



"Negotiation" Under Fire

**House Demolitions as a central tool of
dispossession and concentration of the Bedouin
community in the Negev/Naqab**

פורום דו-קיום בנגב לשוויון אזרחי
منتدى التعايش السلمي في النقب من أجل 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/Naqab (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/Naqab. 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/Naqab. 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/Naqab their home.

August 2017

Writing: Michal Rotem

Research: Ben Fargeon and Michal Rotem

English Editing: Joseph Getzoff

Cover photo: Demolition forces' convoy in the unrecognized Bedouin village az-Za'arūrah, May 2015. Photo: Şubḥiyah Abu Jūdah, Yuşawiruna Project.

Back cover photo: Ruins of a mosque that was demolished by enforcement authorities in the unrecognized Bedouin village of Rakhamah, 06.01.2016. Photo: Michal Rotem.

Executive Summary

The state's main policy for engaging with the Bedouin community of the Negev/Naqab is the demolition of houses and other structures. The Bedouin community has been suffering for many years from a substantial housing crisis and is embroiled in a continuous struggle over land ownership with the State of Israel. In 2016, the state once again chose to appropriate substantial funds for demolitions and enforcement in the Bedouin community, leading to an increase in the amount of structures destroyed.

The yearly activity report of The Southern Directorate of Land Law Enforcement (hereafter: "Southern Directorate") for 2016, records the amount of demolished structures, the rate of demolitions carried out by each enforcement authority, along with the rate of demolitions performed by the structures' owners themselves, as compared to those carried out by the state. The 2016 report is the first to publish a list of the quantity of demolished structures, sorted by category. In 2016, 1,158 structures were demolished. Of those 64% were demolished by their owners and only 36% by the state enforcement authorities. This list reports that about 500 of the total structures were houses.

Since 2012, the Southern Directorate has been the central agency coordinating the various enforcement authorities operating in the Negev/Naqab to carry out demolitions. The Southern Directorate operates solely against the Bedouin community in the Negev/Naqab and coordinates the activity of the National Unit for Building Inspection (responsible for 52% of the demolitions), the Unit for Enforcement in Open Spaces (responsible for 37%), and the Israel Land Authority's (ILA) Division for Land Security (responsible for 8%). Moreover, the Southern Directorate operates in full cooperation with the Israeli Police, especially with the Yoav police unit, that is responsible for escorting inspectors and demolition forces when they carry out scouting operations, demolitions, crop destruction, and the distribution of demolition orders.

In the struggle over land claims and ownership, the state pursues policies that target the Bedouin community with demolitions and urbanization. The state does not recognize Bedouin ownership over lands in the Negev/Naqab and utilizes its demolition policy to displace residents from unrecognized villages and into the government-planned towns and recognized villages. This urbanization is the goal of

the state in regards to its “regularization”¹ policy in regards to Bedouin settlement. To support this concentration of the Bedouin community into urban spaces the state exploits planning and construction law.

The main administrative body for the Bedouin, the Authority for the Development and Settlement of the Bedouin in the Negev (hereafter, “Authority”), operates in full cooperation with the Southern Directorate and utilizes enforcement activities as leverage to promote its “regularization” policy. Along with enforcement activity against new construction in the Negev/Naqab, the Authority and the Southern Directorate employ two more operational policies. The first is called, “enforcement promoting regularization”, in which different enforcement tactics, such as threats to issue demolition orders and file law suits, as well as actual demolition of structures, are pursued against citizens in order to force those who resist the Authority’s demands into negotiation. The second is called, “regularization promoting enforcement,” under which attempts are made to complete the “regularization” of specific individuals and communities, prior to employing enforcement tactics. All attempts made following this course in 2016 failed.

The new five year governmental plan for the Bedouin community (2017-2021) includes investment in government-planned towns and recognized villages only, while strengthening the enforcement authorities with additional resources and inspectors, who focus on coercion and punitive action in the Negev/Naqab unrecognized villages. It thus appears that in upcoming years the numbers of demolitions in the Negev/Naqab will continue to rise, as the state’s policy of forced urbanization is pursued against the Bedouin community, even in the guise of a governmental plan for the development of that community.

¹ English Editor’s note: the term “regularization,” in Hebrew, הסדרה, (“*HaSdarah*”), generally means a process of ordering or organizing space. Used by state administrators, it generally refers to a policy that Bedouin settlement should not be “spread out” or across the land in the Negev/Naqab, and thus “disorderly”, but concentrated in towns that reflect specific planning practices.

