

Adalah Petitions Supreme Court: Denial of Arab Bedouin Girls' Right to an Education in Unrecognized Villages in the Naqab Constitutes Compound Discrimination on the Basis of Gender and Nationality

By Salim Abu-Medeghem*

Historical Background: Education in Abu-Tulul – El-Shihabi

In the region of Abu-Tulul – El-Shihabi, located on the Beer el-Sabe (Beer Sheva) – Dimona highway in the Naqab (Negev), lie seven Palestinian Bedouin unrecognized villages, with a combined population of approximately 12,000 inhabitants. For 21 years after the establishment of the state, the area was without a school, and during this period most children were therefore deprived of their basic right to an education. It was only in 1970 that a school providing first to third grade education was finally opened in the area, followed in 1976, 27 years after the passage of the Compulsory Education Law – 1949, by a joint elementary and junior high school. Today, there are three schools, elementary to junior high (from first to ninth grades) in the area, that are attended by 2,600 students. Upon graduation from junior high school and in the absence of a local high school, students from the Abu-Tulul – El-Shihabi area must to one of the high schools in the neighboring recognized Arab Bedouin towns of Segev Shalom and Arara in order to study beyond the level of junior high.

The Effects of the Absence of a High School on the Rate of Dropping Out

There are presently around 750 female and male students of high school age from the Abu-Tulul – El-Shihabi area, of whom only 173 attend high school. The remainder, approximately 577 female and male students (or around 77% of the total), drop out of the system permanently as a direct consequence of the lack of a local high school. The dropout rate at high school level is particularly high among girls, in most cases exceeding 77%. The reasons for the higher rate of dropping out among female students lie in the fact that Arab Bedouin girls are forbidden to travel with "strangers" without being accompanied by a relative, and are prevented from studying with students who belong to other tribes and being in the company of unfamiliar boys. Arab Bedouin tradition and customs severely curtail girls and women's freedom to leave the area of their villages or tribes. Therefore, in the absence of accessible local schools, the 12-15 kilometer journey to high schools in Segev Shalom poses for many young women an insurmountable barrier to their continued education, and constitutes the main reason for the high rate at which they drop out.

Significantly, in areas which do have a local high school, the dropout rate of female students is considerably lower, and girls are able to fulfill their right to an education. According to statistics from 2004, the percentage of Palestinian Bedouin girls who graduate from high school in the recognized villages is comparable with that of Bedouin boys, and is even higher in some schools, as the following table indicates:

Percentage of Arab Bedouin Students who Graduate from High School by Gender in Three Recognized Villages

Class	No. of Female Students	No. of Male Students	Village
12 th Grade	84	70	Hura
12 th Grade	72	60	Lagiyya
12 th Grade	101	104	Kseiffe

Source: Ben-Gurion University, *Statistical Yearbook of the Bedouin in the Naqab*, 2004

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Furthermore, it should be stressed that, in the past, prior to the establishment of local primary and junior high schools, the educational situation of the girls in Abu-Tulul – El-Shihabi was even poorer. Once schools became available to them, however, a higher number of girls enrolled in the classes. The data presented below demonstrates that the number of girls studying in the local primary and junior high schools in the village of Abu-Tulul – El-Shihabi today is not markedly lower than the number of boys:

Students in the El-Mostaqbal and El-Asam B Schools, Abu-Tulul – El-Shihabi by Grade and Gender, 2003

Class	Total No. of Students	No. of Female Students	No. of Male Students
6 th Grade	143	71	72
7 th Grade	134	61	73
8 th Grade	140	59	81
9 th Grade	141	64	77

Source: Ben-Gurion University, *Statistical Yearbook of the Bedouin in the Naqab*, 2004

Adalah's Petition to the Supreme Court:

In 2002, Adalah Attorney Morad El-Sana approached the planning and building authorities and the Ministry of Education (MOE), requesting the establishment of a high school in the Abu Tulul – El-Shihabi area. The ensuing correspondence between Adalah and the Office of the Ministry of the Interior in the Naqab indicated that, from a planning perspective, there was no obstacle to the establishment of a school, since the village of Abu Tulul – El-Shihabi was in the advanced stages of a planning process aimed at gaining state recognition for it. The MOE had, in fact, committed to opening a high school in the area in 2000, but in spite of this commitment and many subsequent requests by Adalah and other groups to secure its fulfillment, the MOE has refused to make good on its promise.

