

Inappropriate and Unjust: Planning for Private Farms in the Naqab

By Prof. Oren Yiftachel¹

In September 2005, the Sub-Committee on Planning Principles, under the auspices of the National Council for Planning and Building, approved the "Wine Route" Plan. The plan authorizes the construction of 30 private individual farms, 20 of which already exist, in the area of Ramat HaNegev in southern Israel. This article presents a number of criticisms regarding the plan, which formed the basis of my expert opinion submitted in support of a petition to the Supreme Court prepared by Adalah –The Legal Center for Arab Minority Rights in Israel, in cooperation with other organizations.

My main contention is that the decision to approve the plan is erroneous for two principal reasons. Firstly, the plan unreasonably contradicts proper planning policies in multicultural states in general and recent trends in Israeli planning in particular. Secondly, it violates the right to equality and the principle of distributive justice, resulting in the further deprivation of the Arab Bedouins in the Naqab region and intensifying their alienation from Israeli society and planning institutions. These are very problematic ramifications for the planning process, which is ostensibly designed to improve the quality of life for all communities in the planned area.

Contradicting the Principles of Proper Planning

Today, a central debate among planning scholars and practitioners deals with the development of rural and non-metropolitan regions. This debate focuses on two main aspects of planning: the ethnic and the environmental.

The first aspect relates to the influence of settlement and development on the relations between different groups in multi-ethnic societies. The initial version of the plans for private farms in the Naqab (Negev) was marketed to the public as a means to help "prevent the takeover of Naqab lands by the Bedouins" and to strengthen the Jewish population in the region. On 12 July 2001, the Supreme Court voided these plans in ruling on a petition submitted by Adam Teva Va'Din: The Israel Union for Environmental Defense against the Ministry of Agriculture.² Moreover, the State Comptroller severely criticized these plans in his Report 50B (2000) for their attempts at circumventing standard planning procedures and developing the land in order to populate the farms exclusively with Jews.

The objectives of the current "Wine Route" Plan are expressed in a slightly different manner; they are presented as a means to improve tourism in the region. Nonetheless, the same institutions sponsoring this plan, namely the Ramat HaNegev Regional Council and the Israel Land Administration initiated previous versions of the plan. In addition, there are similarities in the spatial details of the plan, such as the distribution of individual farms in similar locations and along the same transportation routes. These factors indicate that the plan's ethnically-motivated objectives still exist if one reads between the lines.

¹ Associate Professor, Department of Geography and Environmental Development, Ben-Gurion University of the Negev. Member of the Advisory Board of *Makan* – Adalah's Journal for Land, Planning and Justice.

² H.C. 243/99, *Adam Teva V'Din, et. al. v. The Minister of Agriculture et. al.* (petition accepted 12 July 2001).

It is appropriate, therefore, to briefly review the existing scholarship on the sensitive subject of planning in multi-ethnic settings. The extensive research literature focuses on societies with a history of immigration or the colonization of regions embroiled in territorial-ethnic conflicts. Most of the literature – legal, planning and sociological – clearly shows that settlement and development strategies generally constitute a tool for controlling peripheral minorities.

My intention is not to argue that a relatively narrowly defined plan seeking to establish (and retroactively approve) some 30 private farms in the Naqab is equivalent to plans for the frontier settlement of large populations, as occurred in Spain, the former Soviet Union and Sri Lanka. The main significance of the plan is its relationship to an ongoing trend of a majority's planning: spatial control over minorities and the planning precedent it creates, detailed below.

Well-known political scientist and sociologist John McGarry has defined this type of policy as "demographic engineering." In his view, this policy structurally undercuts relations between groups and generates a dynamic of aggressive expansion, local resistance and long-term spatial struggle. In his pioneering comparative study, McGarry demonstrates how states seeking to impose ethnic control often achieve this by resettling populations, either by: a) 'planting' members of the majority group in regions in which ethnic minorities are concentrated, with the aim of dividing and weakening these minorities; or b) restricting and concentrating the minority population to minimize the area it holds and limit its political power.³

McGarry cites as evidence the development of such inter-ethnic relations in a number of states. In Northern Ireland, for example, various governments tried to house Protestants in Catholic areas; in Spain during the Franco era, the government resettled populations of Castilian and other Spanish-speakers in Basque areas; and in the former Soviet Union, the Soviet state transferred Russian-speakers to the various republics, particularly in the Baltic region. In these cases, "demographic engineering," achieved through planning, development and settlement policies, deepened the divisions in ethnic conflicts that continue to plague these societies today. Thus, the policy of "infiltrating" members of the majority group into minority areas is highly problematic. Planning institutions in Israel would do well to learn from the problematic experiences of analogous situations in other countries.

