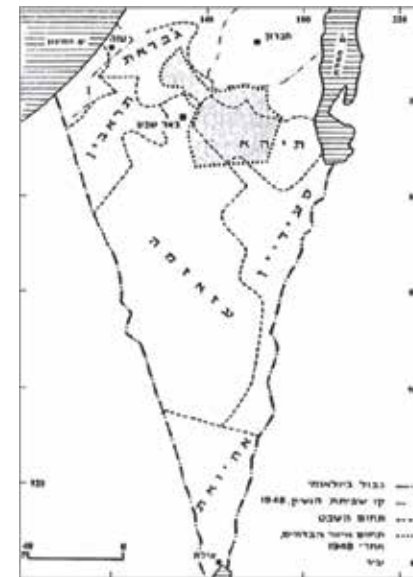
The British Period

After World War I and the establishment of the British Mandate in the Land of Israel, the new regime did not alter the situation that had become established on the ground, but at the same time the British did not recognize Bedouin ownership of the land or grant them proprietary rights. This was reflected in the adoption of the Ottoman Land Law, which made it difficult to acquire ownership through possession of desert territory (“Mawat” lands), and in the enactment of the Dead Land Ordinance in 1921, which aimed to put a stop to land invasions and to prevent recognition of unauthorized seizure of land. The purpose of this ordinance, as well as of another ordinance enacted in 1929, was to prevent recognition of ownership by virtue of possession, except for those who filed an immediate claim. In practice, the Bedouin did not submit such claims.¹⁰

In contrast to the oppressive and violent Ottoman rule, the Bedouin enjoyed certain rights during the British Mandate, such as freedom of movement and

the right to bear arms, as well as a degree of participatory government, expressed, among other things, in the integration of Bedouin judicial tradition into the governmental system and the recruitment of Bedouin into the British police. Tax collection shifted from arbitrary to progressive taxation and was collected in cooperation with the Bedouin. In 1934, the British began to collect land taxes, which precipitate the sale of land by Bedouin landholders.¹¹

During the British period, Bedouin engagement in agriculture increased, and the British and Bedouin began digging water wells in the tribal areas, which provided a solution for a chronic water shortage and resulted in increased farming and reduced grazing



Grazing lands of the Bedouin tribes as published in 1917 (see Joseph Ben-David, *ibid.*)

10 Eliad Weinshall, And the Negev Will Not Settle, Yediot Books - Miskal, 2018 (hereinafter: Weinshall).

11 See Ben-David, *ibid.*

and migration. Nomadism was further reduced in the drought years of 1943-1944, when the British authorities distributed food and fodder and created jobs.

For some Bedouin sheikhs, land trade became a primary source of income. According to legal expert and scholar Havatzelet Yahel, the farmers, or falakhim, who were gradually accumulating capital, acquired rights and control of land from the Bedouin, either through outright purchase or as payment for loans they extended to the Bedouin. These land agreements were internal and were not registered in the land registry offices, and any disputes were settled by an internal forum, based on the traditional custom that control of the land was equivalent to ownership - despite the fact that the law explicitly stated otherwise. Land holdings conferred economic power, elevated social status and respect. Yahel further notes that the sale of land to Jews was considered particularly controversial at the time (as it is today).¹²

In the 1930s, Jewish interest in the Negev increased and Jews began to purchase land there. By the time the British Mandate period, some 25 Jewish settlements had been established in the Negev.¹³ The registration of transactions conducted between Bedouin and Zionist entities involving Negev lands was recorded in the British Land Registry by Mandatory officials, without conferring recognition of a transaction's validity or accrual of any proprietary rights, because the land registry in the Mandate period served only as a registry of transactions, not as evidence of ownership of the land.¹⁴

The War of Independence

On the eve of the 1948 War of Independence, 65,000-70,000 Bedouin lived in the Negev, divided into seven meta-tribes comprised of approximately 100 tribes.¹⁵

During the war, most of the Bedouin tribes fought against the Jewish population and the nascent IDF, while some maintained neutrality or even aided the Jews.

12 H. Yahel, Beyond the Letter of the Law.

13 H. Yahel, Beyond the Letter of the Law.

14 CA 4220/12 the late Sliman Muhammad al-Uqbi et al. v. the State of Israel, Section 40-42.

15 Ben-David; H. Yahel, Yaar. The Goldberg Report cites additional estimates of the number of Bedouin in the Negev on the eve of the War of Independence, ranging from 55,000 to 80,000 people, with a caveat that it is difficult to determine precise data regarding both the size of the Bedouin population and the territories they held, and that each entity involved in this subject has their own estimates and figures.

Many Bedouin left the Negev even before the Egyptian invasion of the newly born State of Israel, both out of fear as well as in compliance with the call from the Supreme Arab Committee to join the Arab armies. Those who fought against Israel emigrated or were expelled in the wake of the Egyptian retreat and their flight southward. The main group of tribes that did not relocate was the Zulam tribe, which lived in the northeastern Negev, in the Be'er Sheva and Arad Valleys. No battles were fought in this area and the IDF captured it without a fight. By the end of Israel's War of Independence, Israel had gained control of the Negev to an extent far exceeding the territories originally designated for it in the partition plan.¹⁶

The Sayig

Toward the end of the War of Independence, in October and November 1948, the Israeli government received requests from Bedouin sheikhs who wished to return to the territories they had abandoned during the war and live under the auspices of the Israeli government. According to Havatzelet Yahel, Ben-Gurion noted in his diary that the Bedouin who asked to return were willing to live in whatever place was allocated for them.¹⁷ And indeed, contrary to the Israeli policy that disallowed the return of Arab refugees everywhere else in the country, Israel allowed approximately ten thousand Bedouin to return, but only to a designated area.¹⁸

Until 1953, the Bedouin relocated, some against their will, to this designated area, the Sayig or "demarcated area", a vast expanse of 1.1 million dunams bordered by Dimona, Arad and Be'er Sheva (marked as a darkened area on the map above). The Sayig lacked any clear demarcation between the tribes,¹⁹ and like all Arabs in Israel, the Bedouin residents of the Sayig were subject to military rule until 1966.²⁰

The Bedouin were not granted any property rights in the Sayig, and instead

16 Ben-David; H. Yahel, Yaar.

17 Havatzelet Yahel, "Bedouin Settlement Proposals in Pre- and Early Days of the State of Israel: 1948-1949," Israel 25, 1 (2018) (hereinafter: H. Yahel, Proposals).

18 For more in-depth treatment of the Bedouin departure from Negev and their return during and after the War of Independence, see Havatzelet Yahel and Ruth Kark, "Bedouin in the Negev in 1948: Departure and Return," Geographic Horizons 88 (2016) 116-135 (Hebrew).

19 Goldberg Report.

20 H. Yahel, Yaar; H. Yael, Beyond the Letter of the Law.

settled spontaneously, erecting tents and temporary structures without any formal settlement planning.²¹

According to H. Yahel, the first general census of the Bedouin in the Negev in 1954 counted approximately 11,000 people. That same year, the Bedouin in the Negev were granted Israeli citizenship and identity cards. According to Ministry of the Interior figures, by October 1955, the Bedouin in the Negev numbered 12,540 people.²²

Eliad Weinshall notes that the Bedouin who remained in Israel and resided in the Sayig area declared their loyalty to the State of Israel, and some of their sons even enlisted in the IDF, primarily as trackers.²³ Ben-David observed that during this period, the power wielded by the Bedouin sheikhs, who acted as intermediaries between the Bedouin and the Israeli authorities and were responsible for what happened within the boundaries of their tribe, increased.

Despite the challenges of earning a living from farming (due to the sparse rainfall), the increased demand for land along with the Bedouin's increasing desire to be recognized as its legal owners spurred them to further develop agriculture. Ben David explains that after the creation of the Sayig, distinctions and class disparities emerged: tribes that had previously lived in the area were at a considerable advantage compared to the Bedouin who were relocated to the region by the Israeli government from other areas where they had been nomadic. The latter were landless, and were therefore compelled to lease farm land from the state.²⁴ As might be expected, this division into classes affected the internal political and social dynamics among and within the tribes.

Ben-David notes that in 1950, the Bedouin cultivated roughly 40,960 dunams, and by 1959, this number had increased to 153,000 dunams. This development of agriculture led to a significant change in the Bedouin lifestyle, with nomadic encampments becoming permanent outposts near the family's farming areas, later evolving into shacks and metal shanties for the younger generations who no longer wanted to live in the traditional tent.

21 Michal Lerer, "Issues of land regulation among the Bedouin population in the Negev" (2017), Knesset Research and Information Center (2017)https://fs.knesset.gov.il/globaldocs/MMW/8afc1992-1c99-e711-80da-00155d0ad651/2_8afc1992-1c99-e711-80da-00155d0ad651_11_8642.pdf (hereafter: Lerer, Knesset).

22 Goldberg Report.

23 Weinshall, 30.

24 Goldberg Report.

This transition to modernity was also reflected in the transition from using animals for transportation to vehicular transportation, alongside a heightened awareness of the value of formal education.²⁵

25 Ben-David,



III. The Process of Urbanization and the Rural Communities, 1967-2006

1. The Settlement Question

The dismantling of the military government and the beginnings of urbanization

As noted, Bedouin settlement in the Sayig was neither orderly nor regulated. However, the need to establish settlements for the Bedouin had already become apparent with the establishment of the State of Israel, and in 1949, the Committee for Refugee Affairs was formed to address, among other things, how to establish permanent settlements for them. In 1962, for the first time, a proposal for the establishment of permanent settlements for Bedouin in the Negev was presented to the government - and accepted.²⁶ In 1966, Israel disbanded the military government to which all Israel's Arab residents had been subject, and the government began to plan the first three Bedouin settlements, with the aim of providing a solution for all the Bedouin residents of the Negev, who in late 1965 numbered 22,000.²⁷ The first Bedouin town, Tel Sheva, was established east of Be'er Sheva in 1967 on an area of approximately 9,400 dunams.²⁸

In 1971, the city of Rahat was established north of Be'er Sheva on an area of approximately 16,820 dunams. In 1979-1989, the towns of Segev Shalom (for the Tarabin tribe), on an area of 4,010 dunams, and Hura (for the Abu AlQiyas tribe), on an area of 7,423 dunams, were established near Be'er Sheva. The towns of Ar'ara and Kseifeh were established on areas of 14,000 dunams and 11,641 dunams respectively. In 1990, the township of Laqiya was established north of Be'er Sheva, on an area of 7,052 dunams; these are referred to collectively as the seven townships).

From February 1967 to January 1970, the government began to regulate lands spanning an area of approximately 400,000 dunams in the northern Negev,²⁹ while the Bedouin began to submit ownership claims for extensive swaths of land in the Negev (as will be discussed below at length in the chapter "Ownership Claims." About 45% of the land comprising the seven townships was subject to

ownership claims by individual Bedouin citizens.³⁰

Parallel with the establishment of the seven townships, illegal construction outside the towns increased from approximately 1,000 structures in 1966³¹ to 3,000 in 1973. This increase has been attributed to a variety of factors, including demographic growth, economic prosperity, a decrease in construction costs and a desire to create facts on the ground in order to influence the location of the planned settlements.³² Some believe that the continued increase in illegal construction was a counter-reaction to the compromise proposals of the Albeck report, which addressed the resolution of ownership claims.³³

Critiques and obstacles in the urbanization process; relocation incentives

The settlements that were established met with much criticism because their dense and urban nature aligned with neither traditional Bedouin culture and economy nor Bedouin social-family structure. Furthermore, insufficient resources were allocated for the establishment of the settlements, which suffered from inferior services, employment opportunities and economic horizons. To this day, these settlements remain at the bottom rung of the socio-economic ladder.³⁴

In addition, many of the lots were planned on land subject to ownership claims. The townships were plagued by inadequate physical infrastructure due both to budget constraints and legal and physical objections from claimants of the land, making it difficult, and in some cases impossible, to develop the necessary infrastructure on the plots in question. In some instances, this is still the case.

26 Yahel, Proposals.

27 H. Yahel, *Beyond the Letter of the Law*.

28 Goldberg Report.

29 H. Yahel, *Beyond the Letter of the Law*.

30 According to Lerer, Knesset: 40%-50%; According to the Goldberg Report: 46.6%.

31 According to the Goldberg Report, there were already 955 illegal constructions in the south in 1956 (paragraph 68).

32 H. Yahel, *Beyond the Letter of the Law*, 98;

33 Weinshall.

34 Weinshall; Yehal, *Yaar* 56; Goldberg Report; See also: Adv. Talma Duchan, "The Bedouin population outside the recognized settlements - Recommendations of the Researcher to the Objections to Master Plan 23/14/4 - The Partial District Master Plan for Metropolitan Be'er Sheva," Investigatory report 23/14/4 - Partial District Master Plan for Metropolitan Be'er Sheva, submitted to the Council's Objections Subcommittee December 2008. Updated June 2010 (hereinafter: Talma Duchan report).

As noted, in accordance with the codes of conduct in Bedouin society, no Bedouin would enter, let alone purchase or occupy land claimed by another Bedouin. Violating this code could lead directly to violent conflict and even bloodshed. Thus, when the state developed lots on land with registered ownership claims, even after a compromise settlement was reached with the claimants or the ownership claims were rejected by the courts, no one agreed to enter those lots without the consent of the claimants. This absurd phenomenon not only highlights the State of Israel's inability to combat the aggression and violence that plagues the Negev land issue, but also reflects the long-standing reality on the ground.

In fact, many Bedouin refused to relocate to the newly established townships, resulting in towns dotted by developed neighborhoods alongside phantom neighborhoods - ghost towns within the towns - and inadequate infrastructure. Bedouin from the illegal encampments with ownership claims also refused to relocate to the townships, fearing that without a resolution of their claims, they would forfeit their control and rights to the still unregulated land upon which they were sitting.³⁵

In practice, the townships were populated mainly by Bedouin from the north of Israel and farmers who did not have ownership claims, who thereby improved their social and cultural status. This process initiated a vicious cycle of failed resettlement: because the townships were predominantly populated by landless farmers, the Bedouin who maintained ownership claims and remained outside the legal towns felt even more justified in their refusal to move into the legal towns due to their reservations about living alongside the farmers, whom they considered socially inferior.³⁶

The government offered economic incentives to encourage relocation to the townships: Since the 1970s, every young Bedouin has been entitled to a parcel of land of 800-1,000 square meters - free of charge - as well as full subsidies to cover the costs of development. Later, a distinction was made between plots designated for "natural growth" - which were exempted from the obligation to publish a tender and pay for the land, with residents paying only for the development of the plot - and plots for residents of the illegal squatters' camps, which were provided free of charge, along with compensation for any illegal structures in the squatters' camps that were demolished after relocation

³⁵ Goldberg Report.

³⁶ Weinshall.

of the family, in addition to relocation grants.³⁷ In 2002, a resident of an illegal encampment who relocated to a permanent settlement received a compensation/ grant payment of NIS 100,000, in addition to receiving a free plot of land; by 2018, this compensation package had already ballooned to NIS 250,000.³⁸

The rise in development costs and the high rate of natural growth increased the demand for the lots, raising their value.³⁹ On the other hand, in some of the townships, jobs, infrastructure, public spaces and institutions remain underdeveloped.

Despite the increase in the value of the land, the government's incentive packages actually encouraged the squatters to remain in the illegal encampments rather than relocate to the permanent settlements, since the incentives are a one-time offer per household. Consequently, as the value of the plots of land continue to rise, families are inclined to wait until their children come of age, at which time the children will be eligible individually. When these children come of age, they in turn also think about the next generation - and remain ensconced in the illegal encampments. Furthermore, these incentives are distributed according to the "mother's house" rather than the "father's house," thereby actually encouraging the creation of polygamous families, in which each "father" of the family receives several plots of land - one for his officially registered wife and additional lots for his other wives, some of whom are considered single mothers with children.⁴⁰

This created an anomaly: While the services provided to the residents in the townships were deficient, the state was ordered by the High Court of Justice to provide water, education and health services to all the residents of the illegal squatters' camps, even though those residents are not subject to the same obligations as those living in the townships, such as property and other taxes, construction permits, etc. This led to negative migration, with residents leaving the townships to return to the illegal encampments.⁴¹

³⁷ Yahel, *Yaar*, 56; Also see Israel Land Administration decisions 585 of 1993, 813 of 1997, 841, 842 of 1998, 859 of 1999, 886, of 2000, 932 of 2002, 1383 of 2014 and more. https://land.gov.il/Land_Policy/LandCouncil/Pages/hahlatot_moaza.aspx (hereinafter: ILA decisions).

³⁸ ILA Directives 932 and 1545.

³⁹ Yahel, *Yaar* 56.

⁴⁰ "*PolygaMeToo: Polygamy in Israel - Overview and recommendations.*" Regavim, January 2018. (Hereinafter: Regavim, *PolygaMeToo* report.)

⁴¹ Goldberg Report.

Development of lots for which there was no demand; focus on natural growth

The state continued to plan and develop lots for construction in townships, some of which were situated on land subject to ownership claims. These lots remained unsold due to a lack of demand. As of 2002, an inventory of approximately 4,000 developed plots of land, which were not marketed, had accumulated in the settlements, with nearly half of them located on land subject to ownership claims, and the remainder designated for the natural growth of local residents. Another 4,000 lots were planned, yet they were neither developed nor marketed, because they, too, were on land subject to ownership claims. In most of the settlements, the vacant lots were designated for natural growth rather than for the residents of illegal encampments.⁴²

The establishment of the Abu Bassma settlements

In 2003, the government decided to establish new rural settlements⁴³ that would better suit the needs of the Bedouin population. The vision was to establish new and orderly settlements with electricity and sewage infrastructure, building permits and detailed planning⁴⁴ to accommodate all the residents of the illegal encampments. A substantial sum of money was allocated and the Abu Bassma Council was established to facilitate planning and execution⁴⁵.

There is, however, a stark contrast between the grand vision and the reality on the ground. Eleven villages were established in the Abu Bassma council between 2003-2012. However, with the exception of one, Tarabin a-Sana, all the villages were actually a combination of several disparate illegal settlement clusters that were brought together simply by drawing a “blue line” around huge areas to define the boundaries of the “new” settlements.

The areas within the blue line had long been filled with hundreds of illegal structures, and as soon as the planning process began and the “blue line” demarcating the boundaries of the planned settlement was approved, the Bedouin

who lived within the blue line realized that their illegally-built structures could be expected to be “whitewashed,” legalized and legitimized post facto, and that the value of the land would skyrocket. This sparked a race to grab land by means of construction, planting and fencing off empty spaces. The hundreds of illegal structures already in the area soon turned into thousands, including huge brick-and-mortar homes.⁴⁶ This rampant illegal construction significantly impeded the progression of the planning process, and the development of the infrastructure continues at a snail’s pace to this day, while land-grabbing and illegal construction on the land designated for development continues.

Thus, instead of planned settlements with proper infrastructure, ghost settlements were created, sprawling across vast land areas, some of which assumed the character of a large rural settlement, while others look like a huge sprawling illegal squatters’ camp.

In time, the Abu Bassma Council was split into two smaller administrative units, the Al Qassum Regional Council, which includes the settlements of Umm Batin, al-Sayyid, Darijat, Kukhleh, Sa’wa (formerly Mulada), Makhul, and Tarabin a-Sana, and the Naveh Midbar Regional Council, which includes the settlements of Abu Qrenat, Bir Hadaj, Kasr al-Sir, and Abu Tlul.

With the exception of Bir Hadaj, all the new settlements were established in part on lands subject to ownership claims, further complicating the state’s development efforts. The State Comptroller’s report of 2016 states:

In 2015, more than a decade after the state officially recognized the Bedouin settlements that are now located within the boundaries of the Neve Midbar and Al Kasum regional councils, the development of the infrastructure in these settlements remains severely inadequate. Roads have not been constructed within the settlements, homes are not connected to the electricity system, and although water pipes have been installed in most of the settlements, only some of the residents can connect to them; Tarabin al-Sana is the only settlement with a functioning sewage infrastructure. As long as the infrastructure in some of the recognized Bedouin settlements remains underdeveloped and does not provide a decent standard of living for the residents, these settlements cannot serve as magnets for the Bedouin population living outside them or promote processes for regulating resettlement.⁴⁷

42 Explanatory notes to ILA Directive 932 dated 24 June 2002.

43 ILA Directive 881 dated September 29, 2003.

44 Kalman Liebeskind, “Losing the Negev: How the state failed to take care of the Bedouin of the South. *Makor Rishon*, 16 July 2010 <https://www.makorrishon.co.il/nrg/online/54/ART2/133/497.html> (hereinafter: Kalman Liebeskind, “Losing the Negev”).

45 Weinshall.

46 Kalman Liebeskind, “Losing the Negev”.

47 State Comptroller’s Report 66c, In the matter of the Ministry of Agriculture and Rural

The state failed to complete physical aspects of the resettlement process due to obstacles created by ownership claimants and local residents. Furthermore, the very fact that land subject to ownership claims was redesignated as residential property increased its value in a number of ways - first, due to the change in zoning that made it viable for development, and second, due to the demand it created for land to develop infrastructure and additional residential plots for relocation of squatters - making it even more difficult to reach an amicable settlement with those claiming ownership.

In the absence of a solution to the ownership claims, the Israel Land Authority does not green-light the process for issuing building permits.⁴⁸ The result is that even when the state succeeds in planning settlements and signs relocation agreements with the residents, until the ownership claims are resolved - either through compromise or judicial decision - the owners of the structures built on the land are unable to obtain building permits.

According to a comparative study of aerial photographs conducted by Regavim, in 2005 there were 7,781 illegally constructed structures without permits in the Abu Bassma settlements. By 2018, more than 10,000 additional structures had been added to this number!

Plans are currently under way for the establishment of new Bedouin settlements in the Negev⁴⁹: Wadi al-Na'am - proposed as a housing solution for the entire unregulated population living between Segev Shalom and the Negev Junction, with planning for 1,426 lots⁵⁰ and 3,450 housing units,⁵¹ and

.....
Development - Aspects of regulating Bedouin settlement in the Negev, 2016.

48 Weinshall, 92.

49 Breakdown of the plans in preparation as of December 2018, according to the planning department of the Bedouin Development and Settlement Authority in the Negev. Appendix A to the response from attorney Ayelet Boker, Director of Freedom of Information at the Legal Bureau, the Authority for Development and Settlement of the Bedouin in the Negev, dated 10 March 2020 <https://foi.gov.il/he/node/8287>.

50 Letter from attorney Ayelet Alon Boker, Director of Freedom of Information at the Legal Bureau, the Authority for Development and Settlement of the Bedouin in the Negev, to Regavim, dated 30 January 2020.

51 Book of Operational Plans, "The plan for socioeconomic development among the Bedouin population in the Negev - 2017-2021," January 2018. https://www.moag.gov.il/yhidotmisrad/reslut_techmun/Bedouin_integration/publications/Documents/tochnit_2017_2021.pdf (hereafter: Book of Operational Plans 2018).

Avda,⁵² near Ovdad, with planning for 500-700 housing units.⁵³ In late 2020, Minister of the Economy Amir Peretz, who was responsible for the Authority for Development and Settlement of the Bedouin, promoted the establishment of several additional settlements,⁵⁴ including Hashem al-Zana near Nevatim and Rah'ma near Yeruham - which also constituted the retroactive whitewashing and formalization of an existing illegal encampments.⁵⁵ This initiative was the basis for a draft Government Directive which failed to receive approval. With the formation of Naftali Bennet's government in 2021, the coalition agreement included establishing these three settlements as well as a new supra-tribal city. Additionally, the government agreed to consider legalization of additional clusters and designation as recognized settlements.⁵⁶

2. Ownership Claims

General

There is a basic disagreement between the State of Israel and the Bedouin in the Negev regarding land rights and ownership. While according to the law, the lands of the Negev claimed by the Bedouin are in fact state lands, and as such belong to the Israeli public as a whole, a small group within Israeli Bedouin society claims that hundreds of thousands of dunams of land in the Negev belong to them individually. As a result, they refuse to relocate from these lands to anywhere else, while at the same time preventing others from settling

52 The designation previously assigned and authorized for the Ramat Tsipporim settlement was reassigned to Avda..

53 Operational Plans Book 2018: The Authority for Bedouin Development and Settlement in the Negev, "Infrastructure, Planning and Development Handbook," September 2019, on the website of the Authority for Bedouin Development and Settlement in the Negev. <https://www.gov.il/he/departments/publications/reports/tehnnon-besoe> (hereinafter: Infrastructure Handbook).

