



Enforcing Distress: House Demolition Policy in the Bedouin Community in the Negev

פורום דו-קיום בנגב לשוויון אזרחי
منتدى التعايش السلمي في النقب من اجل المساواة المدنية
Negev Coexistence Forum For Civil Equality



Negev Coexistence Forum for Civil Equality | In 1997, a group of concerned Arab and Jewish residents of the Negev (Israel's southern desert region) established the Negev Coexistence Forum for Civil Equality (NCF) to provide a framework for Jewish- Arab collaborative efforts in the struggle for civil equality and the advancement of mutual tolerance and coexistence. NCF, also known as "Dukium" ("co-existence" in Hebrew), is unique in being the only Arab-Jewish organization that remains focused solely on the specific problems confronting the Negev. NCF considers that the State of Israel fails to respect, protect and fulfill its human rights obligations, without discrimination, towards the Arab-Bedouin citizens in the Negev. As a result, the NCF has set as one of its goals the achievement of full civil rights and equality for all people who make the Negev their home.

June 2016

Research and writing: Ben Fargeon and Michal Rotem

Arabic translation: Ratb Abu Krinat

English translation: Rachel Ben Porat

Cover photo: House demolition near the Gawa'in road, 04.08.2015 (Michal Rotem)

Back cover photo: Demolition forces convoy on the Gawa'in road, 04.08.2015 (Michal Rotem)

Content

Introduction	4
1. House demolition policy	7
1.1 The house demolition policy and the land struggle in the Negev ...	8
1.2 Updated data on house demolitions in the Negev	10
1.3 Execution of demolitions	12
1.3.1 Demolitions by authorities	12
1.3.2 Demolitions by owners	13
1.3.3 Demolitions without warrants	14
2. Enforcement authorities in the Negev	15
2.1 The Southern Directorate of Land Law Enforcement	15
2.2 ILA's Division of Land Security	18
2.3 The National Unit for Building Inspection	19
2.4 The Unit for Enforcement in Open Spaces	20
2.5 Yoav Unit	21
3. The legal framework for the house demolition policy: eviction and demolition warrants	23
3.1 Planning and Construction Law	23
3.1.1 Judicial demolition order	23
3.1.2 Administrative demolition order	25
3.2 Public Lands Law	26
3.2.1 Order for removal and eviction from public lands	26
4. The house demolition policy as pressure to enter into negotiations	28
Summary	31

Introduction

For many years, the Bedouin community in the Negev-Naqab has been suffering from housing shortages. Exacerbating the situation, the State of Israel pursues house demolitions as its main policy. While different governments throughout the years have invested huge resources in strengthening and improving the efficiency of housing enforcement in the Negev, politicians have not pursued practical and just solutions for the Bedouin community's dire housing shortage. Further, a majority of the housing demolitions that the state carries out each year specifically targets the Bedouin community.

The Bedouin community numbers about 230,000 people, representing 31.4% of the Negev's population.¹ However, only 18 out of the existing 144 settlements in the area are designated for this community.² Apart from these 18 settlements, there are about 40 villages which are not recognized by the state of Israel. Despite the housing shortages and lack of recognition for about 40 villages, subsequent Israeli governments continue to ignore the situation of the Bedouin community and instead approve more and more settlements in the Negev, all of them designated for the Jewish population.³

Various development plans for the Negev exist but all of them disregard the Bedouin community. Some of the plans even deliberately threaten the unrecognized villages in the area, that is, envision roads, forests, mines, and new Jewish settlements in their place. These pose a real threat of eviction and demolition for many Bedouin villages in the Negev and potentially deepen the community's housing shortage. It is worth noting that many of these new plans also pose a threat to the possibility of expansion and development of recognized Bedouin villages and towns. Effectively, they constrict the space

¹ Israeli Central Bureau of Statistics, 2014, Table 2.17: Settlements and Population according to population group, district, region and natural area. <http://tinyurl.com/z7qyxpw>

² Op. cit., 2014, Table 2.16: Settlements and Population according to district, region, religion and population group. <http://tinyurl.com/zmdjxcp> (the table indicates 17 Bedouin settlements because the village Abu Tlul aš-Šahbī that was recognized by the state is not accounted for, therefore, there are 18 Bedouin settlements).

³ See for example: Government resolution 748 dated 22.11.2015 by which the establishment of 5 new Jewish settlements in the Negev was approved. <http://tinyurl.com/zgv6al7>

that could be allotted to the towns that, due to natural growth and already less proportionate land for future development than Jewish towns, have since become over-populated.

The state exercises its house demolition policy in all the Bedouin settlements of the Negev: the planned towns, the newly recognized villages, and the unrecognized villages. The scarcity of land for development plots, the lack of official planning even in recognized villages, and the impossibility of obtaining construction permits, brings about a situation where many houses and buildings are being built "illegally" since no legitimate solutions are available.

In the last couple of years, the State of Israel has formed a unique enforcement system for the Bedouin community in the Negev. The system includes a directing arm of the Ministry of Public Security that coordinates several enforcement bodies in the Negev, as well as a dedicated police force which accompanies officials when they carry out their work. This system, subjected to the Ministry of Public Security and operated by enforcement bodies, proves that the state sees the Bedouin community in the Negev as a security threat, and not as a community of equal citizens who deserve solutions to their distress.

Thus, the State of Israel is not trying to find a just solution to the ongoing issues facing the Bedouin community but rather further deepens the existing housing problems. The long-standing disregard of the situation in the unrecognized villages, regional planning that is totally blind to the specific needs of the Bedouin community, and the aggressive enforcement of housing regulations, deters a just solution to this situation.

The 1st chapter of this report deals with the policy of house demolitions in the Negev and presents updated data on the demolitions carried out since 2013. This chapter presents explanations on the different types of demolitions: demolitions by the authorities and by owners as well as a new type that the state calls "demolitions 'while in process,'" but in this report we will refer to as "demolitions without warrants" to better capture what is occurring.

The 2nd chapter specifies the different enforcement bodies that carry out the house demolition policy: The Southern Directorate of Land Law Enforcement (henceforth, "Directorate"), the Division for Land Security of the Israel Land Authority (ILA), the National Unit for Building inspection, the Unit for Enforcement in Open Spaces and "Yoav", a police unit established for escorting the enforcement agencies that carry out demolitions.

The 3rd chapter presents the legal framework for the house demolition policy based on the Planning and Construction Law (1965) and the Public Lands Law (1981). This chapter explains the rulings that are used by the authorities to carry out their house demolition policy in the Bedouin community, that is, administrative, judicial, and eviction from public lands orders.

The 4th chapter analyzes the authorities' use of demolitions as a tool to pressure the Bedouin citizens to enter into negotiations with the state. The authorities call this, "enforcement promoting regularization". This chapter presents various examples of cases where the authorities coordinated with the Directorate to issue orders and demolitions to Bedouin citizens who refused to submit to the pressures from the authorities to enter into negotiations with the state over lands.



