



UN CESCR INFORMATION SHEET # 3

MAY 2003

Land and Housing Rights - Palestinian Citizens of Israel

This document includes information relevant to questions #4, #6, #10, #14-17 and #20 from the UN CESCR List of Issues.

Overview

There is clear inequality between Jewish and Palestinian citizens of Israel regarding their access to land resources, their land rights, and their abilities to use the resource of land to develop their communities. This situation is exemplified in the following data:¹

- Palestinian citizens of Israel comprise close to 20% of the total population of the state.
- They privately own about 3.5% of the total land in the state.
- Arab municipalities have jurisdiction over only 2.5% of the total area of the state.
- In the Galilee, Arab municipalities have jurisdiction over 16.1% of the land, while Arab citizens comprise 72% of the population. In the northern Naqab region, Arab municipalities have jurisdiction over 1.9% of the land, while Arab citizens comprise 25.2% of the population.
- About one-half of the private lands owned by Palestinian citizens of Israel in 1948 were confiscated by the state.
- Land allocation for public purposes in all of the Arab towns and villages is under the minimum national standard.
- In practice, Palestinian citizens of Israel are blocked from purchasing or leasing land in about 80% of the area of the state.
- The Palestinian population in Israel increased six-fold between 1948 and 2000, but in the same period, the land under its control has shrunk. Since its establishment, the state has not allowed the Arab minority to establish new towns. As a result, the building density in Arab municipalities increased 16-fold, and the population density 12-fold, between 1948 and 2000.
- Tens of old Arab villages are unrecognized and the state is trying to evacuate them.

Question 20

Master Plans

Northern District Plan Discriminates against Palestinian Citizens of Israel.² The Northern District Committee for Planning and Building submitted its plan for the Northern District in Israel, entitled “Tamam 2 Revision 9,” in September 2001. The National Council for Planning and Building had initiated the plan in 1986 with the stated goal of “preserving the lands of the nation and Judaizing the Galilee.”³ Planners also raised concerns that, “The taking control of the [the Northern District] by Arab elements is a fact that the State of Israel is not

dealing with as it should and this will cause distress for future generations.”⁴

Tamam 2-9 treats the existence of the Arab population living in the north of Israel as a problem to be solved. The plan proposes to find solutions to several specific problem areas including: that “Jews constitute a minority in the north”; the “Arab towns and villages are geographically contiguous”; and “the taking control of land and illegal building,” referring unquestionably to the Arab population in the district.⁵

In the plan, all industrial and commercial areas are placed in or close to Jewish towns, and the development of tourism is promoted only in these towns. Restrictions set forth in the plan prevent the expansion of industrial, commercial, and development areas in the Arab towns and villages. Further, many of the Arab towns and villages are surrounded by protected lands, which cannot be developed.

The plan neglects the poor living conditions in Arab towns and villages, failing to address the housing problems, overcrowding, lack of land

available for building and lack of public services that exist in these localities. In most of the Arab towns, the plan sets forth town limits that exclude many of the towns' residences, designating the excluded zones as non-development areas.

Though they comprise more than 50% of the population in the Northern District, Palestinian citizens of Israel were poorly represented in the planning process. There were no Palestinians on the plan's editors committee, responsible for finalizing the plan, and the steering committee had only two Palestinian members out of a total of 30.

Local Plans

Local Plan G-7337 Discriminates against Arab Farmers.⁶ In January 2002, the Nature Reserve and National Park Authority (NRNPA) presented its "Local Plan G-7337" to the Northern District Planning and Building Committee. The plan proposes the establishment of a nature reserve and national park on 13,184 dunams of land in the area of el-Malak Valley, surrounding five Arab towns (Basmet Tabon, el-Kabiah, el-Helif, el-Hamereh and el-Khawaled) and bordering several more. The plan permits the confiscation of the land from its current owners, enacts restrictions against the farmers in the area, and limits the future growth of these Arab towns.