54 Peretz's plan: Additional settlements for Bedouin in the Negev <https://www.israelhayom.co.il/article/820289>

55 Letter from attorney Ayelet Alon Boker, Director of Freedom of Information at the Legal Bureau, the Authority for Development and Settlement of the Bedouin in the Negev, to Regavim, 23 July 2020.

56 Coalition Agreement for the Formation of a National Unity Government, 2 June 2021.

on the lands they claim, including land which they do not physically inhabit. This ability to prevent other Bedouin from entering and settling the land is based on Bedouin social convention, which recognizes the claimant as the rightful owner of the land, with the concomitant right to protect his property with all means at his disposal - including violence and bloodshed.

For the most part, these traditional mechanisms have proven far more effective than those available under Israeli law, so that in practice anyone who enters the contested land is risking his life.⁵⁷ This means that as long as the claimant stands by his claim, even if the court has ruled that he has no rights to the land and the land has already been registered to the State of Israel or in the name of another citizen - no Bedouin will agree to settle on the land,⁵⁸ and any attempt to use the land for infrastructure or public structures is likely to be met with violent resistance.

In order to understand the dispute between the State of Israel and the Bedouin of the Negev regarding land rights, we will review the legal and factual situation beginning with the Ottoman period, when the Bedouin began to settle in the Negev.

The legal situation

The Ottoman Land Law of 1858 identified five types of land:

- **Waqf** - (sacred endowment lands)
- **Mulkh** - (fully owned private property)
- **Matruka** - (lands given over to the public)
- **Miri** - (government lands on which farming and other uses were permitted for the benefit for those using the land)
- **Mawat** - (wasteland).⁵⁹

We will focus here only on the two types of land that are relevant to this discussion:

Miri is land owned by the sovereign, allocated for use by an individual, who receives a deed or kushan. In order for the rights to this land to remain in

the hands of that individual, he must meet a series of cumulative conditions, including physical possession of the land and actual cultivation of the land for several consecutive years according to the statute of limitations.

Mawat refers to desolate wasteland remote from a place of settlement, which by default belongs to the sovereign. Until 1921, an individual could acquire rights to this type of land by “reviving” it - through cultivation and possession.

With the application of British Mandatory rule after World War I, Ottoman land laws were maintained and renewed with the issuance of the Land Transfer Ordinance (1920).

In 1921, following an increasing number of cases involving unauthorized seizure of Mawat lands (which are, as we have explained, state property) and demands to register rights to these lands by virtue of cultivation and possession, the British government published the Lands Ordinance (Mawat), aimed at preventing this phenomenon.⁶⁰ The ordinance eliminated the acquisition of rights in Mawat land through “revival” of land, and stipulated that the only way to acquire rights in this type of land is by explicit governmental approval and registration of the rights in the land registration bureau, known as tabu. The ordinance did not detract from rights acquired before its issuance, and set a limited period of time for the registration of lands that had been “revived” in the past - but in order to avoid paying land taxes, the Bedouin for the most part did not register their claimed rights in the land registration office.⁶¹

After the establishment of the State of Israel, the Land Acquisition (Payments and Compensations) Law, 5713-1953, was enacted, under which the state expropriated many lands, including in the Western Negev.⁶²

Until the enactment of the Land Law 5729-1969, the land laws enacted during the Ottoman and Mandatory periods remained in effect. Section 156 of the 1969 Land Law abolished the Ottoman land classifications, but did not detract from rights acquired in land before its enactment.⁶³

⁵⁷ Yael, *Yaar* 60.

⁵⁸ State Comptroller's Report 2016.

⁵⁹ Goldberg Report.

⁶⁰ Goldberg Report.

⁶¹ H. Yahel, Proposals; H. Yahel, *Beyond the Letter of the Law*.

⁶² H. Yahel, *Beyond the Letter of the Law*.

⁶³ CA 4220/12 al-Uqbi.

The history of land regularization

In 1921, during the British Mandate, a land regularization procedure was initiated, which involved surveying the land in order to facilitate a statutory division of the land by determining ownership, which was then registered in the official Land Registration Bureau (*Tabu*). The process was designed to carry out an initial registration of land and its division into blocks and plots (*cadastre*).

During the Mandate period, approximately 5,250,000-5,500,000 dunams were surveyed and mapped for the purpose of regularization and registration, constituting approximately 20% of the Mandatory Land of Israel: the coastal plain, part of the Jordan Valley, the northern valleys and part of the Galilee. The survey was resumed in 1956 in the Galilee.⁶⁴ In 1960, land regularization in the Southern Negev began.

In the first twenty years of its existence, the State of Israel refrained from advancing the land regularization processes in the northern Negev due to claims of ownership by Bedouin residents involving large tracts of land. To resolve the dispute, various committees proposed solutions to bypass the need for a legal process that would decide on the matter of ownership. A plan from 1958 proposed expropriating all the land in the northeastern Negev. Another plan from 1960 suggested moving the Bedouin to a settlement in the center of the country.⁶⁵

In 1962, a change in policy was instituted: In addition to the expropriation of land by the state in order to establish the settlements of Tel Sheva, Kseifeh and Rahat,⁶⁶ the state decided to move ahead with regularization and to bring the issue of ownership to a legal resolution, per the recommendations of the committee appointed to identify land suitable for the creation of the new permanent Bedouin settlements.

In April 1971, the state began regulating land in the Northern Negev - some 3,500,000 dunams were surveyed and registered.⁶⁷

64 For an explanation of land regulation, see the website of the Israel Mapping Center, https://www.mapi.gov.il/Heritage/Pages/hesder_karkot.aspx. For a history of the survey, measurement, mapping and registration of land in the British Mandate era, see "The Department of Survey of the Land of Israel in the British Mandate Era - Part 3,

65 H. Yahel, *Beyond the Letter of the Law*.

66 H. Yahel, *Beyond the Letter of the Law*.

67 H. Yahel, *Beyond the Letter of the Law*; Asher Solel, "Land regularization in Israel," *Karka* (Land Policy and Land Use Research Institute) (1996), p. 52 (hereinafter: Asher Solel); Goldberg Report.

Registration of ownership claims

In 1969, the Ordinance for Regulation of Land Rights [New Version] 5729-1969, was enacted, which adopted the Mandatory Ordinance with some minor changes, and regulated and corrected the manner in which land registration was carried out. The ordinance determines, inter alia, that in order to prove the asserted rights, any person who claims ownership of land is required to submit a memorandum of claim and to provide details regarding the manner in which the land was acquired, together with original documentation proving ownership.

This information is published in a "Claims Schedule," after which the claims are clarified before a property settlement official (equal in status to a Magistrate's Court judge),⁶⁸ who determines and records the rights to the property in question and publicizes the decision in the Table of Rights, subject to the right of appeal. Conflicting claims are referred to a District Court judge in the vicinity for clarification. At the conclusion of the process, the old records are annulled and rights are registered in the Israel Land Registry.⁶⁹

From February 1967 to January 1970, the government began to regularize lands spanning an area of approximately 400,000 dunams in the northern Negev.⁷⁰ The Bedouin began to file claims memoranda for ownership of many tracts of land.

By the end of 1979, Bedouin citizens of the Negev had submitted roughly 3,220 claims, covering 776,856 dunams,⁷¹ an area that constitutes approximately 3.5% of the territory of the State of Israel as a whole. 60% of the claims were submitted for land which claimants were physically holding in the Sayig area. About 40% of the claims involved land not held by the claimants, mostly in the Western Negev. Another interesting figure is the disparity between the size of the areas in the various claims. Most of the claims relate to small to mid-sized tracts that do not exceed 600 dunams.⁷² Some 10%-15% of the claims constitute

68 "The Negev Challenge: Plan for Regulating Bedouin Settlement in the Negev, Regavim, May 2017, 12 (hereinafter: The Negev Challenge).

69 The Registration and Settlement of Land Rights Authority at the Ministry of Justice <https://www.justice.gov.il/Units/LandRegistration/DivisionUnits/ChambersOrder/Pages/default.aspx>

70 H. Yahel, *Beyond the Letter of the Law*.

71 H. Yahel, *Beyond the Letter of the Law*; Lerer, Knesset.

72 Lerer, Knesset. According to H. Yaar 64, about 1,300 claims were smaller than one hundred dunams, a few more were between 100 and 1,000 dunams and about one hundred claims were for over 1,000 dunams.

approximately 50% of all the land claimed by Bedouin as their private property.⁷³

At a later juncture, after the establishment of the Bedouin settlements, it would become clear that 11% of the claimed land is located within the boundaries of the settlements, constituting about half their area.⁷⁴

The legal status of ownership claims

The legal status of the ownership claims has been discussed in numerous judicial proceedings, and the High Court of Justice has established a legal doctrine in their regard. As a rule, Bedouin ownership claimants claimed that the lands that are the subject of their ownership claim are of the *miri* type. The state, on the other hand, presented evidence that they are of the *mawat* type.

One of the first cases to be adjudicated came to the court in 1969, involving ownership claims by members of the al-Hawashla tribe for lands located in the area of the Bedouin settlement Qasr al-Sir, west of Dimona. The Israel Lands Authority, seeking to prove that these lands are owned by the state, filed a counterclaim of ownership.⁷⁵

The clarification of the ownership claims and counterclaims was transferred by the land regularization official to the Be'er Sheva District Court. In 1972, the District Court⁷⁶ determined that by law and in accordance with Israel's Property Law, the disputed lands should be classified as wastelands (*mawat*), and that accordingly, they belong to the state.⁷⁷

An appeal was filed against this decision, and in 1984 the Supreme Court upheld the ruling of the District Court, and reiterated that in the absence of any proof of "revival" and "registration," the lands are owned by the state.

The al-Hawashla decision served as a precedent over the coming years for

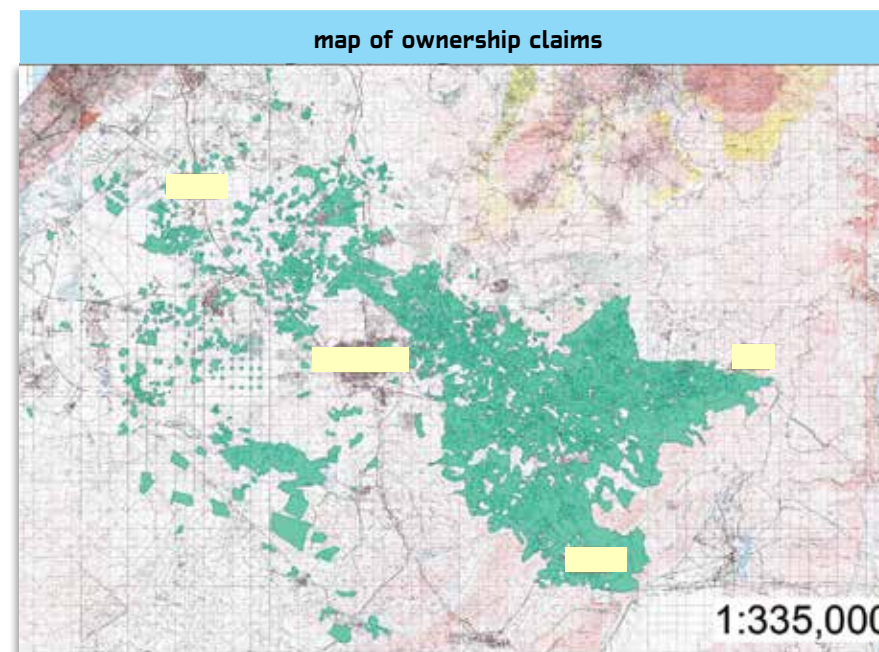
73 Weinshall.

74 State Comptroller's Report 2016.

75 According to Havetzalel Yahel, *Beyond the Letter of the Law*, the ILA filed the counterclaims so that they would serve as a case study and legal precedent in order to create certainty on the question of ownership, and on the assumption that the state would win the claims, thus easing the transition to settlement.

76 CA 218/74 Salim Ali Agadie al-Hawashla v. The State of Israel, Ruling 38 (3) 141.

77 H. Yahel, *Beyond the Letter of the Law*.



consistent rulings of the courts in hundreds of legal proceedings, rejecting the claims of individual ownership rights of Bedouin to Negev lands.

In a 2014 decision in the al-Uqbi case,⁷⁸ the Supreme Court examined various studies, counterclaims and critiques of the precedential legal decision. The appellants claimed that the ostensible autonomy the Ottoman and Mandatory authorities had given the Bedouin to manage their land affairs and to divide the lands of the Negev among themselves in accordance with traditional Bedouin law, constituted official recognition by the authorities of Bedouin property rights arising from customary Bedouin law.

The Supreme Court rejected the appellants' arguments and determined that this could not be concluded from the many studies that had been presented to support these arguments. In fact, some of the studies presented to the court as evidence for the claimants' ownership claims explicitly stipulated that the Ottoman government did not recognize Bedouin ownership of the Negev lands. The Supreme Court also rejected the claim to ownership rights by virtue of indigeneity, in the absence of substantiation in Israeli or international customary law. The Supreme Court also noted the difference between other collective

78 CA 4220/12 al-Uqbi.

claims based on indigeneity, such as the claims of the aboriginal peoples of Australia, and Bedouin claims for private ownership of specific tracts of land.⁷⁹

Attempts to settle ownership claims

As noted earlier, in 1962 the state decided to promote land regularization and resolve ownership claims by means of legal rulings. However, in April 1970, the policy was again changed and it was decided to advance the solution of the problem through compromise procedures.

In a discussion chaired by then Attorney General Meir Shamgar, with the participation of officials in the Israel Lands Administration (the precursor of the Israel Lands Authority) and the Ministry of Justice, guidelines were established for conducting negotiations and compensation agreements with the Bedouin claimants, in order to achieve an agreed-upon resolution regarding the registration of land. The legal process of submitting counterclaims was suspended; in fact, the document of principles and rules for conducting negotiations stipulated that any arrangement must be based on the provision of financial compensation and/or alternative land, depending on the location of the ownership claim. For land outside the Sayig area - where it was assumed that all the claimed lands were not held by those claiming ownership, but were instead occupied by Jewish settlements or security installations - financial compensation was mandated. On the other hand, with respect to land within the Sayig held by the claimant of ownership, it was determined that both land swaps and financial compensation would be offered. All compensation would be commensurate with the quality of the evidence presented to support the claim that the land in question had been cultivated before the establishment of the state.⁸⁰ The document outlining compensation options, however, was never developed to the point of becoming a binding policy. Nevertheless, the Attorney General's policy of promoting a framework for an agreed-upon settlement and delaying the filing of counterclaim lawsuits in the interim period enabled the parties in the case of al-Uqbi, for example, which had been filed as early as 1973, to finally reach an interim settlement, after a legal decision had been postponed for nearly four decades.⁸¹

In 1974, following the District Court ruling in the al-Hawashla case, the Attorney

General appointed an inter-ministerial team led by attorney Plia Albeck to formulate a proposal for settling the ownership disputes through compromise, which included considerable financial compensation, and for the larger claims, alternative land as well.⁸²

Albeck recommended that although from a legal standpoint the lands in the Negev are classified as mawat, and thus owned by the state as stipulated in the al-Hawashla case, it would be preferable for the State of Israel to pursue compromise arrangements out of ex gratia and moral, practical and other considerations (e.g., to avoid protracted legal proceedings). In August 1976,⁸³ the Israeli government adopted the Albeck Report.

In accordance with Albeck's recommendations, two committees were established: a Compromise Committee, which was empowered to reach a final agreement with each claimant in accordance with the principles outlined in the Albeck report, and a Higher Committee, which would act as a mediator in cases when the Compromise Committee failed to reach agreement with the claimants or when clarification was required for the implementation of the outline.

In the decades that followed, the State of Israel set aside legal investigation and settlement of ownership claims, opting instead to settle the land disputes by means of compromise⁸⁴ based on the principles laid out by Albeck, which were later updated and fine-tuned in decisions of the Israel Lands Administration Council (now known as the Israel Lands Authority).

However, the Bedouin were in no hurry to compromise and only a small minority of those claiming ownership applied to the Compromise Committee. Some refrained due to cultural considerations, others on practical grounds, i.e., the need for land for future generations; some considered the financial offer an insult, and viewed the offer merely as a starting point for negotiations, believing

79 CA 4220/12 al-Uqbi; Y. Yahel, *Beyond the Letter of the Law*.

80 H. Yahel, *Beyond the Letter of the Law*, 100-101.

81 H. Yahel, *Beyond the Letter of the Law*, 103.

82 According to Albeck's compromise proposal, compensation was offered at the rate of 65% of the land's value. For land that was held but not cultivated, compensation was offered at a rate of 20%, on the condition that the person who left or vacated the land did not own any other land other than that assigned to him in the townships or lands for agricultural cultivation. In large claims of 100 dunams or more, an option was proposed to convert monetary compensation into land at the exchange rate of 100 dunams of land in exchange for one dunam of irrigated land plus 500 cubic meters of water per year, up to 4 dunams, and monetary compensation of 50% (minus the amount of irrigated land). For over 400 dunams, compensation was offered in the amount of 20% of the claim on the land, and the balance - up to 50%, in the form of monetary compensation.

83 Government Resolution 968 [A/1] dated 15 August 1976.

84 Explanatory notes to ILA Directive 932 dated 24 June 2002.

that the compensation offers could be expected to improve in the future, as indeed was the case with the offers that followed the peace agreement with Egypt and in later decisions of the ILA.

In practice, claimants that held land continued to hold the land, and in the absence of any incentive or threat to their continued custody - the number of compromises, and perforce, the scope of settlements in general remained and continues to remain negligible. Moreover, most of the compromises dealt mainly with lands already held by the state.

Even when the state had a tangible and immediate interest in taking possession of a particular parcel of land that was subject to an ownership claim (for example, for the establishment of national infrastructure or to build a new permanent settlement for the Bedouin), the state sidestepped the need to come to a decision on the ownership issue by agreeing with the claimant that he would receive possession of state lands of the same size somewhere else for as long as the ownership claim remained unhttps://youtu.be/bD9WWD1Pmdkdecided. These agreements were sometimes drawn up in writing with the Israel Land Administration, which signed them, and some were oral.⁸⁵

And so, by November 1979, the Conciliation Committee had dealt with a total of 36 cases, relating to an area spanning 16,330 dunams, which constitute only 2% of the total area claimed by the Bedouins.

In 1980, due to the signing of the peace accords with Egypt and the urgent need to relocate Israel's air force bases from the Sinai Peninsula to the Negev area within a short period of time, the Negev Land Acquisition (Peace Treaty with Egypt) Law, 5740-1980 (known as the Peace Law), was enacted. The law provided higher compensation than that proposed in the outline of the Albeck report, both in terms of the compensation rate and the size of the lands for which the compensation was awarded, all without admitting or it serving as evidence that the vacated lands were not state property or that the state does not, or did not, have a right or connection to them.⁸⁶

Since then, various committees have recommended the adjustment of the settlement rates to the Peace Law, as well as regularization through legislation. Indeed, in the 1993 decision of the Israel Land Council, the compromise rates were updated according to the format of the Peace Law.⁸⁷

85 Weinshall, 77.

86 Goldberg Report.

87 ILA Directive 585 dated 15 March 1993.

As noted, the Bedouin refused the compromise offers. At the same time, the state did not advance the adjudication of claims,⁸⁸ leaving the issue of ownership unaddressed and unresolved. In fact, by 2002, only 140,000 dunams had been settled through compromise.⁸⁹ By 2008, only 150,000 dunams had been settled through compromise.⁹⁰

In 2003, the Israeli government shifted its strategy and determined that the suspension of lawsuits, which had been recommended in the Albeck report, was the cause of the damage. From one thousand illegal structures in the Negev in the 1960s, their number skyrocketed to tens of thousands, exacerbating the already contentious settlement and ownership disputes.

Accordingly, the Israeli government decided to renew the land regularization procedure by submitting "counterclaims" to the court.⁹¹ In doing so, the state hoped to release lands subject to ownership claims for Bedouin settlement or for the needs of the state, either through a court decision or through compromise procedures [with the idea being that the courts would accept the state's position on the legal issue but allow the claimants of ownership so interested to receive a "last minute" compromise offer without being perceived as having relinquished the land].⁹² At the same time, the Israel Land Administration significantly increased the compromise tariffs inside the Bedouin settlements.⁹³ The Bedouins, however, made it clear that even the state filed counterclaims and registered the land in the name of the state, these measures would be futile because no Bedouin would agree to relocate to that land. Accordingly, in practice, the counterclaims filed by the state were mainly for lands held outside the settlements.⁹⁴

Subsequently, until 2008, in the context of counterclaim proceedings, which were held for the most part without participation by the Bedouin claimants, but were based for the most part on investigative findings that were presented as evidence, judgments were handed down in the state's favor regarding approximately 50,000 dunams, most of which was located outside the settlements.⁹⁵

88 H. Yahel, *Beyond the Letter of the Law*.

89 Explanatory notes to ILA Directive 932 dated 24 June 2002.

90 Goldberg Report, paragraph 34.

91 H. Yahel, *Beyond the Letter of the Law*.

92 Weinshall, 92.

93 ILA Directive 932 dated 24 June 2002. Explanatory notes to ILA Directive 1028 dated 2 May 2005.

94 H. Yahel, *Beyond the Letter of the Law*.

95 According to the Land Registry Officer, as cited in the Goldberg Report.

In **2011**, the State Attorney's office asked the court to suspend the investigation of all pending counterclaims,⁹⁶ with the assumption that this suspension would create a relationship of trust between the state and the Bedouins, and that this suspension would remain in effect until after the completion of the legislative process of the law that was working its way through the system. Based on the same assumption, the State Attorney's office went so far as to request that the District Court refrain from publishing judgments in those lawsuits already heard, a most unusual request, to which the court acquiesced.

The request to suspend the counterclaims was made notwithstanding vehement opposition on the part of the Israel Lands Authority, which cautioned that halting the submission of counterclaims would also halt the registration of land under state ownership in the Western Negev, slow down the marketing of land for relocation of squatters, delay transactions and result in the cancellation of tenders by developers and banks.

Although the period stipulated for the "temporary" suspension of counterclaims expired numerous times, it was extended repeatedly, despite the objections of professionals in the Israel Lands Administration and other experts involved in the matter.

Until the counterclaims process was frozen, a total of some 90,000 dunams of land were registered as state property in this way.⁹⁷

Apparently, between 2008-2017 another 10,000 dunams were registered as part of a compromise agreement. According to Yahel, from the founding of the state through 2017, compromise agreements were signed for approximately 160,000 dunams, mainly in the context of the Peace Law.⁹⁸ Thus, by the end of 2017, a total of 250,000 dunams had been regularized.

It is important to note that all the ownership claims adjudicated since the 1970s, either as ownership claims submitted by Bedouin or as state counterclaims of ownership, have been decided in the State of Israel's favor, with the land officially registered to the State.⁹⁹

96 H. Yahel, *Yaar* 66.

97 H. Yahel, *Yaar* 63. In light of the policy prior to 2003 to refrain, to the extent possible, from regularizing by means of court proceedings, these 90,000 dunams apparently include the majority of the 50,000 dunams for which legal decisions were made until 2007, as outlined in the Goldberg report, above.

98 H. Yahel, *Yaar*, p. 64.

99 *Regavim: The Negev Challenge*, 12.

The conclusion that emerged from the reports of the various committees, legislative proposals and the 2016 State Comptroller's report was that failure to resolve the issue of ownership claims could become a major impediment to regularizing the settlement of the Bedouin population in the Negev.¹⁰⁰ To counter this position, Regavim published its "Negev Challenge: Plan for Regulating Bedouin Settlement in the Negev" in 2017, which suggested that the two issues could and should be separated, while promoting the regularization of Bedouin settlement on state lands within the boundaries of the existing settlements and the establishment of 2-3 new settlements if necessary.

In 2015, Uri Ariel was appointed Minister of Agriculture and given ministerial responsibility for the Government Authority for Regulation of Bedouin Settlement in the Negev ("the Bedouin Authority"). And indeed, in 2017 the minister partially adopted the approach proposed by Regavim, and decided to separate the issues of ownership and settlement.¹⁰¹ The Bedouin Authority shifted its focus to dealing with settlement development, and de-prioritized the matter of the ownership claims;¹⁰² ownership claim settlement continued after 2017, but at a less than satisfactory pace. According to Bedouin Authority reports, in 2019, 14 counterclaims were filed, land swaps were carried out as part of nine agreements that were signed, and another four compromise settlements were being prepared for final approval by the ILA.¹⁰³ In addition, according to what the Southern Region Land Regulation Officer reported to Regavim in September 2020 - in the period between 2003 and 2020, "a total of 141,805.04 dunams were regularized and registered in the name of the State of Israel through resolution of disputes and counterclaims."¹⁰⁴ In other words, from 2017 to 2020, another 50,000 dunams were settled through decisions on

100 Lerer, Knesset.

101 Remarks by Yuval Turgeman, Deputy Director of the Authority for the Regulation of Bedouin Settlements in the Negev, in the meeting of the Subcommittee on Negev Affairs in the State Audit Committee, dated 19 October 2020 (page 21).http://fs.knesset.gov.il/23/Committees/23_ptv_586633.doc.