Mosque demolition in the village Rakhamah, 06.01.2016 (Salima Azazmeh)

1. House Demolition Policy

For many years the State of Israel has exercised a house demolition policy against the Arab-Bedouin community of the Negev. Allegedly, this policy is implemented due to the high rate of building without permits by the Bedouin community. However, the high frequency of building without permits is a direct result of the fact that, even today, no permits are given in many of the Bedouin settlements, leaving the people of the community with no other choice. Many people in Bedouin communities may want to build new structures or renovate buildings on their land for a myriad of reasons. As the population in villages grows, families may want to extend houses or build new ones. While the housing shortage of the Bedouin community becomes more and more severe over time, the Israeli government does not offer any appropriate solutions to the problem, and thus contributes to the overall deterioration of the situation.

Evidence to this point can be found in the summary report of the Directorate for 2015:

"12. It is a clear fact that the gap continues between the rate of enforcement and the rate of housing solutions offered by the state".⁴

Here, the enforcement authorities themselves admit, that while the house demolition policy has become more effective (as we shall show in this chapter), the State of Israel, itself, has not provided a solution to the housing crisis in the Bedouin community, leading to a disparity of the housing available and housing needed.

The housing shortage is prevalent in all three main types of Bedouin settlement. In the unrecognized villages—defined by the state as "illegal" or a "diaspora"—no construction permits can be obtained. This also applies to villages existing in their original location before the establishment of the state of Israel as well as to villages transferred to their present location by the military government. Therefore, every structure in any unrecognized village is

⁴ The Southern Directorate of Land Law Enforcement – 2015 summary, page 15, article 6. 12.

deemed illegal. The 7 Bedouin planned towns, established by the state after the military government ended in 1966, suffer housing shortages and a lack of available plots for building. Many buildings and sometimes whole neighborhoods in these towns are considered "illegal" since they were built without permits. The newly recognized villages, 11 villages that the state of Israel decided to recognize since the 2000s, also suffer from housing shortages. In 10 of the villages, hardly any construction permits were given since their recognition.⁵

While the housing shortage in the Bedouin community increases each year, the state of Israel prefers to invest more and more resources in making the enforcement apparatus more efficient, instead of investing in planning and housing solutions for the community. Thus, the house demolition policy has become more "effective" in the most recent years and is being carried out by various governmental authorities who work jointly to increase the number of demolitions each year. 982 structures were demolished in 2015 in the Negev's Bedouin community alone.⁶

The ILA's Unit for Land Security, the Unit for Enforcement in Open Spaces and the National Unit for Building Inspection, work with the Directorate, and carry out special joint-operation days for locating and identifying new structures, to increase the number of house demolitions and make the process more efficient. In addition, the various authorities work closely with the police in order to increase the percentage of demolitions of houses by their owners (more on this process in chapter 1.2.2).⁷

1.1 The house demolition policy and the land struggle in the Negev

The house demolition policy is inseparable from the struggle over lands among the Bedouin community and the State of Israel. In many cases, the state uses house demolitions in order to displace Bedouin citizens from their lands. The state does not recognize Bedouin ownership over lands in the

⁵ Knesset's State Control Committee session of 26.3.2016 (protocol not published yet).

<http://tinyurl.com/hzx4bj8>

⁶ See supra note 4, page 6, article 4. 2.

⁷ See supra note 4, page 14, article 6. 8.

Negev and refer to all the lands Bedouin claim ownership for as “state lands”. This is despite the fact that many Bedouin hold different documents that prove their ownership over land and some of them still reside on their lands since before the establishment of the state.

In the 1970s, the state allowed Bedouin to file ownership claims over their lands, and yet, within a short time decided to freeze this process. Over the years the state acted in two ways to regularize these land claims: (1) by pressuring the Bedouin in the Negev to enter negotiations over their lands with the Authority for Development and Settlement of the Bedouins in the Negev, and, (2) by filing counterclaims to court over the same lands, claiming they are state lands.⁸

The only situation in which the state recognizes Bedouins’ ownership over their lands is at the end of negotiations, when citizens give up their lands in return for minuscule compensation. The al-Uqbi ruling by the Supreme Court from May 2015 almost brought an end to the ability of Negev Bedouin to prove ownership over their lands in court. In her closing statement, the President of the Supreme Court wrote:

“I will advise my colleagues to reject the claims of the appellants in everything relating to the rights they purchased on these lands whether by means of the traditional Bedouin land laws, by virtue of Ottoman and Mandatory Land Laws, or by the laws of honesty, International Law or Basic Laws [...] in light of these conclusions, the appellants are not entitled to compensation or land exchange under the Acquisition of Lands Law because of the expropriation of the said lands”.⁹

The State of Israel does not acknowledge the right of its Bedouin citizens to reside in the unrecognized villages; it makes no difference to the state if the village existed in their current location from before the establishment of the state in 1948, or if they were moved from their original lands under the

⁸ For further reading see: Processes of Dispossession in the Negev-Naqab: The Israeli policy of Counter Claims against the Bedouin-Arabs. Negev Coexistence Forum. <http://tinyurl.com/zzcy279>

⁹ The late Sliman Muhammad al-Uqbi et al. vs the State of Israel (4220/12), verdict, paragraph 83.

military government in the 1950s. One of the main means utilized by the state in its struggle against these villages, besides prevention of services and infrastructure, is the house demolition policy. The enforcement authorities mainly act against new structures or renovated ones, in order to pressure their owners into negotiations over their lands and over relocating them to Bedouin planned towns.

Therefore, when enforcement authorities act according to different laws to evict people from “state lands” and destroy their houses, many times these are actually lands under contestation, with outstanding land claims that have yet to be settle. Against the state’s immense power and use of different authorities that act to take over Bedouin lands in the Negev, the residents of the villages practice *ṣumūd* - steadfastness in Arabic - and live on their lands without running water, connection to the electric grid or basic services, hoping that in the future their land rights will be recognized and they will be allowed to live in their own villages.