Contents

Introduction: The Bedouin Community in the Negev/Naqab	5
Preface	8
1. The Demolition Policy in the Negev/Naqab	10
1.1 Demolition of Structures in the Negev/Naqab: Up-to-date Data	11
1.2 The Southern Directorate of Land Law Enforcement	15
1.3 The Enforcement Authorities in the Negev/Naqab	16
1.3.1 The National Unit for Building Inspection	17
1.3.2 The Unit for Enforcement in Open Spaces	18
1.3.3 ILA's Division for Land Security	18
1.3.4 Yoav Unit	19
1.4 Inequality Before the Law	20
2. The Policy of Demolition and "Settlement Regularization" in the Negev/Naqab	23
2.1 Land Ownership in the Negev/Naqab and the Policy of Demolition ..	23
2.2 The Authority for Development and Settlement of the Bedouin in the Negev	24
2.3 Involvement of Enforcement Authorities in the Regulation of Settlement in the Negev/Naqab	26
2.3.1 "Enforcement Promoting Regularization"	27
2.3.2 "Regularization Promoting Enforcement"	30
Summary	31

Introduction: The Bedouin Community in the Negev/Naqab

In 1948, on the eve of the establishment of the State of Israel, between 65,000 to 100,000 Bedouins lived in the Negev/Naqab region, the southern part of the state. After the war, only 11,000 Bedouins remained in the Negev/Naqab; most of the community fled or was expelled to Jordan, Egypt, the Gaza Strip, and the Sinai Peninsula. Following the 1948 war, the state began evicting Bedouins from their dwelling places, a process that has continued into the present. During the early 1950s and until 1966, the State of Israel concentrated the Bedouins in a closed zone known by the name 'al-Siyāj' (سياج) under military administration. In this period, entire villages were displaced from the western and northern Negev/Naqab and were transferred to the Siyāj area.

Under the Planning and Construction Law, legislated in 1965, most of the lands in the Siyāj area were zoned as agricultural land thereby ensuring that any subsequent construction would be deemed illegal. Further, houses that had existed prior to the law were labeled as illegal and under the threat of demolition. In 1966, when Israel's military administration came to an end, the urbanization process began. Over the next three decades, the state established seven Bedouin towns, mostly within the Siyāj area that promised residents modern services in return for their settlement in organized urban lots. The first Bedouin town, Tal as-Saba' (Tel Sheva), was established in 1969, while the most recent was established in the 1990s. Until the mid-1990s, Israeli policy had endeavored to concentrate the entire Bedouin community of the Negev/Naqab within these seven towns.

As of 1999, the State of Israel, in various government resolutions, decided to recognize eleven Bedouin unrecognized villages. This was, allegedly, a fundamental change as for years the only settlement option for the Bedouin community was forced urbanization. Yet today, fifteen years later, there is no significant difference between these recognized villages and the villages which remained unrecognized. Most of the recognized villages lack planning; residents cannot receive building permits, house demolitions continue, and utilities and infrastructure such as water, electricity, sewage disposal, and roads are still not available.

Today, there are about 35 unrecognized Bedouin villages in the Negev/Naqab. The State of Israel refers to them as a "diaspora" or "illegal villages." Amongst these are some villages which existed in their current location prior to the establishment of the State of Israel. Other villages are made up of people who were internally displaced during the 1950s, and then transferred into the Siyāj area. The state recognizes

neither the historic villages nor the internally displaced villages and as a result their residents receive very little governmental services, or in most cases, no services at all. Israeli planning policies have ensured that these villages remain unrecognized and are thus subjected to house demolitions and legal penalties, with basic infrastructure and services denied. While these policies have proved somewhat successful in relation to the state's goals of forcing the movement of Bedouin into specific municipalities, the unrecognized villages remain.

Today, about 240,000 Bedouins reside in the Negev/Naqab area,² in three types of settlements: about 35 unrecognized villages, 7 governmental planned towns, and 11 recognized villages (that were recognized by the state over the last two decades). Although comprising more than a third of the population of the Negev/Naqab, only 12.5% of the recognized settlements in the region are designated for this community.³ This report focuses on the ongoing practices of demolitions and urbanization, the main Israeli policies in regards to the Bedouin community in the Negev/Naqab. These policies impact all Bedouin settlements, including the governmental planned towns, the recognized villages, and the unrecognized villages.

² Central Bureau of Statistics. Table 2.16: Settlements and population by district, sub-district, religion and population group. Published: 01.09.2016.

³ See supra note 2.

Preface

The right to adequate housing is a recognized basic right in international law, substantiated in a variety of conventions that are signed by the State of Israel. The United Nations Committee on Economic, Social and Cultural Rights, emphasizes that this right should be interpreted broadly, as including the right to live in security, peace, and dignity. According to the Committee, the right to adequate housing includes protection from forced eviction and arbitrary demolition of homes, as well as the right to choose one's place of residence. Further, in order to be defined as adequate housing, dwellings should respect and take into account the expression of one's cultural identity.⁴ The house demolition policy in the Negev/Naqab, that targets the Bedouin community, systematically violates the right to adequate housing, even in its most narrow interpretation.

The Negev/Naqab Bedouin community consists of almost a quarter of a million citizens, residing in government planned towns, villages recognized by the state, and unrecognized villages. In 2016, the community accounted for 34% of the total population of the Negev/Naqab, but only 12.5% of the settlements in the region were designated for this community. The seven Bedouin towns—as well as the recognized villages—are all crowded, urban localities that completely disregard the Bedouin way of life, which is based mainly on agriculture. Today, 70,000 people live in villages that the State of Israel refuses to recognize, planning to displace their residents to the recognized villages and towns.