102 Remarks by CEO of the Authority, Yair Maayan to Eliashav Reichner "Change in approach: Construction for Bedouin regardless of ownership claims" *Makor Rishon*, 17 January 2017. <https://www.makorrishon.co.il/nrg/online/1/ART2/857/520.html> (hereinafter: Reichner).

103 *The Authority for the Regulation of Bedouin Settlement in the Negev, 2019 summary.* (Hereinafter: Summary, 2019).

104 Letter from attorney Rami Damari, Land Registry Officer, Southern District, 2 September 2020, indicates that the State of Israel is indeed partially continuing with the handling of the ownership claims.

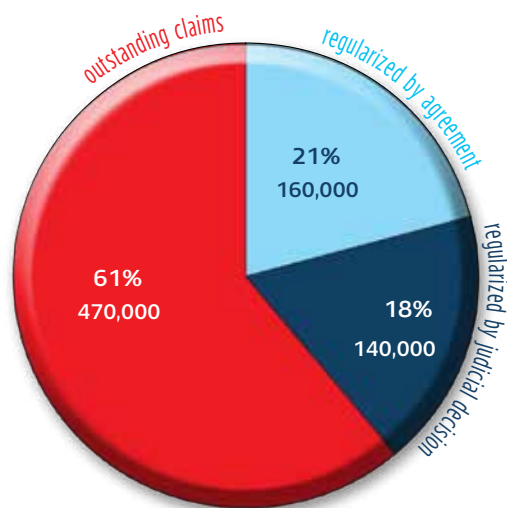
counterclaims.

It was found that a total of approximately 160,000 dunams were regularized through compromise (as of 2017), with a total of approximately 140,000 dunams or slightly more settled through legal proceedings (as of 2020). In other words, more than 50 years after the ownership claims were filed, a total of some 300,000 dunams (about 40% of the total area subject to claims) were regularized, with another 470,000 dunams (about 60%) remaining to be settled.

Table: Summary of ownership claims resolution

Years	Dunams regularized through compromise	Dunams regularized through court proceedings	Total dunams regularized	Dunams remaining to be regularized
1979-2002	140,000	50,000	200,000	570,000 (2,840 claims)
2003-2008	10,000			
2008-2017	10,000	40,000		
2017-2020		50,000		
Total	160,000	140,000	300,000	470,000 dunams

Status of Ownership Claims - 2020

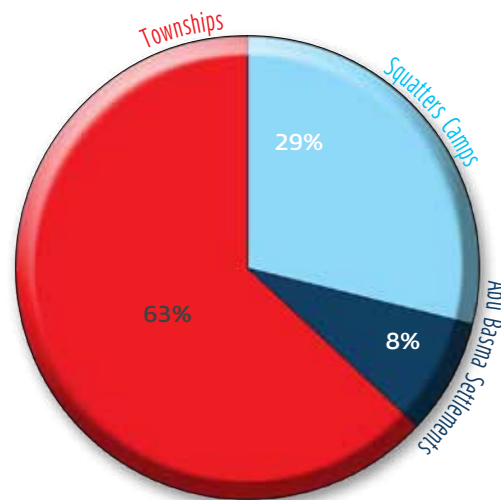


IV. Demography



AS OF January 2021, the Negev is home to some 278,216 Bedouin citizens. Of this number, 82,084 reside in illegal encampments and 174,420 in the seven townships, and the rest - 22,112 people - in the Abu Bassma settlements.¹⁰⁵

Bedouin Residents of the Negev - 2021



The fertility rate among the Bedouin population is the highest in the State of Israel and its natural reproduction rate is the highest in the entire world.¹⁰⁶ The fertility rate in Bedouin society is increasing at a time when the fertility rate among other Muslims in Israel is decreasing. This fact should serve as a further impetus to expedite and conclude the process of regularizing Bedouin settlement in the Negev and resolving the issue of ownership claims.

¹⁰⁵ Online database - Characteristics of the lives of the Bedouin population in the Negev. <https://in.bgu.ac.il/humsos/negevSus/SYBSN/Pages/default.aspx>. As stated on the database website, the demographic information is based on data from the Population and Immigration Authority (hereinafter: Database, Ben Gurion University) [Central Bureau of Statistics, *Statistical Yearbook for Israel* 70 (2019) https://www.cbs.gov.il/he/publications/doclib/2019/2.shnatonpopulation/st02_00.pdf. Table 2.18: 62,300 people outside recognized settlements in the Southern District, detailed data for each and every settlement, in map 2.3].

¹⁰⁶ "Summary report - Inter-ministerial Team to address the negative consequences of polygamy," Ministry of Justice, July 2018, which presents an analysis of the phenomenon of polygamy and offers a comprehensive plan to address it. https://www.gov.il/BlobFolder/generalpage/polygamy_final_report/he/polygamy_final_report.pdf, (hereinafter: The Polygamy Report of the Ministry of Justice) and the Regavim Report, (hereinafter: Justice Ministry Polygamy Report) Regavim's *PolygaMeToo* report.

In 2010, the Bedouin population in the Negev constituted 14% of all Muslims in Israel. By 2030, this population is expected to constitute 23%-25% of all Muslims in Israel.¹⁰⁷

The average fertility rate in the years 2013-2018 among the Bedouin population in the Negev was 5.45 children. This is a high fertility rate even compared to the fertility rate among the Bedouin themselves in previous years (3.5-4.5 children in 2010), and also compared to the rest of the population of Israel (3.05 children among the entire population and 3.07 children among the rest of the Arab Muslim population in 2013-2020).¹⁰⁸

ONE of the main reasons for the high natural reproduction rate is the practice of polygamy that is common in the Bedouin sector. Although polygamy is a criminal offense under Israeli law, it is prevalent among about a third of the Bedouin families in the Negev.¹⁰⁹ In addition, studies show that the proportion of polygamous marriage in the illegal encampments is about 50% higher than in the permanent settlements.¹¹⁰ The reason is related in part to the need to build a separate home for each additional wife.

Polygamous marriage in the Bedouin sector has spawned the development of another criminal practice, that of trafficking in women, in the context of which Palestinian women are "bought and imported" to Israel from territories under Palestinian Authority jurisdiction. Because these women are defined as illegal residents in Israel, they and their children are not fully registered in Israel's population registry. Consequently, official population estimates, regarding both the extent of polygamy and of natural growth, are seriously deficient and do not correctly reflect the situation on the ground.

¹⁰⁷ Prof. Arnon Sofer, Evgenia Bystrov, Israel - Demography 2010-2030: On the way to a religious state, Chaikin Chair in Geostrategy, University of Haifa (November 2010) . <https://ch-strategy.hevra.haifa.ac.il/index.php/studies-and-publications/books/79-20101222>, (hereinafter: Arnon Sofer).

¹⁰⁸ Central Bureau of Statistics, *Statistical Yearbook for Israel* 68 (2017) Table 3.11. https://www.cbs.gov.il/he/publications/doclib/2019/2.shnatonpopulation/st02_00.pdf. Central Bureau of Statistics, *Statistical Yearbook for Israel* 69 (2018) Table 3.11. Central Bureau of Statistics, *Statistical Yearbook for Israel* 70 (2019) Table 2.39;

¹⁰⁹ Arnon Sofer; according to Prof. Sofer, *ibid.*, the forecast of the Central Bureau of Statistics (CBS) is that in the years 2010-2030, the Arab (Muslim) sector will reach the end of its demographic momentum. Among the Bedouin, however, the high natural growth rate will persist. See also: The Polygamy Report of the Ministry of Justice and the Regavim's *PolygaMeToo* report.

¹¹⁰ Regavim, *PolygaMeToo* report.

Prof. Arnon Sofer estimates that until 2003,¹¹¹ approximately 14,000 women from Gaza and Hebron and South Jordan had been “purchased” and imported into Israel (for the most part after 1994). Five years from the day of their arrival in Israel, these women requested, as the law permits, family reunification with relatives in the territories of Judea and Samaria. According to Prof. Sofer, in this legal fashion, in the years 1990-2004, some 25,000 additional Arabs joined the 14,000 imported women, as well as another 25,000 Arabs without any family ties who came from Judea and Samaria, mainly from Hebron. In Sofer’s estimation, the northern Negev absorbed a total of 50,000-65,000 Palestinians in the 15 year period preceding the publication of his study in 2004).¹¹²

According to other estimates, due to the marriage of Palestinian women to Israeli Bedouin men, there were 40,000-60,000 Palestinian women and their children in the Negev in 2015. This number is based on the assumption that polygamy is practiced among the population at a rate of about 35% and that the proportion of Palestinian women among the polygamous families is about 70%.¹¹³

According to Central Bureau of Statistics data for 2020, the Bedouin population of southern Israel is approximately 32,000 families.¹¹⁴ Assuming that polygamy among the Bedouin population involves approximately 35% of all Bedouin families, and assuming that the proportion of Palestinian women among the polygamous families is about 70%, the following conclusions can be drawn:¹¹⁵

111 In this year, the Citizenship and Entry into Israel Law (Temporary Provision), 5760-2003 was enacted.

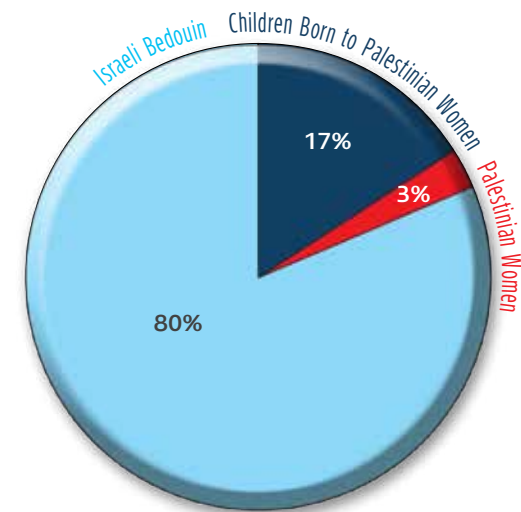
112 Prof. Arnon Sofer and Gil Shalev, *Realization on the Ground of The Palestinian “Right Of Return,”* University of Haifa (2004), 25.

113 Kalman Liebeskind, “Palestine, the Negev version: A demographic time bomb is developing in the Bedouin sector” *Ma’ariv* (9 August 2015); Dr. Thabat Abu Ras, *The Bedouin Arabs in the Negev - Transformations in the Age of Urbanization*, Abraham Foundation Initiatives (2011), 77; remarks of Dr. Majid Atauna at the meeting of the Committee for the Status of Women dated 13 May 2004 (pages 23-24 of the minutes), according to which, “In terms of supply and demand, the Bedouin always sought to marry more than one woman, but in the past there were not enough females. In recent years, several processes have contributed to polygamy, one of which is the ability to bring women from Gaza, the West Bank, Jordan, Egypt.”

114 Central Bureau of Statistics *Statistical Yearbook for Israel 71* (2020) (Families, by family type, family size, district and population group)

115 It is worth noting that only one Palestinian woman was calculated for each polygamous family, even though it is known that there are polygamous families in the Bedouin sector with a large number of Palestinian women, and also that the fertility rate of these women was calculated based on the multi-year fertility rate of the last seven years, which is lower

Palestinian Women and Their Children in the Bedouin Sector, 2020



There are currently about 11,200 polygamous families in the Bedouin sector.¹¹⁶

Some 7,840 Palestinian women live in polygamous families in the Bedouin sector.¹¹⁷

An estimated 43,900 children have been born to Palestinian mothers and Israeli Bedouin fathers.¹¹⁸

A total of 51,740 Palestinian women and their children live in the Bedouin sector.

As noted, the Bedouin population in the Negev numbered 272,580 inhabitants in 2020. Accordingly, Palestinian women and their children constitute almost one

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than the years that preceded the cut in benefits. In this context, in a conversation with the Knesset’s Research and Information Center, Doctors for Human Rights estimated that as of 2013, there were 20,000 undocumented Palestinian women married to Israeli Arabs living in Israel. See “Health services for foreign workers and those without civil status” (2013), by the Knesset Research and Information Center, p. 4 and in note 6.

116 About 35% of all families in the Bedouin sector.

117 About 70% of all polygamous families.

118 The number of Palestinian women multiplied by a low fertility rate of 5.6 children per woman, which is the average multi-year fertility rate in the years 2009-2015. See the release of the Central Bureau of Statistics “The Muslim population in Israel - data for Eid al-Adha,” years: 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017.

fifth of the Bedouin population of southern Israel.

According to professional sources, family ties between these mixed families with the families with the Palestinian families of the wives may also create an identity issue in the Bedouin sector, causing them to identify with the Palestinian side in conflict situations.¹¹⁹

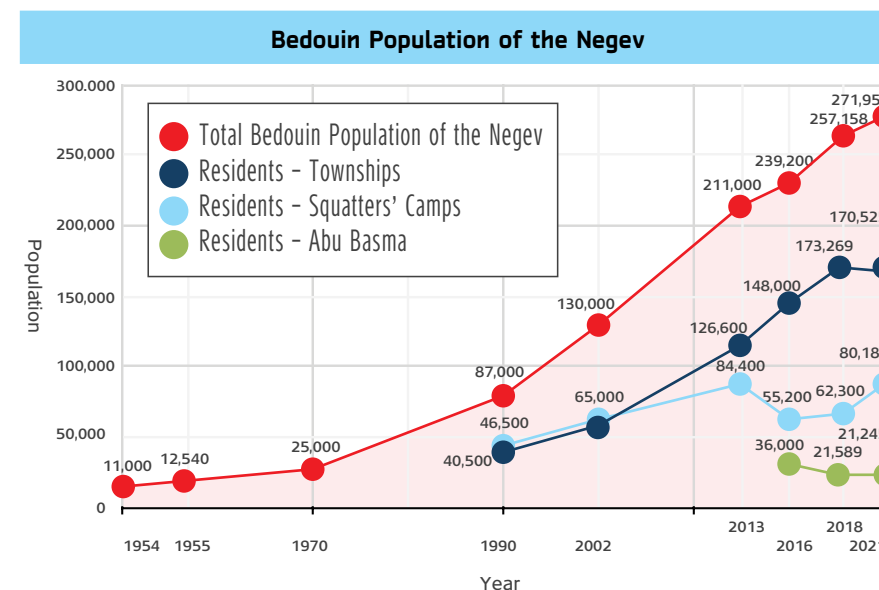
From the perspective of regulating Bedouin settlement in the Negev, the high natural growth creates a huge demand for housing solutions, further driving the expansion of illegal construction. To be effective, regulation must proceed at a pace that exceeds the rate of population growth. In terms of settling ownership claims, the high fertility rate results in numerous heirs who “inherit” each original claimant, further complicating the situation and making it even more difficult to settle the claims.

It is difficult to accurately estimate the Bedouin population - both in the legal settlements and in the illegal squatters' camps of the Negev. Different sources and studies present widely varying data. For example, there are differences between the figures that are based on the Population and Immigration Authority's database, and those based on the database of the Central Bureau of Statistics,¹²⁰ resulting in discrepancies between publications that rely on these databases. In addition, the Central Bureau of Statistics notes that its data with regard to the Bedouin are merely imprecise estimates. As explained in the *Statistical Yearbook for Israel 2019*, the report by the Population Authority on changes in personal details among the Bedouin in the south is incomplete. In addition, in many cases, Bedouin register their tribal affiliation, listing the name of a tribe that lives in an illegal squatters' camp, as their address - rather than the name of the settlement in which they actually reside. This skews the data in a number of parameters, causing fictitious registration of relocation out of the settlements and into the illegal encampments; it results in over-reporting of birth registrations among those living outside the settlements, resulting in implausible birth rates and age dispersal patterns.¹²¹ Accordingly,

¹¹⁹ See remarks by Superintendent Shalom Ben Salmon (Arab Affairs Adviser to the Commander of the Southern District) at a meeting of the Committee for the Advancement of the Status of Women (p. 14): “I always like to give the example of a Bedouin child born to a Bedouin father and a Palestinian mother. From the point of view of this child, when the IDF enters the Gaza Strip, the IDF is going in to kill his cousins, because his mother is from Khan Yunis or Zeytun. Because women are being imported - there are marriages with Palestinian women, there is family reunification with Jordanian women.”

¹²⁰ As explained in the database, Ben-Gurion University.

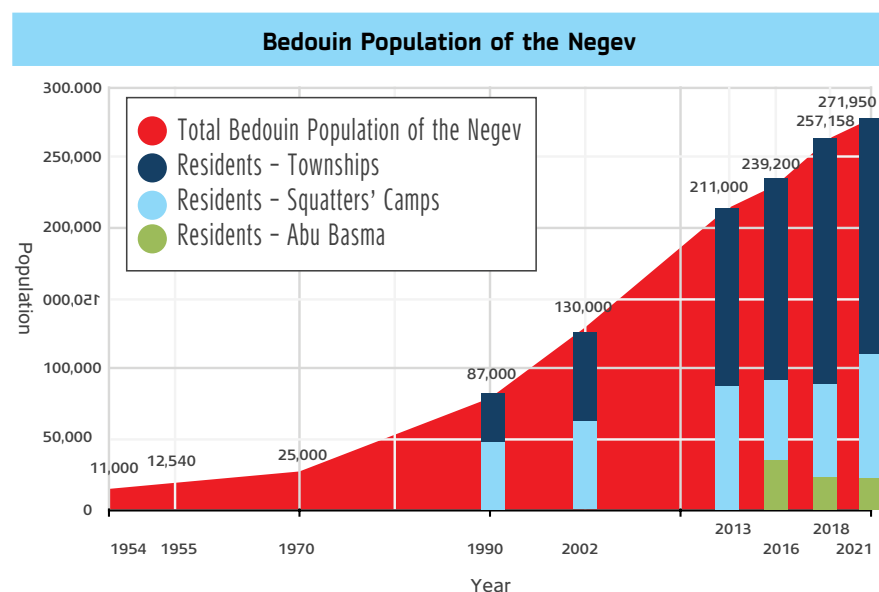
¹²¹ Central Bureau of Statistics, *Statistical Yearbook for Israel 70* (2019) Chapter 2, Introduction.



the figures presented in the pages below are also estimates, based on our analysis of often conflicting data.

The first general census among the Bedouin in the Negev, conducted in 1954, counted approximately 11,000 people. That same year, the Bedouin in the Negev were granted Israeli citizenship and identity cards. According to Ministry of the

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https://www.cbs.gov.il/he/publications/doclib/2019/2.shnatonpopulation/st02_00.pdf. In addition, the Central Bureau of Statistics figures in the various tables of the statistical yearbook present different figures for the numbers of Arabs or Muslims living in the Southern District and the Be'er Sheva District (Table 2.19: 265,800 Arabs in the Southern District, of whom 264,600 live in the Be'er Sheva District. 264,000 Muslims in the Southern District, of whom 263,600 live in the Be'er Sheva District. Table 2.15: 269,900 Muslims in the Southern District, of which 268,700 live in the Be'er Sheva District. Tables 2.16, 2.17: 270,900 Arabs in the Southern District, of which 269,700 are in the Be'er Sheva District, while these figures do not include the Bedouin tribes (*pezurah*). Table 2.18: 62,300 people outside the recognized settlements in the Southern District, of which 61,900 are in the Be'er Sheva District. According to detailed data for each and every settlement, as of the end of 2018, in the recognized settlements in the Negev, approximately 173,000 residents live in the towns; 21,589 residents live in the settlements of the Al Kasum and Neve Midbar regional councils. In total, about 195,000 residents live in the regularized settlements. If we add to those figures the number of residents that according to the CBS live outside the recognized settlements in the Southern District, we will arrive at approximately 262,000 Bedouin living in the Negev).



Interior figures, by October 1955, the Bedouin in the Negev numbered 12,540 people.¹²² By 1970, the Bedouin in the Negev already numbered 25,000, some 4,000 families.¹²³ In 1990, after the seven townships had been established for the Bedouin in the two preceding decades, there were approximately 87,000 Bedouin in the Negev; some 40,500 lived in the permanent settlements and 46,000 in the illegal encampments.

In **2002**, 130,000 Bedouin lived in the Negev, about half of them in permanent settlements and the remainder in illegal encampments spanning 600,000 dunams.¹²⁴ In **2013**, there were 211,000 Bedouin in the Negev.¹²⁵ Of these, 70,000-90,000 (about 40%)¹²⁶ lived in illegal structures.

According to Population Authority data, at the end of 2016 an estimated 240,000 Bedouin lived in the Negev, constituting some 35% of the Negev's total

population, with about 148,000 (62% of the Bedouin population) living in the seven townships, another 36,000 (15%) in the Abu Bassma settlements, and the rest, some 55,200 people (23%), in approximately 1,690 clusters of illegal construction - the illegal encampments.¹²⁷

According to Central Bureau of Statistics data, in **2018**, the Bedouin population in the south numbered about 257,200. In the townships - 173,269 people; in the Abu Bassma settlements - 21,589 people; and about 62,300 people in the squatters' encampments.¹²⁸

In May **2020**, 272,000 Bedouin lived in the Negev. Of this number, 80,180 resided in the illegal squatters' camps and 170,525 in the seven townships, and the rest - 21,245 people - in the Abu Bassma settlements,¹²⁹ most of them in illegal structures.

As we have noted, in January **2021**, 278,616 Bedouin lived in the Negev. The seven townships were home to 174,420; the Abu Bassma settlements, 22,112, and the remaining 82,084 people in the illegal encampments.¹³⁰ It is estimated that by the year 2030, the Bedouin population of the Negev will be 400,000 people.¹³¹

122 Goldberg Report.

123 H. Yahel, *Beyond the Letter of the Law*.

124 Explanatory notes to ILA Decision 932 dated 24 June 2002.

125 Data of the Regavim movement, as published in a position paper on its behalf, "The Bedouin in the Negev - The true story," Regavim (November 2013) 13. <https://regavim.org.il/wp-content/uploads/2015/08/5Myths.pdf>

126 H. Yahel, *Yaar* 56.

127 Presentation by the Authority for the Regulation of Bedouin Settlement in the Negev, "The five-year plan for economic and social development in the Bedouin settlements in the Negev 2017-2021," https://fs.knesset.gov.il/20/Committees/20_cs_bg_387547.pdf; "The Negev Challenge: Plan for Regulating Bedouin Settlement in the Negev." The figures there are based on data from the Population Authority in the Ministry of the Interior, received in response to a request from Regavim in May 2015, and on a demographic growth forecast by the Israel Regulation Authority (IRA).

128 Central Bureau of Statistics, "Annual Statistical Survey of Israel 70, (2019)" Table 2.18: 62,300 persons residing outside the legal settlements in the Southern Region. Detailed breakdown per settlement found in Map 2.3

129 Database, Ben-Gurion University.

130 Database, Ben Gurion.

131

Lerer, Knesset.

An aerial photograph of a desert landscape. In the foreground, there is a small town with several buildings and some trees. The middle ground shows a vast, flat, arid landscape with some sparse vegetation. In the background, there are more distant structures and a hazy horizon. A large, semi-transparent blue circle with a red outline is positioned over the middle ground, partially obscuring the landscape. The text "V. Illegal construction" is written in a bold, dark blue font across the center of the circle.

V. Illegal construction

General

The scope of illegal construction by Bedouin in the Negev is immense. It includes all the structures in the illegal encampments, as well as the majority of structures built within the Abu Bassma settlements and some of the structures built within the boundaries of the seven townships.

The spread of illegal construction in the illegal encampments occurs despite the very extensive benefits offered to the residents of the illegal squatters' camps as part of the efforts to regulate and resettle them in legal, recognized communities. These benefits include the right to receive a free lot for the construction of one or more housing units, plus a subsidy from the state to cover development costs and significant compensation for any illegally-built structures in the encampments that are evacuated and demolished upon relocation. These sums can go as high as NIS 250,000, aside from additional relocation grants, aside from unrelated compensation payments provided to those with land ownership claims, who are paid in land and cash compromise agreements.¹³²

Number of illegal structures

According to Israel's planning and construction laws, all construction - including a low fence, dirt embankment, installation of solar panels or even a canvas shade tarp - requires a building permit. Consequently, building of any these items without a permit is considered illegal construction, and these and similar types of construction have been classified as illegal by all relevant authorities entities over the years, including the Ministry of Internal Security in its annual reports.