1.2 Updated data on house demolitions in the Negev

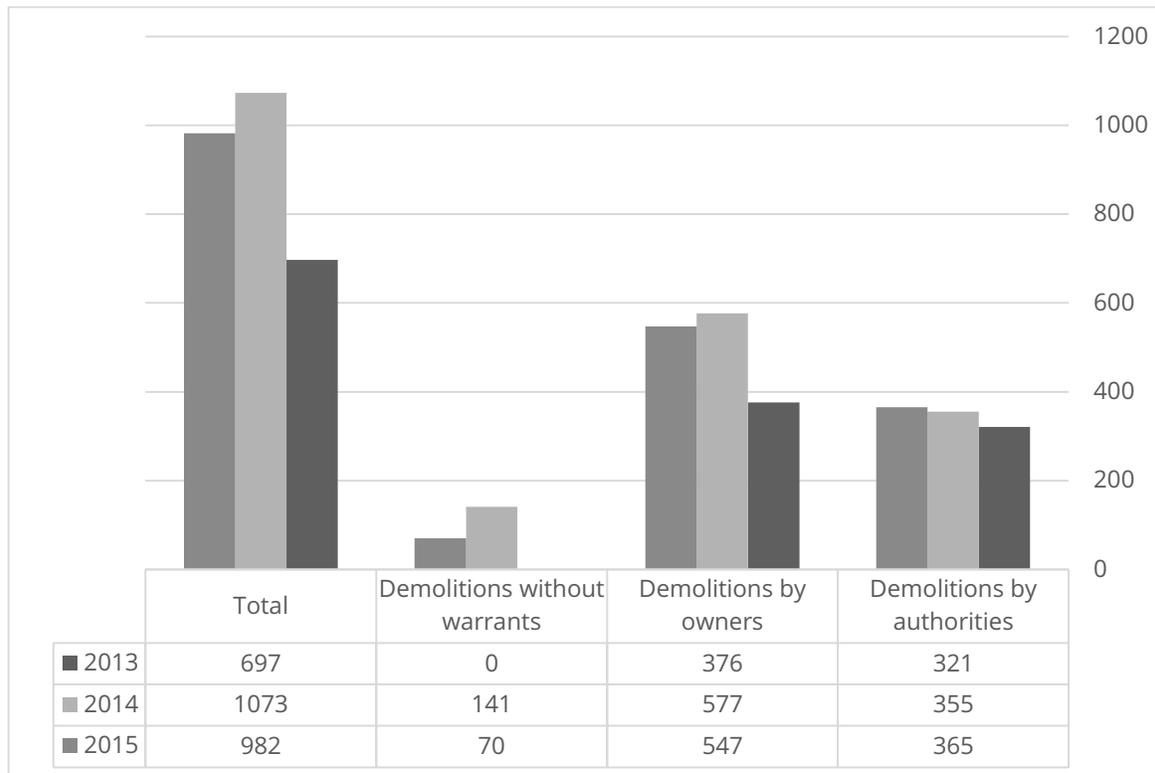
While the various governmental authorities are putting much effort in increasing the number of house demolitions, they are not publishing the data for the public. The information in this report is based on data from the Directorate that the Negev Coexistence Forum exposed in recent years following our requests under the Freedom of Information Act. The internal reports of the Directorate that we have published in the last three years reveals the number of demolitions in the Negev, the number of joint-operation days for locating, identifying, and demolishing new structures, as well as the number of demolitions each authority has carried out. It is worth noting that the data in the report refers to demolitions in the Negev Bedouin villages and towns only.

Graph No. 1 shows the number of demolitions in the years 2013-2015 according to the type of demolition – by the authorities, by owners and without warrants.¹⁰ The figures show an increase of 54% in the year 2014,

¹⁰ See explanations of the types of demolition in chapter 1.3 in this report.

while in 2015 there is a significant decrease of 8.5% in the number of structures demolished in the Bedouin community. While the demolitions by the authorities remained almost steady throughout the years, the main variability in the numbers from year to year is due to changes in the rate of demolitions by owners. 376 structures were demolished by owners in 2013, namely 54% of the total demolitions carried out that year. In 2014 the numbers increased and 718 structures were demolished by owners, 67% of the total demolitions. In 2015, 617 structures were demolished by owners, 63% of the total demolitions that year. In spite of the decrease in the percentage of demolitions by owners in 2015, there is still a significant number of citizens who choose to demolish their own houses. The authorities consider these high numbers of demolitions by owners successful and act to increase their rate.¹¹

Graph No. 1: Demolitions of structures in the Negev 2013-2015 according to the type of demolition¹²



¹¹ See supra note 4, page 14, article 6. 8.

¹² The Southern Directorate of Land Law Enforcement – 2014 summary, page 5; see supra note 4, page 5.

In general, the establishment of the Directorate and the Yoav unit of the police have led to the increase in the number of structures being demolished each year in the Negev. However, some events and processes which occurred in the last couple of years resulted in cancellation of some of the joint-operation days (where agencies locate, identify, and demolish structures) as well as has resulted in the usual amount of demolition orders given decreasing. For example, in the summer of 2014, during the fighting in Gaza, almost all demolition activity was stopped.¹³ In 2015, due to the period of insecurity in the state, the Yoav Unit was transferred to other parts of the country, resulting in another decrease in the number of demolitions.¹⁴ In addition, in 2015 the National Unit for Building Inspection was transferred from the Ministry of the Interior to the Ministry of Finance, resulting in a two months absence of the chairman of the regional committee (whose job it is to sign the demolition orders) and a decrease in the number of inspectors operating in the south.¹⁵

1.3 Execution of Demolitions

Demolitions of houses and structures can be divided into two main types based on who is actually carrying out the demolitions. "Initiated demolitions" are those executed by the various governmental bodies and "self demolitions" are those executed by the owners themselves. In the last two years a new type has emerged: called by the state demolitions "while in process" or as we choose to call them, "demolitions without warrants". These are demolitions carried out by the owner even before a demolition order is issued. The authorities are trying hard to increase the number of demolitions carried out by the owners, as reflected in Graph 1.

1.3.1 Demolitions by Authorities

"Initiated demolitions" are demolitions carried out by the various state authorities. In cases where demolition orders were issued and the owners did not complete the demolition themselves, a representative from the authority

¹³ See supra note 10, page 11, article 3.

¹⁴ See supra note 4, page 1, article 1. 4.

¹⁵ See supra note 4, page 14, article 6. 3. 1.

arrives to carry out the demolition. In the last couple of years the authorities have been coordinating this activity by designating days for demolition.

On those designated days, a police convoy, bulldozers and inspectors from the various authorities, go out in the morning to carry out the task of house demolitions. The convoy arrives to a place with no prior notice, remove the residents and carry out the demolitions. Sometimes they allow the people to remove belongings from their homes and sometimes not. In 2015 there were 51 days designated for house demolitions,¹⁶ with an average of 7.1 buildings a day.¹⁷

1.3.2 Demolitions by Owners

In the last couple of years there has been an increase in the phenomenon of house demolition by owners, a practice that the authorities call, "self-afflicted demolitions". In these cases owners of houses and structures who receive demolition or eviction warrants choose to demolish the buildings themselves instead of waiting for the authorities. As noted earlier in this report, the authorities see the increase in the number of demolitions conducted this way as a success and they invest resources to further increase these so-called "self-inflicted demolitions." In a summary report by the Directorate it is written that:

"The trend of increase in "self demolitions" compared to initiative demolitions continues [...] This is a result of thorough field work which finds expression in early dialogue [...]. The figure shows that those who build illegally believe that once a demolition warrant has been issued, the enforcement authorities are determined to follow the law and eventually the demolition will be executed. The owners prefer, therefore, to carry out the demolition themselves and avoid the arrival of inspectors and the police force".¹⁸

The explanation given in the Directorate report ignores some of the other reasons that lead citizens to demolish their own houses. The report argues

¹⁶ See supra note 4, page 2.

