

The Right of Arab Bedouin Women to Adequate Housing and Accommodation

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Our house is not simply a place where we go to sleep at night, but it represents our home, which means everything to our lives.²

In this article, we will address the issue of the violation of the rights of Arab Bedouin women living in the Naqab (Negev) to adequate housing and accommodation. In order to discuss this issue, I will briefly explain the government's policies in land planning in the Naqab and policies concerning design of houses in which Bedouin women live. Pursuant to the policies in both of these areas, I will then analyze the situation in which the basic rights of Bedouin women in the Naqab to adequate housing and accommodation are violated. I will summarize with a brief presentation of the link between the recent wave of home demolitions in the Naqab and the increasing incidence of violence against women as a brutal violation, not only of their rights to have a roof over their heads, but also to live in peace, security and dignity.

Lack of Participation in Public and Private Planning Processes

During the 1970s and 1980s, after the end of military rule imposed on all Arab villages and towns in Israel from 1948 to 1966, the government established seven recognized towns in the Naqab, which were to be populated with the Arab Bedouin who had remained in the area after the establishment of the state. Some of the Bedouin moved to these towns, while others remained in villages to which the state did not grant official recognition, known as "unrecognized villages". The establishment of the recognized villages was undertaken with the allocation of a minimum amount of resources and land for their residents, as part of an effort to "Judaize" the Naqab, while completely disregarding the traditional way of life and needs of the Bedouin population.³ By pursuing a policy of reducing the area populated by the Arab Bedouin to a minimum, the state aimed to strengthen its political control over them and to minimize state expenditure on the cost of the physical and social infrastructure in these population centers.⁴ In addition, this policy excluded participation of the Bedouin in the planning processes of the recognized towns. The establishment by the Israel Land Administration (ILA) of the Bedouin Development Authority (BDA),⁵ which was charged with the construction of new neighborhoods in the recognized towns and establishing new towns and villages, served as a tool for controlling the planning process. All government funds allocated to the Bedouin are transferred via this administration, and not directly to them.⁶

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² Somporn Surarith, *Women's Struggle for Housing in Thailand* 11(2) C. DN. WOMEN STDS 15, 15 (1990).

³ Shlomo Swirski and Yael Hasson, *Invisible Citizens: Government Policy Toward the Negev Bedouin*, Adva Center, September 2005, p. 5 (Hebrew).

⁴ Avinoam Meir, "The Tension between the Negev Bedouin and the State: Policy and Practice." Jerusalem: Floersheimer Institute for Policy Studies, 1999 in *ibid.*, p. 8. In the words of Dr. 'Amar Al-Huzail, who served as strategic advisor to the Regional Council for the unrecognized Villages in the Naqab, "It is no secret that the goal of national and regional planning in Israel is to Judaize the planned areas, by concentrating the maximum number of Arabs on the minimum amount of land, and distributing the minimum number of Jews on the maximum amount of land." Dr. 'Amar Al-Huzail, "The Unrecognized Villages in the Naqab, from Expulsive Political Discourse to Permissive Planning Discourse, Alternative Planning vs. Institutional Planning," Lecture at the Truman Institute, Hebrew University, 2 March 2004, in *ibid.*, pp. 8-9.

⁵ The BDA was established in 1986, in order to conduct negotiations with Bedouin residents who had filed land ownership claims in the Naqab.

⁶ See note 3, p. 16.

Dr. Tovi Fenster describes this planning policy as a policy directed "from the top down," with the intention of controlling the space, its design and distribution, without involving the Arab Bedouin population in the planning processes. In her opinion, land planning in the Naqab is a tool for controlling the space used by the Arab minority and the geographic space and its division for the benefit of the Jewish majority. The planning does not reflect the Bedouin lifestyle and ignores the social, cultural, economic and spatial needs of the Bedouin population. The result is an unequal distribution of space, which is divided according to ethnicity, status and gender.⁷ Fenster adds that the failure to relate to – and, in fact, the utter disregard of – the cultural differences between the various ethnic groups contributes to an enormous degree of domination over the lives of Bedouin women, their absence from public spaces, and their confinement in a restricted private space. Thus, for example, historically and according to Bedouin custom, tribes live apart from each other in order, among other reasons, to prevent meetings between women of one tribe and male outsiders. The planning of the new villages and the concentration of various tribes in one limited space (urban settlements) has driven women into private spaces within their homes, as a guarantee that such meetings cannot occur.⁸