Another relevant study, conducted by the Indian-American researcher Nihal Perera, offers a detailed analysis of the settlement policies implemented by the Sri Lankan government in arid areas of the country. This comparison is particularly relevant to the case of the "Wine Route" Plan because the settlement methods employed by the Sri Lankan government were based on allocating private farms in peripheral regions settled by a national minority.

For decades, the Sinhalese-controlled government allocated agricultural plots in the northern-eastern part of the country to landless Sinhalese families from the south-west. The objective was to reduce the infrastructural burden in densely populated regions, but also to transfer Sinhalese to the north-eastern regions, which is claimed by the Tamili minority as their ethnic homeland.⁴ This policy, together with other factors, has led to ongoing distrust between the minority and the government and

³ See, McGarry, J. "Demographic Engineering: The State-Directed Movement of Ethnic Groups as a Technique of Conflict Regulation," *Ethnic and Racial Studies*, vol. 21, no. 3, 1998.

⁴ See, Perera, N. (1998). *Society and Space: Colonialism, Nationalism and Postcolonial Identity in Sri Lanka*. Boulder, Westview Press.

contributed to the outbreak of a bloody civil war. Perera summarizes by stating that this project resulted in the consolidation of some territory into Sinhalese control, but that the heavy price of the deterioration in relations between the two ethnic groups does not justify the plan's implementation, even from the perspective of the Sinhalese majority.

In my own research projects work in the field of ethnic relations, I conceptualized the government of Israel, similarly to Sri Lanka, Estonia, Serbia and Sudan, as "ethnocratic." That is, these countries encourage the expansion and control of a dominant ethnic group over other populations by its appropriation of the institutions of the state. An ethnocratic policy, for the most part, denies resources and territory from minorities defined as "external" (that is, not part of "the nation" to which the state ostensibly belongs), but it also internally stratifies the majority group, mostly along ethnic and class lines.

The ethnocratic government violates many basic tenets of democracy, particularly equal citizenship. One of the central components in establishing power in ethnocratic regimes is control of space, especially through the ethnicization and ghettoization of land, settlement and municipal jurisdiction. In most ethnocentric regimes, there is extensive manipulation of space, usually through minimizing the power and space of minorities and expanding the control exercised by members of the majority. The "Wine Route" Plan constitutes a key element in the ethnocentric conceptualization of Israeli space, and is significant in establishing policies that perpetuate the "Judaization" of the space in an unequal, unjust and undemocratic way.⁵

In addition to the problematic conclusions derived from comparative analyses, the proposed plan also raises normative questions. What does it "convey" to the Arab Bedouin minority living in the Naqab? What message does it communicate? From the perspective of the Bedouin population, the proposal is part of a series of plans aimed at establishing dozens of Jewish communities in the Naqab, for the purpose of, among other aims, limiting Bedouin control of their ancestors land. For example, in July 2003, a government-approved plan to create 30 new Jewish settlements within the Green Line, 14 of which were to be built in the Naqab. This plan included the rhetoric of "creating a buffer between the Bedouin communities," "preventing a Bedouin takeover," and ensuring the security of the (Jewish) residents of the Naqab.⁶

It is clear from the above discussion on ethnic spatial planning that attempts to encourage Jews to move to the Naqab by offering them private farms sends a message to the Bedouin citizens that they are a "problem" and even a "hostile element" over which the state must impose control. The plan is a continuation of the long standing trend of Jewish settlement at the expense of Arab citizens of Israel, both directly, via settlement on lands claimed by the Bedouin, and indirectly, by implementing policies favoring Jewish control of the Naqab region.