¹⁷ See supra note 4, page 5.

¹⁸ See supra note 4, page 14, article 8.

that people wish to avoid the arrival of "inspectors and the police force" but it declines to mention that, in practice, the demolition operation involves a large number of policemen who arrive without prior notice and in many cases do not allow the residents to remove their belongings from their homes. In the last couple of years, some incidents occurred where the police exercised violence against the owners, their families and neighbors, and made arrests.

Also, during the demolitions, the bulldozers deliberately destroy all construction materials and sometimes even bury them in the ground. This can be avoided when the demolition is carried out by the owners themselves.

Moreover, the report does not mention another main reason that the owners choose to carry out the demolitions themselves: the authorities threaten to impose the demolition costs on the owners, a threat that while leveled routinely against Bedouin citizens, has yet to be put to the legal test.¹⁹ In spite of the many efforts by the authorities to promote demolitions by owners, the numbers of these types of demolitions have decreased in 2015 compared to the previous year.²⁰

1.3.3 Demolitions without warrants

Demolitions without warrants are demolitions carried out by the owners prior to a demolition or eviction order being issued. Usually it involves structures that are being built or have just been completed. The inspectors then put pressure on the owners to demolish the construction before a warrant is issued. If the owners decide, after this pressure, to not demolish the construction themselves, the inspectors issue a demolition order. Next, if the owners do not carry out the demolition themselves after receiving the warrant, the authorities arrive to carry out the demolition. In 2015 the number of structures demolished in this category amounted to 70.²¹

¹⁹ For further reading see: The House Demolition Policy in the Negev-Naqab - International Human Rights Day 2014. Negev Coexistence Forum. Page 9. <http://tinyurl.com/ju53s68>

²⁰ See chapter 1.2 in this report.

²¹ See supra note 4, page 6.

2. The Enforcement Authorities in the Negev

Three main enforcement authorities operate in the Negev in the field of house demolitions: ILA's Division for Land Security, the Unit for Enforcement in Open Spaces and the National Unit for Building Inspection. Since 2012, the work of these bodies is coordinated by the Southern Directorate of Land Law Enforcement (Directorate). Further, there is a special police combat unit dedicated to work in enforcement against Bedouin citizens. They work to escort the enforcement agencies in days when they carry out evictions and demolitions. All of these authorities work together, in order to increase the number of structures being demolished in the Negev each year.

2.1 The Southern Directorate of Land Law Enforcement

The Directorate is a body established in 2012 with the purpose of making the process of demolitions in the Negev more efficient.²² The Directorate is under the jurisdiction of the Ministry of Public Security and functions as the main body coordinating the demolitions between the various enforcement authorities. Although its name suggests a universal body acting in the south of Israel to generally enforce its laws, in fact it is a body that deals solely with the enforcement of land laws on the Bedouin community.

The Directorate was established by government decision 3707 of 2011 in which the Praver Plan was approved.²³ In spite of the fact that the Praver Plan, which regulates Bedouin settlement in the Negev had been shelved in December 2013,²⁴ the Directorate still continues to operate. The government decision on the establishment of the Directorate stipulates, amongst others, that the goals and policy of enforcement will be decided by the implementation staff of the Praver Plan²⁵ and that the annual enforcement plan will be approved by the head of staff.²⁶ However, although the

²² Website of the Ministry of Public Security: Southern Directorate of Land Law Enforcement.

<http://tinyurl.com/jgtg48n>

²³ Government resolution 3707 dated 11.09.2011. <http://tinyurl.com/hs5czb2>

²⁴ Haaretz, Begin announced: Praver law for the regularization of Bedouin settlement in the Negev will be stopped. 12.12.2013. <http://tinyurl.com/qzbnzf6>

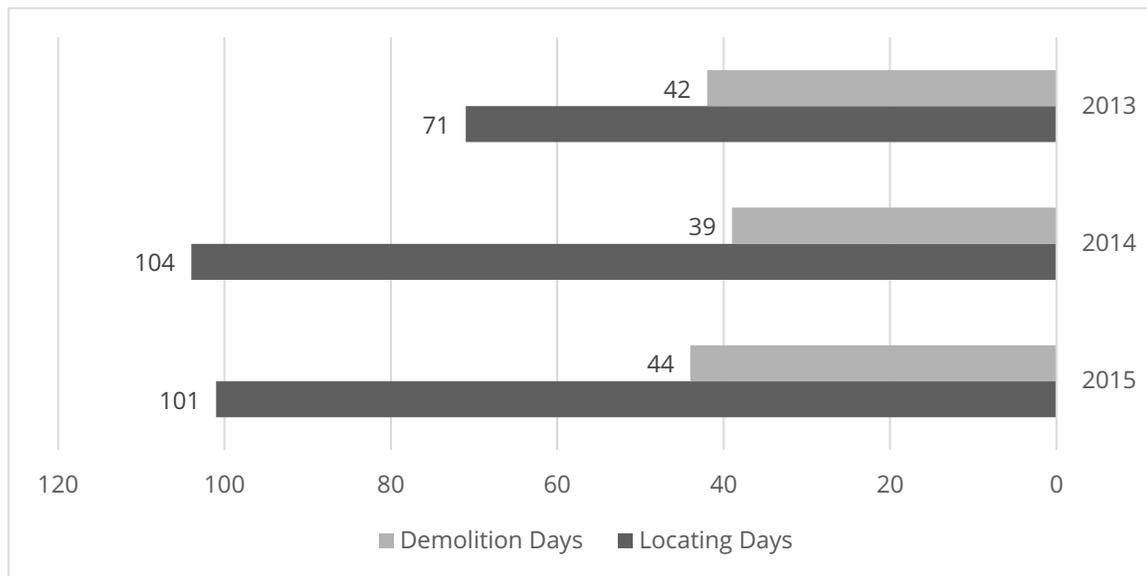
²⁵ See supra note 23, article 6. b.

²⁶ See supra note 23, article 6. d. 1.

implementation staff is not operating and the Praver Plan is frozen, the Directorate keeps operating to enforce laws against the Bedouin community.

The Directorate holds weekly meetings of a permanent forum of representatives from the various authorities who deal with house demolitions in the Negev. The Directorate coordinates days for locating and demolishing structures as well as ploughing fields for the purpose of destroying crops.

Graph 2: Joint-Operation Location and Demolition Days 2013-2015²⁷



Graph 2 shows the number of days of location and demolition carried out per year. Since its establishment the Directorate coordinated an average of 41.6 days of demolition per year. In the last few years, a daily average of eight houses and structures were demolished.