In addition to the confinement of women to the private space, other rights of women are limited due to the lack of adequate infrastructure for services including education, social services, water, electricity and public transportation. The Bedouin who relocated to the recognized towns established by the state live in a political-economic bubble: on one hand, they are deprived of essential and basic services and, on the other, are excluded from the government's development plans. Those who remain in the unrecognized villages exist in a sort of legal-political bubble.⁹ They are prevented from establishing permanent homes and denied the basic right of listing their residences on their identity cards. They have no local government and thus are prevented from voting and standing for public office. They are denied basic social and other services, and significantly, prevented from exercising their basic right to property, unable to purchase and sell houses.¹⁰

Even in planning their private space, the home, Bedouin women play no part. The end of the military regime in Israel in 1966 affected the living patterns of the Bedouin in the Naqab. The change began as a result of the move from tents made of carpets woven from goat hair to tin shacks. The tents were built of several main parts; the living space was divided into separated areas for men and women. In the past, the woman built, designed and maintained the home. She also did all the housework herself, without help from the male in the household. With the move to the tin shack, control over the construction, design and maintenance of the home was transferred from the woman to the man. At this level, too, the absence of essential infrastructure, such as public transportation, water, electricity, educational institutions, and sources of employment, affected the degree of the Bedouin woman's control of the private space around her home.¹¹

"Need" or "Right"?

In light of the above, the relevant question that concerns us is whether or not the concept of adequate housing and accommodation for women in general, and for Bedouin women in particular, is determined according to the women's *need* for that accommodation, or comes as a result of their *right* to accommodation. That is, the question is whether or not the discourse in question is one of "need" or "positive rights."

⁷ Tovi Fenster, "Space for Gender: Cultural Roles of the Forbidden and the Permitted," *Environment and Planning, D: Society and Space* 17 (1999), pp. 227-246.

⁸ Ibid.

⁹ See note 3, p. 3.

¹⁰ Ibid.

¹¹ *The Arab Woman in the Naqab: Reality and Challenges 2005*, Ma'an: The Forum of Bedouin Women, p. 22 (Hebrew).

Until now, the conditions of accommodation for women have been defined as a need rather than as a right.¹² Fenster emphasizes the "need" approach, and holds that Bedouin women's needs should be taken into consideration when planning public and private spaces and not ignore them. In her opinion, spontaneous settlement by the Bedouin proved to be more successful than urban planning projects; such natural settlement provides a response to the cultural and social needs of residents, in contrast to urban settlement, for which a heavy cultural and social price is paid.¹³ Fenster presents a number of examples of harm inflicted on the needs of women as a result of the move to urban settlements. For instance, the new houses in the recognized Bedouin towns were designed with a single entrance, lacking a "back door" or any other entrance to enable the freedom of women, both inside and outside the house when the private space becomes "forbidden" to women through the presence of male outsiders.¹⁴

In addition, planning-related developments over the past few decades have affected the sources of income available to the Arab Bedouin in the Naqab. These developments are inherent in the change from agriculture and shepherding to work in construction, public service and industry.¹⁵ The employment opportunities remaining available to women are those "women's tasks" which leave them with enough time to carry out the tasks of taking care of their homes, husbands and children.¹⁶ Thus, the change in sources of employment lowered the percentage of working women, and expelled women from the workforce back to the limited confines of the home.¹⁷

There can be no doubt that the home is a source of oppression for women. The distinction between the private sphere, which, according to the accepted definition of the term, is the domain of the woman, and the public sphere, the domain of men, preserves the division of labor between the sexes in society. According to that definition, the woman's place is in the home and the man's place is outside it. Nevertheless, in certain cases, including that of the Bedouin woman, "the home" is the only place where she can exist. The home is the place in which children are cared for; it serves as a shelter from the street and often as a place in which to generate income.¹⁸ In addition, the home serves as the source of relationships between men and women, and between women and other women. The needs of women in this case become more practical than those of men, since the definition of a woman's needs is a function of her being in her own home, and develops as a reaction to the living conditions which she observes and experiences daily. For example, the need for clean, running water, affordable food, infrastructure and or daycare for pre-school children.¹⁹

In her study, Fenster also notes that it is specifically the private sphere, which sustains the oppression of the Bedouin woman, which constitutes the "permitted" sphere for her and her work. Fenster compares the duality between the "private" and "public" sphere with the duality of the concepts of "forbidden" and "permitted," and maintains that the cultural norms in Bedouin society differentiate between the permitted space, which is the home, and in

¹² Leilani Farha, *Is There a Woman in the House? Women and the Right to Adequate Housing*, A Resource Guide to Women's International Human Rights (Transnational Publishers, 1998), p. 17.

¹³ See note 7, p. 199.

¹⁴ See note 7.

¹⁵ Ibid.

¹⁶ See note 11, pp. 30-31.