Academic literature includes a long series of legal, planning and philosophical studies that critique – ethnically and politically – policies for peripheral settlement for the purpose of weakening ethnic minorities. The legal historian Eric Pawson characterizes White settlement in New Zealand, primarily carried out through individual White farms and ranches in regions populated by the Maori minorities, as "a

⁵ See, Yiftachel, O. and Ghanem, A (2005). "Toward a Theory of Ethnocratic Governments," *State and Society*, 4, pp. 761-788; Yiftachel, O. and Kedar, S (2003), "On Power and Land," in Shenhav, Y. (ed.) *Space, Land, Home*, Kibbutz Hameuhad, pp. 11-33 (Hebrew).

⁶ See, Zafirir Rinat, "Sharon is promoting establishment of 30 settlements in the Negev and Galilee," *Haaretz*, 20 July 2003.

profound and ongoing injury to the relations between the two populations.”⁷ Similarly, the geographer David Mercer argues that Australian development plans that offered land in rural areas to White settlers, and only to Whites, “constituted one of the main components in the destruction of the aboriginal society and breakdown in trust between the state and the native minority to this very day.”⁸ The well-known scholar Vanessa Watson also warns against urban and regional development based on weakening and distancing minorities from the planning process and from access to planned spaces.⁹

Another planning principle that frequently arises in professional and academic discussions on rural development is the preservation of open spaces and natural landscape. This principle has become dominant in most industrialized countries *vis-à-vis* the environmental degradation associated with massive urbanization and suburban sprawl. Industrialized countries have almost completely ceased building isolated new settlements and towns. Rather, spatial growth is mainly accomplished through the establishment of neighborhoods on the outskirts of existing cities or by increasing the population density of existing urban areas. Today, the leading planning approach advocates increased urban intensity, use of mass transportation (principally rail), strict protection of open space, ecological contiguity and protection of natural landscape for the benefit of the entire public.¹⁰ A plan for establishing dozens of new family farms, with very low density, along main transportation routes, clearly violates these principles.

I do not intend to enter into the details of the environmental issue in this statement, which is fully addressed in petitions submitted in recent years by environmental organizations such as the Society for the Protection of Nature in Israel and the Israel Union for Environmental Protection, but rather note that the “Wine Route” Plan is also flawed from the environmental perspective. The plan endangers extensive open spaces, ecological contiguity and unique landscape sites along well exposed transportation routes.

Moreover, the sparse development proposed in the plan, which consumes large amounts of land resources, stands in clear contradiction of the national planning trend established through extensive planning documents and state-wide plans. The key plans are the Master Plan for Israel 2020, adopted by the government in 1996, and the recently adopted National Master Plan 35, that clearly emphasizes the need for urban density and the preservation of open spaces as paramount planning values. The proposed development also contradicts recommendations made in a range of existing plans for the region itself, including the Master Plan for the Southern District and the Be’er Sheva Metropolitan Plan.

Finally, the plan also creates a dangerous planning precedent by allowing the development of housing outside the framework of a locality, thus effectively privatizing broad tracts of public lands and transferring them to the control of private families and real estate developers. This precedent is likely to result in cumulative pressure on planning institutions to allow the development of open spaces and to lead to increased encroachment on the reserves of open spaces and public lands.

⁷ See, Pawson, E. (1992). “Two New Zealands: Maori and European,” in K. Anderson and F. Gale (eds). *Inventing Places*. Melbourne, Longman Cheshire: pp. 17-33.

⁸ See, Mercer, D. (1993). “Terra Nullius, Aboriginal Sovereignty and Land Rights in Australia,” *Political Geography* 12 (4): pp. 299-318.

⁹ Watson, V. (2006) “Deep Difference: Ethics and Planning,” *Planning Theory* 5 (1): pp. 31-50.

¹⁰ See the groundbreaking works of Newman, P. (1992). “The Compact City,” *Built Environment* 18 (4).

Hence, the "Wine Route" Plan clearly contradicts a progressive planning logic developed during the last decade, both from the perspective of responsible planning in multi-ethnic societies and from the perspective of environmental preservation and the protection of open spaces.