Within the framework of the Directorate the following authorities operate: ILA's Division for Land Security, the National Unit for Building Inspection, the Unit for Enforcement in Open Spaces, and local planning and construction committees.²⁸ The Directorate also works with the Authority for the Development and Settlement of the Bedouins (hence Authority for Development) in order to promote the "regularization policy". The Directorate

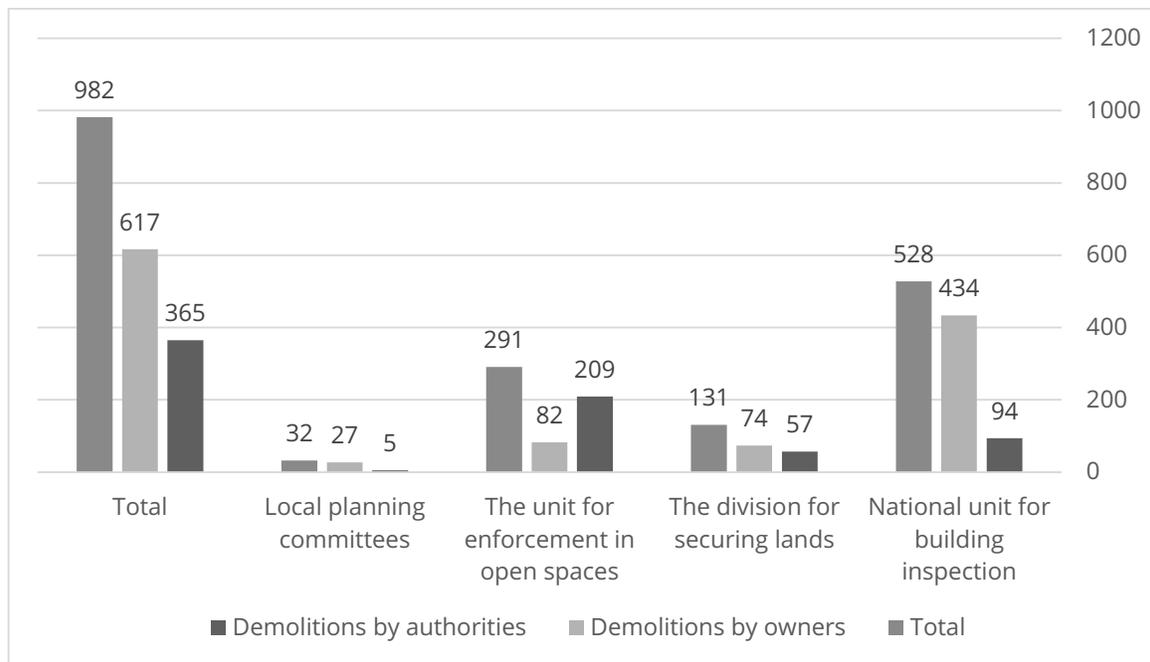
²⁷ See supra note 10, page 2-3; see supra note 4, page 2-3.

²⁸ See supra note 22.

and the Authority for Development work jointly, hoping to pressure Bedouin citizens to settle their land claims and transfer from their place of residence into the planned Bedouin towns.²⁹

The Directorate employs five people who work to coordinate operations and gather information. The Directorate’s budget comes directly from the Ministry of Public Security. In 2014 and 2015 an additional 425,000 NIS per year was allocated to the Directorate for the purpose of aerial photography and mapping³⁰ to identify changes on the ground.

Graph 3: Demolitions in the Negev in 2015 by the enforcement body³¹



Graph 3 shows the number of demolitions carried out by the various enforcement authorities in 2015, according to the authority responsible for the demolition. One can see that the National Unit for Building Inspection is responsible for most of the demolitions in 2015 (528 structures), followed by the Unit for Enforcement in Open Spaces (291 structures) and the Division for Securing Lands (131 structures). The local planning committees are last (32 structures), apparently leaving the enforcement work to the other authorities.

²⁹ See chapter 4 in this report.

³⁰ Reply to freedom of information request from the Ministry of Public Security dated 02.07.2015.

³¹ See supra note 4, page 6, article 4. 2.

2.2 ILA's Division for Land Security

By law, the Israeli Land Administration (ILA) manages the all lands in Israel: state lands, the Development Authority's lands and the Jewish National Fund's (JNF) lands. The role of the Division for Land Security is "To guard the assets that are being handled by the ILA through administering the land properties, demarcating and taking possession in the authority's region".³² The Division operates under the Land Law which enables the use of reasonable force in evicting a person from land they possess, without a warrant within 30 days;³³ The Public Lands Law that enables the Division to issue eviction and removal warrants against people using public land, properties which are handled by the Authority;³⁴ And pursues lawsuits for eviction to the court and then follows through in carrying out the evictions. The Division acts in four regions: Center, Jerusalem, North and South. In each of the regions there are inspectors who act on behalf of the Division. Mr. Ilan Yeshurun, director of the South Region, expresses himself often on the subject of house demolitions in the Negev:

"ILA's inspectors act regularly nationwide against invasions, big or small, to the state's lands. The inspectors clarify to the invaders that their actions are illegal and if they will not vacate the land they will be exposed to financial and criminal lawsuits. We are witnessing the effectiveness of the enforcement policy in the fact that many invaders decide to carry out on their own the demolitions, in order to save themselves lawsuits and, by that, save themselves and the state unnecessary costs of eviction".³⁵

In this press release from March 2016 concerning a joint eviction project, Mr. Yeshurun described the work of the inspectors and emphasized the large number of demolition carried out by owners.

³² Website of Israel Land Authority: Divisions of the Authority. <http://tinyurl.com/ze8pqr7>

³³ The Land Law – 1969. Clause 18 (b). <http://tinyurl.com/zrrgeh6>

³⁴ See Chapter 3.2 in this report.

³⁵ Israel Land Authority, press release dated 29.06.2013. <http://tinyurl.com/jh7sa2a>

2.3 The National Unit for Building Inspection

The National Unit for Building Inspection was established in 1988 and since then is "acting to limit the building transgressions in Israel and to guard essential spaces by using deterrent enforcement in all planning regions".³⁶ The work of the Unit is divided into six regions in Israel, as well as operating in the West Bank.³⁷ The Unit was transferred to the Ministry of Finance as part of the move of the Planning Administration from the Ministry of the Interior to the Ministry of Finance. The move resulted in a decrease in the number of inspectors operating in the Negev.³⁸

The Unit's work is based on the Planning and Construction Law (1965) that enables the issuance of administrative and judicial demolition warrants against structures built without permits.³⁹ Demolition orders can be levied by regional and local committees. In regional planning areas, that are not under the jurisdiction of a local planning committee, the chairman of the regional planning committee is authorized to sign administrative demolition orders⁴⁰ and these orders are largely used by the Unit's inspectors. The Unit also implements judicial demolition orders but these are not as common as in the past due. In 2015, for example, the Unit handed out 343 administrative demolition orders in the Bedouin community, but only 13 judicial demolition orders.⁴¹ This can primarily be attributed to the longer length in time the process of obtaining a judicial order take.

The Unit operates also on the local level. Although the enforcement of the planning and building regulations is within the jurisdiction of the local planning committee, here, enforcement can be executed by the state as well.⁴² Israel's Attorney General issued guidelines that regulates the parallel

³⁶ Website of the Ministry of Interior: The National Unit for Building Inspection.