The plan's principal stated objective is to preserve the land's natural resources and appearance; however, it ignores the decades-long relationship between Arab farmers and the land, and the integral role they play in preserving it. Further, the plan fails to establish clear criteria for establishing a nature reserve in the area in question; rather, the

geographical specifications of the plan appear to be designed specifically to limit the growth of Arab towns. The area of the proposed reserve is concentrated near Arab towns and entirely surrounds four of them, despite the fact that most of the natural forests in the region are located near Jewish towns - Alonim, Aloni Abba, Alon Hagalil, Bet Lehem Hagililit. The plan inexplicably excludes all of these forests. The area designated as a nature reserve and national park contains virtually no natural forests.

The plan also contains factual inaccuracies, which present a misleading image of the current state of the land in question. For instance, the area designated as a nature reserve under the plan encompasses two Arab towns, el-Hamereh and Ras Ali, that do not appear within the boundaries of the proposed area as it is presented on the maps that accompany the plan. The town of el-Hamereh appears far from its actual location, while the town of Ras Ali does not appear at all.

Questions 4 & 6

Post Qa'dan

The Qa'dan Family. Three years after the Supreme Court ruling, the Qa'dans are still not living in Katzir. Katzir continued to reject the Qa'dans' application to purchase a plot of land in the community, claiming that the Qa'dans would have problems adjusting to life in the community. In March 2002, the Israel Lands Administration's (ILA) administrative committee issued a general policy decision, whereby plots in towns with more than 300 housing units (such as Katzir) would in the future be

The Qa'dan Judgment

In March 2000, the Supreme Court of Israel held in the *Qa'dan* case that the state is prohibited from allocating "state land" based on national belonging or using "national institutions" such as the Jewish Agency to discriminate on its behalf.⁷ This case involved the right of a Palestinian family - citizens of Israel - to live in the Jewish Agency-established community of Katzir, which was built on "state land."⁸

allocated by lottery or tender. In response to this change, in October 2002, the Association for Civil Rights in Israel (ACRI) applied directly to the Israel Lands Administration Council (ILAC) on behalf of the Qa'dan family to obtain a plot of land in Katzir. No response has yet been received.⁹

State Attempts to Bypass Qa'dan. The government and the ILAC approved several decisions in 2002 and 2003 that run contrary to the spirit of the Supreme Court's ruling in the *Qa'dan* case.

Government Decision No. 2265. Government Decision No. 2265, approved in July 2002, mandates the establishment of 14 new towns in the Naqab (Negev) and in the Galilee, as well as the recognition of an existing Jewish town in the Naqab. According to this decision, ten of the new towns will be jointly planned, developed, built and populated by the Jewish Agency in partnership with various government bodies at the regional and national levels. In a meeting discussing the plan, Prime Minister Ariel Sharon pressed the "national need" for the plan stating that, "if we will not settle the land, someone else will."¹⁰ After the decision was issued, Deputy Minister in the Prime Minister's Office Yitzhak Levy commented to *Yediot Ahronot* that, "the settlements [the new towns] are designated to stop the illegal spreading of Arabs."¹¹

ILAC Decision No. 930.¹² ILAC Decision No. 433 (1989) set forth the conditions for so-called "authorization contracts" between the ILA and the Jewish Agency and World Zionist Organization, for the planning, development and population of specific towns in the Galilee and the Naqab. The decision states that authorization contracts for the development of these towns should be renewed every seven years, until either (1) the planning, development and population of the town in question is complete; (2) 100 housing units are completed and inhabited; or (3) building is completed on all plots in the town, if there are fewer than 100 plots.

ILAC Decision No. 930 was approved by Prime Minister Ariel Sharon, acting as head of the ILAC, in July 2002; it is titled "Decision on Plot Allocations for Housing in Community Towns in the Galilee, Emek A'iron, south of Har Hevron, Ramat HaNegev, the Araba, Ramat HaGolan and in Hebel Adoulam." The new decision modifies the earlier

ILAC Decision No. 433, adding two additional towns for which the Jewish Agency and the World Zionist Organization may sign authorization contracts for development, namely Ramat HaGolan and Hebel Adoulam. It also alters the terms under which authorization contracts will be extended, increasing the 100-unit limit, specified in conditions (2) and (3) above, to 300 units. The new decision clearly expands the role of the Jewish Agency and World Zionist Organization in development activities.