Violating Principles of Equality and Distributive Justice

Planning knowledge, experience and debates accumulated over the last century have crystallized several broadly accepted goals for planning. These goals should ensure orderly, efficient, fair and open urban and regional development, while taking into consideration the array of social demands and interests constantly imposed upon development and land planning. The professional literature is in agreement that spatial planning should improve the quality of life of residents, take into consideration to the greatest extent possible the needs and wishes of the residents in the area, and adopt an equal approach to all of the societal groups. Civic equality, therefore, is a guiding light for the planning ethos.

The goals of enlightened spatial policy as adopted in most developed countries also usually include reducing socio-economic disparities, protecting ethnic and cultural identities and improving social relations. These principles are grounded in several theories of public policy,¹¹ as well as planning curricula used throughout the world.¹² Developed nations have implemented planning policies that generally include defining the planning needs and legitimate aspirations of various population groups, and formulating development plans in accordance with these needs and aspirations.

This process is closely tied to the concept of distributive justice, which emphasizes the allocation of resources according to the needs of a population rather than to market definitions or sectarian thinking, which subordinate resource allocation to financial capabilities or ethnic affiliation. The approach of distributive justice in planning was articulated by geographer-planner David Harvey and the philosopher Iris Young. In their writings, which are considered classics in the field, they develop a systematic set of criteria for determining the allocation of spatial resources according to key principles of need, contribution to the public good, affirmative action and acknowledgment of minorities.¹³

In several states, including Australia, Italy, Britain, the Netherlands and the United States, planners have emphasized civic equality, the unique needs of individual groups and the practice of fair and open decision-making processes as standard elements of the professional codes of their national professional associations. These elements have been incorporated by states into relevant legislation, such as planning and building laws, land laws and local authorities' regulations.¹⁴ The Israeli planning establishment also deemed it necessary in recent years to use language on the importance of community participation, which has become an accepted norm in local planning. This subject also appears in the planners' Code of Ethics, that declares:

¹¹ See, Friedmann (1987). *Planning in the Public Domain*, Princeton University Press, Princeton, New Jersey, and Taylor, N. (1998). *Theories of Urban and Regional Planning*, Oxford University Press, Oxford.

¹² See, Alexander, E. R. (1992). *Approaches to Planning*. New York, Gordon Beach Science Publishers.

¹³ See, Young, I. M. (2002). *Democracy and Inclusion*. Oxford, Oxford University Press; and Harvey, D. (1992). *Social Justice and the City*. London, Edward Arnold (second edition).

¹⁴ One of world's greatest planning scholars discusses this in detail in his book published in 1987: Friedmann, J., *Planning in the Public Domain*, Princeton University Press, Princeton, New Jersey.

Planners have an obligation toward every person... even if the person is different... or a member of a minority... The planner will also serve those who are less fortunate... and, in particular, will protect the rights of those whose voices are not heard, will seek to improve their well-being, empowerment and self-realization... [Planners] have an obligation toward the public and the community... to be attentive and sensitive toward the various public sectors and to maintain a dialogue with them while enabling their real participation in identifying their needs and aspirations... fundamental to the planners' role is the professionalism and the set of ethical and moral values they are responsible for bringing to the planning process ... [Code of Ethics, Israeli Planning Association, 2004]

By adopting this Code of Ethics, the planning community in Israel took an important step toward instituting the principles of equality and distributive justice as central professional objectives. Therefore, and somewhat ironically, these objectives become even more conspicuous by their absence in the current plan for the Naqab.

Moreover, the Supreme Court ruled in the case of *Siach Hadash [New Discourse] v. Israel Land Administration* (H.C. 244/00) that the resources of the state, including land resources, should be allocated according to the principle of distributive justice:

... another central value that should be considered by the Israel Land Administration is the attainment of distributive justice in the allocation of land... The obligation to weigh considerations of distributive justice is an inseparable part of the power of the executive body authorized to determine the allocation of limited resources (paragraph 39 of the judgment).