On 23 March 2005, in response to the MOE's inaction, Adalah submitted a petition to the Supreme Court of Israel in the name of 35 Arab Bedouin girls, against the MOE, the Regional Planning Committee – Southern District, the Abu Basma Regional Council, the Ministry of the Interior, and the Israel Lands Administration. Some of the girls have dropped out of high school but would wish to continue their studies if a high school were available in their locale. Other petitioners are 9th grade female students who will be unable to continue their education beyond the current school year because of the lack of a local high school. These petitioners were joined by six other non-governmental organizations – The Arab Parents' Union in Israel, Sidreh: Scope of Action for Bedouin women in the Negev, The Association of Forty, The Follow-Up Committee on Arab Education, The Regional Council for the Unrecognized Villages in the Naqab, the Association of Bedouin Women to Promote Education – and Adalah. The petitioners demanded that the Supreme Court order the construction of a high school in the Abu-Tulul – El-Shihabi area. With the petition, Adalah submitted an expert opinion written by Prof. Ismael Abu-Saad of Ben-Gurion University, an education specialist who has conducted extensive research on the education of the Arab Bedouin in the Naqab.

The petition, filed by Adalah Attorney El-Sana, drew on data on the dropout rate among female students of Abu-Tulul – El-Shihabi to argue that the petitioners face twofold discrimination: as women in a traditional society and as members of the Arab minority, that is, compound discrimination on the basis of both gender and nationality. Because of the social conventions of the petitioners' society, which reinforce the gender divide, the state is under a grave obligation to consider these social factors, and to eliminate the ongoing discrimination against the petitioners by making education accessible for them, as requested in the petition. This obligation derives from the constitutional concept of Israel's Basic Law:

Human Dignity and Liberty – 1992, which protects the autonomy of the individual, including an individual's right to develop and to determine his or her own path in life without such obstacles as discrimination resulting from conditions over which he or she has no control. This concept is supported by international conventions to which Israel is a State Party. Article 14(2) of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), for instance, relates in detail to cases of this kind, stipulating that:

State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

...

d. To obtain all types of training and education, formal and non-formal, including that relational to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency.

Likewise, with regard to the implementation of the CEDAW by Israel, the UN Committee on the Elimination of Discrimination Against Women in its Concluding Observations of 1997 specifically related to the phenomenon of dropping out among Arab Bedouin girls in Israel as follows:

176. The Committee recommended that measures to guarantee the exercise of human rights of non-Jewish women, **including those living in the rural areas**, particularly in relation to health, education and employment, should be intensified. **Special measures should be taken to close the gap between Arab and Jewish schools and address the higher drop-out rates of Arab Bedouin girls. Adequate resources should be allocated for school facilities and education opportunities, including scholarships** ... [Emphasis added]

Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Israel, 12/08/97, A/52/38/Rev. 1, Part II, para. 176.

In addition, Israel's report to the Committee referred to the dropout problem among Arab Bedouin girls in comparison with Arab Bedouin boys:

The higher dropout rates for Bedouin girls remain a problem. Recent data shows that throughout grades 1-9 the boys make up more than half (52.4%) of the total number of pupils, except in grades 4 and 8. In the ninth grade boys already make up 53.7% of the pupils. **In the unrecognized localities, the situation is even worse: girls make up only 43.7% of the ninth graders.** [Emphasis added]

Third Periodic Report of Israel submitted to the Committee on the Elimination of Discrimination Against Women, 16/11/2001, CEDAW/C/ISR/3, p.164.

