

Virtual Reality: [Non}Historic Bedouin Villages of the Negev

Executive Summary

As of 2022, more than 292,000 Bedouin reside in the Negev. More than 180,000 of them live in Rahat and the other towns established exclusively for Israeli Bedouin residence between 1967 and 1990.

Some 23,400 Bedouin reside in 11 rural settlements. With one exception, all of these settlements had been clusters of illegal construction; between 2003-2006 the State of Israel granted them official recognition and legalized them. This report will discuss these settlements in greater depth; suffice it to say that legalization of these settlements was carried out through an unnatural process – after they were already standing, but without any prior planning. The result is that even 15 years after their official recognition as legal towns, these settlements have no semblance of organization or planning, and the vast majority of the 20,000 structures comprising these settlements, which were constructed without permits or oversight, remain illegal. The status of infrastructure and municipal services has not improved in any significant way, and these settlements still look and operate as they did prior to legalization.

Additional obstacles stemming from land-ownership claims, detailed in the pages below, further complicate attempts to develop these rural settlements and to regulate or register land ownership or to issue permits for structures within their jurisdiction.

The unavoidable conclusion is that the method of establishing settlements by legalizing pre-existing clusters of unplanned structures has been an abject failure, and rather than achieving its stated goals has exacerbated the problems.

The remainder of the Bedouin population, some 84,000 people, live in illegal encampments, some 2,300 clusters varying in size from a few dozen to several hundred illegal structures, totaling more than 66,000 illegal structures spread over an area of some 600 square kilometers (230 square miles).

The Israeli government has offered, and continues to offer the residents of these illegal encampments economic incentives to voluntarily relocate

to legal settlements. Beginning in the early 1970, the state has granted every Bedouin, on the day he comes of age, rights to free land in the legal towns, as well as subsidies for development of residential plots. Over the years, the incentives were increased several times; currently, the incentive package includes NIS 250,000 in addition to a free plot of land. In practice, however, the incentives have achieved the opposite of their intended result, and actually serve as an incentive for residents of the illegal encampments to stay where they are. The incentive package was initially offered for a limited time only, but that time limit has been extended again and again, and because the benefits may be claimed by each family only one time, families have learned that the value of the plots and the incentive packages continues to improve over time: They correctly calculate that it is preferable to wait until their children are old enough to qualify for benefits individually. When their children come of age, each one claiming their own free plot of land and cash gift, they, too, “provide” for the next generation by remaining outside the legal towns so that their own children will be eligible as well.

Because residents of the illegal encampments are connected, even minimally, to water and electricity and receive other basic services such as education, health care and social welfare that are not significantly different from those available to residents of the legal settlements – but unlike, the residents of legal communities, pay no taxes of any kind – there is very little incentive to relocate. On the contrary, there is a significant trend of reverse migration, in which residents of the legal towns relocate to squatters’ camps.

In the 1970s, the Israeli government initiated a process for filing land ownership claims, and Bedouin citizens submitted some 3,200 claims of private ownership involving 776,856 dunams of land in the Negev. In a number of cases, Bedouin squatters erected tents and took up residence on the land they claimed, as a means of anchoring their “rights”; over the years, the tents were replaced by shacks and other makeshift structures – and the residents of these encampments refuse to relocate to legal settlements. In other instances, the land that has been claimed is located within the boundaries of legal towns.

Israeli law does not recognize the “unwritten” rights of private ownership claimed by Bedouin to land in the Negev. Their claims of private ownership have been heard and considered by Israeli courts and have been repeatedly rejected. The Supreme Court has granted hearings of substantive, historical

and legal claims and has handed down precedential decisions (1984: The Waashlah Customary Law, and the Al Uqbi Case of 2014) in which the substance of the Bedouin's historic claims were thoroughly examined. According to these claims, the Ottoman and Mandatory authorities granted official recognition to Bedouin proprietary rights based on Bedouin law and tribal traditions. This claim was thoroughly dissected and rejected outright.

In 2003-2006, the State of Israel established 11 new rural Bedouin-only settlements. The vision was to establish organized communities with appropriate infrastructure – electricity, water, sewage, construction permits and a detailed masterplan – into which all residents of the illegal encampments would be absorbed. Massive budgets were allocated, and the Abu Bassma Regional Council was established in 2003 (later, it was split into 2 independent councils, Neveh Midbar and Al Kasum). Despite the government's investment, there was a massive gap between the planning and the implementation of this project on the ground: The settlements of the Abu Basma Municipality were established on the foundations of the “historic villages” narrative presented by the Bedouin, which we will examine in greater detail below; this very problematic foundation has spawned many of the shortcomings of these settlements, and has contributed to their failure.