The State of Israel uses its demolition policy in all of the Bedouin localities, whether recognized or not, and demolishes both older and newer structures. This is used to coerce the inhabitants of these villages to move to localities of the state's choosing, in accordance with its master planning, created without any consultation with the local Bedouin community. In most cases, the actual goal of the policy is to pressure citizens into negotiating their transfer into recognized villages and towns. It is noteworthy that defining this proceeding as a “negotiation” is questionable, since citizens face the threat of home demolition and are left without leverage. In reality, citizens are coerced into accepting the state's plan.

The demolition policy is violent, whether it results in citizens succumbing to the pressure of demolition threats, demolition orders, lawsuits, indictments, or in actual

⁴ Office of the United Nations High Commissioner for Human Rights. The Right to Adequate Housing. Fact sheet No. 21 (Rev. 1). <https://tinyurl.com/bn2q735>

demolitions. This is notwithstanding the fact that demolitions are carried out by the state and its authorities, who arrive accompanied by a large police force and bulldozers without prior notice. Since the State of Israel relies on its demolition policy as the primary means of engaging with the Bedouin community, the demolition policy deepens the alienation between the community and the state, who, rather than protect its citizens' rights, instead violently and actively violates them.

This report presents up-to-date figures regarding the demolition of structures among the Bedouin community of the Negev/Naqab and describes the different enforcement agencies active in the area. It exposes the systematic inequality before the law and in the field of planning by presenting testimonies by representatives of the government and shows its policy of selective prosecution primarily targeting the Bedouin community. Furthermore, it emphasizes the connection between the struggle over land ownership and the authorities' "settlement regularization" actions, exposing the different ways the state leverages enforcement and demolitions to reorganize space.



Demolition forces in the unrecognized Bedouin village az-Za'arūrah, April 2016.

Photo: Mahadiyah Abu Jūdah, Yuşawiruna Project.

1. The Demolition Policy in the Negev/Naqab

For many years, the central policy that the State of Israel has used against its Bedouin citizens in the Negev/Naqab is a policy of continuous demolition of houses and buildings, in order to coerce the entire community's concentration in urban towns. The Bedouin community in the Negev/Naqab is facing an ongoing housing shortage; it is impossible to build legally in the unrecognized villages and due to the absence of master plans, one cannot obtain a building permit. In the vast majority of the recognized villages there are no detailed outline plans and therefore no building permit can be issued in their jurisdiction.⁵ In the seven government-planned towns there are also many buildings and even entire neighborhoods that exist without permits as well as a shortage of lots for construction. Moreover, these towns are unable to meet the natural population growth of their own residents. As the state withholds any housing solutions, the entire Bedouin community are rendered "construction criminals".

While the housing crisis among the Bedouin community is growing more urgent every year, the State of Israel is instead investing considerable resources in streamlining its enforcement system in the Negev/Naqab. In recent years, the enforcement system in the Negev/Naqab, now "streamlined," is operated by a wide range of government authorities, working in coordination to destroy as many structures as possible. In 2016, 1,158 structures were demolished in the Negev/Naqab, among the Bedouin community alone.⁶ The Division for Land Security of the Israel Land Authority (ILA), the Unit for Enforcement in Open Spaces, and the National Unit for Building Inspection, work in cooperation with the Southern Directorate of Land Law Enforcement, and carry out joint scouting and demolition days in order to increase the number of demolitions. In addition, the various enforcement authorities are working to increase the ratio of demolitions carried out by the owners of the structures.⁷

⁵ Knesset's State Control Committee session of 26.03.2016. <https://tinyurl.com/n5cykms>

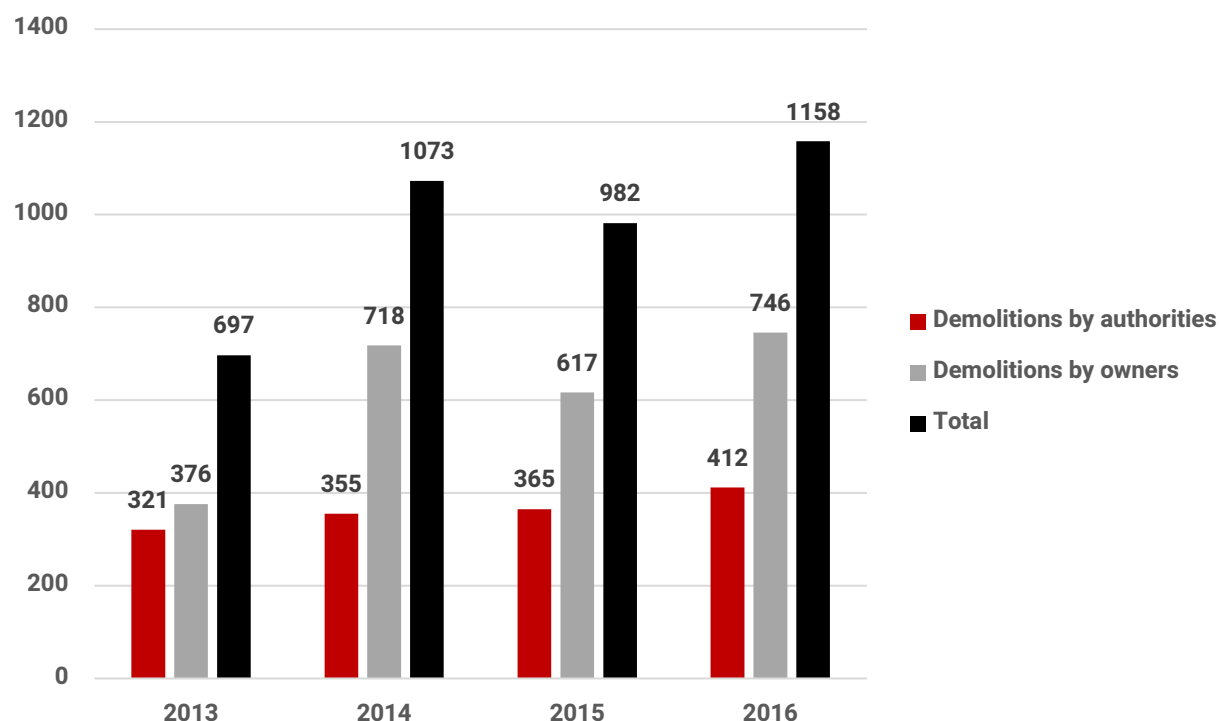
⁶ The Southern Directorate of Land Law Enforcement – 2016 summary, page 8.