<http://tinyurl.com/hfsdmge>

³⁷ See supra note 36.

³⁸ See supra note 4, page 1, article 1. 5.

³⁹ See chapter 3.1 in this report.

⁴⁰ Planning and Construction Law – 1965. Clause 238a. (b1). <http://tinyurl.com/hhnbmw3>

⁴¹ Reply to freedom of information request from the Ministry of Finance dated 21.02.2016.

⁴² Guidelines of the Attorney General. Guideline No. 8.1101: implementing the state's enforcement authority in planning and construction violations in local planning regions. April 2013. Page 1.

<http://tinyurl.com/jfae3kc>

enforcement authority of the state in the sphere of local planning, enforcement that is being carried out by the National Unit for Building Inspection.⁴³ This parallel enforcement is not to replace the enforcement implemented by the local committee. As indicated in the guideline: "In general the use of parallel enforcement power will be done in special circumstances, in a certain case or certain type of cases, where there is an important public interest justifying the involvement of the state's enforcement system".⁴⁴ Based on this guideline the Unit operates within the jurisdiction of Bedouin localities, issuing demolition orders as well as demolishing houses in planned towns and newly recognized villages, although these areas are subjected to a local planning committee.

2.4 The Unit for Enforcement in Open Spaces

The Unit for Enforcement in Open Spaces, also known as the "Green Patrol," was established in 1976. The unit is part of the Nature and Parks Authority and at the same time works in cooperation with a committee of directors from the Israeli Defense Forces, Jewish National Fund (JNF), the Israel Lands Authority (ILA), and others. It is also subsequently funded and managed on an operational level by all of the bodies.⁴⁵ Gilad Altman, who headed the Unit, describes its function:

"Contrary to the "green" hue of its name, the "Green Patrol" is not a body functioning for the protection of the environment. Its main activity is the control and guarding of the state's lands in the open spaces and enforcing the law. The guarding is against the activity of invaders and trespassers. It is important to emphasize that the patrol does not decide on policy but is only involved in its execution".⁴⁶

The Unit divides its work between regions. Its inspectors document the various uses of a given parcel of land and gather information on the identity

⁴³ See supra note 42, article a. 5.

⁴⁴ See supra note 42, article b. 1.

⁴⁵ Knesset – Research and Information Centre. Background document regarding: Invasion to lands and structures. Chapter 2.2. <http://tinyurl.com/zav7qyw>

⁴⁶ Altman, Gilad. "Land" (Karka) – Journal of the Land Policy and Land Use Research Institute of KKL-JNF, No. 57 (January 2004). <http://tinyurl.com/zo2ry6f>

of its users. After gathering the information, the inspectors from the Unit check with the various authorities if there exists a permit for this particular use. If there is no permit, the inspectors work together with the authorities to open a lawsuit, hand out warrants, and ultimately demolish structures on the land.⁴⁷

In 2014, the Unit was responsible for 183 structures demolished within the Bedouin community in the Negev. Even though this is a decrease in the general number of demolitions in 2015, the number of structures that the Unit was responsible for demolishing jumped to 291 in that year. Further, in 2015, the Unit was responsible for 123 demolitions and eviction orders and was partner in the Directorate's joint-operation location, identification, and demolition days.⁴⁸

2.5 Yoav Unit

The Yoav is a special police combat unit which was established in 2012 as part of the governmental directive of 2011 that approved the Praver Plan.⁴⁹ While the Praver Plan itself was frozen the Yoav Unit continues to operate. The Yoav is under the jurisdiction of the commander of the police south region and its goal is to "assist the enforcement bodies in the issue of lands in the Negev".⁵⁰ The unit escorts various enforcement bodies in the Negev while they issue orders and carry out demolitions while working in full coordination with the Directorate. With a large force, the Yoav escorts agencies on joint-operation days to locate, identify, demolish structures and to assist in uprooting fields in Bedouin communities. Upon its establishment the unit had 98 job positions that were occupied by 94 policemen. In the years 2014 and 2015, the positions were increased to 198, and 182 and 181 policemen filled these positions in those years respectively.⁵¹

⁴⁷ See supra note 46.

⁴⁸ See supra note 4, page 6.

⁴⁹ See supra note 23.

⁵⁰ Reply to freedom of information request from the Ministry of Public Security dated 17.11.2015.

⁵¹ See supra note 50.

Table 1: Yoav Unit – vehicles and costs⁵²

Type	Number of vehicles	Cost per vehicle	Total NIS
Ford F350 4x4	24	280,000	6,720,000
Truck 4x4 Isuzu/Toyota	9	240,000	2,160,000
ATV	3	80,000	240,000
Jeep Mitsubishi	1	305,000	305,000
Transporter	1	230,000	230,000
Citroen Berlingo	2	128,000	256,000
Kaia Rio	2	80,000	160,000
Large Family Car	2	150,000	300,000
	Total: 44		Total: 10,371,000

The Ministry of Public Security refuses to release the budget of Yoav Unit claiming that such exposure would jeopardize the security of the state. Table 1 presents the type of vehicles purchased for the Yoav, a small portion of the large amount of money that the State of Israel is investing in total enforcement throughout the Negev. 10,370,000 NIS, a large sum, was invested just for the Yoav's vehicles. The above sum represents only the purchase and not the costs of maintaining these vehicles. The chart only shows one expenditure out of many that the Ministry of Public Security refuses to reveal.

⁵² See supra note 50.

3. The Legal Framework for the House Demolition Policy: Demolition and Eviction Warrants⁵³

The house demolition policy in the Bedouin community in the Negev is based on several laws. The main two laws that enable the issuance of eviction and demolition warrants are the Planning and Construction Law (1965)⁵⁴ and the Public Lands Law (1981).⁵⁵ The authorities implement the various laws according to the status of the structure and the type of authority that is carrying out the demolition.

3.1 Planning and Construction Law (1965)

The Planning and Construction Law (1965) regulates the work of the various planning bodies that define land use throughout Israel. Through this law, large parts of the southern region, including many unrecognized villages, were demarcated exclusively for agricultural, and not for residential use. This is in spite of the fact that in 1965 these villages already existed in their present locations, whether they were transferred by the military government or existed there as villages before the establishment of the state. Because of the definition for the different uses of land, the unrecognized villages cannot obtain building permits. The law defines two types of demolition orders which are used by the authorities: administrative demolition orders and judicial demolition orders.

3.1.1 Judicial Demolition Order

A judicial demolition order is issued by the court. Paragraph 204 of the Planning and Construction Law stipulates various construction transgressions, among them the use of land without a permit or in deviation of permit. Accordingly, the court is authorized to rule on demolition of the

⁵³ The information in this chapter is general and cannot be depended on as precise legal information and cannot replace legal consultation given by a professional.