Despite these clear professional and legal trends, the "Wine Route" Plan contradicts the principles of equality and distributive justice primarily in two ways. Firstly, the plan recognizes private settlement as a legitimate path for spatial development. Yet, for many years, the state has refused to grant recognition to the Arab Bedouins, who have resided in the Naqab for generations. Ironically, this lack of recognition is often explained by the need to "concentrate the Bedouins" because their settlements are "too small," despite the fact that most of the unrecognized villages are populated by thousands of residents and are many times larger than the planned private farms. Moreover, about 20 of the plan's 30 private farms have already been established without planning approval. However, the enforcement and demolition measures often employed against the Bedouin population are never used against the residents of these farms. It should be reiterated that the Bedouin residents of the Naqab are officially full citizens of the state. Hence, there is no need to elaborate on the powerful symbolic impact of Israel's institutionalized discrimination and the increased alienation of the Bedouin Arabs from the state. This can only be expected to intensify as a result of the blatant discrimination embedded in the current plan.

Still on the use of public land, the Supreme Court ruled on this issue in the case of *Poraz v. The Minister of Construction and Housing* (H.C. 5023/91), stating that:

Public lands must be managed according to non-sectoral [*mamlachti*] criteria. Adopting this criterion is the obligation of the public authorities in all of their affairs, and this applies even more so in matters pertaining to handling property that belongs to the entire public. The translation of these criteria into ways of behavior indicates, among other things, the obligation to act with fairness and equality and according to the rules of proper management. [Emphases in the original text]

The Supreme Court later took a further step in the case of *Adel Qa'dan v. Israel Land Administration* (H.C. 6698/95), in which it ruled that discrimination between Jews and Arabs in the allocation and use of state lands is illegal.

As is well known, on the practical level, the failure to recognize Bedouin communities, many of which reside on the lands of their ancestors or in areas on which the state settled them, has caused their inhabitants great suffering for many years. They continue to face the threat of home demolitions: the records of the Negev Coexistence Forum show that 94 Bedouin homes were demolished by the authorities in 2005. This threat adds to a lack of basic service provision, and the destruction of agricultural crops, and Bedouins reside in constant fear of the destruction of their livelihood and expulsion. The state's refusal to recognize Bedouin villages has serious ramifications for all areas of life, and as a result, these communities are the most deprived and impoverished communities in Israel. They are plagued with high rates of illness and environmental pollution, a failing education system, high rates of crime, widespread unemployment and lack of political influence.¹⁵ The lack of recognition, of course, is not the only reason for the crisis currently facing the Bedouins, but it is the key factor preventing them from rectifying the disparities. In this discriminatory context, it is hardly surprising that those who drafted the "Wine Route" Plan, which clearly affects the Bedouin inhabitants of the Ramat HaNegev area, did not involve the Bedouin in the decision-making process, as they should have done according to the proper planning procedures.

Secondly, the "Wine Route" Plan allocates generous tracts of land, together with a full array of services and resources, to the private farmers. These allocations are provided to people coming from relatively affluent backgrounds who generally arrive in the Naqab from other regions. It can be assumed that most of them already have housing in recognized localities and enjoy access to most basic services, such as education, health, paved roads, environmental health inspection and running water. At the same time, there is no comparable allocation of land and resources for indigent residents of the Naqab, mainly among the Bedouin population, but also in impoverished Jewish communities. In this way, the Plan blatantly violates the principles of equality and distributive justice.

In sum, the "Wine Route" Plan unreasonably contradicts the prevailing professional and ethical principles employed by spatial planners in most states. The plan is detrimental to civic equality and distributive justice, which have been recognized in Israel and globally as basic principles of the planning profession. These problems, in my academic and professional opinion, make the "Wine Route" Plan fundamentally flawed and, therefore, it should be rejected. Planning institutions should instead prepare development plans for the deprived southern region that involve all local residents and allocates resources, services and lands according to the criteria of civic equality and community needs.

¹⁵ See, *The Statistical Yearbook for the Negev, 2004*. The Negev Center for Regional Development and the Center for the Study of Bedouin Society, Ben-Gurion University, Be'er Sheva.