ILAC Decision No. 952. In March 2003, the government approved ILAC Decision No. 952 titled, "Land Discounts in the Negev and the Galilee for Discharged Soldiers." According to the decision, discharged Israeli army soldiers and individuals who have completed 12 months of national service, within the last five years, would be given a 90% discount on the price of leasing lands controlled by the ILAC. The discount applies only to land in municipalities designated as priority areas "A" and "B" on the government's National Priority List, and only to towns with less than 500 housing units.

This decision discriminates against the majority of Palestinian citizens of Israel on the basis of their national belonging. Palestinian citizens of Israel do not serve in the Israeli army or perform national service. Further, there are almost no Arab municipalities classified as "A" priority areas on the National Priority List, and almost no Arab municipalities with fewer than 500 housing units. As such, they are excluded from the group that would enjoy the proposed benefits, and thus, their rights to equality and to housing are seriously harmed. Further, the housing situation of Palestinian citizens of Israel is extremely poor, characterized by overcrowding and insufficient land available for building. The housing problem is further complicated by the fact that Arab towns in Israel consistently rank lowest in the country on socio-economic indices, and have the highest rates of unemployment. This decision does nothing to alleviate these unacceptable conditions.

The Absorption of Demobilized Soldiers Law (1994) gives numerous benefits and privileges to discharged soldiers, including housing and mortgage grants and awards. This law should preclude the granting of any additional benefits, according to the criterion of army service.

The Naqab

Discriminatory, Illegal Five-Year Governmental Plan for Arab Bedouin in the Naqab. On 9 April 2003, the government approved a decision entitled “Governmental Decision Regarding the Bedouin Sector in the Negev,” which sets forth a NIS 1.175 billion (US\$265 million) five-year plan (2003-2007). The objective of the plan is “to alter and improve the situation of the Bedouin population in the Negev, relieve its distress, arrange for the orderly recording of land in the Negev, and strengthen law enforcement.” The plan details policy guidelines and government spending for: (i) contesting and settling ownership claims and land arrangements; (ii) “enforcing the state’s rights to land and enforcing the planning and building laws;” (iii) completing the development and infrastructure of the existing seven towns (Rahat, Lagiyya, Kessife, Tel el-Sebe, Hura, 'Arora, and Segev Shalom); and (iv) the planning of seven new such towns.

In remarks about the plan, the Minister of Industry and Trade Ehud Olmert, who is also responsible for implementing the plan, was quoted as saying that: “We are talking about evacuating [the Bedouin] to the new seven towns that we are building for them. We will conduct contacts with them [the Bedouin], however, I assume that they will absolutely oppose [the plan] ...If it [this issue] was up to an agreement, it will never be given ...”¹³

The government’s plan does not fit the needs, suit the priorities or uphold the rights of the Palestinian Bedouin citizens of Israel living in the Naqab (Negev), approximately 120,000 people. The government’s decision is not a development plan, but rather, a plan to concentrate the Palestinian Bedouin living in the Naqab on a minimum amount of land. Among the illegalities which characterize the plan:¹⁴

Conflict of interest between the functions assigned to Israel Lands Administration (ILA). According to the plan, the ILA is tasked with the development of the existing and planned towns for the Arab Bedouin. At the same time, it is also charged with “submitting motions to court contesting any land ownership claims made by the Bedouins.” One authority cannot be responsible for two conflicting duties, both development and contesting the land claims of the “subjects” of this development.

No community consultation. None of the Palestinian Bedouin living in the unrecognized villages in the Naqab, those who stand to be most affected by the plan, were consulted prior to its

approval. The failure of the government to consult with the community makes the plan illegal. By not consulting with the community or with experts, the government is continuing to use an old model of planning which it employed in the establishment of the existing seven government-planned towns for the Arab Bedouin in the Naqab. This model is widely regarded as a failure by experts, who describe the government-planned towns as “socially, economically and politically dysfunctional, ranking as the most disadvantaged settlements in Israel by a significant margin.”¹⁵

Discriminatory Approach. According to the decision, the ILA “will act to fully implement the rule of law by enforcing the state’s rights in land, including taking actions against trespassers.” This approach is discriminatory for three reasons: (i) The plan targets only so-called “illegal buildings” in the unrecognized Arab Bedouin villages, while ignoring this phenomenon in Jewish communities; (ii) the problem of “illegal buildings” in the unrecognized villages is a result of discriminatory state policies – these villages have been systematically excluded from local and national development plans, making it impossible for residents to obtain building permits; and (iii) while the government frequently engages in community consultation on property rights issues with Jewish communities, no such approach was taken with the affected Palestinian communities in the context of this plan.