⁷ See supra note 6, page 25, article 15.

1.1 Demolition of Structures in the Negev/Naqab: Up-to-date Data

The numbers of demolitions in the Negev/Naqab are not published by the authorities. The information presented in this chapter is based on the Southern Directorate's data, which have been exposed in recent years by the Negev Coexistence Forum through applications under the Freedom of Information Act. The internal reports of the Southern Directorate reveal the number of demolished Bedouin structures, and the number of days used for scouting and demolition by the enforcement authorities. They also reveal the list of structures destroyed, organized by type, which was published for the first time in 2016. It should be noted that the Southern Directorate was established to coordinate land law enforcement among the Bedouin community only, and therefore the data presented in this chapter relate to demolitions in Bedouin localities alone.

Figure 1: Demolition of Structures in the Negev/Naqab 2013-2016⁸



⁸ The Southern Directorate of Land Law Enforcement – 2014 summary, page 5; See supra note 6, page 8.

Figure 1 displays the number of Bedouin structures demolished by year as well as who carried out the demolition. The graph shows that in 2014 there was a significant increase in the number of structures that were demolished and that level of demolitions have since been maintained. The figure also shows the number of demolitions according to those who carried out the demolition – either the enforcement authorities or the owners of the structures themselves. The data indicates that the high percentage of demolition of structures by their owners has also been maintained over recent years.

The Southern Directorate calls demolitions carried out by authorities, "initiated demolitions." These take place during concentrated demolition days, in which the inspectors of the various authorities arrive along with a substantial force from Yoav unit along with bulldozers and then proceed to demolish the structures. The Southern Directorate calls demolitions carried out by the owners of the structures "self-afflicted demolitions." Owners choose to demolish their own structures for a variety of reasons, including a desire to avoid the trauma created by the arrival of a large police without prior warning and a fear of the criminal sanctions that may be imposed on the building owners. People may also decide to demolish their own homes and other buildings so they can save personal belongings and construction materials. Another reason people carry out "self-afflicted demolitions" is because authorities threaten to sue owners for the cost of the demolitions. In 2016, 64% of the structures demolished among the Bedouin community in the Negev/Naqab, were demolished by the owners themselves.

However, it is important to emphasize that the demolitions carried out by structures' owners stem from pressure exerted by the enforcement authorities, as Bedouin citizens do not demolish their homes of their own free will. For example, regarding the demolition carried out by the owners of structures in the village of Umm al-Ḥīrān, the Southern Directorate's annual report states:

"Later on, an order was issued for the evacuation of a group of structures [a redacted section]. In this case, too, before the implementation of the Execution Authority order, the family members approached and agreed to evacuate the group of structures and move to Hura."⁹

While the Southern Directorate report describes the demolition as being the result of a request from the family members, who also agreed to "evacuate the group of structures," in a news article published by *Haaretz*, the family's father, Ahmad Abu al-