Due to the absence of accurate and consistent data, Regavim has in recent years conducted an independent and comprehensive analysis of the number of illegal structures in the Negev, using aerial photography, geographic information systems and data analysis. The structures counted by Regavim include only significant real estate assets, such as structures made of stone, wood, corrugated metal sheeting, permanent sheds, corrals and concrete castings, and do not include structures that were built and demolished within the same documentation period.

We will present data regarding illegal construction in the Negev from 1945 through 2008, curated by a number of sources. We will

¹³² H. Yahel, *Yaar* 62.

then present data for the period 2005 - 2021, based on information gathered by Regavim, which constitutes some 70% of the number of illegal structures counted by enforcement bodies in this period.

Data published by various sources for the years 1945-2008 show that since the repeal of military government in 1966 through 1994, an average of 285 to 430 structures were built in the Negev each year (200-300 structures according to Regavim's method). In 1994-2004, an average of approximately 3,000 illegal structures were added every year (roughly 2,100 structures using Regavim's counting method).

In **1945**, there were **290** illegal structures in the Negev (of which 236 were tents).¹³³

By **1966**, the number of illegal structures had climbed to 1,000.¹³⁴

By **1973** there were 3 times as many: 3,000 illegal structures.¹³⁵

In **1994**, there were 12,000 illegal structures in the Negev.¹³⁶

In **2000**, the number of illegal structures had reached 24,000.¹³⁷ In other words, the number of illegal structures had doubled in six years, with an average of 2,000 structures added each year. In his 2008 report, Goldberg explained this significant jump in illegal construction:

In the years between 1998 and 2001, as a matter of government policy, the demolition of illegal structures was completely halted; demolition sweeps were reinstated afterward only little by little. It is safe to say, in light of reality, that law enforcement had failed, and today there is no longer any realistic way to enforce all of the demolition orders and to tear down all of the illegal structures. The threat of demolition is no longer a deterrent, despite the existence of the National Construction Enforcement Unit that was established by the government in 2004.¹³⁸

¹³³ Goldberg Report.

¹³⁴ H. Yahel, *Beyond the Letter of the Law*. According to the Goldberg Report, by 1956 there were already 955 illegal structures in the Negev.

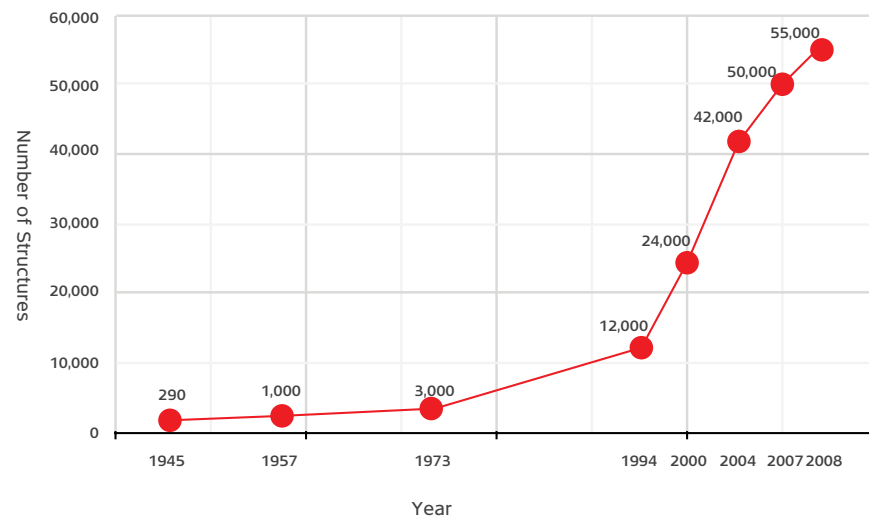
¹³⁵ H. Yahel, *Beyond the Letter of the Law*.

¹³⁶ Goldberg Report.

¹³⁷ Talma Duchan report

¹³⁸ Goldberg Report, Paragraph 69.

Illegal Structures in the Negev, 1945-2008



By 2004, there were 42,000 illegal structures in the Negev,¹³⁹ an average of 4,500 new illegal structures each year since the year 2000. This is a significant increase in the volume of illegal construction. An explanation for this may lie in the fact that it was during this period that the recognition and demarcation of the municipal “blue lines” of the Abu Bassma settlements began. The Bedouin realized that structures within the boundaries of the soon-to-be recognized boundaries of the legalized settlements would likely be retroactively “whitewashed” and granted legal recognition and that the value of the land on which these structures were built would skyrocket, and they raced to seize as much land as they could, building thousands of new illegal structures.

In 2007, there were 50,000 illegal structures in the Negev,¹⁴⁰ an average of 2,000 new illegal structures built every year since 2004.

In 2008, in anticipation of the publication of the Goldberg Report, thousands more illegal structures were built. By that time, there were already 55,000 illegal structures in the Negev,¹⁴¹

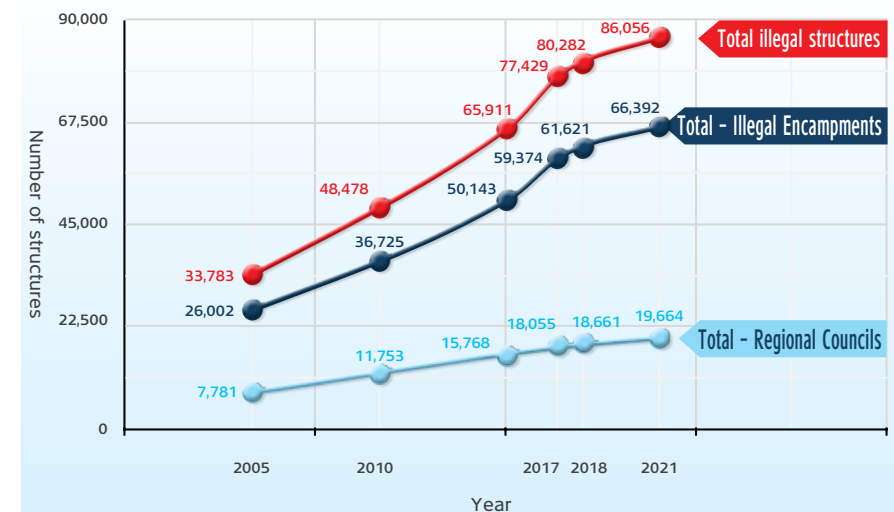
An analysis of **Regavim’s** comparative research data for the years 2005-2018 shows that in recent years, up to late 2017, the number of illegal structures

¹³⁹ Goldberg Report; Talma Duchan Report.

¹⁴⁰ Goldberg Report.

¹⁴¹ Talma Duchan report - not including 2,400 tents.

Illegal Structures in the Negev, 2005-2021



has continued to grow exponentially. The highest volume of construction took place in the illegal encampments from 2015 to 2017.

In 2005, there were 33,783 illegal structures in the Negev, of which 26,002 were in the illegal encampments, and 7,781 in Abu Bassma settlements (regional councils).

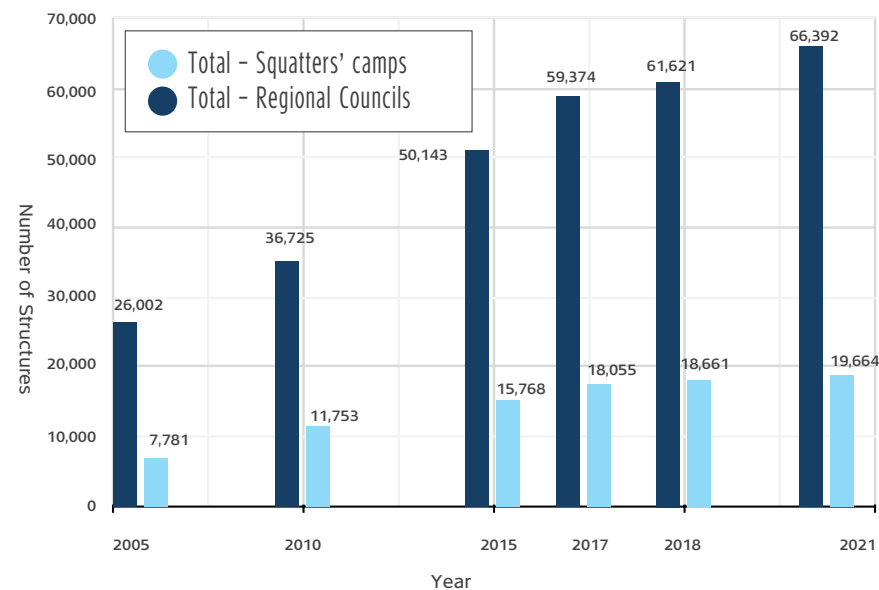
By 2010, another 14,695 illegal structures were added, 10,723 of them in the illegal encampments and 3,972 in the Abu Bassma settlements. In total, up to that year, 48,478 illegal structures had been built in the Negev. On average, almost 3,000 structures were added each year from 2005 - 2010.

Between 2011 and 2015, another 17,433 illegal structures were built - 13,418 in the illegal encampments and 4,015 in the Abu Bassma settlements. By 2015, there were a total of 65,911 illegal structures built in the Negev. On average, almost 3,500 were added each year in during this 5-year period.

In the next two years, from 2016 through 2017, the Bedouin managed to build another 11,529 illegal structures - 9,231 in the illegal squatters’ camps and 2,287 in the Abu Bassma settlements. On average, over 5,750 structures were built each year during this period.

Over the course of 2018, another 2,853 illegal structures were built - 2,247 in the illegal encampments and 606 in the Abu Bassma settlements. In total, 80,282 illegal structures stood in the Negev by the end of 2018.

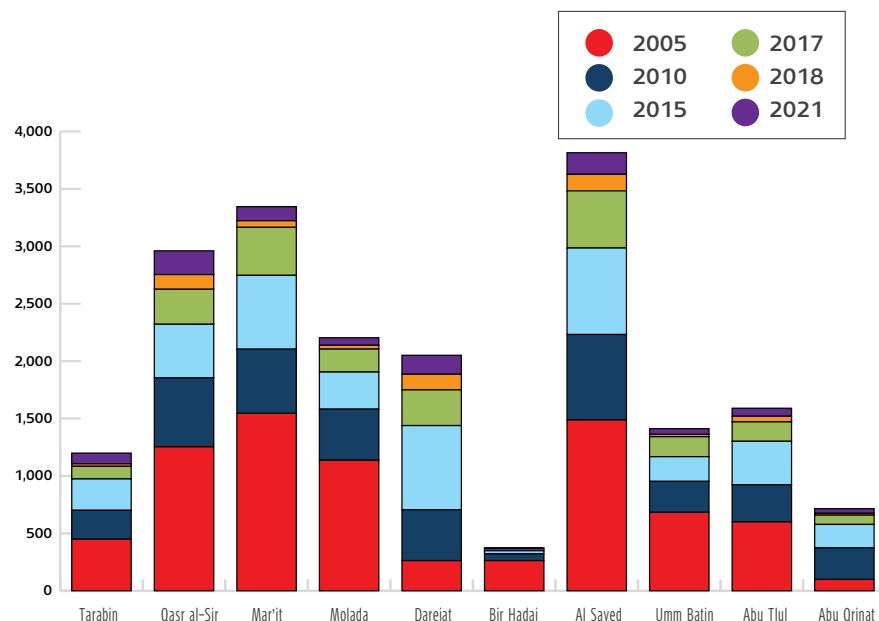
Illegal Structures in the Negev 2005-2021: Regional Councils, Squatters' Camps



Between 2019 and 2021, an additional 5,774 illegal structures were built in the Negev - of them, 4,771 in the illegal encampments and 1,003 in the Abu Bassma settlements. All told, by 2021 there were 86,056 illegal structures in the Negev. In this two-year period, more than 1,925 new illegal structures were built per year.

As the graphs illustrate, the 2018-2021 period saw a significant decrease in the number of illegal construction starts compared to previous years. The decrease can be attributed to heightened enforcement that followed the passage of Amendment 116 to the Planning and Construction Law 5725-1965, known as the Kaminitz Law, which was approved by the Knesset in April 2017. This amendment has significantly bolstered administrative enforcement capabilities in regard to planning and construction violations.

מבנים בלתי חוקיים שנוספו בכל שנה ביישובי המועצות האזוריות, 2021-2005



The Bedouin of the Negev:

**NEGEV TIMELINE
1945-2021**

Area covered by illegal structures

The illegal structures of the squatters' camps are scattered across the landscape in thousands of clusters, ranging in size from one to hundreds of structures. In 2002, the Israel Land Authority estimated that there were hundreds of such clusters, spread over an area of approximately 600,000 dunams.¹⁴² In 2008, the number of clusters was already estimated at 1,200¹⁴³, and in 2017 the Authority for Bedouin Development and Settlement in the Negev estimated that there were 1,600 clusters.¹⁴⁴ According to Regavim's data, as of 2020,¹⁴⁵ there were approximately 2,000 clusters. Estimates of the number of clusters vary depending on different mapping methods, and the numbers are not definitive.

Regardless of the mapping method used, all agree that these thousands of clusters are dispersed across an area covering approximately 600,000 dunams [600 square kilometers], which is 11.5 times larger than the Tel Aviv area, home to approximately 450,000 people.¹⁴⁶

By way of comparison, the territory of the State of Israel (not including Judea and Samaria) is 22,072 square kilometers. As of 2013, the total developed area in Israel (including residential, industrial, commercial and office space), was approximately 940 square kilometers¹⁴⁷ - not including the illegal Bedouin encampments in the Negev.

It is clear, given these development statistics, that the 80,000 or so Bedouin living in illegal encampments in the Negev, who comprise less than 1% of Israel's population, occupy an area of 600 square kilometers, while the remaining population of the State of Israel (9.354 million people¹⁴⁸) inhabit an area of only 940 square kilometers!

142 Of which about 350,000 dunams are subject to ownership claims, and about 250,000 dunams are state land. From the explanatory notes to ILA Decision 932.

143 Talma Duchan Report.

144 Presentation of Five-Year Plan.

145 Regavim's data, as presented in Regavim's request to participate in the High Court proceedings 2398/20 Adallah Legal Center for the Rights of the Arab Minority in Israel et al. v. the Prime Minister et al., and in the map attached to this proceeding.

146 Central Bureau of Statistics, *Statistical Yearbook for Israel* 2019 (70), Map 2.3.

147 *Statistical* 173. These figures are accurate for 2013. However, given the policy of Israel's Planning Directorate - to densify construction and mix uses, the assumption is that this figure has only increased slightly in recent years.

148 As of May 2021. See Central Bureau of Statistics, *Statistical Yearbook for Israel* - July 2021.

Nature and location of the illegal structures

According to researcher Havatselet Yahel, in the past Bedouin attempted to conceal permanent construction beneath shacks and temporary tents in an attempt to evade enforcement and demolition. Nowadays, however, illegal construction is carried out brazenly and without any fear of consequences. Whereas in the past most of the illegal structures were built to low standards, since the early 21st century there has been a dramatic surge in construction of luxurious illegal structures, many as large as 300 square meters. These homes are built at exorbitant cost, suggesting that their owners do not anticipate a significant risk of forfeiting their investment, nor are they deterred by the potential legal repercussions or the possibility of demolition.

Some of these structures are built on the outskirts of existing settlements or in areas designated for future settlement, allowing for potential legalization and preservation of the structures. However, many others are situated at a considerable distance from settlements, including in hazardous areas, such as under high voltage lines or near the Naot Hovav Industrial Zone. Many have been built in areas that are problematic from a planning perspective, such as areas approved for roads, in IDF training areas, in nature reserves or in other places that impede the development of the Negev for the benefit of all its inhabitants.

In addition to residential structures, there are also industrial and commercial structures, pirate gas stations, illegal shops and supermarkets.¹⁴⁹ Moreover, Bedouin have erected and continue to erect hundreds of illegal structures on privately-owned land, registered under Jewish ownership in the National Land Registry Bureau. Nonetheless, the entire enforcement system - from the inspectors to the justices of the Supreme Court - stands passively by and refrains from enforcing the law, fails to provide legal remedies to the landowners or to protect their proprietary rights, and takes no steps to evict the trespassers or even to set a date for eviction.¹⁵⁰

149 H. Yahel, *Yaar* 61.

150 Administrative petition appeal 3142/15 Asher Dov Orenstein v. the Prime Minister of Israel, (unpublished); Kalman Liebeskind, "It's not the same thing: When Supreme Court justices don't let their political agenda confuse them," *Maariv*, 30 May 2020. <https://www.maariv.co.il/journalists/Article-768132>.

Advantages and disadvantages of illegal construction in the squatters' camps – for the residents themselves

Residents of the squatters' camps often pay a steep price in terms of their poor quality of life. The clusters of unplanned structures lack access to basic infrastructure such as electricity, government services and education, and often spawn a dismal social and economic situation which encourages crime and delinquency.

However, the fact that much of the illegal construction takes place on state land or on private land owned by Jews indicates that the Bedouin squatters live in the illegal encampments not only out of principle and not only to protect the rights they claim to the land on which they are living, but also for reasons of convenience and for economic and other motivations.

Residents of the squatters camps consider certain aspects of this life to be advantages: First and foremost, they do not pay for land, and there is no limit to the amount of land they can use. They build at will, without bureaucracy – no building permits or the costs they incur, no municipal taxes or other levies, no law enforcement, and as a result, no fear of demolition since, in practice, police and other enforcement agents generally refrain from entering illegal clusters due to the potential for violent resistance.¹⁵¹

In addition, over the years, various petitions have been submitted to the High Court of Justice against the state, demanding that the residents of illegal encampments be provided with services such as education, welfare, medical care and security. In some cases, the petition was upheld, with the court ordering the state to accede to the demands. Thus, in recent years, the residents of illegal encampments have received basic-level health and education services from the regional councils of Neve Midbar and Al Kasum;¹⁵² they have been connected to

water infrastructure through various water corporations, and receive medical and educational services in “Essential Service Centers” established with special authorization in the heart of the illegal encampments.

It is noteworthy that the entitlement of a resident of an illegal encampment to compensation when moving to a permanent settlement continues to increase with the passage of time; in addition, squatters are the beneficiaries of considerable support from NGOs representing foreign governments, international organizations and private concerns¹⁵³ – which further incentivizes illegal construction and de-incentivizes squatters from relocating to legal communities.

Broader implications of illegal construction in the Negev

The consequences of illegal construction in the Negev are wide-ranging and long-term, resulting in the **erosion of Israeli sovereignty, lack of governance and a general state of lawlessness**: Widespread illegal construction, coupled with weak enforcement (as detailed below) fosters an atmosphere of chaos in which the law of the jungle prevails. Israel's government consistently demonstrates a lack of governance and control, not only in terms of law enforcement, but also at the bureaucratic level: This is the only population in Israel for whom the Central Bureau of Statistics does not have accurate demographic figures.

According to the State Comptroller's Report published in August 2021¹⁵⁴, the State of Israel has no idea how many people are actually living in the illegal squatters' camps or exactly where they live. This has far-reaching consequences for the ability of all state authorities to function, and for their efficacy in both providing civil services and enforcing the law.

According to the State Comptroller's Report, 46,000 Bedouin are registered with the Population and Immigration Authority in the Ministry of the Interior

151 The State's response in the administrative petition appeal 4340/19 (Orenstein et al. v. the Minister of Finance): “Due to the potential danger posed by resistance from certain members of the population, manifested in disturbances, enforcement operations in Bir Hadaj are carried out with the assistance of the Israel Police.” The response of the Neve Midbar council to the Regavim Movement regarding the implementation of High Court of Justice ruling 5663/14: “Due to the circumstances that are known and familiar to you as well, there remain properties for which property tax assessments have not been sent, including homes without permits, without addresses, problems identifying the owner of the property, riots by residents that necessitate taking maximum precaution and a police presence and more.”

152 For some of the petitions, the court ruled that the state is not required to provide each of the families living in one of the small clusters scattered in the Negev with the same services

provided in the settlements. Thus, for example, in High Court of Justice case 05/8062 Inas al-Atrash v. Minister of Health (unpublished, dated 23 November 2005), the court was asked to approve the connection of electricity to an illegal building near the settlement of Hura, in order to refrigerate medicine for a girl with cancer, whose father couldn't afford a generator. The court encouraged the petitioners to relocate to a nearby settlement and rejected the petition, ruling, “It cannot be ignored that it was the petitioners' decision to locate their home in an unrecognized settlement in the knowledge that as a result they would not be able to access basic infrastructure.” See H. Yahel, *Yaar* 59.

153 H. Yahel, *Yaar*, p. 61.

154 Report of the State Comptroller 72a, *Aspects of Governance in the Negev*, 4 August 2021.

at one address, and with the Authority for Development and Settlement of the Bedouin, which is responsible for their affairs, at a different address. “In 2016, only 3,097 residents were listed in the Al-Qassum Regional Council’s voter registry, while according to the municipality’s data, 24,000 people actually lived within the jurisdictional area. How many people who live outside the council are registered as living in it or are ascribed to it in order to receive various services? It depends on whom you ask. According to the Ministry of Welfare, 51,000 people. According to the official census, 6,000. According to the Central Bureau of Statistics, 9,000. According to the Ministry of Education, 43,000.”¹⁵⁵

Contrary to all other citizens of Israel, on the residence line of illegal squatters’ identity card, rather than a geographic location – an address – only the name of their tribe appears. This practice took root because there are no official localities, streets, house numbers and the like in the illegal encampments. However, this practice has made it ever easier to live “under the radar,” since the various tribes living in the Negev are spread across huge territorial areas, some of them bigger than Israel’s largest cities.

In such a state of affairs, the State of Israel has no real idea where these citizens live. This causes a massive squandering of resources due excessive and redundant payments for health, education and welfare, as well as a complete inability on the part of the state to enforce the law in its many aspects.

Stunted planning and development: Many illegal structures have been erected in areas designated for roads, IDF firing zones, nature reserves and more, impeding the ability to plan and develop the Bedouin settlements themselves – while at the same time compromising the well-being of the Negev as a whole for all its residents.¹⁵⁶ In one example, the Bedouin Authority recently had to cancel the sale of developed lots in Neighborhood 6 in the city of Rahat and refund the tender winners their money, in part due to continuous interference with development work and land theft.¹⁵⁷

Poor quality of life, rising violence and crime: The poor quality of life in the illegal encampments causes suffering beyond that the immediate harm

¹⁵⁵ See Kalman Libeskind, *Invisible Border: How the Bedouin settlement in the Negev became a country within a country*. *Maariv*, 24 April 2021. (Hereafter, Libeskind, *Invisible Border*).

¹⁵⁶ H. Yahel, *Yaar* 62.

¹⁵⁷ Letter from attorney Ayelet Alon Boker, Director of Freedom of Information at the Legal Bureau, the Authority for Development and Settlement of the Bedouin in the Negev, to attorney Gideon Pener, dated 16 January 2020. bit.ly/3Ih9JJP

to the residents themselves; the lack of access to basic infrastructure and services leads to burgeoning socioeconomic gaps, thus increasing the residents’ dependence on government agencies and support. This reality creates a perfect storm for the proliferation of crime and delinquency that is detrimental to all the Negev’s inhabitants,¹⁵⁸ including a disproportionately high rate of involvement in fatal road accidents.¹⁵⁹

Environmental and ecological damage: Unlike every other region in Israel, where the state works to strike a balance between development needs and environmental protection and sustainability, the Negev, Israel’s largest land mass, suffers an ongoing, extreme violation of the ecological balance. The thousands of illegal squatters encampments in the Negev’s open areas spew raw sewage from tens of thousands of households; there are hundreds of pirate sites where household and industrial waste is dumped. This causes severe environmental-ecological damage to the landscape and ecosystem, some of which is irreversible, such as damage to desert vegetation due to uncontrolled overgrazing and damage to wildlife due to uncontrolled encroachment and disruption of open areas and natural habitats. The Negev’s open spaces, a major component of Israel’s spatial landscape, have been abandoned to their fate.¹⁶⁰

¹⁵⁸ H. Yahel, *Yaar* 59.

¹⁵⁹ *Road safety in Arab society* – Knesset Research and Information Center, 2016; See also *Invisible Border: How the Bedouin settlement in the Negev became a country within a country*, Libeskind, April 2021.