⁵⁴ Planning and Construction Law - 1965. <http://tinyurl.com/hhnbmw3>

⁵⁵ Public Lands Law (Land Eviction) - 1981. <http://tinyurl.com/huw8onn>

structure and to charge the accused with the demolition costs according to paragraph 205 of the law. In a case where the structure was not completed when the judicial process has begun or if until six months passed since the completion of the structure, the court is compelled to rule that it be demolished.⁵⁶ In addition to the demolition order, the law stipulates fines and imprisonment for a violator, according to paragraph 204 of the law.⁵⁷ In a judicial demolition order, the court can set the time of demolition⁵⁸ and can force the local committee to carry out the demolition.⁵⁹ The committee can request the court to force the defendant to carry out the demolition on his own.⁶⁰ If three months have passed and the demolition order has not been executed, the authorities can request the court to order that the defendant will carry out the demolition on his own.⁶¹



Yoav Unit police officer during house demolition operation,
04.08.2015 (Michal Rotem)

⁵⁶ See supra note 54, article 206.

⁵⁷ See supra note 54, article 204.

⁵⁸ See supra note 54, article 207.

⁵⁹ See supra note 54, article 207a. (a).

⁶⁰ See supra note 54, article 207a. (b).

⁶¹ See supra note 54, article 207a. (c).

If the court ordered a planning body to execute the demolition, that body is allowed "to enter the place for executing the order, to remove any person or object and take all necessary means, including using reasonable force, to ensure the carrying out of the order. If execution costs are imposed by the court on the defendant, the executing body is entitled to collect the costs in the same way a civil debt is collected".⁶²

According to the law, the persons responsible for the work and the use that require a permit are, among others: the person who has the building permit, the person who should have issued a permit, the owner of the land, the person who performed work on the land, the user of the land and the person responsible for the work or use. The court can charge all of the above as transgressors.⁶³ Nevertheless, the Planning and Construction Law enables an issuance of a judicial demolition order without conviction. This judicial order is frequently being used in the Bedouin community. Such orders are used in cases where the transgressor cannot be found, if it is impossible to hand an invitation to court to the transgressor, if the transgressor is no longer the owner of the structure, if there is no way to prove who carried out the transgression, or if the transgressor is deceased or is no longer punishable.⁶⁴

3.1.2 Administrative Demolition Order

An administrative demolition order is an order given by virtue of the Planning and Construction Law to a structure without a building permit or for any deviation from an issued building permit. The order is given if the structure is still being constructed or within 60 days from its completion, provided the structure is not inhabited or that 30 days have not passed since it was inhabited.⁶⁵ The administrative demolition order is served by posting a notice on an exterior wall of the structure or in another noticeable place.⁶⁶ The notice has to specify the property it applies to, the fact that the structure lacks a permit or it must detail the deviations from the permit, the structure that is

⁶² See supra note 54, article 211a.

⁶³ See supra note 54, article 208a.

⁶⁴ See supra note 54, article 212.

⁶⁵ See supra note 54, article 238a. (a).

⁶⁶ See supra note 54, article 238a. (e).

supposed to be demolished according to the order, and also include citations from the law.⁶⁷ A structure that receives an administrative demolition order can be demolished within 24 hours from the posting of the notice on the structure.⁶⁸

Administrative demolition orders are issued in the Negev by the chairman of the Regional Planning Committee, based on affidavits received from the inspectors of the National Unit for Building Inspection who patrol that particular area. The numerous joint-operation days to locate and identify infractions carried out by inspectors⁶⁹ result in many administrative demolition orders against many structures in the Bedouin villages. The administrative order allows an expedited demolition process and therefore this order is favored over the judicial order. Moreover, the appeal process on administrative orders is costly and limited⁷⁰ and therefore only a few defendants will appeal.

3.2 The Public Lands Law

The Public Lands Law (Land Eviction) (1981) was modified a few times throughout the years. The lands that the law refers to are defined in the Basic Law: "Israel Lands" to include state lands, lands managed by the Development Authority, and lands of the JNF.⁷¹ The law also refers to lands of local authorities.⁷²

3.2.1 Order for Removal and Eviction from Public Lands

The Public Lands Law (1981) stipulates that eviction means "eviction of any person, belongings, animals, anything built or planted, and any other thing that is connected to the land in a permanent connection".⁷³ The law states that an eviction order can be issued against a person who occupies public land within 6 months from the day that occupation is known by the

⁶⁷ See supra note 54, article 238a. (d).

⁶⁸ See supra note 54, article 238a. (f) (1).

⁶⁹ See chapter 2.1 in this report.

⁷⁰ See supra note 54, article 238a. (g) (1).

⁷¹ Basic Law: Israel Lands, article 1. <http://tinyurl.com/hpd8vfg>

⁷² See supra note 55, article 1.

⁷³ See supra note 55, article 1.

supervisor, and no later than 36 months from the date the occupation was first detected.⁷⁴ According to the law, the supervisor who is responsible for issuing the order is the director of ILA or the director of the region appointed by the ILA director, together with ILA's legal advisor or the region's legal advisor.⁷⁵ The timing of the removal and eviction will be indicated in the order itself and will allow at least 30 days from the date of the order.⁷⁶

The order for removal and eviction will indicate the date for removal as well as the boundaries of the public land to which the order applies.⁷⁷ If the person who uses the land cannot be identified or located for handing the order personally, the order notice will be posted in a noticeable place and the date and time of the posting will be indicated on the notice.⁷⁸ If the land is not vacated by the time specified in the order, an inspector will be sent to execute the order, as long as no more than 60 days passed from the date for removal and eviction.⁷⁹ The law stipulates that to execute the order, the inspector is allowed to enter the land, remove any articles and persons and take all measures for seeing that the eviction is carried out. The inspector can use reasonable force if necessary and also receive help from the police.⁸⁰ It is worth noting that the law sets a punishment of 2 years confinement or fine for the violator of a removal and eviction order, as well as additional fines if the transgressions continue.⁸¹

⁷⁴ See supra note 55, article 4. (a).

⁷⁵ See supra note 55, article 1.

⁷⁶ See supra note 55, article 4. (a).

⁷⁷ See supra note 55, article 4. (b) (b1).

⁷⁸ See supra note 55, article 4. (b) (1).

⁷⁹ See supra note 55, article 5. (a).

⁸⁰ See supra note 55, article 5. (c).

⁸¹ See supra note 55, article 5c. (b).

4. The House Demolition Policy as a Pressure to Enter Negotiations

The annual reports of the Directorate expose the forceful use of the house demolition policy by the authorities, mainly the Authority for Development and Settlement of the Bedouins in the Negev, as a tool to promote an arrangement between the state and its Bedouin citizens that favors the state. The authorities use the house demolition policy in a deliberate and calculated way in order to pressure the Bedouin community to move to urban towns and enter the process of "regularization". The authorities abuse the Planning and Construction Law (1965) and the Public Lands Law (1981) in order to to coerce residents of the Bedouin villages from their homes to places where the state wants them to live, even though these laws were not intended for this particular purpose.