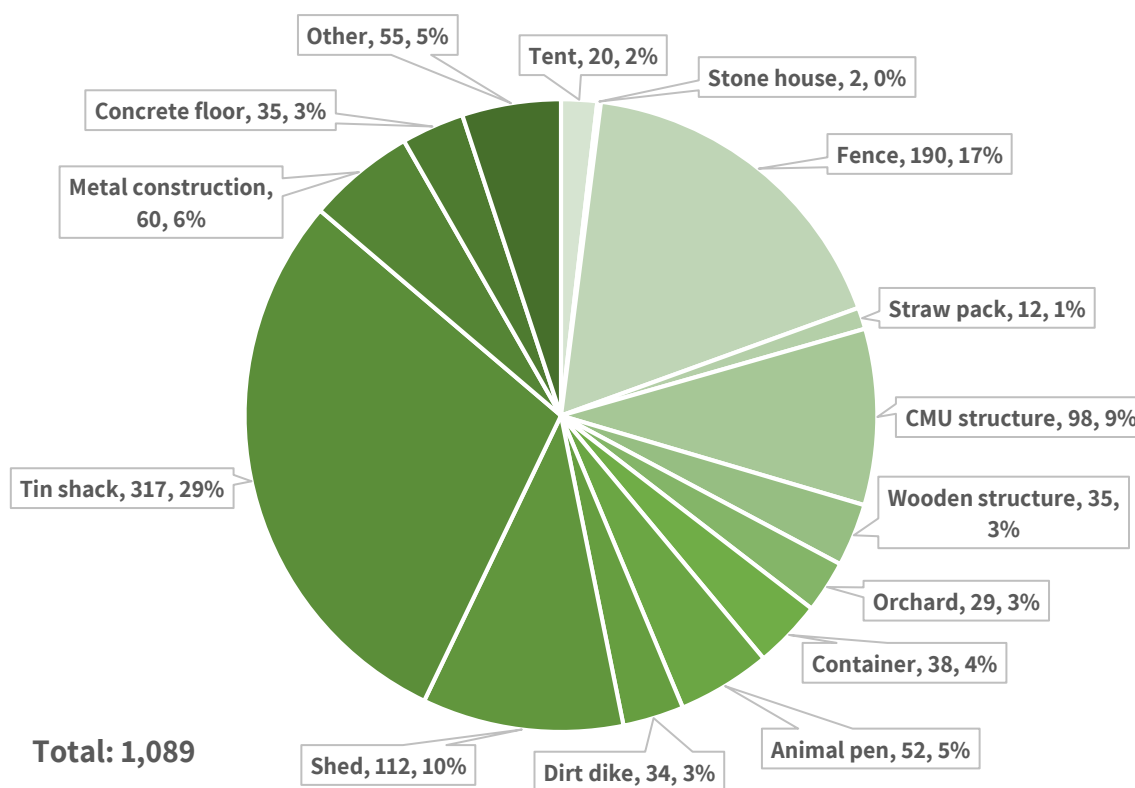
⁹ See supra note 6, page 19, article 9.d.

Qi'an, describes the situation differently:

"I was forced to leave [...] Last week, the police representatives were here three times, pressuring me to sign, I had no choice, they told me 'the sword is already on the neck.'"10

Thus, even for demolitions carried out by civilians, the enforcement authorities, in cooperation with the police, occupy a central role. In addition, while the Southern Directorate reports that this incident occurred due to the initiative of the structures' owner and with his consent, the owner himself describes the great pressure exerted on him by the police, who continually threatened him and finally forced him to sign away his land and leave his village.

Figure 2: Demolition of Structures by Type of Structure, 2016¹¹



¹⁰ First Demolition of Houses in Umm al-Hiran since the Announcement of its Eviction, *Haaretz*, 19.11.2016. <https://tinyurl.com/ldqp2tr>

¹¹ See *supra* note 6, page 13.

Figure 2 displays the structures demolished among the Bedouin community according to the type of structure.¹² This data was published for the first time in 2016 and reveals the wide and flexible definition given by the Israeli enforcement authorities to the term "structure". The exposure of this list makes it possible to evaluate the estimated number of residential structures demolished during 2016 (see Figure 3), along with an estimated number of buildings used for agriculture, as well as the number of objects that were counted as "structures," but not necessarily consistent with a general definition, for example, dirt dikes, straw packs, fences and orchards. In fact, of the 1,558 structures demolished in 2016 as reported by the Southern Directorate, some 700, or 60% of the structures demolished, were actual buildings.

Figure 3: Demolition of Houses by Type of Structure in 2016¹³

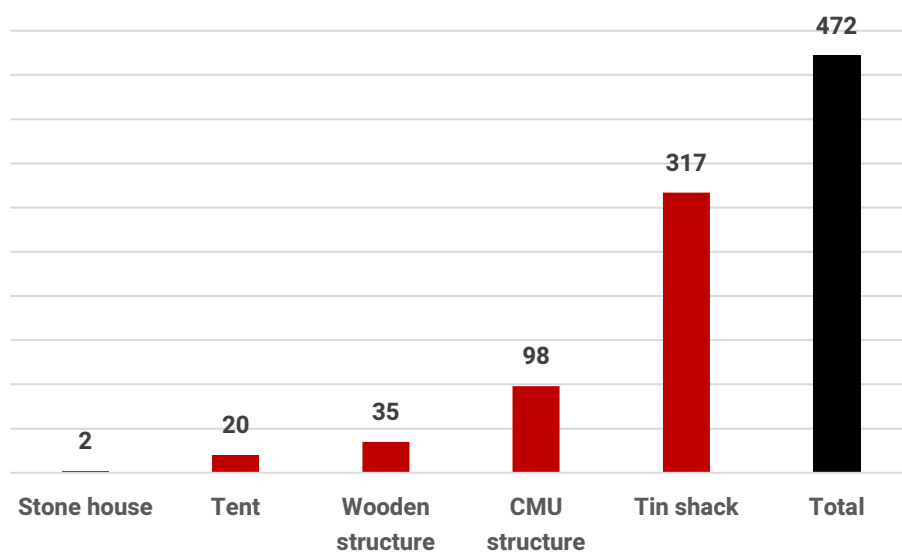


Figure 3 displays the estimated number of residential structures demolished in the Negev/Naqab in 2016. Since the Southern Directorate does not indicate how many dwellings were demolished, the number can be estimated according to the type of building. The diagram shows the types of buildings that can be used as residential buildings—a hut, a block structure, a wooden structure, a tent, and a stone house—