¹⁶⁰ Society for the Protection of Nature, “The 2013 Threats Report.” <https://www.teva.org.il/GetFile.asp?CategoryID=1692&ArticleID=18570&ID=6457>; website of the Society for the Protection of Nature. bit.ly/454ZiqV

An aerial photograph of a village in the Negev desert. In the foreground, there are several small, simple buildings, some with corrugated metal roofs. A yellow excavator is visible near one of the buildings, and there is a pile of rubble or debris. In the background, more buildings are scattered across the desert landscape. A large, semi-transparent blue circle with a red border is overlaid on the image, centered over the text. The text "VI. Enforcement" is written in a bold, dark blue font across the middle of the image.

VI. Enforcement

Background

Enforcement against illegal construction in Israel is carried out on the basis of a number of laws, including: the Planning and Building Law, 5725-1965; the Land Law, 5729-1969; and the Public Land Law (Evacuation of Land), 5741-1981.¹⁶¹

The agencies directly responsible for enforcement against illegal construction are:

1. **Oversight Division in the Israel Lands Authority** - which is in charge of safeguarding the State of Israel's public lands, enforcing the law against trespassing, squatting and illegal seizure of state lands;
2. **Local planning and building committees** - which are in charge of enforcing planning and construction laws within local and regional jurisdictions;
3. **The Land Enforcement Authority (formerly the National Unit for the Enforcement of Planning and Construction Laws)** - an independent adjunct unit in the Ministry of Finance responsible for enforcement in open spaces of the Galilee designated for development that lie outside the jurisdiction of local committees. This unit also audits enforcement activities on behalf of the local planning and building committees, and when necessary, has parallel enforcement authority, allowing it to step in and supercede local authorities that are not performing adequately.
4. **The Green Patrol** - An entity subordinate to the Nature and Parks Authority, responsible for supervision and enforcement in open areas in accordance with the Land Law.

These entities are supported by:

1. **The Coordination Directorate for Land Law Enforcement**, which works out of the Ministry of National Security (known by its Hebrew acronym MATPA). The directorate was established by government decision in 2012¹⁶² and was charged with formulating policy and protocols for the enforcement of land laws and planning and construction laws in the Negev, in order to significantly reduce the incidence of illegal construction and seizure of state lands. Its duties include coordination, guidance and monitoring of enforcement activity of the official bodies involved in the enforcement of land and construction laws in the Negev (hereinafter: the Enforcement Directorate).

¹⁶¹ State Comptroller's Report 2

¹⁶² ILA Decision 3707 dated 11 Septemb

2. **Yoav Unit** - A specially designated unit in the Israel Police Southern District that provides the various enforcement entities with support and security for oversight and enforcement activities; it was established together with the Enforcement Directorate.¹⁶³
3. **The Attorney General Counselor's Qualified Prosecutors Guidance Department**, located within the State Attorney's Office - a staff unit, whose role includes supervising prosecutorial procedures for planning and construction offenses, and providing guidance to the prosecutors of the local committees and those representing the state. The department directly and indirectly handles criminal cases related to planning and construction, as well as select environmental offences.
4. According to the 2019 report from the Ministry of Internal Security, the Southern Directorate for the Coordination of the Enforcement of Land Laws, the enforcement agencies - the National Enforcement Unit, the Abu Bassma Regional Committee, the Green Patrol and the ILA - established dedicated units whose purpose is enforcement that promotes regularization, based on the Bedouin Authority's prioritization in the context of the 2017-2021 five-year plan.¹⁶⁴

Enforcement of the law against Illegal Construction in the Negev

As noted earlier, a distinction should be made between an illegal building and "illegal construction." The enforcement entities' definition of "illegal construction" includes plantations, dirt embankments, fences, construction elements, solar panels, which accounted for some 28% of the structures demolished in 2016 according to data provided by the Enforcement Directorate,¹⁶⁵

¹⁶³ Site of the Ministry of National Security https://www.gov.il/he/departments/units/unit_land_law_enforcement_negev

¹⁶⁴ Ministry of Internal Security, Southern Directorate for the Coordination of Real Estate Law Enforcement - "[Annual Activity Summary Report for 2019](#)" (Hereinafter: Southern Directorate, 2019 report); these annual reports detail the activities of the enforcement agencies to eliminate nuisances and reclaim land within settlements that had been seized illegally and posed an impediment to development and regularization of that location, as well as the actions of the enforcement agencies to evacuate scattered clusters that have signed agreements and/or against whom administrative and judicial eviction orders have been issued, as well as their efforts to find solutions to the regularization of their residences.

¹⁶⁵ [Southern Directorate Report for 2016.](#)

and 38% of demolitions in 2019.¹⁶⁶ Consequently, when comparing illegal construction versus enforcement demolitions, approximately 30% should be deducted from the number of reported demolitions; only some 70% of demolitions involve actual structures.

According to the Goldberg Report, from 1998 to 2001, the government halted all demolitions of illegal structures; demolition operations were resumed gradually thereafter.¹⁶⁷ However, researcher Talma Duchan notes that before 2010, the demolition of illegal structures was carried out at a rate of 800-1,000 structures per year¹⁶⁸, (which, according to the Regavim's calculations, amounts to approximately 650 actual structures per year).

In other words, compared to the 14,695 illegal structures that were built in the Negev from 2005 to 2010, in the same time period, about 3,150 structures were demolished - roughly 21% of new construction.

According to reports from the enforcement agencies,¹⁶⁹

In **2012**, enforcement authorities demolished 174 structures. An additional 195 structures (52% all demolitions reported for this year) were demolished by their owners.¹⁷⁰

In **2013**, enforcement authorities demolished 321 structures. An additional 376 structures (54% of all demolitions reported for 2013) were demolished by their owners.

In **2014**, enforcement authorities demolished 355 structures. An additional 718 structures (67% of all demolitions reported for 2014) were demolished by their owners.

In **2015**, enforcement authorities demolished 365 structures. An additional 617 structures (63% of all demolitions reported for 2015) were demolished by their owners.

In **2016**, enforcement authorities demolished 412 structures. An additional 746

structures (65% of all demolitions reported for 2016) were demolished by their owners.

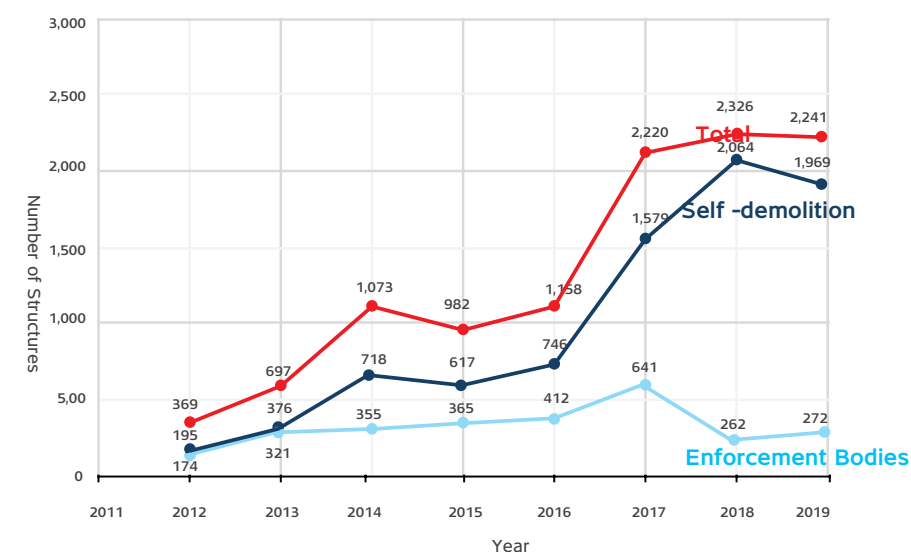
In **2017**, enforcement authorities demolished 641 structures. An additional 1,579 structures (71% of all demolitions reported for 2017) were demolished by their owners.

In **2018**, enforcement authorities demolished 262 structures. An additional 1,475 structures (64% of all demolitions reported for 2018) were demolished by their owners after a demolition order was issued, and 589 additional structures (25%) were demolished by their owners while legal proceedings were underway but before demolition orders were issued.

In **2019**, enforcement authorities demolished 272 structures. Another 1,233 structures (55%) were demolished by their owners after a demolition order was issued and 736 structures (about 32%) were demolished by their owners while legal proceedings were underway but before demolition orders were issued.

In total, 10,697 structures were demolished in 2013-2019; from this number, some 30% were not actual structures, but "illegal construction," and should be deducted.

Demolition of Illegal Structures 2012-2019



166 Southern Directorate, 2019 report;

167 Goldberg Report, paragraph 69.

168 Talma Duchan report, paragraph 1.6.3.2. Nevertheless, in the years before 2010, 800-1,000 structures per year were demolished.

169 Unless noted otherwise, the data are based on responses to Regavim's Freedom of Information requests and reports from the Southern Directorate in the years 2013-2019.

170 Yair Yanga, "In the last year, the demolition of houses in the Bedouin villages has doubled" *Walla* (17 March 2014).

There was a slight increase in enforcement demolitions between 2012-2017. However, 2018 and 2019 saw a dramatic decrease - tens of percent - accompanied by a sharp rise in the rate of owner demolitions.

According to enforcement officials, enforcement serves as a deterrent, and the Bedouin typically prefer to demolish and vacate new illegal construction on their own, before the authorities take enforcement and demolition action.¹⁷¹ Furthermore, increased enforcement also incentivizes the residents of the illegal squatters' camps to comply with the compromise and compensation packages offered to them and relocate to the permanent settlements.

The graph indicates that increased enforcement by the authorities creates deterrence and also leads directly to increased demolition of illegal structures by the owners themselves. Conversely, when authorities curtail enforcement activity, construction violators respond by reducing the rate at which they demolish illegal structures on their own volition.

However, a comparison of the illegal construction data as compared to demolition data for the years 2016-2018 reveals that even in these years, when there was an increase in enforcement, of the approximately 14,382 illegal structures built during this period, enforcement authorities demolished a total of 1,315 illegal "constructions;" as explained above, the number of actual structures is approximately 30% less than this number. In addition, some 4,390 additional illegal constructions (structures and other elements) were demolished by their owners.

These data show that fewer than one-third of all newly constructed illegal structures in these years were demolished.

Thus, even at the current level of enforcement, it is virtually impossible to keep up with the rate of illegal construction, and certainly will not eradicate the phenomenon.

Further complicating the issue is the enforcement authorities' focus on new construction, as well as on the "internal squatters' camps," i.e., structures built illegally within the municipal borders of legal settlements, as a means

171 Southern Directorate, 2016 report; Israel Land Authority spokeswoman announcement, "There is a reversal in illegal land seizures in the Negev: 34 out of 37 illegal seizures in the Negev were evacuated on their own in wake of enforcement activity," dated January 7, 2019 https://land.gov.il/PR_MSG/Pages/selfevacuation_negev.aspx. Israel Land Authority. Press release of ILA spokesperson: "The trend of evictions in the Negev is continuing" dated 7 November 2018. https://land.gov.il/PR_MSG/Pages/evacuation_negev_07112018.aspx

of enabling infrastructure development and regularization. Due to this focus, enforcement bodies often fail to address the root cause of existing squatters' camps and the need to move them in their entirety to permanent localities.

Data on the signing of the in-place regularization agreements and evacuation agreements with residents of the illegal encampments to permanent settlements, provided by the Authority for Bedouin Development and Settlement in the Negev, also show that in 2007-2017, the Bedouin Authority succeeded in relocating only 480 Bedouin families from the illegal squatters' camps and regularizing their residence.¹⁷² Furthermore, the majority of enforcement activity was focused on "in-place regularization" agreements, which do not involve the restoration of land to the state's control; this "whitewashing" of illegal construction and land seizure constitutes a significant proportion of all reported enforcement activity. It should be noted that "in-place" agreements do not contribute to the prevention of illegal seizure of land.¹⁷³

This means that most enforcement activity focused on what was under the proverbial lamppost; although enforcement of this kind is necessary and commendable in its own right, it overlooks the core of the issue - the regularization of the outlying, illegal squatters' camps¹⁷⁴ - the 82,000 people living in remote clusters outside the municipal borders of permanent settlements.

The bottom line is that there is no serious plan with specific, explicit objectives, spelling out clearly a precise relocation site for each illegal cluster, listing priorities and deadlines. Without such a plan, it is impossible to fundamentally and effectively resolve the issue of illegal construction.

Summary:

Despite the massive financial and planning resources invested in the Bedouin sector of the Negev, no comprehensive long-term policy or plan has been formulated to address law enforcement against illegal construction and the

172 Exposé: "Thousands of plots stand empty in the settlements of the Bedouin sector, and hundreds of millions have been squandered," Kalman Libeskind, *Maariv* January 2021.

173 Data for the years 2018-2019: Southern Directorate, 2019 report; According to the letter from Yigal Buskila, the district manager for the Authority for the Regulation of Bedouin Settlement in the Negev to Regavim, dated 24 January 2018., in 2007-2017, only 48 evacuation agreements were implemented on average each year. This is but a tiny drop in the ocean.

174 Lerer, Knesset. As of 2017; but see also the 2020 work plan for Authority for Development and Settlement of the Bedouin, p. 26.

relocation of residents of the illegal encampments. In fact, enforcement policy is in a constant state of flux.

Since the Yoav Unit was established in 2012 and enforcement was tightened, there has been a marked increase in the number of demolitions, particularly those carried out by owners. The number of evictions in cases of illegal seizure of state land has also seen an increase. Nevertheless, as we have noted, the rate of enforcement is unable to keep pace with the yearly rate of construction of new illegal structures. Moreover, enforcement efforts focus almost exclusively on halting new construction, without a comprehensive policy in place that outlines clear, long-term objectives and a timeline for resolving the problem of the illegal encampments and relocation of squatters to permanent settlements. Random demolitions of new illegal structures is not enough. Unlike other aspects that have received attention - albeit inadequate attention, and often through the implementation of incentive-based policies, investments and compromises (the carrot), enforcement and evacuation of illegal encampments (the stick) has been largely neglected.

VII. The Legal Settlements



Demographics, territory, population density and construction

Density - General:

Population density in developed areas is calculated by dividing the number of inhabitants in a given area by its size.¹⁷⁵ In late 2013, Israel's population was 8,138,000 people,¹⁷⁶ and the area taken up by residential construction was **810.48 square kilometers**,¹⁷⁷ yielding a population density of **10,040** people per square kilometer. Since then, planning policy in Israel has leaned toward increasing density of development and population dispersion.

According to the Central Bureau of Statistics,¹⁷⁸ as of 2013, the population density in developed residential areas in Israel ranges from 1,439 individuals per square kilometer in the Savyon local council to 54,075(!) individuals per square kilometer in Bnei Brak. The mean population density variable is 6,944 individuals per square kilometer, and can be found in Mitzpe Ramon.

According to the Planning Directorate, population density in Israel's cities is significantly lower than that of cities in Europe and the United States, with 8,565 people per square kilometer in Tel Aviv, 7,186 in Jerusalem and 4,346 in Haifa.

In terms of demographics, area, density and structures, we will differentiate between the seven townships, which are semi-urban settlements, and the Abu Bassma settlements, which are rural settlements that span a vast area, some of which retain the features of a large rural settlement, while others more greatly resemble a sprawling illegal squatters' camp.

175 This measurement method was adopted by the Central Bureau of Statistics in its publication, *Statistical 173*.

176 Central Bureau of Statistics, "Population of Israel 2005-2014," *Statistical 143*, October 2015 https://old.cbs.gov.il/statistical/isr_pop_heb143.pdf

177 Statistical 173, residential area only, not including industrial, commercial and office areas.

178 *Statistical 173*.

The seven townships¹⁷⁹

Demography: According to data released by the Central Bureau of Statistics, in 2013, some 146,700 people lived in the seven Bedouin townships. In 2018, their population was 173,300 (an increase of approximately 5,320 people per year).

The area of the townships ranges from 6 square kilometers in Laqiya and Segev Shalom (after its expansion), to approximately 9 square kilometers in Hura, Arara and Tel Sheva, some 13.5 kilometers in the town of Kseifeh, and around 19.5 square kilometers in Rahat.

Population density in the townships is among the lowest in Israel: The most densely populated of the Bedouin towns is Hura with 2,473 people per square kilometer, and the most sparsely populated is Segev Shalom with 1,741 people per square kilometer.

According to the 2017-2021 Five-Year Plan, approximately 59,000 additional housing units are slated for construction in the seven townships, in part due to the expansion of the townships in recent years, as well as due to the approval of additional building rights on existing lots.

The number of housing units in the seven townships reported to the property tax authorities was 9,853 in 2015¹⁸⁰, and 11,641 in 2019. According to the number of residents in the seven townships, and assuming that all housing units are reported to property tax, it would appear that in 2018 more than 15 people lived in each housing unit. These irregular figures are related to the prevalence of polygamy, which can be found in about one-third of the Bedouin families in the south. Each additional wife in a polygamous family (the mother's home) resides on a separate floor, but this is not considered a separate housing unit in the property tax records, but rather part of a family home defined as a single housing unit.

These data are reflected in the average size of the housing units as reported to the property tax authorities, ranging from approximately 167 square meters (1,800 square feet) in Laqiya to 227 square meters (2,450 square feet) in Hura.¹⁸¹

179 Unless otherwise specified, all data regarding population, area, number of housing units and population density are sourced in the Central Bureau of Statistics, *Local Authorities in Israel 2019*.

180 Central Bureau of Statistics, *Table of Residential Units in Townships and Local Authorities 2012-2019*. This is the data reported to the tax authorities for purposes of arnona (municipal taxes).

181 The size of the apartment is deduced by dividing the size of the area for which property tax

Settlement	Size in square kilometers	Population in 2019	Number of structures in 2019	Density (number of residents per square kilometer)
Rahat	33.49	71,437	5,196	2,203
Hura	8.74	22,337	1,391	2,556
Aroer	14	18,332	1,084	1,307
Tel Sheva	9.4	20,808	1,453	2,208
Segev Shalom	13.52	10,936	884	808
Laqiya	6.86	14,705	790	1,985
Kseifeh	13.6	21,866	843	1,529
Average density				1,811

Abu Bassma settlements

Demography: The official data on the number of residents in the settlements of Neveh Midbar and Al Qassum regional councils (formerly Abu Bassma) are not reliable, as they point to a steady annual decrease in the population registered in these settlements, from about 36,000 at the end of 2016 to about 21,600 residents in 2018 (CBS figures) and 21,250 in May 2020 (according to an official census).

While these figures seem to indicate an apparent negative immigration, many of the residents of the settlements are listed on their identity cards as residents of illegal encampments -by the name of the tribe to which they belong - and vice versa: Some of those living outside the legal settlements are registered as residents of Abu Bassma. The Central Bureau of Statistics also states clearly that the existing registration figures in this matter are inaccurate and cannot be used as a reliable source of information.

.....
is charged for residences in each township by the number of apartments subject to property tax - data published in the "Settlement File" on the CBS website.

A striking example of this is the settlement of Bir Hadaj, which exists only on the map, while the majority of its residents live in the illegal encampment adjacent to the territory of the settlement approved for them.

Area: With the exception of Tarabin al-Sana, which is about 1.5 square kilometers in size, the Abu Bassma settlements are located on a vast area - ranging from about 3.2 square kilometers in Al-Sayyed, to more than 7 and 8 square kilometers in Umm Batin and Abu Qrenat respectively (equal in size to Hura and Ar'ara), to more than 11 square kilometers in Mulada and Abu Tlul, all of which are larger than the old townships.

Regavim's analysis shows that as of 2017, there were about 8,500 dunams of vacant state land inside the settlements, designated for the absorption of residents of the illegal squatters' camps.

Population density: The settlements of Abu Bassma are the most sparsely populated settlements in Israel in terms of the ratio between their area and population size. The most densely populated among them is Al-Sayyed with 1,769 people per square kilometer, and the sparsest is Abu Tlul with only 155 people per square kilometer!

Structures: According to Regavim's research based on aerial photographs, as of 2021, there were over 19,660 structures in the settlements of Abu Bassma. According to the data of the Abu Bassma Regional Planning and Construction Committee, only 1%-3% of the private structures (as opposed to public structures) have a building permit.¹⁸² Regarding building permit applications submitted to the committee between 2014 and 2018, the committee issued only about 65 permits for the construction of new structures (only one of which was in Bir Hadaj), and only about seven more permits were issued for changes to existing structures.¹⁸³

182 Based on construction licensing data on the website of the Abu Bassma Regional Committee.
<http://www.abubassma.org.il/SearchPermitApplication>

183 The figures published by the Bedouin Authority on this subject, in its work plan for 2020, are even lower. See: Bedouin Development and Settlement Authority in the Negev "Working Plan 2020" https://www.gov.il/he/departments/general/freedom_of_information_2018 (hereinafter: 2020 Work Plan).

Settlement	Size in square kilometers ¹⁸⁴	Population in 2019 ¹⁸⁵	Number of structures in 2018 ¹⁸⁶	Density (number of residents per square kilometer) ¹⁸⁷
Abu Qrenat	8.5	1,904	814	224
Abi Tlul	11.7	2,023	2,773	173
Umm Batin	7.1	4,277	2,684	602
El-Sayyed	3.2	5,875	2,138	1,835
Bir Hadaj	6.75	5,874	1,857	870
Mulada	11.4	1,867	3,627	163
Greater Marit	14.8	Derijat 1,244 Makhul 839 Kahlah 429	996	169
Kasr al-Sir	4.9	2,460	1,519	502
Tarabin	1.5	1,139	675	759
Average density ¹⁸⁸				400

With the exception of Bir Hadaj and Tarabin, which are built exclusively on state land, the Abu Bassma settlements are situated on a combination of state land and land subject to ownership claims.

The official plan aims to regularize the existing illegal construction in these settlements, and to move some of the residents of illegal encampments to them. According to the National Five-Year Plan, the planning authorities are expected to approve plans for over 16,700 units in the rural settlements, the vast majority of them for the legalization of existing structures or for the absorption of residents of illegal encampments. Some of the settlements

184 “Plan for Regulating Bedouin Settlement in the Negev,” part 2.

185 CBS, *Statistical Yearbook* (70) 2019, Map 2.3 Distribution of settlements by population size.

186 According to an analysis of aerial photographs, geographic information systems and data analysis carried out by Regavim’s Geographic Information System (GIS) Research Department.

187 Calculation reflects number of residents divided by settlement size.

188 Total number of residents in all the townships divided by total combined area of the townships

have detailed master plans based upon which building permits may be issued. However, as noted, the Israel Lands Authority cannot authorize a building permit for a structure located on land subject to an unsettled ownership claim, where the claimant possesses no documented proof of ownership of the land for the purpose of a building permit. In short, if those who build illegal structures and/or those who claim ownership of the land on which these structures are built are unwilling to settle the issue of the ownership claims and complete the process of registration in the National Land Registry Bureau, it will be impossible to regularize these structures.

Planning and “marketing” plots in the legal settlements

Over the course of many years, state authorities planned and developed thousands of lots in the permanent Bedouin settlements.

Initially, as noted, a substantial proportion of these plots were on state lands, for which there had been prior ownership claims that were resolved in a judicial proceeding or as part of a negotiated settlement. Nonetheless, these plots also remained uninhabited, since the ownership claimants did not permit others to enter them.¹⁸⁹

In recent years, the state has come to understand that Bedouin will not settle on lots that have ownership claims without the consent of the individual who claims ownership, even if the land is legally registered as state property. For that reason, the state ceased developing lots on claimed land. It is important to note that the state’s new policy is not consistently enforced.

Although the state invested huge resources in the development of lots and neighborhoods that were supposed to be designated for the settlement of the illegal encampments, most of the lots developed by the state remained vacant for many years, either due to ownership claims, as described above, or due to the failure of the state to relocate residents of illegal encampments.

Consequently, the government decided to offer these empty lots for the purpose of “natural growth” to residents of the permanent settlements. These lots were “marketed” for sale at a greatly discounted price, and without publishing a tender. Absurdly enough, this procedure, which was implemented out of

189 State Comptroller’s Report 2016.

necessity and after the fact, was eventually adopted as official policy.

Over the years, and especially toward the end of Minister Uri Ariel's tenure, the wheel was turned back somewhat, and more (although not enough) of the planned and developed plots were designated for the regularization of illegal settlements. However, as noted, most of the regularization agreements focused on what was under the proverbial lamppost, addressing the Bedouin that had been, and continued to be, residents of the illegal clusters situated within the boundaries of legal settlements, rather than addressing the far-lung illegal squatters' camps, which continue to be the crux of the issue.