The bottom line is this: With the exception of one of these settlements – Tarabin a-Sana, all of the Abu Basma “villages” were cobbled together out of clusters of disparate, disconnected clusters of illegal construction strewn over vast expanses of land that were allocated under to the villages' jurisdiction as municipal “blue lines” were drawn on the map of the Negev to include the large numbers of pre-existing illegal structures. From the moment the planning stage began, the Bedouin understood that structures within the newly-drawn municipal boundaries would eventually be legalized, and the value of the land on which these structures stood would skyrocket. Immediately, a race to grab land began, and in short order hundreds, even thousands, of illegal structures sprang up, some of them palatial villas. This construction surge disrupted the planning process and the creation of infrastructure, which even today continues at a snail's pace. The challenge of development on land that is already populated with illegal structures rages on.

In other words, the very fact of the establishment of a settlement by legalizing clusters of illegal construction makes it impossible for the settlement to thrive. Add to this the problems that arise from Bedouin land ownership claims that further exacerbate the difficulties, and it begins to become clear why solutions have not yet been found.

The “law of the desert” – internal, inviolable Bedouin law – dictates that no Bedouin will settle on land claimed by another Bedouin. Breaking this social contract has led to violent clashes and bloodshed. For this reason, despite the fact that ownership claims have been repeatedly and decisively rejected by Israeli courts and contested land has been registered as state property and developed by Israeli authorities, or in cases where land was expropriated or by the state or judicial decisions regarding ownership and registration were decisive and unequivocal, the long arm of “Bedouin law” will prevail, and no Bedouin will settle on the land in question without the express permission of the Bedouin who claims to own it.

With the exception of Bir Hadaj, all of the Bedouin settlements of the Negev were built on land that includes parcels claimed by individual Bedouin as private property, and the state has invested in the development of thousands of plots on this contested land. Because of Bedouin tradition, no one will purchase or settle on these plots. What results is a type of double jeopardy: First, hundreds of millions of Shekels of government investment in development has gone “down the drain.” Second, a patchwork has been created in the legal townships, where developed areas are bordered by desolate areas where ownership claims have prevented development, which makes the towns stunted, unattractive and difficult to develop.

Similarly, so long as there are unresolved ownership claims that have not been settled either by agreement or judicial decision, the ILA does not sign building permit requests. This makes it impossible to register and regulate the structures built on this category of land, and complicates attempts to develop the Abu Basma settlements.

Thus, instead of planned communities with proper infrastructure, the state has created massive ghost towns that have no development on the horizon and little hope of improvement; some of these communities resemble large rural settlement while other retain the look and feel of sprawling squatters’ camps.

In recent years the Bedouin have pushed for in-place legalization of additional encampments and recognition of clusters as new recognized settlements – despite the dismal track record of this method. When their claims of ownership failed to stand up in court, an alternative narrative of “historic villages” attempted to justify the large-scale takeover of land in the Negev and Bedouin demands for recognition of purported ownership rights and legal recognition of new settlements.

As this narrative would have it, the Bedouin encampments that cover the Negev are merely 46 villages that are, for the most part, historic Bedouin settlements, some of which pre-date the State of Israel and some of which were established in the 1950s, when Bedouin were resettled in the Sayig by the state itself.

On the basis of this “historic villages” narrative, the Bedouin seek to attain official recognition for each of “historic villages” and to legalize them in their current location. As we will illustrate in the pages that follow, this entire narrative is a grand falsehood.

Despite the fact that the claim of “historic villages” is patently false, it has been given an important platform in Israeli public discourse for decades, as it is repeated and amplified by the Bedouin and a host of civil society organizations that support the Bedouin claims. This narrative has been presented in support of Bedouin claims in legal proceedings regarding ownership claims; in fact, the establishment of 11 rural Bedouin settlements was based on the erroneous acceptance of the “historical villages” narrative – the very same settlements that are the most resounding failures. In 2008, this narrative was presented to the Goldberg Commission, and although it is a complete fiction that had already brought about in-place regulation of the 11 settlements, the Goldberg Commission was taken in by the loud protestations of the Bedouin and the final report presented by the Commission conceded: “Today, there are some 46 villages that are unrecognized.”