Need for legislation. The plan affects a large number of people, their basic rights and their livelihoods, and concerns matters of intense social conflict between Arab citizens and the state. As such, in order to have initial legal validity, the plan must be a part of a legislative process and not a decision of the government. Further, even if such a plan was set forth in legislation, it would need to pass judicial challenge and review.

Failure to recognize native land rights. The plan ignores the historical and contemporary injustices suffered by the Bedouin, ranging from their expulsion and forced flight during the 1948 War, to the confiscation of their land, and their displacement and re-location during the military regime imposed on all Palestinians in Israel between 1948 and 1966. The government should adopt a different approach, which recognizes the historic injustice done to the native Arab Bedouin in the Naqab as well as their land rights.¹⁶

The Right to Water: No Access to Clean Water in the Unrecognized Villages in the Naqab

Palestinian Bedouin citizens of Israel living in the unrecognized villages in the Naqab continue to suffer from inadequate access to water, as a result of governmental policies, which deliberately prevent these villages from being connected to the national water network. Consequently, thousands of residents of the unrecognized villages must obtain water from single water access points located far from their homes, using improvised plastic hose hookups and unhygienic metal containers. This method of storage and conveyance is expensive and time-consuming, and leads to health problems such as dysentery, as a result of contaminated water.

A petition was filed to the Supreme Court of Israel by Adalah in May 2001 on behalf of the Regional Council for the Unrecognized Villages in the Naqab, several NGOs, and Palestinian Bedouin citizens of Israel living in seven unrecognized villages in the Naqab - Abu Tlul, Shahbi, Wadi el-Neem, El-Gara, Em Tnan, Em Batin, and Drejat (population 750-4000).¹⁷ The petitioners charged that the state maintained a policy of denying clean and accessible water to thousands of residents of the unrecognized villages. The petitioners maintained that water, like any other public good, should be divided in an equal, fair and non-arbitrary manner.

Initially the State claimed that these villages were “illegal settlements” and that the residents were

trespassers on state land. Thus, the state contended that these residents and the villages were not entitled to water network connections. However, as a result of the filing of the petition, the state attorney informed the Court in October 2001 that a special inter-ministerial Water Committee had been formed to examine the water situation in these unrecognized villages.

In February 2003, the Supreme Court dismissed the petition when the state reported that water access points had been added for five of the seven villages represented by the petitioners. However, these measures are still insufficient to meet the residents’ needs. Distant water points and improvised access to water is not unlike the current situation in the unrecognized villages. The appropriate solution to the issue of water access is to connect the unrecognized villages to the water network. Only in this way may Palestinian Bedouin citizens of Israel receive the same level of water access and service enjoyed by Jewish citizens of the state living in other towns and communal farms in the Naqab. It should be noted that while entire unrecognized Arab villages are deprived of adequate access to water, individual Jewish Israeli families, living on vast, expansive ranches in the Naqab, are promptly provided with water access and other services.

Questions 14, 15 & 16

Home Demolitions

While Israel’s Second Periodic Report states that, “Hardly any of the illegally constructed Bedouin houses in the Negev have been demolished within the last two years,” (para. 362) data collected by Adalah shows the opposite to be true. In fact, the practice of home demolition in the unrecognized villages in the Naqab has become more intensive and violent in the past two years. Clearly, the state’s home demolition policy is being used to pressure Palestinian Bedouin citizens of Israel living in the unrecognized villages to leave their lands and move to government-planned towns.

Over the last two years, the Green Patrol Unit accompanied by hundreds of police, have surrounded villages, closed roads, attacked residents, and

demolished over 100 homes in the Naqab, leaving scores of families and children without shelter. In addition, oftentimes, no effective notice is provided prior to the demolition and evictions are undertaken in the middle of the night. These practices contradict the principles outlined in the **CESCR General Comment 7 on forced evictions**.