¹² The error is in the original document - There is a discrepancy between the report on the number of demolished structures (1,158) and the number of structures indicated in this table. In the report of the Southern Directorate itself, the table summarizes the figure "1158" even though the quantities are not summarized to this number, so it is not clear what the 69 missing structures are.

¹³ See supra note 6, page 13.

so it is possible that the proportion of houses is even lower. In total, in 2016, 472 such structures were demolished, constituting 40.75% of the total 1,158 structures. It is important to note that despite the fact that this number is significantly lower than the total number of structures demolished, it does mean that about 500 houses were demolished among the Bedouin community in just one year.

1.2 The Southern Directorate of Land Law Enforcement

The Southern Directorate is a body that was established in 2012 with the purpose of making the process of demolitions in the Negev/Naqab more efficient.¹⁴ The Southern Directorate is under the jurisdiction of the Ministry of Public Security and functions as the main body coordinating various enforcement authorities to carry out demolitions, the Authority for the Development and Settlement of the Bedouins in the Negev and the police. The Directorate was established by government decision 3707 of 2011 that approved the Praver Plan, which sought to “regulate Bedouin settlement.”¹⁵ In spite of the fact that the Praver Plan was shelved in December 2013,¹⁶ the Southern Directorate still continues to operate. The government decision on the establishment of the Southern Directorate stipulates, that, amongst others, the goals and policy of enforcement will be decided by the implementation staff of the Praver Plan¹⁷ and that the annual enforcement plan will be approved by the head of the staff.¹⁸ However, despite the fact that the implementation staff is non-existent and the Praver Plan was frozen, the Southern Directorate continues to operate, and to plan annual enforcement plans.

The Southern Directorate holds weekly meetings of a permanent forum of representatives from the various authorities who deal with house demolitions in the Negev/Naqab. The Southern Directorate coordinates days for locating and demolishing structures as well as ploughing Bedouin fields for the purpose of destroying crops. Within the organizational framework of the Southern Directorate the following authorities operate: the ILA's Division for Land Security, the National Unit for Building Inspection, the Unit for Enforcement in Open Spaces, as well as local

¹⁴ Website of the Ministry of Public Security: Southern Directorate of Land Law Enforcement. <http://tinyurl.com/jgtg48n>

¹⁵ Government resolution 3707 dated 11.09.2011. <http://tinyurl.com/hs5czb2>

¹⁶ Haaretz, Begin announced: Praver law for the regularization of Bedouin settlement in the Negev will be stopped. 12.12.2013. <http://tinyurl.com/qzbnmzf6>

¹⁷ See supra note 15, article 6. b.

¹⁸ See supra note 15, article 6. d. 1.

planning and construction committees.¹⁹ These authorities carried out the demolition policy before the establishment of the Southern Directorate. The Southern Directorate also works with the Authority for the Development and Settlement of the Bedouins (hereafter: the “Authority”) in order to promote the “regularization policy.” The Southern Directorate and the Authority work jointly, hoping to pressure Bedouin citizens to settle land claims and transfer from their place of residence into the government planned towns.²⁰

1.3 The Enforcement Authorities in the Negev/Naqab

The three main enforcement authorities that operate in the Negev/Naqab, the Unit for Enforcement in Open Spaces, the National Unit for Building Inspection, and the ILA's Division for Land Security, are together responsible for 97% of the demolitions carried out against the Bedouin community in the Negev/Naqab. In 2016, enforcement authorities issued 683 demolition orders for execution, and out of those, 621 orders were carried out. This includes the 1,158 structures that were demolished that year.²¹ While in 2016 only seven inspectors operated at the National Unit for Building Inspection,²² the unit issued 392 orders. The Unit for Enforcement in Open Spaces and the ILA's Division for Land Security, were responsible for 187 and 68 orders, respectively, and 36 orders were issued by local and regional planning committees.²³ Figure 3 displays the proportion of each enforcement authority in the demolition of structures in 2016.

¹⁹ See supra note 6, page 1.