In addition, officials in the towns, as well as the mayors themselves,¹⁹⁰ consistently objected to the absorption of the residents of illegal encampments in the new neighborhoods that the state was developing, claiming that they needed the new neighborhoods for natural growth. The legal proceedings surrounding these demands consume valuable time, allowing the illegal encampments to expand even further, leaving the state in a perpetual race to contain the spread of the illegal squatters' camps.¹⁹¹



Hura Municipality objects to absorption of squatters

Planning and Development in 2002-2014

As of 2002, there was a backlog of 8,000 unsold plots in the permanent settlements, some 2,000 of them designated for natural growth. The remaining plots involve land subject to ownership claims, and were consequently not marketed, with 4,000 of them never reaching the development stage.¹⁹²

By 2014, a total of 29,029 lots had been planned. Of these, 8,740 were not developed at all, and 5,224 plots were developed but not marketed. On the other hand, of the 15,065 lots that were marketed, the overwhelming majority - 14,324 lots (95%) - were sold for natural growth purposes. Only 741 lots (5%) were sold in the context of relocation and regularization agreements.¹⁹³

Planning	Total planned lots	Undeveloped lots	Developed lots
2002	8,000	4,000	4,000
2014	29,029	8,740	20,289

Development	Total developed lots	Lots for marketing	Lots marketed
2002	4,000	4,000	0
2014	20,289	5,224	15,065

Marketing	Total marketed lots	Lots for natural growth	Lots for regularization and eviction agreements
2014	15,065	14,324 (95%)	741 (5%)

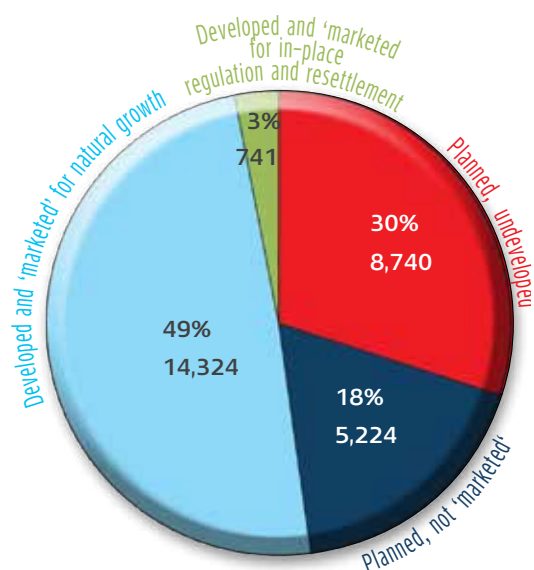
190 Administrative petition appeal 2847/13 Ismailoff v. the Prime Minister of Israel et al.; Liebeskind, footnote 161.

191 See for example Yasmine Bakria, "Council mayors in the Negev object to relocating residents of unrecognized villages to their councils," Haaretz (8 October 2019).

192 Explanatory notes to ILA Decision 932 dated 24 February 2002.

193 Presentation of the Authority for the Regulation of Bedouin Settlement in the Negev, "Settlement of the Bedouin sector ID card." As of 2015.

Status of Lots - 2014: Total planned lots 29,029



Planning and Development in 2015-2019

In this four year span, as in the previous period, the marketing of plots was mainly focused on natural growth, although not as intensively as it had been: plans were approved for approximately 57,100 housing units. Another 511 lots were added to the stock of developed lots that have not yet been marketed, bringing their total number to 5,735.¹⁹⁴ As for undeveloped planned plots, another 47,357 plots for housing units were added to the 8,740 plots that were already in stock at the end of 2014.

In these years, 3,040 marketing transactions were carried out: 2,130 (70%) transactions for natural growth and 910 (30%) for regularization agreements (in-place regularization and eviction agreements).¹⁹⁵ The plans of the Authority for Bedouin Development and Settlement in the Negev with regard to the

¹⁹⁴ Unless otherwise stated, the data below is based on Bedouin Authority publications and reports for the years [2016](#), [2017](#), [2018](#), [2019](#). Sometimes, different reports note different numbers in relation to the same data [Thus, for example, 3 different numbers of marketing transactions for natural reproduction were presented in 2017]. In addition, sometimes the data deal with housing units under the category of lots, in a way that makes it difficult to compare and summarize data. Consequently, the figures are no more than an estimate.

¹⁹⁵ 2020 Work Plan, 2019 Summary.

residents of illegal encampments at this time focused mainly on the population concentrations living in close proximity to recognized settlements, by expanding the areas of the settlement to include these “adjacent” clusters after the fact too. However, the external illegal encampments were largely ignored.¹⁹⁶

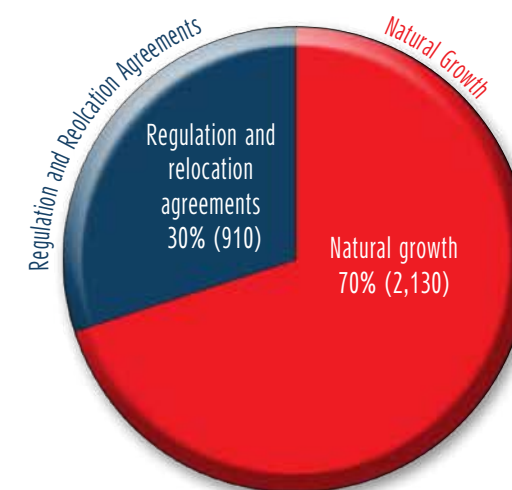
¹⁹⁶ Lerer, Knesset. As of 2017; but see also [the 2020 work plan](#) for Authority for Development and Settlement of the Bedouin, p. 26.

Planning	Total authorized housing units	Housing units in undeveloped lots	Developed lots (housing units)
2015	3,176	2003	386 (1,173)
2016	2,483	735	647 (1,748)
2017	15,470	13,149	929 (2,322)
2018	11,320	8,777	765 (2,182)
2019	24,652	22,693	758 (1,959)
Total	51,100	47,357	3,485 (9,384)

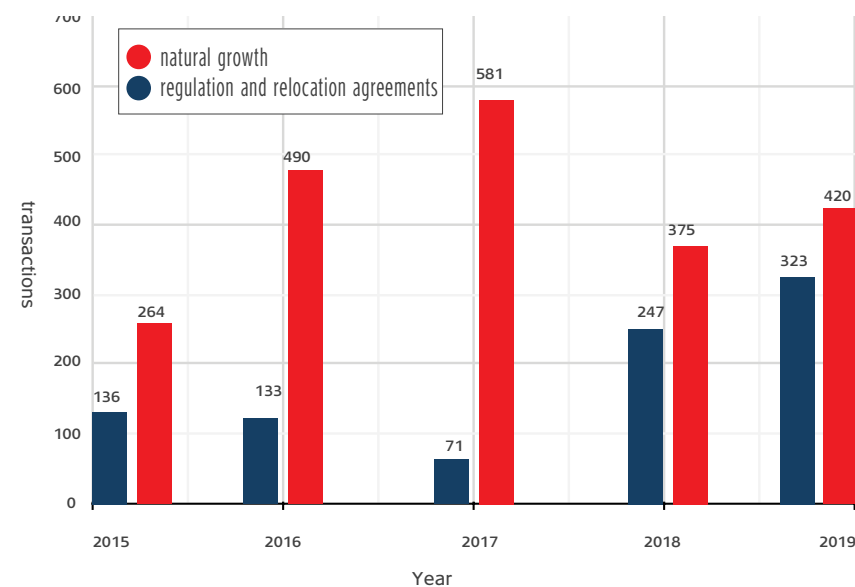
Development	Developed lots (housing units)	Lots for marketing	Lots marketed
2015	386 (1,173)	-	400
2016	647 (1,748)	224	623
2017	929 (2,322)	277	652
2018	765 (2,182)	143	622
2019	758 (1,959)	15	743
Total	3,485 (9,384)		3040

Marketing	Total marketed lots	Lots for natural growth (housing units)	Lots for regularization and eviction agreements
2015	400	264 (459)	136
2016	623	490 (656)	133
2017	652	581 (1,216)	71
2018	622	375 (939)	247
2019	743	420 (1,050)	323
Total	3040	2130 (70%)	910 (30%)

Total marketing completions 2015-2019



Marketing transactions 2015-2019 per year



In 2017, the government adopted the 2017-2021 Five-Year Plan for the social and economic development of the Bedouin in the Negev. This broad, comprehensive and generously budgeted program sought to bring about a real transformation both in the regularization of the illegal Bedouin encampments and their relocation to the permanent settlements. However, even this plan, which included infrastructure development and tens of thousands more plots in the permanent settlements, designated only a small proportion of the plots for the relocation of the illegal encampments¹⁹⁷

The 2019 plans as a test

In 2019, about 16 construction plans were approved, for an additional 24,652 units.¹⁹⁸ About half were designated for natural growth or were added by increasing building rights on existing lots in the townships (i.e., also for the needs of natural growth). About 20% of the lots were designated for in-place regularization. About 30% were designated for relocation of the illegal encampments. Thus, increasing numbers of units were being planned for regularization, albeit not, as noted, for the regularization of the external illegal squatters' camps.

In terms of planning on land subject to ownership claims, Regavim analyzed the plans¹⁹⁹ and found that the majority of the housing units designated for in-place regularization were situated on land subject to ownership claims. Similarly, over a third of the housing units designated for natural growth or the relocation of the illegal squatters' camps were planned for lands that were partially on state lands and partially subject to ownership claims, or on lands entirely subject to ownership claims.

Applications for building permits

197 See for example p. 33 of the work plan of the Authority for the Development and Settlement of Bedouin in the Negev for 2020, which presents a goal of approving plans for 23,810 units; fewer than 15% (3,536) of them were designated for the relocation of the residents of illegal encampments: About 50% (12,074) of them were designated for in-place regularization, and 15% (3,807) of the housing units were designated for natural growth. The rest appear to have been designated for all three goals.

198 2019 Summary.

199 By comparing each of the plans, including the maps attached to the plans, the maps of the ownership claims presented in the "Plan for Regulating Bedouin Settlement in the Negev."

According to Bedouin Authority data, in 2010-2019, 7,494 applications for permits were submitted, and 5,439 were approved, the vast majority in the city of Rahat and the townships. Of the total, only 174 applications were submitted to the Abu Bassma Regional Committee (only 2.3% of all applications) and only 53 permits were granted, less than one percent of the total number of permits approved.²⁰⁰

Regavim's analysis shows that some of the applications were submitted by the Al Kasum and Abu Bassma councils rather than by private residents, and these were apparently building-permit applications for public and other structures established by these authorities.

As noted, the Israel Land Authority cannot approve building permits in the Abu Bassma settlements because most are on land subject to unsettled ownership claims.²⁰¹

In the absence of willingness on the part of the owners of the structures and/or claimants of ownership of the land to regularize the subject of the ownership claim and bring about the land's official registration, it is not possible to regularize these structures at this time.

This situation further illustrates how the decision to plan settlements and neighborhoods on lands subject to ownership claims impedes and obstructs the regularization process of the illegal encampments.

Summary:

The seven older townships were established and partially planned, with the ongoing work of planning and drawing up plans for additional neighborhoods continuing to the present day. In some towns, the initial planning was inadequate and ill-suited both to the lifestyle to which Bedouin society was accustomed in those years, as well as to the size of Bedouin families.

With the exception of Segev Shalom, the townships were partly planned on land subject to ownership claims, involving an enormous outlay of resources. This continued until the authorities eventually realized that it was not feasible to market and develop these lands due to the tribal and societal conventions and practices of Bedouin society.

200 2020 Work Plan.

201 Response of the District Planning and Building Committee for Abu Bassma, for Administrative Petition 23339-07-20, sections 33-39.

In the new settlements, the planning situation is even worse. With the exception of Tarabin a-Sanaa, all the settlements are the result of after-the-fact legalization of illegal settlement clusters, none of which was preceded by planning. In addition, with the exception of Bir Hadaj and most of Tarabin, a considerable proportion of the land in each settlement is subject to ownership claims. As a consequence, most of the settlements lack detailed building plans, building permits cannot be issued and the state has established very little adequate infrastructure.

In recent years, the State of Israel has invested hundreds of millions of shekels in the planning and preparation of tens of thousands of plots in the permanent settlements for the purpose of absorbing relocated residents of the illegal encampments, but absurdly enough, most of the plots that go on the market actually end up being used for natural growth, for the children of people already living in the legal towns.

In addition, most of the settlement agreements drawn up by the Authority for the Development and Settlement of the Bedouin in the Negev regarding the illegal squatters mainly deal with after-the-fact legalization of the internal squatters' camps and in-place regularization, rather than with addressing the issue of the external illegal encampments.

VIII. Review of resolution efforts



1. From Israel's establishment (1948) up to 1990

As outlined in detail in the chapter above that discusses the state's efforts to resolve the issue of ownership claims, since its inception the State of Israel has attempted to provide comprehensive solutions for Bedouin society. We will briefly note the major milestones:

In 1949, the members of the Refugee Affairs Committee convened to discuss the question of establishing permanent settlements for Bedouin in the Negev for the first time. The basis of their work was the official legal position whereby the lands of the Negev are state lands, and no justified or documented claim of ownership exists.²⁰²

From the establishment of the state until 1966, the Bedouin, who maintained a nomadic lifestyle, lived under military rule in an area of about 1.1 million dunams in the triangle between Dimona, Arad and Be'er Sheva, also known as the Sayig.

In 1966, military government was lifted, and a procedure for registration of ownership claims was established, which remained in force until 1979.

In 1974, State Attorney Plia Albeck formulated a compensatory scheme based on consensus and compromise to resolve the ownership claims that had been filed; this scheme was updated periodically by the Israel Lands Authority.

A process of urbanization occurred in 1976-1990, during which time the townships of Rahat, Tel Sheva, Segev Shalom, Hura, Ar'ara, Kseifeh and Laqiya ("the seven townships") were established and populated.

In 1986, the Bedouin Directorate was established under the Israel Lands Administration (which later became known as the Israel Lands Authority), subordinate to the Ministry of Agriculture.²⁰³ Initially, the Bedouin Directorate's role was to handle ownership claims; in time, it assumed responsibility for development of infrastructure in existing settlements, planning of new settlements and the resettlement of the population of illegal encampments into the legal communities them.²⁰⁴

202 H. Yahel, Proposals.

203 In 1990 the Israel Lands Administration and the Bedouin Directory were transferred to the responsibility of the Ministry of Construction and Housing, in 1996 to the Ministry of National Infrastructures, and in 2005 to the responsibility of the Ministry of Industry, Trade and Employment.

204 State Comptroller's Report 2016 bit.ly/3M93fLX.

In the late 1990s, renewed efforts were made to address all of the issues involving the Bedouins, this time with a comprehensive solution. To this end, government commissions were established, committees and steering teams were formed, reports were published, and more.

2. From the 1990s to 2007

- From 1994 to 2000, parliamentary committees, ministerial committees and inter-ministerial teams were formed, which generated a host of plans and policy documents:²⁰⁵
- 1994 - Formation of a parliamentary investigative committee on the subject of the Bedouin sector in the Negev, headed by MK David Mena.²⁰⁶
- 1996 - Formation of the Ministerial Committee for Coordination of Government Policy in the Bedouin Sector, chaired by the Director General of the Prime Minister's Office. This committee does not submit recommendations or position papers;
- 1997 - Appointment of an inter-ministerial team to formulate policy, which fails to fulfill its mandate;
- 1997 - A new inter-ministerial team submits a proposal to address the problems of the Bedouin sector; the proposal, but this is neither discussed nor approved by the Ministerial Committee;
- 1999 - The Ministerial Committee on the Arab Sector, as well as the Subcommittee on Bedouin Affairs in the Negev, are established. The Bedouin Directorate submits a policy document with a multi-year action plan to the committees, but the Ministerial Committee approves the work plan only for the year 2000.
- 2000 - A team led by the director general of the Ministry of Infrastructure is tasked with proposing a structure and mandate for a new entity dedicated to formulating and implementing policy to address the Bedouin sector. This team established subordinate teams, but no recommendations were discussed at the ministerial level. In addition, in 2000, a decision is taken by the Ministerial Committee to adopt a new plan to address multidisciplinary issues in the Bedouin sector, aimed at bridging the

205 Goldberg Report.

206 Knesset resolution dated 18 October 1994

widening socioeconomic gap between the Bedouin and the general population of Israel. The decision is approved by a government decision, but no executive body is appointed to formulate and execute the plan.

- 2006 - The government decides that the overall responsibility for handling the Bedouin sector in the Negev is to be entrusted to the Minister of Construction and Housing, and the Bedouin Directorate is transferred to this ministry.²⁰⁷

The purpose of all the committees, teams, plans and documents was to create an overarching policy to address the Bedouin sector in the Negev, including issues related to land regularization, relocation of squatters, establishment of additional permanent settlements and development and maintenance of the permanent settlements. In practice, the core challenges were passed from one committee to the next, and from one government to its successor, without the formulation of a comprehensive policy and a budgeted, multi-year program to address these challenges.

In 2003, in addition to renewing the procedure for land registration through submission of government ownership counterclaims, the government adopted a six-year plan, budgeted at NIS 1.1 billion. This plan included the development of existing settlements, the establishment of new Bedouin settlements, strengthening the enforcement and judicial systems, and formation of the Green Patrol a specialized police unit dedicated to protecting the open spaces of the Negev from illegal construction and seizure.²⁰⁸

3. 2007-2017: The Goldberg Report, the Prawer Commission, the Begin Report and Legislative Bill - and the shelving of the bill

The Goldberg Report

In accordance with Government Resolution 2491 of 28 October 2007, Minister of Housing, Zeev Boim established a public committee chaired by retired Supreme

²⁰⁷ Government Resolution 631 dated 5 November 2006, as noted in the 2016 State Comptroller's Report.

²⁰⁸ ILA Decision 881 dated 29 September 2003.

Court Justice Eliezer Goldberg. This committee was tasked with formulating policy recommendations for the regularization of Bedouin settlement in the Negev, including proposed legislation to create change on the ground. The members of the committee included three representatives of the government and four representatives of the public, two of whom were members of the Bedouin community (who were themselves also land ownership claimants).

The Goldberg Report was submitted in December 2008.²⁰⁹ In declarative terms, the report acknowledged the Bedouin's historical ties (not to be confused with rights) to the Negev, and the importance of equal rights and obligations. In substantive terms, the report concluded that the issues of settlement and resolution of ownership claims are inextricably linked, and that neither can be resolved without addressing the other, or without also resolving the plight of the Bedouins in the areas of employment, welfare and education.

On the issue of land ownership claims, Goldberg and his team recommended establishing a claims committee, which would provide compensation to those who could prove possession and cultivation of the land prior to 1948. The Goldberg Report established varying levels of land compensation based on the scope of the claim: small ownership claims of up to 20 dunams would receive 100% of their claim in the form of alternative land; claims for larger areas would receive reduced compensation for the value of the claim, 20% in the form of alternative land and 30% as financial compensation.

On the subject of settlement, the report recommended recognizing as many existing clusters as possible, provided they are self-sustaining and economically viable as independent settlements. In the interim period, illegal structures would be classified as "grey" until they could be retroactively legalized. The report proposed the formation of a dedicated planning committee to expedite the planning process, alongside the establishment of an enforcement mechanism that would work diligently to prevent any new illegal construction and take action against any structures that could not be legalized according to the plan. From a practical standpoint, the report recommended consolidating the various authorities into a single integrative body and introducing legislation to facilitate the timely and effective implementation of the plan.²¹⁰

²⁰⁹ State Comptroller's Report 2016, the words of the Minister of Construction and Housing Ze'ev Boim upon receiving the Goldberg Report. https://www.moag.gov.il/yhidotmisrad/rashut_buduim/Goldberg/documents/Dvar_Sar_Habinui_Vehashikun_Doch.pdf

²¹⁰ H. Yahel, *Yaar* 64.

The Prawer Commission

The Government of Israel accepted the principal conclusions of the Goldberg Report, and appointed Ehud Prawer, Director of the Policy and Planning Division in the Prime Minister's Office, to head a team of directors-general of government ministries to implement the report. This team was tasked with formulating practical steps and solutions to address the various issues.

Prawer and his team submitted their recommendations in May 2011, taking a different stance than Goldberg on some of the issues. With regard to ownership claims, the Prawer Commission recommended compensation be awarded for all land that was actively held by the claimant, regardless of its size, at a rate of 50% as a land swap, and for land claims located within the boundaries of a legal settlement, additional financial compensation would also be provided. It also recommended a significant increase in compensation for land that was not actively held but for which there was a claim of ownership. It was further proposed that the scope of the compensation would increase according to the number of participants joining the compromise arrangement.²¹¹

Regarding settlement, the Prawer Commission recommended expanding existing settlements and recognizing large existing clusters according to the principles of the Goldberg Report, in compliance with a district outline plan. However, the Prawer team rejected Goldberg's recommendation to establish a dedicated planning committee and the proposal to recognize the illegal structures as "gray."

Along with its recommendations, the team submitted a draft bill to regulate Bedouin settlement in the Negev.

Adoption of the Prawer Report and the Begin Report

On 11 September 2011, the government of Israel adopted the Prawer Report, with a number of reservations. For example, the government determined that the compensation arrangement would only apply to land that was held and cultivated, and for which a memorandum of ownership claim had been submitted by the end of 1979, provided this claim had not been rejected by a regularization official or a court. A further reservation determined that no land compensation would be awarded, that no new settlements would be planned west of Highway 40 and that land exchanges for land previously expropriated by the state would only be given for land within the boundaries of an existing or new settlement.

²¹¹ H. Yael, *Yaar* 65.

The government also decided to adopt the draft bill submitted by Prawer's team and to appoint Minister Ze'ev Binyamin "Benny" Begin to launch a process of negotiation with parties in Bedouin society, a procedure that was called the "listening process." In addition, the government decided to implement a five-year plan, with a budget of NIS 1.2 billion, for the social and economic development of the recognized Bedouin settlements of the Negev.²¹²

Minister Begin held 40 meetings, which were attended by some 600 Bedouin. At the conclusion of the "listening process," the minister submitted his recommendations for amendments to the bill. These recommendations were in line with the demands of ownership claimants who pressed for a dramatic increase in compensation.²¹³

Like his predecessors, Begin linked the issue of formalizing Bedouin settlement to the resolution of ownership claims as a precondition. Although the Begin Report recognized the ownership claimants' need to preserve land within the settlements for their children and grandchildren, it also clarified that in order to solve the problem, those with large claims on land within the boundaries of the settlements must allow other Bedouin to settle on the lands they claimed.

Minister Begin adopted the principles of the Goldberg Report, which included recognition of large settlement clusters able to sustain themselves in accordance with the district outline plan,²¹⁴ provided the settlement regularization plan was given final approval only after ownership claims were resolved, so as to enable the regularization of the settlement in practice.

For the first time, Begin recommended granting land-swap compensation for parcels of land not actively held by the ownership claimant, 25% in the form of land and 75% in monetary compensation.²¹⁵ For claimants who were actively holding the land in question, Begin offered to add, beyond the 50% compensation recommended by the Prawer team, an additional monetary compensation of 50% of the value of the claimed land. The value would be determined in part by

²¹² Government Resolution 3707 of 11 September 2011; H. Yael, *Yaar* 65; State Comptroller's Report 2016.

²¹³ It is noteworthy that repeated requests on the part of Regavim to meet with Minister Begin to present the movement's positions on these issues were denied.

²¹⁴ District Outline Plan 4/14/23 from 2010 – outline plan for the Be'er Sheva metropolis, which according to the Begin report, constitutes a regional framework for detailed planning and development of existing and new settlements, including part of the illegal encampments.

²¹⁵ With the exception of land expropriated in the past.

location and size of the parcel.

Begin cautioned that due to the rapid growth of the Bedouin population, any further delay in regularizing the land would result in a proliferation of claimants of ownership and a drastic decrease in the economic value of the resolution for each heir, to less than half of its current value within fifteen years.

Bill to regularize Bedouin settlement in the Negev

On the basis of Minister Begin's work, the Israeli government submitted a bill in 2013 to regularize Bedouin settlements in the Negev, with the aim of resolving ownership claims within a fixed period of time. The bill determined compensation formulas for ownership claimants, offering them significantly higher returns than those previously offered in the context of decisions of the Israel Lands Authority.

Despite “the listening process,” significantly higher compensation proposals for the ownership claimants and the understandings arrived at between Minister Begin and the parties with whom he met, the draft bill was met with fierce opposition when it came up for discussion in the Knesset Interior Committee. Bedouin and Arab members of Knesset expressed total and vehement opposition to every aspect of the bill, while angry demonstrations held in the Negev to protest the emerging law became increasingly violent.²¹⁶

On the other hand, based on the expert professional position that Regavim presented, Knesset members from the right also expressed reservations about many elements of the bill. Regavim pointed out that the “Begin law” mostly address the resolution of the issue of claims, which is relevant for only 12% of the Bedouin population, but almost completely refrained from providing settlement regularization solutions for Bedouin who are not ownership claimants.