Examples of recent home demolitions include:

- May 2001 - Two homes in Gatamat demolished.
- November 2001 - Six homes in Al-Mezereh demolished.
- May 2002 - 30 homes (tents) in Al-Araqib demolished. Later in the month, 20 homes were destroyed in Al-Araqib for the second time.

- June 2002 – 14 homes in Al-Mokemen and two homes in Beer-Hadaj demolished.
- July 2002 - Four homes in Wadi al-Naim demolished. 10-15 houses in Al-Araqib destroyed for the third time.

Case Study: Destruction of the Home of Mr. Salim Zanoun. On 3 July 2002, at 3:00 a.m., a large number of police officers, including horse-mounted units, arrived at Mr. Salim Zanoun’s home in the unrecognized village of Wadi al-Naim in the Naqab. They closed off the area around his house and removed all males in the vicinity. Mr. Zanoun and his family were forced to leave the house. They arrested Mr. Zanoun and beat him, in addition to attacking other members of his family who attempted to prevent the demolition. Female police officers tied the women of the family to a tree outside the house. The house was then demolished with all of the family’s possessions inside. Mr. Zanoun estimated the total monetary loss as a result of the destruction of his home and possessions to be approximately NIS

200,000. Mr. Zanoun attempted to re-build his house, but it was again destroyed by security forces in December 2002.

Compensation. No compensation is paid to the owners of demolished homes in the unrecognized villages in the Naqab. In fact, the opposite is true; the state often imprisons owners of demolished homes, and imposes fines of up to NIS 15,000. Courts frequently order owners to demolish their own homes; failure to do so results in a charge of contempt of court, and additional penalties against the homeowner.

The state does not assist families whose homes have been demolished in finding alternative housing. Often, such families may live with neighbors or relatives following the demolition of their homes, after which they are forced to live in tents. Lacking other alternatives, some families again build homes without the necessary permits, and again risk having them demolished by the state.

Destruction of Crops in Unrecognized Villages in the Naqab

In February 2002, March 2003 and April 2003, the ILA’s so-called “Green Patrol” sprayed toxic chemicals on crops belonging to residents of unrecognized villages in the Naqab. In February 2002, approximately 2,900 acres of crops were destroyed, belonging to the villages of Abda, A’araqeeb, Al-Fukhari, Umm Batin, Kherbet El-Watan, Al-Mekiman, Sa’wa and A’ojan. In March

2003, the Green Patrol destroyed 375 acres of crops belonging to residents of Abda. Following this spraying, seventeen Palestinian Bedouin individuals, including children, required treatment at a health clinic for exposure to the toxic chemicals. In April 2003, crops were sprayed in Umm Batin, Al-Mekiman, A’ojan, A’araqeeb, Sa’wa and Umm Heran.¹⁸

Question 17

No Criteria to Determine Whether a Village is to be Recognized

The state of Israel has virtually no objective criteria to determine whether or not an unrecognized Arab village should be given recognized status. In the Naqab, development plans produced by the Southern District Committee for Planning and Building have stated that in order to be eligible for recognition, a Palestinian Bedouin “settlement” must have a minimum of 50 families.

However, the fact that there are 50 or more families in a given village does not guarantee that it will be recognized; indeed, some of the unrecognized villages have hundreds of families. Further, there is

no process by which a community can apply for recognition. According to the policies of the Ministry of Interior, government officials must inspect unrecognized villages to determine if they should be recognized. In practice, obtaining recognition for an unrecognized village has only been accomplished through vigorous political lobbying.

It should be noted that while Bedouin villages in the Naqab must have a minimum of 50 families in order to be considered for recognition, numerous Israeli Jewish communities with far fewer than 50 families that have been recognized by the state.

Proposed Questions for Israel

1. By using local, regional and national planning processes that are based on demographic considerations (e.g., “judaizing the Galilee”), how does Israel comply with the principles of non-discrimination on the basis of race, religion and national origin?
2. What measures are/will be taken by Israel to ensure that current and future land allocation will be distributed based on principles of equality to Palestinian and Jewish citizens of the state?
3. How does/will Israel address the increasing population density in Arab towns and villages in the state and how will the natural growth of these localities be accommodated, in accordance with the right of everyone to an adequate standard of living?
4. Palestinian Bedouin leaders and NGOs have formulated detailed, alternative plans, including the establishment of rural agricultural communities, to solve some of the problems of the 70,000 residents of the unrecognized villages in the Naqab. The new “Governmental Decision Regarding the Bedouin Sector in the Negev” takes a completely opposite approach, e.g., to concentrate the Palestinian Bedouin living in the Naqab on a minimum amount of land, to contest all land rights claims by the Palestinian Bedouin, etc. Why did the government fail to adopt any of the plans proposed by the community? What measures will Israel take to meet the community’s rights, and its identification of needs and priorities?