Human Rights Watch noted the connection between the high percentage of Palestinian Bedouin female students dropping out of high school and the lack of accessible local high schools:

Of 305 women surveyed from 1991-1992 about their daughters finishing high school, 80.7 percent wanted their daughters to finish, although of those surveyed, 24.9 percent stated that financial barriers, the fact that their extended families did not allow girls to finish high school, **and the fact that schools were too far away would prevent their daughters from finishing.** [Emphasis added]

Human Rights Watch, *Second Class: Discrimination against Palestinian Arab Children in Israel's Schools*, USA, 2001, pp. 40-41.

Official data also confirms that the accessibility of a high school for female Arab Bedouin students decreases the rate at which they drop out, as it does for Arab Bedouin students as a whole in the Naqab. For example, a report from the Ministry of Social Affairs states, in reference to the recognized Arab Bedouin town of Lagiyya, that:

Dropout rates in high schools are very low and do not exceed 2%. This is due to the fact that all schools, particularly the high school, are located in the town. Today, the percentage of girls in high school is higher than that of the boys, which indicates a significant change in a positive direction. [Emphasis added]

Dr. Yossi Korazim, *Children at Risk in Bedouin Local Authorities in the Negev*, Israel: Ministry of Social Affairs, Division of Personal and Social Services for Children and Youth, 2003, p.24.

The petition further emphasizes that the MOE allocates the required resources and establishes high schools for Jewish students in many other areas with populations smaller than those of the petitioners' villages, and with a smaller number of high school students. Thus, for example, the neighboring Jewish settlement of Kibbutz Shuval, which has only 350 inhabitants, has a regional high school which 450 students attend. The respondents, however, refuse to establish a high school in an area in which the population numbers approximately 12,000 people, which, as Adalah argued in the petition, constitutes discrimination on the basis of nationality against the petitioners.

As Article 3 of the Students' Rights Law – 2000 determines, "every child and youth in Israel is entitled to an education in accordance with the law." Similarly, Article 28 of the UN Convention on the Rights of the Child (CRC) emphasizes that State Parties must acknowledge the right of every child to an education and ensure that they benefit from an available and accessible right to education.

The goal of this legislation is to guarantee equal educational opportunities for all children who are citizens of the state and of the age of compulsory education, without discrimination of any kind. Its significance derives from the requirement places on official and state institutions to provide educational services for children of compulsory education age. Therefore, Israel is obliged to take the necessary steps to make these educational services available to all students. This concern requires the removal of all barriers to the implementation of the right to education.

Conclusion

Israel has not fulfilled its obligation to provide high school education for Arab Bedouin students living in the seven unrecognized villages in the Abu Tulul – El-Shihabi area. Those who suffer most greatly from the state's failure are young women, as the testimony of Aisha Khalil Abu-Ma'amar (Petitioner No. 7), a 9th grade student in a school in Abu Tulul – El-Shihabi illustrates. Aisha is aware of the uncertainty of her future, as she describes in her own words:

I am certainly in danger of dropping out because there is no high school in the area. All the girls who study outside the village are considered dishonorable and not a credit to their families. One girl tried to go to high school, but everyone began to talk about her and she stopped studying. Even the solution of transportation is not acceptable in our community, so we can't study in high school. Transportation and acceptance to high school outside our village in Arara and Segev Shalom are problematic. If a high school is built in the village, I will be able to continue my studies and I won't have to drop out... My dream is to complete my high school studies and become a lawyer when I grow up, but I don't allow myself to dream about my future because without a high school I can't continue studying, and I know I will drop out at the end of the year.

Affidavit of Aisha Khalil Abu-Ma'amar, 02.02.2005, submitted as part of Adalah's petition to the Supreme Court, H.C. 2848/05.

H.C. 2848/05, Fatimah Abu Sabila (Ali) et. al., v. The Ministry of Education, et. al. (case pending).