²¹⁶ Minutes of the meetings of the Interior and Environmental Protection Committee, in the discussion of a bill to regulate Bedouin settlement in the Negev, 5773-2013 Minutes No. 116 of 6 November 13, Minutes No. 123 of 13 November 13, Minutes No. 130 of 20 November 13, Minutes No. 135 of 25 November 2013, Minutes No. 153 of 16 December 2013. <https://main.knesset.gov.il/Activity/committees/InternalAffairs/Pages/Bedouin.aspx>;

Hassan Sha'lan “Protest and clashes against the Bedouin settlement plan” *Ynet*. (30 November 13).

This lacuna led Knesset members from the right-wing parties to demand that the legislation include a comprehensive map outlining the future and final settlement landscape, along with increased enforcement and a number of changes to the compensation guidelines.²¹⁷

The objections raised by the MKs of the Zionist-Nationalist camp were reflected in specific amendments introduced into various sections of the bill. Minister Begin, however, consistently refused to accept any change to his proposal, no matter how slight. At a press conference, Begin declared:

“If the bill does not become law, the problems in the Negev will only worsen from one year to the next. This is indeed very difficult, but an even greater difficulty may arise, as indicated by the developments during the legislative process in the Knesset over the last month. These developments are indicative of a clear intention to fundamentally alter the bill and disrupt its existing balance, in part by detracting from the payments offered to ownership claimants, while leaving enforcement measures intact. [...] A few days later, the chairman of the coalition announced that the coalition did not have a majority to support the bill in its current form.

It was also reported that the intention is to bring about drastic changes in the formulation of the government's proposal. A hostile takeover of the bill must not be allowed. Its abduction and distortion must not be permitted. Of the two evils, we must choose the lesser.”²¹⁸

In December 2013, Prime Minister Netanyahu decided to withdraw the bill due to the Bedouin protest rallies and objections, and also due to the fact that Begin withdrew his support from the bill because of the changes made to it.

In the absence of legislation, decisions taken by the Israel Lands Authority continue to determine the land regularization policy and ownership claims.²¹⁹

In 2014, Minister of Agriculture Yair Shamir decided to prioritize the social and economic development of the regularized settlements, and to turn them into magnets for the residents of the illegal squatters' camps. To that end, the government established the Ministerial Committee for Settlement Regularization and Socioeconomic Development of the Bedouin in the Negev. The idea was to move from regularization by legislation to regularization by consensus. The

²¹⁷ See Regavim document presented in the Knesset as part of the Interior Committee's deliberations on the bill (Hebrew).

²¹⁸ State Comptroller's Report 2016 p. 938.

²¹⁹

State Comptroller's Report 2016.

government allocated NIS 113 million to promote the socioeconomic advancement of the Bedouin population of the Negev.²²⁰ After the 2015 elections, Yair Shamir left his position and his plans did not come to fruition.

Establishment of the Authority for the Regulation of Bedouin Settlement in the Negev

In 2007, when the Goldberg Commission was formed, the government disbanded the Bedouin Administration and established an independent authority subordinate to the Ministry of Construction and Housing to replace it. It was called the Authority for the Regulation of Bedouin Settlement in the Negev²²¹ (which will be referred to for the sake of convenience hereinafter as the Bedouin Authority). According to the government decision, the Bedouin Authority was tasked with resolving ownership claims, regularizing permanent residences and developing infrastructure and public services in existing and future permanent settlements, initiating statutory planning, and promoting planning and development of infrastructure for permanent solutions.²²² In practice, the Be'er Sheva Land Registration Office and Settlement Bureau, an arm of the Ministry of Justice, was left with the responsibility for resolving land ownership rights.²²³

In December 2011, after the Prawer Commission submitted its completed report, the government decided²²⁴ to establish an Implementation Bureau in the Prime Minister's Office, headed by Major General (res.) Doron Almog, that would devise a strategy and policy for the implementation of the program.

The Bedouin Authority was transferred to the Prime Minister's Office and subordinated to the Implementation Bureau.²²⁵ When the bill was suspended, the Bedouin Authority was transferred, together with the Implementation Bureau, to the Ministry of Agriculture and subordinated to the Planning Authority there.

The Bedouin Authority was tasked with implementing the Ministry of Agriculture's policy regarding socioeconomic development, and its name was changed to the Authority for Development and Settlement of the Bedouin in the

220 Resolution 2025 of 23 September 2014, as noted in the 2016 State Comptroller's Report.

221 H. Yahel, *Yaar* 64.

222 State Comptroller's Report 2016.

223 State Comptroller's Report 2016.

224 Resolution 3903 of 2 December 2011.

225 Government Resolution 3707 of 11 September 2011; State Comptroller's Report 2016.

Negev.²²⁶ Over time the Implementation Bureau evolved into the Department for Socioeconomic Development of Bedouin Society in the Negev. During 2020, as part of the formation of Israel's 35th government, Prime Minister Netanyahu transferred these entities to the responsibility of the Ministry of Economy and Industry, headed by Minister Amir Peretz. Yair Maayan was appointed director general of the Bedouin Authority in 2016 and has held this position ever since.

4. The 2017 Five Year Plan

In 2015, Minister Uri Ariel assumed the position of Minister of Agriculture and began to formulate an ambitious, comprehensive plan for the advancement of Bedouin society in the Negev. In February 2017, the government approved a five-year socioeconomic development plan for the Bedouin sector in the Negev, budgeted at NIS 3 billion.²²⁷

The objectives of the plan:

- To improve the socioeconomic status of the Bedouin population and reduce gaps between it and the general population;
- To improve social and economic integration of the Bedouin population of the Negev;
- To develop and strengthen the Bedouin settlements of the Negev economically, socially and in terms of community resilience;
- To strengthen local Bedouin authorities and improve their economic, administrative and organizational strength.

In order to develop supportive infrastructure, the government decided to plan, regulate, develop and market 25,000 new housing units in the local Bedouin authorities. Another decision was to form a team tasked with examining and establishing settlement regularization policy for a period of 10 years, including the establishment of goals for development of residential lots, public infrastructure and occupancy.

As part of the five-year plan, a series of decisions aimed to streamline enforcement²²⁸:

226 Resolution 1986 of 4 August 2014.

227 Government Decision 2397, 12 February 2017.

228 <https://www.gov.il/he/departments/publications/reports/govmes120217>.

1. Increasing proactive enforcement to protect state lands and prevent repeated encroachment into evacuated state land, with enforcement priority for actions supporting the regularization of Bedouin settlement, in part by means of afforestation, planting and seasonal leasing of arable land.
2. Prioritizing enforcement against illegal clusters located on state land outside the jurisdiction of the legal settlements. Additionally, establishment of a fixed timeline for eviction in relocation agreements to ensure that relocation is carried out within the deadlines set in the agreements.
3. Prioritizing enforcement against new encroachment on state land outside the boundaries of the permanent settlements.
4. Appointing a team tasked with drafting a plan, to reduce the scope of the land taken up by illegal construction in the Negev, and to suggest ways to streamline and accelerate enforcement, including legislative amendments as necessary;
5. Developing automated digital technology for analysis of construction offenses and encroachment on open areas.
6. Building a staff of inspectors and enforcement officials, including appointments within the prosecutor's office as needed.

In accordance with and as a result of these decisions, a committee of directors-general was established from all the agencies and ministries operating the program: the Director of Budgets in the Ministry of Finance; the Ministry of Economy and Industry; the Ministry of Education; the Ministry of the Interior; the Ministry for Development of the Periphery, the Negev and the Galilee; the Ministry of Construction and Housing; the Ministry of Justice; the National Council for the Economy; the Authority for the Development and Settlement of the Bedouin in the Negev; the Ministry of Environmental Protection; the Ministry of Internal Security; the Ministry of Labor and Welfare; the Ministry of Transportation and Road Safety; the Director of the Authority for Economic Development of Minority Sectors in the Ministry of Social Equality. The committee was tasked with meeting at least once every six months and reporting to the minister in charge on the implementation and progress of the plan.

5. Changes in the compensation guidelines for the resolution of ownership claims and resettlement of residents of illegal encampments

As noted, in the early 1980s, the state introduced a policy to promote compromise agreements with ownership claimants based on the recommendations drawn up by Plia Albeck, and at the same time formulated generous incentive packages to encourage the relocation of residents of illegal encampments to existing legal settlements - even for those who did not have ownership claims.

These relocation incentives are now given uniformly, including to affluent Bedouin and property owners (including those who themselves live in a permanent settlement, while their polygamous wives live in illegal homes in illegal squatters' camps). These incentives are given without any income criteria and without consideration of the fact that many of those entitled to compensation are considered by the law to be trespassers.²²⁹

In addition, the Israel Lands Authority created timetables for these grants, according to which the amount of compensation and the scope of the incentives will decrease over time, with the aim of incentivizing the claimants to come to an agreement, and the residents of the illegal encampments to relocate to legal settlements. In practice, however, the new decisions extended the timetables established by the previous decisions and offered more advantageous arrangements and proposals compared to previous decisions.

Further exacerbating the problem, the Israel Lands Authority created a policy that now entitles every resident of the illegal encampments that reaches the age of majority to receive a plot of land on preferential terms. In doing so, the State of Israel sends the opposite of its intended message, giving the residents of the illegal squatters' camps clear incentives to reject compromise proposals and further delay the regularization of settlement - both in order to receive better proposals, and to allow more family members to reach the eligibility age and thus also be entitled to free plots of land and financial compensation as part of the incentives basket.²³⁰

The state's inability to adhere to the timetables and the foot-dragging caused by the Bedouin's interest in obtaining more advantageous offers over time were

²²⁹ H. Yahel, *Yaar* 60.

²³⁰ State Comptroller's Report 2016.

reflected in both the compromise arrangements for ownership claims and the incentives to encourage the regularization of settlement. In fact, by failing to adhere to the timetables and compensation tables it had declared, the State of Israel's conduct entrenched the existing situation, sending a message to the Bedouin population that the more they persisted and rejected the conditions set by the state, the more advantageous their bargaining position would be in future negotiations. This approach is evident in the compromise proposals for ownership claims as well as in the incentives offered for relocation from the illegal squatters' camps to the legal settlements.

6. Compromises on ownership claims

In 1993, Directive 585 established financial compensation for claimed land and illegal structures ("compensation for attached structures"), as well as compensation in land at 20% for a claim of more than 400 dunams. This decision was scheduled to expire on 1 April 1996.

Directive 813 of 1997 introduced an additional criterion that distinguished "held land" (NIS 1,100-3,000 per dunam) from "unheld land" (NIS 1,600-2,000 per dunam), and also determined that for land located within the localities, financial compensation would be given in the amount of NIS 4,500 per dunam.²³¹ Directive 932 of 2002 converted this amount into partial compensation in agricultural land, plus financial compensation for the remaining area, which soared to NIS 10,000 per dunam, but with the stipulation that the amount would decrease to NIS 5,200 per dunam if the compromise was delayed.

However, the state did not abide by this decision either. The deadlines established in this decision were extended by Directive 996 in 2004²³², and once again, by Directive 1028 in 2005.

Finally, Directive 1546 in 2018 changed the amount of compensation for land located within the settlements to a total of NIS 5,200 per dunam (without compensation in land), a Directive that remains in effect today.

²³¹ Compilation of decisions of the Israel Lands Council dated 4 April 2019. <https://apps.land.gov.il/CouncilDecisions/#/main> (hereinafter: Council Decisions 2019)

²³² This expanded the number of claimants entitled to compensation in agricultural land for land located within the settlements to include those who did not actually hold any land as well.

7. Incentivizing relocation to the permanent settlements

Directive 585 of 1993 established incentives for relocation to legal settlements in the form of a subsidized lot for those eligible and for those serving in the IDF.

Directive 813 of 1997 established a subsidy of NIS 10,000-35,000 for those relocating from the illegal encampments to the legal settlements, as well as a table of compensation values for attached structures.²³³

According to Directive 932 from 2002,²³⁴ the subsidy soared to NIS 100,000 for eligible claimants, and a new compensation table was established for attached structures.

Directive 1545 of 2018 established compensation values, including a developed lot at no cost as well as compensation for relocation and for attached structures (illegal structures standing on the land on which they relinquish to the state) and/or a grant of up to NIS 250,000, for residents of illegal encampments who register their residence in permanent settlements (through in-place regularization agreements or evacuation and relocation arrangements). This compensation structure remains in effect today.

8. Allocation of lots in the permanent settlements for natural growth

Directive 1086 of 2007 established an exemption from tenders for residential lots in the recognized settlements, and priority was given for the allocation of lots to applicants with a clan/tribal connection to the existing residents of the neighborhood or area of each particular lot.

The Israel Land Council's Directive of 2019 allows each family to purchase two additional lots for natural growth beyond the normal eligibility conditions for

²³³ These issues were also dealt with by ILA decisions 842, 859, 885, 886 from the years 1998, 1999, 2000, which improved the compensation table for attached structures and expanded the scope of those entitled to compensation and subsidies.

²³⁴ This decision also addressed the marketing of lots, and the establishment of new settlements, according to government decisions: Nahal Shomariya, Be'er Hayil, Beit Pelet, Mar'it, Shorer, Umm Batin, Mulad.

exemption from the tenders process.²³⁵

9. Economic investment in development plans

Each of the programs for the Negev Bedouin sector came with substantial budgets. From 2003 to 2006, various government directives allocated approximately NIS 9.8 billion for the development of recognized Bedouin settlements, regularization of land rights and law enforcement, relocation incentives and the advancement of the Bedouin sector. However, not all the budgets were utilized.²³⁶

In 2011, NIS 1.26 billion was allocated for a five-year plan for the years 2012-2016 for the social and economic development of the Bedouin communities of the Negev and the growth of the legal settlements.²³⁷

In 2014, the government allocated NIS 113 million for a program for socioeconomic advancement for the Bedouin population,²³⁸ although it appears that this plan was not executed as planned.

As noted, in 2017, the government allocated NIS 3 billion for a five-year plan for the years 2017-2021 for socioeconomic development of Bedouin society in the Negev.²³⁹ In practice, more resources were allocated, with the final budget reaching NIS 3.2 billion.²⁴⁰

10. 2018-2020 Unlinking ownership claims from regularization efforts

As noted above, Regavim has long advocated unlinking the issue of settlement regularization from the issue of ownership claims. This position was widely published and carefully explained in our 2017 Negev Challenge report, Plan for

²³⁵ ILA decisions 2019, Chapter 6.5, paragraph B.

²³⁶ H. Yahel, *Yaar* 63; Goldberg Report, p. 25.

²³⁷ Government Directive 3708 of 11 September 2011.

²³⁸ Resolution 2025 of 23 September 2014; as noted in the 2016 State Comptroller's Report.

²³⁹ Government Directive 2397 of 12 December 2017.

²⁴⁰ Oren Tirosh "Harbingers of change in Bedouin society," *Calcalist*, Internet edition, dated 4 December 2019 <https://www.calcalist.co.il/local/articles/0,7340,L-3760193,00.html>

Regulating Bedouin Settlement in the Negev,²⁴¹ and was discussed in meetings with Prime Minister Netanyahu, Minister of Agriculture Uri Ariel, Director General of the Authority for the Development and Regulation of Bedouin Settlements and with senior officials of the Planning Directorate. Indeed, in recent years, the Bedouin Authority and planning institutions have focused on providing solutions to the housing problems of the Bedouin population in the Negev, and invested considerable resources in the development of thousands of plots on state land, independent of the resolution of ownership claims.

However, while Regavim recommended the development of the plots on state land mainly in order to resettle the residents of the illegal encampments, the Bedouin Authority markets these plots mainly for the needs of natural growth for the population already living in the permanent settlements, as described above; there has been minimal impact on the population of the squatters' camps.

This is a significant failing, because the pool of available, viable state land in these localities is limited, and granting these lots for the needs of natural growth will make it even more difficult to resettle the residents of the illegal squatters' camps in the future.

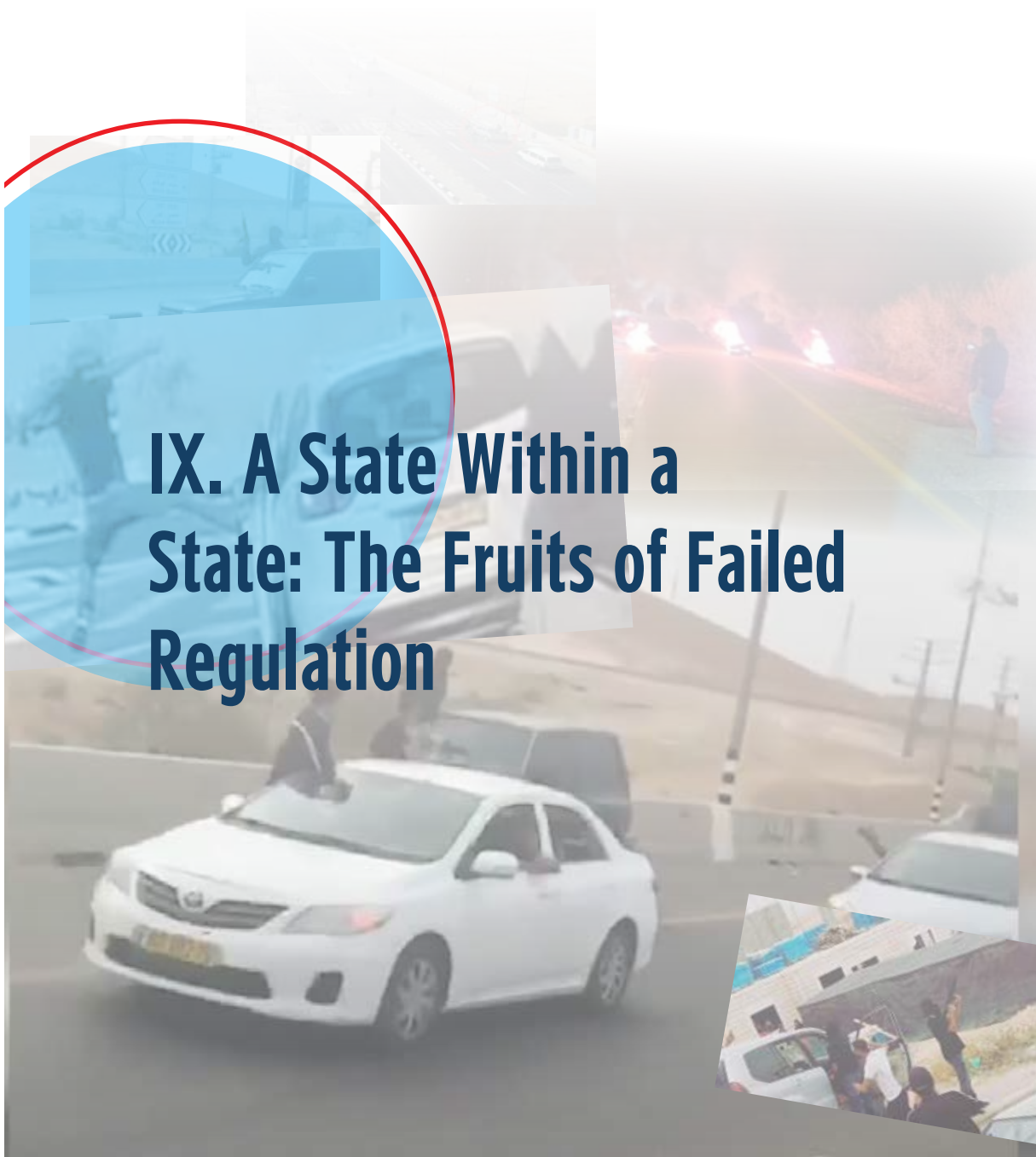
11. Summary:

Since the establishment of the State of Israel, successive Israeli governments have failed to develop a consistent and comprehensive policy to address land issues in the Negev, and the number of ideas that have been proposed and discarded, only to be replaced by other proposals over the years, is on par with the number of Israeli governments that have served over the years.

This inconsistency is evident both in the government's approach toward regularization of the illegal encampments and its policy regarding ownership claims.

The state has also struggled to adopt an appropriate and effective compensation policy, and has struggled even more to maintain policy over time, with the frequent changes in enforcement policy regarding illegal construction only exacerbating the situation and contributing to chaos on the ground.

²⁴¹ "Plan for Regulating Bedouin Settlement in the Negev," 12.



IX. A State Within a State: The Fruits of Failed Regulation

IN the early years after the establishment of the State, most Bedouin in the Negev identified with the State of Israel and a significant number even enlisted in the IDF. Today, however, enlistment by Bedouin from the Negev in the IDF is uncommon, and the few soldiers who do serve are sometimes forced to remove their uniforms before entering a settlement area when returning home.²⁴²

A survey conducted by the Authority for the Regulation of Bedouin Settlement in the Negev in May 2019 found that 43% of Bedouin define themselves as “Arab” and only 16% of them define themselves as “Israeli;” 10% define themselves as “Palestinian,” 21% define themselves as “Bedouin” and another 10% as “Muslim.”²⁴³

According to the same survey, only 13% of Bedouin believe with certainty that members of Bedouin society should serve in the IDF; 14% of them felt that they ought to serve in the IDF.²⁴⁴ However, the figures on the ground are actually lower. Despite the efforts of the security forces to encourage enlistment, only 6-7% of Bedouin youth volunteer for the IDF. Only about a third of them come from the south, even though two-thirds of Israel’s Bedouin live in the south. According to the State Comptroller, one of the reasons for the low percentages is the absence of regularization of settlement in the Negev.²⁴⁵

The data on Bedouin self-definition and their degree of identification with the State of Israel can be understood in several ways. Weinshall explains that in the first decades after its establishment, the State of Israel relied on the sheikhs and their control over the area to maintain peace and quiet, and refrained from overseeing what was happening in the tribal courts. In fact, until the mid-1950s, the Bedouin believed that the sovereign did not govern the area at all (similar to the prevailing situation under the Ottoman and British regimes). In their view, the sovereign was supplanted by the traditional control mechanisms practiced in Bedouin society, in the form of tribal law and conflict resolution by local leaders, by virtue of their tribal and social status.

242 Weinshall, p. 27.

243 The Authority for the Regulation of Bedouin Settlement in the Negev, “Bedouin Society in the Negev: Attitudes and needs survey, May 2019,” (hereinafter: Attitudes and needs survey).

244 The rest believe that the Bedouin community should not to serve in the IDF; 34% are certain of this view and 18% think so; 21% were unable to answer whether or not the Bedouin community should serve in the IDF, Survey of attitudes and needs.

245 State Comptroller’s Report 68b “Activities of the Ministry of Defense to strengthen the relationship between the younger generation and the IDF and those designated for enlistment,” dated 14 March 2018 <https://www.mevaker.gov.il/sites/DigitalLibrary/Pages/Reports/133-3.aspx>

The breakdown of Israeli sovereignty, which is reflected in lower investment and budgets for education, health and welfare as well as the government’s reliance on the sheikhs’ status, came with a price. Over the years, as the traditional Bedouin leadership gradually lost its standing, the area began to descend into chaos, and the loyalty that was based on trust in the authority of the sheikh gradually dissipated.

Additionally, since the 1980s, religious extremism has been on the rise, with the Bedouin moving closer to the Palestinian national narrative. The Bedouin have become increasingly integrated into Israeli Arab politics, just as the power of the Israeli Arab political leadership, particularly the Islamic movement, has grown significantly.²⁴⁶

The Bedouin’s sense of perceived discrimination by the state (which is often more perception than reality), as well as the departure of young Bedouin to study at universities in Jordan and Hebron, further strengthened their identification with the Palestinian ethos.

The influence of the outlawed Northern Branch of the Islamic Movement, which is considered more extreme than its southern counterpart, can be seen in the financing of the construction of mosques and the integration Northern Branch imams and teachers in the educational and religious institutions of the Negev’s Bedouin communities.

AS outlined in detail in the chapter on demographics above, a key factor in the widening chasm separating the State of Israel and Bedouin society is the practice of polygamy, which involves the trafficking and importation of women from the Palestinian Authority. According to all estimates, tens of thousands of members of the Bedouin population of the Negev are the progeny of Palestinian women. It is evident that the education they receive, which is consistent with the Palestinian ethos that denies the existence of the State of Israel, has undoubtedly made a significant contribution to the Bedouin sense of alienation and hostility towards Israel.