¹⁷ For more information on the participation of Bedouin women in the workforce, see: note 11, p. 31; *Statistical Yearbook of the Negev, 2004*, The Negev Center for Regional Development and Center for Research on Bedouin Society and Development (Hebrew). Also see the report of the Working Group on the Status of Palestinian Women Citizens of Israel presented to the UN Committee on the Elimination of Discrimination Against Women in January 2005. The report can be viewed at:

<http://www.adalah.org/eng/cedaw.php>

¹⁸ See note 12, p. 7.

¹⁹ Ibid.

which the woman is *allowed* to be present and to move, and the forbidden space, in which the woman's presence is *prohibited*. She emphasizes the dynamic of the "permitted" space, which sometimes, under changing circumstances, can become "forbidden," for example, when male outsiders are present. Thus, the space designated for women to exist in can oscillate between the two extremes of forbidden and permitted.²⁰

Alternative approaches, however, do not support the definition of women's "needs" in determining conditions of accommodation. Caroline Moser, for example, argues that a distinction should be made between women's practical needs, which result from the oppression of women within the home, and the need for strategic change in society, which requires the transformation of groups within society and the nature of relationships between the sexes. Accordingly, she argues that it is quite possible that women's needs will encompass the need to eradicate the division of labor between the sexes or to transfer the burden of responsibility for the household and child rearing.²¹

The approach supported by the rights-oriented discourse has come under criticism from various quarters. Those opposed to this approach argue that, as a liberal approach, it seeks to determine the identity of the person entitled to certain rights – be it a woman or man, a specific woman rather than all women, etc. Accordingly, this approach places one or another group at risk and removes it from the circle of those entitled to one right or another, or limits its eligibility to such a right.²² Others argue that the rights-oriented approach as such discriminates from the standpoint of gender, due to "competition" between various rights.²³ For instance, a hierarchy of rights and those entitled to them exists in Bedouin society. Consequently, rights granted to men are not accorded to women and others whose position is lower in the hierarchy. From the feminist viewpoint, the bestowing of rights does not necessarily contribute to advancing the status of women. This argument is especially applicable when several competing rights exist, such as the right of women and children not to be subjected to violence as part of their right to adequate and secure accommodation, versus the man's rights to his home or his right to a private family life.²⁴

In my opinion, needs- and rights-oriented discourses should be combined, in order to grant the rights of women to adequate housing and accommodation, and to take into consideration women's needs when determining the conditions of that housing and accommodation. The rhetoric of "rights" to adequate housing and accommodation reinforces the importance of the "need" and backs it up with clear and explicit legal provisions. These provisions make it difficult for government institutions to infringe and/or neglect the rights granted by law.²⁵ The approach according to which women enjoy the right to their accommodation and adequate conditions therein, as a socio-economic, progressive and positive right, should be taken up. The need to protect the rights of women to adequate housing and accommodation becomes even more legitimate given the fact that more and more women, including Arab Bedouin women in the Naqab, remain in the home, in the space defined as "permitted" to them, and in which they are forced to spend most of the hours of their days, and often most of the days of their lives.²⁶

²⁰ See note 7.

²¹ Caroline Moser, "Women, Human Settlements, and Housing: A Conceptual Framework for Analysis and Policy-Making," in Caroline Moser and Linda Peake, eds., *Women, Human Settlements, and Housing*, Tavistock Publications, London. pp. 12–32 (1987).

²² See note 7.

²³ *Ibid.*, p. 11.

²⁴ Hilary Charlesworth, Christine Chinkin and Shelley Wright, "Feminist Approaches to International Law," 85 *American Journal of International Law*, (4) p. 613, 635, (1991).

²⁵ See note 12, p. 17.

²⁶ *Ibid.*, p. 19.

The importance of the combination of need-oriented and rights-oriented discourse is reinforced by the definition of the right to adequate housing and accommodation in international law. This right is clearly manifest in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), Article 11 (1) of which stipulates that everyone has the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. Item 11 further stipulates that the right to housing is a part of a broader right – the right to an adequate and appropriate standard of living. The UN Committee on Economic, Social and Cultural Rights also determined that the right to adequate accommodation is meant to provide everyone with a place to live in peace, security and dignity, and that this right encompasses fundamental components, such as security of tenure, accessible services, material facilities, infrastructure, adaptation to local customs and culture, and appropriate location.²⁷ Therefore, the definition of the right to adequate housing and accommodation encompasses both recognition of the basic and positive right to adequate housing and accommodation and consideration of the aspect of need within this right.