Notes

¹ See Oren Yiftachel, “Land, Planning and Inequality: Space Division Between Jews and Arabs in Israel,” ADVA Center, November 2000 (Hebrew); and Oren Yiftachel, “Nation-Building and the Division of Space in the Israeli ‘Ethnocracy’: Settlement, Land and Ethnic Disparities,” 21 (3) Tel Aviv University Law Review 637-663 (June 1998) (Hebrew).

² On behalf of 26 Arab municipalities and local councils, Adalah and the Alternative Center for Planning submitted an objection to Tamam 2-9 to the National Council for Planning and Building on 31 December 2001. The objectors demanded the cancellation of the existing plan and the development of a new document in accordance with modern planning norms, based on principles of equality, public participation, transparency, and the fair representation of Palestinian citizens of Israel in the planning process. A hearing on the objection was held in March 2003. No decision has yet been given.

³ Protocol of the National Council for Planning and Building Meeting #223, 4 March 1986 at 8 (Hebrew). Mr. Yudi Sagi, a member of the Council, also stated that: “Those who use the infrastructure of roads to the towns, plantations and lands being prepared for development are those from whom we want to preserve the land [e.g., the Arabs in the Northern District].”

⁴ Protocol of the National Council for Planning and Building Meeting #224, 1 April 1986 at 7 (Hebrew). Comment attributed to Mr. Alef Mintz, a member of the Council.

⁵ Development and Master Plan, Northern District: Provision 9 to Tamam 2, Part 1: Goals, Policy and Development Alternatives (July 1992) at 4 (Hebrew).

⁶ In March 2002, Adalah filed an objection to Local Plan G-7337 on behalf of more than 100 farmers from the Galilee. A date for a hearing on the objection has not been set.

⁷ See *H.C. 6698/95, Qa’dan v. Israel Lands Administration, et. al.*, P.D. 54(1) 258.

⁸ The Yunes family of ‘Ara owns the land on which Katzir was established.

⁹ Telephone interview with Dan Yakir, Legal Advisor, ACRI, 16 April 2003.

¹⁰ Diana Bakhour, “Jewish Settlements: The Government Approves the Establishment of 14 New Community Towns,” *Ynet*, 21 July 2002 (Hebrew) available at: www.ynet.co.il.

¹¹ *Id.*

¹² See the ILA website available at www.mmi.gov.il for the text of the decision.

¹³ Koren Orah, “The Minister that Deals with the Sabbath, the Bedouins, and Recruiting Investment from Pension Funds from New York,” *Ha’aretz*, 11 April 2003 (Hebrew).

¹⁴ Letter by Adalah Attorneys Marwan Dalal and Morad El-Sana to Prime Minister Ariel Sharon and Attorney General Elyakim Rubenstein regarding the illegality of plan, dated 4 May 2003. Adalah demanded the cancellation of the government’s decision (Letter on file with Adalah, Hebrew).

¹⁵ See Harvey Lithwick, “An Urban Development Strategy for the Negev’s Bedouin Community,” The Center for Bedouin Studies and Development, Ben Gurion University (2000) available at www.bgu.ac.il/bedouin/.

¹⁶ See e.g., *Mabo and Others v. State of Queensland*, 107 A.L.R. 1, 86 (1992).

¹⁷ *H.C. 3586/01, The Regional Council for Unrecognized Villages in the Naqab, et. al. v. The Minister of National Infrastructure, et. al.*

¹⁸ Letters were sent by Adalah Attorney Marwan Dalal to the Attorney General on 4 March 2003 and 2 April 2003 requesting a criminal investigation into the ILA in connection with the spraying of crops in these villages. (Letters on file with Adalah, Hebrew).