Weinshall also notes that Bedouin claims of ownership of the land of the Negev have traditionally derived from prior use or control of the land on a family and tribal basis. However, a new perception has been gaining currency among ownership claimants, a perception that in the past was nonexistent among Bedouin. This approach considers the land a national asset and views the Bedouin struggle over the land as part of the larger Arab struggle against the sovereignty of the State of Israel.

246 Weinshall, 130.

Weinshall forecasts that while the current conflict between the State of Israel and its Bedouin citizens is a civil conflict that can still be resolved with legal and planning tools, in the next generation it will become a religious and nationalist issue, completing the process of the Bedouin sector's integration into the Palestinian ethos. However, in the foreseeable future, it is still possible to find many moderate elements among the Bedouin population who hope for a fair resolution and integration into Israeli society as members of a cultural minority.

The widening rift between Bedouin society and the State of Israel, which results from the lack of clear and consistent policy to address ownership claims and settlement regularization as well as the absence of proper planning and an enforcement and resettlement plan, has had far-reaching and increasingly detrimental consequences over the years. These consequences primarily impact Bedouin society in the Negev, but no less so the rest of the population in the Negev and inevitably all of the State of Israel and its citizens.

Population Growth in the illegal encampments

Despite the extremely generous incentives offered by the State of Israel, such as free lots and financial grants of up to NIS 250,000, the population of the illegal encampments continues to grow. Although these incentives serve as a “carrot,” they are insufficient to bring about the relocation of the residents of illegal encampments to the permanent settlements. As a result, the state is giving the false impression that the regularization procedures are progressing, when in actuality, the situation is only growing worse.

In the last five years, about 980 in-place eviction and regularization agreements were signed, but only 60% of the evacuation agreements and 40% of the regularization agreements were actually implemented.²⁴⁷ These numbers are but a drop in the ocean compared to the natural growth of the population of the illegal squatters' camps, which is the highest in the world. In other words, every year, more children are born in the illegal squatters' camps than the number of residents who relocate to the permanent settlements.

On the other hand, although the State of Israel officially designated about half of the tens of thousands of plots developed in the permanent settlements for the regularization of residents of illegal encampments, ultimately, the

majority of these plots are actually marketed to the population that has already regularized its settlement situation.

This creates a never-ending need for additional programs, the planning and implementation of which is both time-consuming and expensive - during which time, the illegal encampments continue to expand.

Prolongation of procedures to investigate ownership claims

As we have illustrated in detail, the issue of ownership claims has far-reaching practical repercussions in the Negev. By late 1979, about 3,200 ownership claims had been filed for 776,856 dunams. As of today, four decades later, claims for only 300,000 dunams have been addressed, of which 160,000 were resolved through compromise and another 140,000 by the courts. As of 2020, approximately 470,000 dunams remain to be regularized in the Negev.

The ramifications of ownership disputes are grave and have a profound impact on the Negev region. The inconsistent policies on this issue and the passage of time have exacerbated the difficulty for all parties to resolve the claims. Over the years, the original claims have been split among heirs, and will continue to splinter into exponentially growing numbers among the heirs of the original claimants, as well as among purchasers, resulting in an even greater number of ownership claimants who are claiming ever smaller areas of land that have less economic value; the problem continues to expand as the incentive for resolving the problem continues to shrink.

Failed settlement development

The absence of a holistic solution has caused many settlements established in recent decades to be left behind in many respects, preventing them from maximizing their existing planning potential and leaving their residents without access to appropriate infrastructure.

“Ghost streets” are not an uncommon sight in the seven original townships, where it is genuinely difficult to develop proper infrastructure. Most of the rural settlements that were retroactively legalized in the 2000s are in fact huge, sprawling, unplanned settlements, in which most of the structures are illegal. These settlements lack comprehensive plans and suffer from an absence of essential infrastructure. Furthermore, it is virtually impossible to obtain building permits or retroactively legalize existing structures. Even in those places where building permits can be issued, residents have no incentive to voluntarily register and regularize their illegally-built structures.

²⁴⁷ Letter from Yigal Buskila, the district manager for the Authority for the Regulation of Bedouin Settlement in the Negev to Regavim, dated 24 January 2018, https://foi.gov.il/sites/default/files/6_1.pdf

Due to the lack of enforcement, illegal construction in these townships continues to proliferate. This is likely to further entrench the situation on the ground, scuttle any possibility for proper mid- and long-range planning and, inevitably, exacerbate the cycle of disadvantage and disenfranchisement.

Loss of governance

The failure of the State of Israel to address the core issues discussed here is a stark indication of its lack of governance. In fact, the current situation in the Negev is so dire in terms of the chaos that prevails that it is apparent that unless the state wakes up and immediately starts taking bold policy and enforcement steps, Israel may find itself in a situation of complete loss of sovereignty in the foreseeable future.

The lack of governance in the Negev is evident in many areas:

The spread of illegal construction

As outlined in detail in the section on illegal construction, there are more than 80,000 illegal structures in the Negev, scattered over hundreds of thousands of dunams. Despite all the incentives offered by the state to relocate to permanent settlements and build legally, and despite enforcement activity, the State of Israel has not achieved deterrence or been able to keep pace with the enormous scope of illegal construction - both in the illegal encampments and in the existing settlements. As noted, deterrence is so feeble that throughout the illegal encampments, one can find a considerable number of huge permanent structures, including commercial structures, indicating that their owners are not fearful that the law will be enforced against them.

Increasing crime

In large sections of the Negev, law enforcement is virtually non-existent, resembling what one might expect to find in a third world country. There are no police or other enforcement agencies in the illegal clusters, and enforcement agents are loathe to enter the squatters camps due to the violent resistance mounted by their occupants.²⁴⁸ The state repeatedly presents this argument in court by way of explaining its failure to enforce planning and construction laws

248 H. Yahel, *Yaar* 61.

or collect property taxes in the rural settlements.

This is so despite the fact that pursuant to Government Directive 2397 of 2017, the Israel Police added some 250 police officers, the police station in Rahat was doubled in size, new stations were established in Ar'ara and Tel Sheva, and 13 additional police sub-stations were opened. In addition, all the programs of the Ministry of Internal Security began to operate under a single new authority - the Authority for the Prevention of Violence, Alcohol and Drug Abuse.²⁴⁹

Nonetheless, the residents of the Negev region continue to suffer from a disproportionately high rate of crime, the extent of which is many times greater than in other regions in the State of Israel. This includes criminal "protection" racketeering, collected even from government companies and local authorities, widespread robbery, vandalism,²⁵⁰ drug production and trafficking, agricultural theft, theft from IDF bases, shootings, weapons offenses and gun running, and more.²⁵¹

Polygamy

A July 2018 report by the Ministry of Justice²⁵² made it clear that women

249 The Agricultural, Settlement and Rural Planning and Development Authority, "Summary of the main statements of the Steering Committee 2397 - 14 March 2019." https://www.moag.gov.il/yhidotmisrad/reshut_technun/Bedouin_integration/Documents/protocol_yeshivat_vaadat_higuy.pdf

250 Akiva Bigman, "Shooting, arson and protection fees: Exposing the violence against the regularization of Bedouin settlements," *Israel Hayom* 7 January 2020. <https://www.israelhayom.co.il/article/722433>. According to the article, a letter sent by the director-general of the Authority for the Regulation of Bedouin Settlement in the Negev, Yair Maayan, describes how the violence exercised against contractors and engineers working on government contracts has escalated. For example, residents of Bir Hadaj shot at a contractor doing infrastructure development in the settlement, and damaged engineering equipment. As a result, the contractor quit. In Laqiya, the contractors' logistics center was set on fire. Contractors were threatened at gunpoint and work was disrupted in Segev Shalom, where a surveyor's vehicle was set on fire. Violent incidents and protection money extortion in Umm Batin were reported. According to Maayan, this is an across-the-board phenomenon that undermines the possibility of completing projects and harms the prospects of relocation and regularization for hundreds of families.

251 For a sample, see the Facebook page "Enough of the lawlessness in the Negev!" <https://www.facebook.com/NOLWANEGEV/posts/1406729496242662/>

252 The Ministry of Justice's report on polygamy, which presents an analysis of the phenomenon

and children are the main victims of polygamy. Polygamy leads to a range of detrimental effects, from economic hardship within the polygamous family unit, to psychological and mental distress primarily experienced by women and children, internal conflicts within the polygamous family, increased dependence of women and degradation of women's status, violence against women, harm to children, exacerbation of marginalization among youth and more.

Polygamy has additional far-reaching implications; for example, it undermines the values of the State of Israel as a democratic nation governed by the rule of law and leads to related offenses such as underage marriage, illegal residency and the reporting of false information to state authorities, all of which are a huge drain on the national economy and other less tangible national resources. In addition, studies show that the proportion of polygamous marriage in the illegal squatters' camps is about 50% higher than in the permanent settlements.²⁵³

Highly disproportionate involvement in road accidents

The involvement of the Bedouin population in road accidents, particularly in serious accidents, is exponentially higher than their proportion in the population, and the proportion of road fatalities among Bedouin from the Negev is higher than in any other sector in Israel.

In 2016, one-third of all road accidents in Israel occurred in the south, and one-third of all road fatalities were Bedouin residents of the Negev. Furthermore, 59% of all fatal accidents on Negev roads that year involved Bedouin, although they constitute only 10% of all drivers.²⁵⁴

In the Negev, many traffic accidents are caused by vehicles colliding with stray camels that belong to Bedouin living in illegal encampments.²⁵⁵ In recent years, these accidents have resulted in 13 fatalities and 60 severe-to-critical injuries.²⁵⁶

..... and offers a comprehensive plan to address it.

253 See Regavim's *PolygaMeToo* report.

254 Niki Gutman, "According to police data: Members of the Bedouin sector are involved in most of the accidents in the Negev," *Makor Rishon*, 6/16/2017. <https://www.makorrishon.co.il/nrg/online/1/ART2/882/415.html>

255 Moshe Cohen, Yasser Oqbi, "Red roads: Ten killed in 2019 in accidents in the Negev," *Maariv* 7 October 2019. <https://www.maariv.co.il/news/israel/Article-722820>.

256 <https://www.sport5.co.il/articles.aspx?FolderID=7210&docID=342563>



In order to put an end to this seven-decade-long saga, **the State of Israel must formulate a comprehensive policy to regularize Bedouin settlement and restore governance to the Negev.** This policy should be implemented by a command and control center or an independent entity working out of the Prime Minister's Office to promote a long-term and holistic process anchored in legislation, to focus and coordinate the activities of the various government ministries, agencies and authorities.

A ministerial committee, chaired by the Prime Minister, will be responsible for crafting and implementing a comprehensive program to regularize all Bedouin residences in the Negev within five years.

Policy agenda

Creation of a database of geographic and sociological parameters- To enable the planning and creation of future residential solutions for all residents of the illegal encampments, as well as to enable the enforcement of the law and provision of a variety of services, the State of Israel must have a deep and comprehensive command of the facts on the ground. To this end, a survey and census will be conducted for all residents of the illegal encampments to determine their precise place of residence. The data will be transferred to the Central Bureau of Statistics and the Population Authority. The Population Authority will then assign an address for every resident who does not have a standard address, in the form of a 12-digit geographic (GIS) coordinate, the scientific method employed by the Survey of Israel (SoI) mapping division and the survey and mapping department of Israel's Ministry of Housing and Construction.

Drafting the Negev 2050 map - In order to maximize the use of land, a scarce resource in the State of Israel, and to create a sustainable future for future generations, a comprehensive map envisioning and plotting a course for the Negev's future must be created. This map will reflect Israel's national interests and define what the Negev will look like in the future in terms of the scope and location of settlement for various sectors, location of national infrastructure projects, agriculture, industry, and more.

Creation of a map of regularization districts - The *Negev 2050* Map will allow the Negev region to be divided into geographic regularization districts, which will be progressively regularized in accordance with the priorities set by the ministerial committee. In each regularization district, the needs of that specific area's inhabitants will be mapped out so that resettlement of squatters into

nearby permanent settlements can be carried out most efficiently. Expansion of existing Bedouin settlements and creation of new Bedouin towns when land reserves in existing towns have been exhausted, will be established only on state land, pursuant to approval of the Ministerial Committee for Negev Affairs. No planning will include land subject to ownership claims.

Another important principle is that the illegal squatters' camps will not be regularized by retroactive in-place legalization, and artificial expansion of the blue lines on lands subject to ownership claims will not be permitted, as this method has proven to be a complete failure in the Neve Mebar and Al Qassum settlements.

Legislation - It should be noted that in our 2017 policy paper, "Plan for Regulating Bedouin Settlement in the Negev," Regavim's recommendation was to refrain from the use of primary legislation as a means of resolving the problems of the Negev. However, due to the ever-changing circumstances that continue to arise due to the legislative void, legislation has become unavoidable. Regavim will support legislation based on the stipulations accepted by the Knesset's Interior Committee in the context of debate on the Begin Law.

Principles for planning and development of settlements

Development of permanent settlements and preparations for absorption - A national plan will be formulated to ensure the successful development of permanent legal settlements that will be properly prepared for absorption of the residents of illegal encampments. This plan will include an "absorption basket" to encourage the receiving municipalities and help them bear the financial burden of absorbing families that will moving in from the illegal squatters' camps.

Creation of a Municipal Services Authority to serve residents of the illegal encampments - We recommend establishing an interim authority responsible for providing municipal services to residents of the illegal encampments, under the auspices of the Bedouin Authority. This will alleviate the burden presently carried by the legal municipalities and enable them to focus service provision only on the legal residents in their jurisdiction, while clarifying where each resident of the outlying encampments is to receive services until they relocate within a legal settlement.

Building new settlements - All new communities will be built exclusively on state land that is completely free of illegal construction.

Recovery plan and reduction of socioeconomic disparities - A recovery plan will be promoted to reduce gaps in areas of education, employment and infrastructure, including the granting of benefits to localities that have demonstrated proper governance, including assessment and collection of property taxes, enforcement of planning and construction laws and economic independence.

Addressing natural growth - Lots developed by the Authority for the Regulation of Bedouin Settlement in the Negev will be allocated to residents of illegal encampments only. In accordance with the request of a local authority, and subject to the provisions of the Tenders Law, the Israel Lands Authority may allocate up to 30% of the developed lots in the authority's territory for the benefit of the natural growth of families living within the authority's jurisdiction. Additionally, plans in the older neighborhoods will be updated to respond to the needs of natural growth, by maximizing the planning potential of existing municipal land, enlarging building rights, planning and approving hi-rise construction projects, and launching urban renewal (clearance-reconstruction) projects.

Conditions for the expansion of settlements - Approval of "blue line" expansion (enlarging municipal boundaries) for Bedouin settlements in the Negev will be contingent upon the approval of the Ministerial Committee for Negev Affairs, and only when the entire area already allocated to the authority in accordance with the planning rules established in Master Plan TAMA 35 has been fully utilized, including the evacuation of areas where encroachment has occurred. Alternatively, authorization of boundary extensions will be carried out as a land swap, in which undeveloped, unutilized areas within existing municipal borders are subtracted from the municipality's jurisdiction (particularly land for which there are unresolved ownership claims that prevent development), and re-zoned as "unincorporated land" not governed by any local authority.

Principles for restoring governance and fighting crime

The judicial and enforcement systems will formulate a multi-year plan to tackle white-collar and economic crime, in addition to fighting improper governance and corruption in the local authorities. The ministerial committee will receive a quarterly report on key aspects of law enforcement:

Illegal weapons - The Israel Police and the Ministry of Defense will be responsible for enforcing the law to combat the proliferation of illegal

weapons in the Bedouin sector, launching a short-term moratorium on criminal charges for anyone who voluntarily hands over weapons, followed by extensive enforcement based on intelligence, criminal indictments and deterrence against organized crime families.

Protection of public infrastructure installations - The Ministry of Internal Security will allocate 20 full-time officers and establish a specialized police unit to protect public infrastructure installations in the Negev. This unit will operate as part of the Yoav Unit to safeguard water and electricity infrastructure as well as fuel installations and roads in the region, and will be responsible for identifying and prosecuting criminals who cause damage to these infrastructures.

Organized crime - The Ministry of Internal Security, Ministry of Justice and the Tax Authority will be responsible for effectively combating organized crime in the Negev, combining criminal and civil enforcement measures against the criminal organizations and their economic base, as well as against both overt and covert "protection" racketeering, including those operating under the guise of "private security companies."

Road safety - The Israel Police will step up the enforcement of traffic laws on the Negev highways and the roads in and between the legal and illegal settlements, placing particular emphasis on law enforcement and education to prevent underage driving and "yard accidents." Within one year of the government's decision, the Ministry of Agriculture will complete the subcutaneous implantation of ID microchips in camels in accordance with the 2017 Animal Identification Regulations.

Increased penalties and deterrence - all branches of the prosecution system in the Negev will work to raise the level of penalties for those convicted of criminal offenses, including planning and construction offenses and traffic offenses.

Principles for regularizing illegal encampments, and enforcement against illegal construction

Five-year plan for regularization - The Implementation Bureau will formulate a five-year plan within 180 days of the government's decision, based on the map of the regularization areas, to relocate the residents of the illegal encampments to permanent settlements. The regularization of Bedouin settlements will be done, to the extent possible, with an eye to allowing tribal frameworks to continue

to live in proximity to other members of the tribe. However, regularization of residences based on tribal identity will not be a precondition for planning or regularization.

The work plan will be based on a timeline for completion of the relocation of the illegal squatters' camps within five years from the date of the government's decision. Entitlement to the compensation basket determined by the decisions of the Israel Land Authority Council for the residents of the illegal encampments will be established through legislation, stipulating that compensation will be granted provided candidates meet the timetable, with no option to extend the deadline.

Enact an enforcement plan - The Implementation Bureau will submit an action plan to the government for the enforcement of the five-year plan, which will include a range of reflecting varying levels of compliance and commitment to the five-year plan among the Bedouin population. The plan will include budgetary implications, manpower requirements for relevant regulatory and enforcement bodies to implement the plan, and enforcement priorities - all based on the various scenarios.

Create incentives package for voluntary relocation - To create a further incentive for voluntary relocation, additional financial compensation of NIS 200,000 will be given to each family that relocates to a permanent settlement within six months of receiving a residential lot. The selection of the lots in the neighborhood will be done on a first come, first served basis, which will facilitate preservation of the community's social fabric.

Regularize the Abu Bassma Settlements - The Planning Directorate will formulate a clear plan for the regularization of existing illegal construction in the Abu Bassma settlements, most of which is located on land with "ownership claims," within 24 months from the date of the government's decision, according to the criteria for "Premium Tier" regulation that includes waiver of ownership claims within the settlements (see below). At the end of this period, structures that cannot be legalized or whose owners are uninterested in legalizing them will be demolished.

Phase out allocation of lots to unmarried men - Within 90 days of the government's decision, legislation will be promoted in the context of compensation packages for evacuation of the illegal encampments, to ensure that no plots are allocated to single or married individuals born after 31 December 2004. Furthermore, two years after the government's decision is enacted, no additional plots will be allocated to single individuals, and the allocation of plots without a tender to residents of illegal encampments will be

completely halted at the end of five years from the date the decision is enacted.

Cancel allocation of lots to polygamous families - the Israel Land Authority will not allocate lots to women who are part of a polygamous family unit, in accordance with the recommendations of the July 2018 report by the Inter-ministerial Committee to Combat the Negative Consequences of Polygamy.

Discontinue "Essential Services Centers" - No additional "Essential Services Centers" beyond those currently existing in the illegal encampments will be authorized, except with the approval of the government according to criteria parallel to those required for the establishment of new settlements.

Principles for resolving ownership claims

Disconnect settlement regularization from the resolution of ownership claims - In the context of the regularization plans, no planning of residences and/or industrial or commercial structures will be carried out on land defined as "subject to an ownership claim." Furthermore, to the extent possible, these areas will be removed or excluded from the jurisdictional boundaries of the settlements and designated as unincorporated or regional land not governed by any local authority, in order to sever the linkage between settlement regularization and the resolution of the status of these lands.

Premium Tier for ownership claims waivers - The Israel Lands Authority will publish a decision regarding the application of a Premium Tier - whereby ownership claims within the jurisdictional boundaries ("the blue lines") of existing settlements will be waived. Ownership claimants who opt for this track will be offered a compromise agreement according to which, in exchange for waiving any land ownership claims in the designated area, the claimant will receive monetary compensation at a rate of NIS 100,000 per half dunam when - and only when - physically taking up residence on regulated plots according to the regulation masterplan. This option will remain in effect for a period of 180 days from the date of its publication.

Legislation of monetary compensation without land-swap arrangements - The state will halt improved compensation proposals for the resolution of ownership claims, which creates a negative incentive for the resolution of ownership claims through compromise. To this end, specific legislation will be promoted stipulating that compensation offers will include monetary compensation only; no offers of land grants as compensation will be made.

Timetable for compromise settlements and the renewal of counterclaims

- A final and non-negotiable timetable for the resolution of ownership claims, based on a schedule of diminishing compensation, will be published. At the end of the allotted time, the state will renew legal procedures for regularizing the land through the submission of ownership counterclaims leading to registration of the land as state property.

An aerial photograph of a desert landscape in the Negev region. In the lower right, there is a small village with several buildings and some trees. The rest of the landscape is arid and sandy. A large, semi-transparent blue circle with a thin red border is overlaid on the left side of the image, partially covering the desert and the village. The text 'XI. Summary' is written in a bold, dark blue font across the middle of the blue circle.

XI. Summary

THIS STUDY has offered a review of the State of Israel's years-long effort to regularize the settlement of Bedouin in the Negev and address the issue of ownership claims. After years of establishing committees, drafting policy documents and proposing a variety of legislative bills, the Israeli government has yet to formulate a comprehensive, long-term policy that addresses the challenge courageously and effectively and moves toward real solutions.

In the absence of comprehensive policy that includes planning and construction, economic policy, municipal management and coordinated law and enforcement activity, various government ministries and local authorities have been taking independent, uncoordinated, ad hoc steps to address the Negev's challenges.

In practice, actions on the ground derive from disparate policies formulated in the past, local decisions by bureaucrats that in many cases disregard or ignore the broader context, or ministerial decisions that change frequently, depending on the political leanings of the minister - thus hindering the ability to act in a consistent and long-term manner.

That said, in recent years, the State of Israel has invested considerable resources in the economic and social development of Bedouin in the Negev, including a welcome surge in the scope of planning, development and legal construction in the permanent Bedouin settlements, while appropriately separating the settlement regularization issue from the ownership claim issue.

These efforts notwithstanding, enforcement activity has fallen far short of the pace of illegal construction in the Negev. For all intents and purposes, new lots in the permanent settlements are used by people already living within the existing legal towns - "natural growth" - and there are no prospects or plans for the evacuation of the illegal encampments that lie beyond the municipalities' borders and the tens of thousands of Bedouin living there outside the law on vast tracts of state land. As a result, the State of Israel is losing ground and governance in the Negev, and time is working against both the State of Israel and Bedouin society.

UNLESS a consistent and clear government policy is formulated and an effective, comprehensive and timely enforcement plan implemented, the State of Israel will be unable to halt the illegal construction, evacuate the illegal encampments, develop the permanent settlements, complete the land registration process and reclaim sovereignty in the Negev.

This document analyzes land issues related to the Bedouin community of the Negev: land seizure by means of rampant illegal construction and unresolved ownership disputes that prevent the regularization of hundreds of thousands of dunams of land in the region. It explores the history of these issues and their implications, the current state of affairs, the challenges as well as the efforts that have been made over the years to address them, highlighting both successes and failures. This document also offers principles and action points to resolve the land dispute once and for all, to register and regulate land and to create permanent settlement solutions for the Bedouin of the Negev.

Time is running out. Procrastination will only exacerbate the problems and further complicate the solution. We must not allow what is still a land dispute to metastasize into a national conflict.

Indifference is not an option; action must be taken before it is too late. Courageous, dedicated, strong and responsible leaders are needed - leaders with vision and a deep understanding of the gravity of the situation who are willing and able to step up and restore the State of Israel's governance in the Negev.

What are we defending? I cannot accept the suggestion that we refrain from protecting our interests in the desert - precisely because we must defend Tel Aviv. If we do not take a stand in the Negev - Tel Aviv will not stand. The existence of the Negev is perhaps even more real than the existence of Tel Aviv. A historical perspective tells us that nothing Jewish will remain in the Land of Israel if we do not ensure the success of Zionism. Subtracting twelve million dunams of desert land from the equation is a non-Zionist calculation, and this is a fight to defend Zionism, no less and no more.

(David Ben-Gurion)



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