In Israel, too, although the right to adequate housing and accommodation has not yet been recognized as a basic, fundamental right in the Basic Laws,²⁸ it is defined as a "mixed" right, necessarily including social and civil aspects, and recognized as part of the basic right of human dignity, in the Basic Law: Human Dignity and Liberty – 1992.²⁹ Recently, the Israeli Supreme Court, sitting as a High Court of Justice, addressed the issue of the right to minimal existence with dignity and its status as a basic right in the Israeli legal system.³⁰ Aharon Barak, Chief Justice of the Supreme Court, stated in his decision that the right to human dignity, in its essential structure, constitutes a bundle of rights, the maintenance thereof is necessary for dignity. Barak added that these rights can be included in the definition of "civil" rights or "social" rights, which encompass the human right to living conditions that enable existence in which a person can exercise his or her liberty as a human being. The issue of the right to adequate housing and accommodation as a basic right in and of itself was not discussed in this case. However, although the legal definition of that right in Israel as including the right to minimal human existence with dignity can be deduced from international law. In this case, the Supreme Court confirmed and set forth that the right to minimal existence with dignity is in fact part of the right to human dignity set forth in the Basic Law: Human Dignity and Liberty, and that the legal right to exist with dignity is

²⁷ The UN Committee on Economic, Social and Cultural Rights determined, in its General Comment No. 4, that the right to accommodations includes the following essential components: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; cultural adequacy.

²⁸ In contrast to the right of ownership recognized in the Basic Law: Human Dignity and Liberty is a basic right that cannot be abrogated except in cases where an article of the Basic Law limits them.

²⁹ Aharon Barak, *Introduction* in Yoram Rabin, Yuval Shany, eds., *Economic, Social and Cultural Rights in Israel*, Ramot Publications, Tel Aviv University (2004), p. 5. Recently, there have been attempts to recognize social rights, including the right to housing, as part of basic, fundamental rights. For example, Article 3 of the Draft Basic Law: Social Rights sets forth: "Every resident has the right to satisfy his basic needs in order to exist with human dignity, including... in the fields of health, housing and social welfare...." Furthermore, on 27 July 2005, a Draft Basic Law: The Right to Housing was proposed before the Knesset, Article 1 of which set forth that: "Every citizen of Israel is entitled to housing which, in terms of surface area, quality and conditions, will not be worse than the level set forth in the law or by force of law." In the case of *Gamzo*, the Supreme Court even linked the right to housing to the right to human dignity and liberty in its statement that, "A person who lives outside and has no housing, is a person whose dignity as a person has been harmed." Civil Leave to Appeal 4905/95 *Gamzo v. Yeshayahu*, 95 (3), 360, 375.

³⁰ H.C., 366/03, 888/03 *The Commitment to Peace and Social Justice Organization v. Minister of Finance, et al.*, unpublished decision dated 12 December 2005.

the right that guarantees to a person the minimum material means that will enable him or her to exist in the society in which he or she lives.³¹

In summary, since this article is being published in *Adalah's Newsletter* in March, a month which begins with International Women's Day and ends with Land Day, it is fitting and proper to address not only the continuous violation of the rights of Bedouin women to adequate housing and accommodation, but also the violation of their rights stemming from home demolitions in the Naqab. Over 200 Bedouin homes in the Naqab have been destroyed in recent months, and several thousand destruction orders have been issued but not yet enforced. There can, of course, be no doubt that the destruction of homes affects all Bedouin living in the Naqab – men, women, children, the elderly and infants. Nonetheless, I would like to briefly address the indirect effect of the recent wave of destruction implemented by the state's institutions on Bedouin women.

The demolition of a home is among the harshest and most blatant of violations of the right to adequate housing and accommodation. This violation takes the form of destroying the roof over the heads of all living in the home. It deprives all family members of the right to live with dignity with the minimum required for human existence, and of a normal and complete family life. Above all, however, it deprives the women of peace, security and dignity. In addition, a close relationship exists between breaches of the right to housing and accommodation and the phenomenon of violence against women. A home demolition forces a family whose home has been destroyed to live, temporarily or permanently, with their extended family. Living conditions with the extended family are often extremely difficult, characterized by overcrowding, a lack of privacy, limited freedom, and a transformation of the confines "permitted" to the Bedouin woman, into a space that is "forbidden" in its entirety, due to the presence of men other than her husband, son and father. Women's responsibilities and functions within the home are multiplied: they become responsible for caring not only for their husbands, children and parents, but also for the members of the extended family who have joined them. Living conditions in such an overcrowded situation, when responsibilities become more pronounced and the movement of men increases in the private, "permitted" space, intensify poverty, frustration and tensions between spouses, and among members of the family generally. These frustrations and pressures can at times develop into acts of violence against women within the nuclear and the extended families.

Thus, policies directed "from the top down" become not only the means exercised by the government with which to control an ethnic minority, its movements and way of life, but also a "helping hand" in maintaining and reinforcing the phenomenon of oppressing women generally, and in their private space in particular.

³¹ Ibid.