The summary report of the Directorate, already at its starts, indicates that the enforcement policy relies on two axis: "(a) intensified enforcement to prevent illegal building and new invasions and (b) enforcement to promote regularization in close cooperation with the Authority for Economic Development".⁸² A large part of the Directorate's report specifies the way that the Directorate and the Authority for Development and Settlement of the Bedouins in the Negev work together to use "enforcement promoting regularization". The Authority points out the areas where it wishes to execute "regularization", whether it is in Bedouin planned towns, newly recognized villages or the unrecognized villages. Accordingly, the Directorate, together with the various authorities acting on its behalf, exercises pressure on the residents to enter negotiations with the Authority. When residents refuse to enter the "regularization process", they are served with eviction or demolition orders. If this step does not persuade the residents to enter negotiations, the orders are carried out and their houses are demolished.⁸³

⁸² See supra note 4, article 1.

⁸³ See supra note 4, page 15, article 6. 10.

For example, the report describes the way the Directorate operated in some neighborhoods of the Bedouin planned town Šgīb as-Salām (Segev Shalom). The Directorate toured the area and set a plan in order to begin the enforcement process. In some of the neighborhoods, files were opened on some of the residents and in others, eviction agreements were signed with residents who agreed to move so no additional enforcement was exercised with them.⁸⁴ Also, concerning a neighborhood in the town of Rahaṭ, the report states that:

"Since the residents are not moving towards the regularization solution offered by the Bedouin Authority, a survey of buildings was carried out [...] by the ILA. Lawsuits were issued against the residents who do not join the regularization solution. For those who are willing to make progress with the regularization, eviction agreements were prepared".⁸⁵

Thus, the authorities coerce residents to negotiate their relocation by using planning laws. In Rahaṭ, as well, the demolition orders are used as a threat and whoever refuses to submit to them suffers. This, in spite of the fact that according to the law, demolition of a building is not seen as a punitive measure but rather is perceived as returning the place to its original status.

The same applies to the unrecognized villages. For example, the report refers to a village in the area of the town Šgīb as-Salām: "the goal is to drive the diaspora towards a settlement with the Bedouin Authority regarding the move [...] to Segev Shalom. We have carried out so far several judicial demolition orders with the purpose of promoting the negotiation process with the authority".⁸⁶ The report says bluntly that the purpose of the demolitions is to pressure the citizens to enter negotiations with the state resulting in their transfer to Šgīb as-Salām.

In the newly recognized villages the Authority and the Directorate employ the same measures they use in the towns and the unrecognized villages. In 2015 in the village as-Sayyid: "we started the regularization process in the

⁸⁴ See supra note 4, page 8, article 5. 1.

⁸⁵ See supra note 4, page 8, article 5. 3.

⁸⁶ See supra note 4, page 10, article 5. 12.

neighborhoods where a dialogue between the residents and the Authority takes place while at the same time we execute orders against those who refuse to enter regularization".⁸⁷ In Drījāt "an enforcement program was outlined, a program that will be carried out jointly with the enforcement bodies of Abu Basma, the Ministry of the Interior and the ILA, in order to drive forward the residents to join the regularization plan".⁸⁸

Each year the report of the Directorate contains countless examples of the use of house demolition policies as a tool to pressure Bedouin citizens to enter negotiations. As detailed, the Directorate sees this activity as inseparable from its defined role, and operates all other enforcement bodies accordingly. Although there are many houses and structures deemed "illegal", the authorities selectively choose the families and buildings they wish to open proceedings against. Thus, laws that were written for planning purposes are used by the authorities as a tool for pressuring citizens who struggle to defend their lands against the state.⁸⁹



Water tank confiscation during house demolition operation,
04.08.2015 (Michal Rotem)

⁸⁷ See supra note 4, page 10, article 5. 10.

⁸⁸ See supra note 4, page 11, article 5. 17.

⁸⁹ See supra note 8.

Summary

The house demolition policy is a complicated policy based on various laws and is being operated by several authorities. Different government ministries refuse to reveal portions of the data they produce, and overall they lack transparency about the full extent of these policies. The enforcement authorities use many tools: eviction and demolition orders, severe penalties, imposition of costs and civil lawsuits, short time frameworks and high legal costs. All these make the struggle against the house demolition policy a struggle in which the authorities gain more and more power over time against Bedouin citizens. Nevertheless, the struggle in the Negev continues and the house demolition policy proves by its effects that it is not a solution to the issues facing the Bedouin community in the Negev, and that it is, in fact, just the opposite.

The Bedouin planned towns continually protest to state authorities that they are unable to absorb more residents due a shortage of their own available plots. They also criticize the planning authorities' disregard for the natural rates of population growth in the towns. In the newly recognized villages, even, the chances of obtaining a building permit are almost nonexistent, and in the unrecognized villages all buildings are considered "illegal," as the state's official stance is that these villages do not exist. Nevertheless, the State of Israel and its various authorities adhere to one policy towards the Bedouin citizens of the Negev: the house demolition policy. This policy is carried out in spite of the authorities' own warning that the rate of house demolitions outpaces the rate of housing solutions that the state is offering to the community.

Further, the State of Israel does keep investing funds for development in the Negev but mainly for the Jewish population. Thus, while Israeli governments do every few years approve the establishment of new Jewish settlements in the Negev, they define Bedouin citizens who build their homes without permits because they have no other solution as "building offenders". This policy continues although the prodigious efforts to attract Jewish citizens to the Negev often fail. Hence, instead of making an effort to close the gap

between communities in the Negev, the Israeli government's allocation of resources mainly widens the gap between the communities in the Negev.

The enforcement apparatus created by the state is putting immense pressure on the Bedouin community. Their tactics include: the legal framework that combines criminal and civil punishment, the arsenal of orders and lawsuits, the way that inspectors and policemen patrol and pressure citizens to demolish their homes themselves and/or enter negotiations, and the Directorate that issues demolition and eviction orders to those who refuse to negotiate and subsequently carries out demolitions when citizens continually refusing. All of the above serve the authorities as coercive tools towards their goal of shaping the Negev region according to the state's vision.

No doubt that in order to tackle the dire housing shortage of the Bedouin community of the Negev an inclusive solution is needed. Possibilities include the expansion of the existing towns for the benefit of their present residents as well as taking future natural growth into account, detailed planning for the newly recognized villages, and recognition for the unrecognized villages (which only take up a very small percentage of the Negev's total area). Subsequent Israeli governments continue to approve new settlements for Jews. It is time they stop preferring one population over another and reach a just solution to the endemic housing problem of the Bedouin community, a crisis created by the accumulated actions of many different governments over time. The only solution that will contribute to the citizens of the Negev is an inclusive, appropriate, and just solution, the first step in a long journey to real, lasting equality amongst all the Negev's citizens.



Phone: 050-7701118/9

Email: info@dukium.org

www.dukium.org

פורום דו-קיום בנגב לשוויון אזרחי
منتدى التعايش السلمي في النقب من اجل المساواة المدنية
Negev Coexistence Forum For Civil Equality