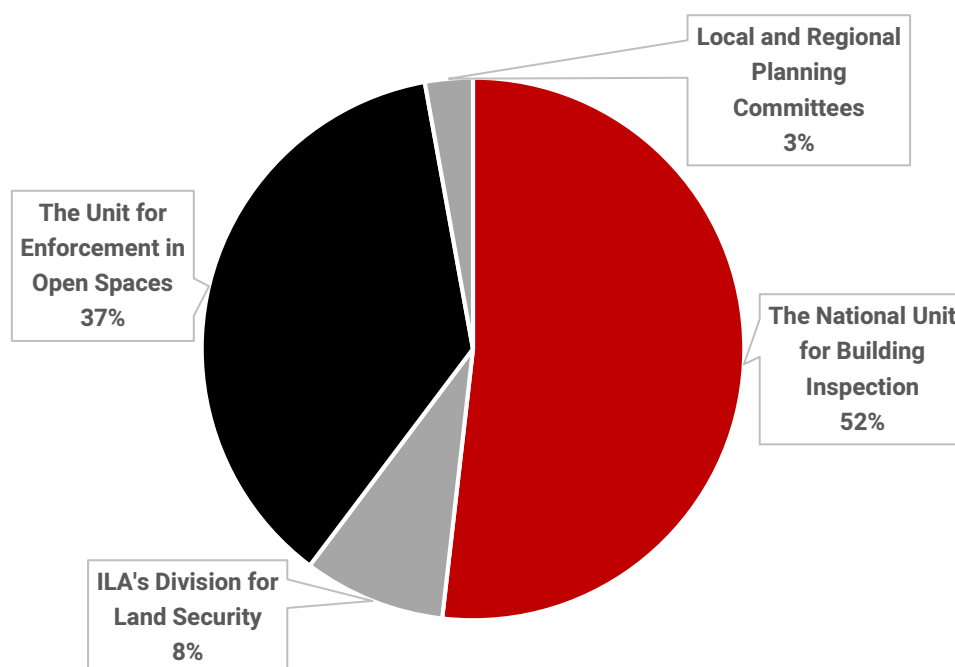
²⁰ See chapter 2 in this report.

²¹ See supra note 6, page 11.

²² See supra note 6, page 1, article 1. 5.

²³ See supra note 6, page 11.

Figure 4: Proportion of the Different Enforcement Authorities in Demolition of Structures in the Negev/Naqab in 2016



1.3.1 The National Unit for Building Inspection

The National Unit for Building Inspection (hereafter, “National Unit”) 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”.²⁴ The National Unit’s work operates in six regions in Israel, as well as in the West Bank.²⁵ The National Unit was transferred as part of the move of the Planning Administration from the Ministry of the Interior to the Ministry of Finance. The National 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.²⁶ 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 orders²⁷ and these orders are largely used by the National Unit’s inspectors. The National Unit also operates on the local level. Although

²⁴ Website of the Ministry of Interior: The National Unit for Building Inspection. <http://tinyurl.com/hfsdmge>

²⁵ See supra note 24.

²⁶ Planning and Construction Law – 1965. Clause 238a. (b1). <http://tinyurl.com/hhnbmw3>

²⁷ See supra note 26, clause 238a. (b1). <http://tinyurl.com/hhnbmw3>

enforcement of the planning and building regulations is within the jurisdiction of the local planning committee, enforcement can be executed by the state as well.²⁸ Israel's Attorney General issued guidelines that regulate the parallel enforcement authority of the state in the sphere of local planning, enforcement that is being carried out by the National Unit.²⁹ Based on this guideline, the National Unit operates within local planning areas in Bedouin localities in order to implement the house demolition policy. The National Unit also implements judicial demolition orders but these are not as common as in the past.

1.3.2 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 Green Patrol 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 ILA, and others. It is also subsequently funded and managed on an operational level by all of these bodies.³⁰ The Green Patrol divides its work between regions. Its inspectors document the various uses of a given parcel of land and gather information on the identity of its users. After gathering the information, the inspectors from the Green Patrol 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.³¹

1.3.3 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 lands. The role of the Division for Land Security (hereafter "Division") is "To guard the assets that are being handled by the ILA through administering land properties, demarcating and taking possession in the authority's region".³² The Division operates

²⁸ 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>

²⁹ See supra note 28, article a. 5.

³⁰ Knesset – Research and Information Centre. Background document regarding: Invasion to lands and structures. Chapter 2.2. <http://tinyurl.com/zav7qyw>

³¹ 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>

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

under the Public Lands Law (1981) which enables the use of reasonable force without a warrant in evicting a person from land they possess within 30 days.³³ The Public Lands Law enables the Division to issue eviction and removal warrants against people using public land, properties which are handled by the ILA.³⁴ Further, the Division may pursue lawsuits for eviction to the court and then follow 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.



Yoav police unit vehicles in the village of Umm al-Ḥirān, August 2016. Photo: Yuṣawiruna Project

1.3.4 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 Prawer Plan³⁵ in order to assist in its implementation and continues to operate despite the plan being shelved. 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".³⁶ The unit escorts

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

³⁴ Public Lands Law (Land Eviction) - 1981. <http://tinyurl.com/huw8onn>

³⁵ See supra note 15.

³⁶ Reply to freedom of information request from the Ministry of Public Security dated 17.11.2015.

various enforcement bodies and works in full coordination with the Southern Directorate. With a large force, the Yoav escorts agencies on joint-operation days to locate, identify, demolish structures, and to assist in uprooting cultivated 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.³⁷

1.4 Inequality Before the Law

While the Israeli Prime Minister presents the policy of enforcing the planning and construction laws as fulfilling the “rule of law”,³⁸ in practice, this is far from the case. There is a serious infringement of the principle of equality before the law for Bedouin citizens in the Negev/Naqab, who are effectively subordinate to a separate law enforcement system.