All this notwithstanding, the “historic villages” narrative, in its entirety and in every detail, has no shred of truth to it, neither in spirit nor in fact. There are not, by any standard of measurement, 46 “villages” (or any other number of “villages”). The Bedouin attempt to define, demarcate and include the vast, sprawling hinterland of Negev squatters’ camps into only 46 villages

is no more than a tactic used to make the problem appear smaller and more manageable than it is, and to present Bedouin demands as only a minor, harmless percentage of the vast land mass of the Negev. In fact, according to Regavim's estimate, in reality there are more than 2,300 clusters that cover approximately 600 square kilometers of land, forming a massive contiguous pale of illegal settlement. Within this giant land mass, the Bedouin randomly pinpoint 46 spots that purportedly represent invented villages that have no clear boundaries or borders. The aerial photos presented in the pages that follow make it clear that the overwhelming majority of the "unrecognized villages" are nothing more than a string of clusters, and it is unclear which of them are included in the area described as a "village" and which are not.

A second problem is the lack of "historicity" of these "historic villages/" They did not exist before the establishment of the State of Israel, nor did they exist in the 1950s. In the famous Al-Uqbi case, the High Court of Justice rejected the claim that historic villages pre-dated the establishment of the State of Israel, and asserted that a single structure does not constitute a village and nomadic settlement in within a region, even when land is used for agriculture, grazing or seasonal residence, does not establish a village or city. As for the concept of "historic villages" dating back to the 1950s the High Court of Justice's decision in the Abu Alqiyan case makes it clear that the state's relocation of Bedouin to various points in the region in the 1950s was intended as a temporary solution, until such time as permanent, planned communities could be created for purposes of Bedouin resettlement. In other words, the fact that the Bedouin were relocated to the Sayig in the 1950s – or their refusal to relocate to organized, legal locations, do not establish permanence for the temporary locations as "historic villages" or afford the residents any proprietary rights to the land.

Third, and perhaps most importantly, the extensive, factual evidence presented in this report, including aerial photographs that present realities on the ground spanning many years, leaves no room for doubt that in the pre-State era and for many years thereafter, the Bedouin continued to live as nomads, and for the most part the purported villages simply did not exist. In short, the basis of the claim of "historical villages" is a fabrication.

In this report, the Regavim Movement examines the truth behind the factual arguments for historical villages by examining aerial photographs of the "unrecognized villages" enumerated in Appendix 5 of the

Goldberg Commission report. Using the Global Information System (GIS), The Regavim Movement has identified the precise location of each of the "unrecognized villages" as per claims by the Bedouin, and then marked these precise locations on aerial photos drawn from national archives, presenting precise visual documentation for each of the following years: 1945, the 1960s, the 1980s or 1990s, 2005 and 2018. Because no one has ever established or defined precise borders for these "unrecognized villages" Regavim created polygons with radius of 500 meters from each cluster for the purposes of mapping. Regavim's analysts then identified and marked each structure with each polygon. Finally, Regavim examined each "village in each of the time periods enumerated above and determined the factuality of the claims of these "historic villages.

The findings were shocking: In the vast majority of cases every one of the locations identified as the site of a "historic village" and examined in the archival aerial photos from 1945 were either completely devoid of structures of any kind or showed signs of extremely scant, sparse habitation. In other words, no villages of permanent settlement were found at these locations. Even in the few cases where construction was identified in archival photos, these were spread out over vast expanses and were not located in proximities that could justify their being considered a village or settlement – and their locations have since become legal settlements.

Even in the 1960s, there were no structures evident in many of the purported "historic villages," and in those where structures were found in 1960s aerial photos, these structures were no longer standing in the 80s or 90s. In other words, the majority of the structures standing in these areas in the 1960s were not permanent, and the Bedouin themselves did not establish permanent residence in any of these locations; they continued to maintain a nomadic lifestyle. The aerial photographs indicate that permanent settlement in the Bedouin encampments began to develop only in the mid-1990s. The aerial photographs also prove that massive unplanned, illegal construction in the recognized settlements began only as full legal recognition became imminent, in the early 2000s, as a means of grabbing more of the land that was to be included within municipal lines – and thus would soon gain exponentially in value.

How, then, are the squatters' camps to be dealt with? How can they be regulated? The Regavim Movement proposes that the illegal encampments

must be regulated and brought into compliance with the law – but not on the basis of unfounded claims or fictitious narratives, nor on the basis of in-place legalization and artificial gerrymandering – solutions that have been tried before and have proven to absolute, abject failures. Instead, the residents of the squatters' camps must be absorbed in legal, planned communities that are equipped with adequate infrastructure and all the services available to citizens of the State of Israel throughout the country, in legal structures built according to Israel's Planning and Construction Code, on state land that is free of ownership claims. The relocation and successful absorption of residents of the Bedouin squatters' camps must be carried out in full compliance with the standards for planning and land use policy that applies throughout the State of Israel.