The court decision of Judge Yaakov Danino from the Be'er Sheva Magistrate's Court in 2016³⁹ exposes the fact of inequality before the law in regards to the enforcement of planning and construction laws in the Negev/Naqab. In the judge's decision, it was ruled that an indictment against a Jewish citizen for the use of land without a permit should be canceled, due a selective prosecution claim. The defendant claimed for selective prosecution because, according to him, others were not charged with the exact same offense. The court accepted his argument that in the area in which he operated his hospitality business (whose guest rooms were built without permits) there is a whole Jewish settlement called Azuz, also built entirely without permits, and further, adjacent to the tourist site that he operates, the Khan Be'erotayim tourist site operates, as well, without a permit. In the area of the Ramat Negev Regional Council there was indeed no enforcement of planning and construction laws against Jews.

The investigation of the director of the National Unit for Building Inspection in the Southern District, Oren Gabai, during the trial, reveals that in practice there *is* enforcement activity in the area of the Ramat Negev Regional Council, but it is

³⁷ See supra note 36.

³⁸ Questions Hour: Prime Minister Benjamin Netanyahu Replies to the Members of Knesset's Questions, 18.07.2016. <https://tinyurl.com/yd7m2rj5>

³⁹ Case number 61006-05-12 (Be'er Sheva Magistrate's Court) State of Israel – Southern District Planning and Construction Committee v. Ram, court decision.

directed *only* against the Bedouin residents in council's jurisdiction:

"It should also be emphasized that Mr. Gabai did not deny the fact that the district committee does operate in the area of the Ramat Negev Regional Council, yet **'against the Bedouin diaspora, all of which is in the area of local planning, and due to short resources, we deal with.'**"⁴⁰

In his ruling, the judge emphasized the fact that according to Gabai, the planning and construction laws do not apply in practice to the Jewish community of Azuz according to the district committee:

"Despite the fact that the State of Israel - the District Planning and Construction Committee of the Southern District, is aware of the existence of many building violations in the settlement of Azuz ... it consciously chooses to close its eyes and not to take any enforcement action within the boundaries of the locality. **It is an alleged explicit statement by the District Committee that according to the committee, planning and construction laws do not apply to an entire settlement within the jurisdiction of the State of Israel (!).**"⁴¹

The judge was wondering about the policy of the district planning committee, according to which there is an order of priorities in enforcement, where the law must be enforced first of all towards the Bedouin community:

"With all due respect, it is not clear why the District Committee does not allocate a portion of the enforcement resources to deal with other serious building offenses in the planning area of the Ramat Negev Regional Council, and why it considers it necessary to give *prima facie* priority to the treatment of a defined population."⁴²

As stated in his decision, the judge ruled that the indictment should be canceled. In doing so, the judge accepted, in practice, the argument for selective prosecution, even though it has been proven that enforcement is carried out against the Bedouin community in this same regional council. The judge excluded the Bedouin community from being seen as part of the civilian community in Israel in his decision, when he did not acknowledge the existence of enforcement against the Bedouin as a basis for the elimination of the defendant's argument for selective prosecution. Although he expressed surprise at the existence of "priorities"—in other words, selective enforcement on the basis of a citizen's affiliation to a particular community—the

⁴⁰ Emphasis added. See supra note 39, page 15 of the court decision, emphasis in the original.

⁴¹ See supra note 39, page 15 of the court decision, emphasis in the original.

⁴² Emphasis added. See supra note 39, page 16 of the court decision.

judge ruled that the very fact that the law was not enforced against other Jews was sufficient to cancel this particular indictment. Thus, in his ruling, the judge accepted inherent inequality before the law and its singular application in regards to the Bedouin community, concurrent with its non-use in regards to Jews in the same area.



Police vehicle at the unrecognized village of ‘Atīr, February 2015. Photo: Aḥlām Khalīl, Yuṣawiruna Project

2. The Policy of Demolition and "Settlement Regularization" in the Negev/Naqab

The policy of demolition in the Negev/Naqab is used by the state to achieve a variety of objectives. While this policy is often presented as an activity used solely to enforce planning and construction laws, it is, in actuality, used to reorganize space according to the state's aspirations. As a result, the various authorities use enforcement to "regulate" the issue of land in the Negev/Naqab, forcing citizens to negotiate with the state over lands for which they claim ownership, while displacing them from their villages and into the government planned towns. As documented in this chapter, the Authority, in cooperation with the Southern Directorate and the various enforcement authorities, operates in various ways in order to achieve these goals.

2.1 Land Ownership in the Negev/Naqab and the Policy of Demolition

The state's demolition policy in the Negev/Naqab is an inseparable part of the struggle for ownership over land between the Bedouin community and the State of Israel. In many cases, the state uses the threat of demolition (the issue of demolition orders or actual demolitions) in order to displace Bedouin citizens from their lands. The State of Israel does not recognize the Bedouin land ownership in the Negev/Naqab, and refers to all land on which Bedouin claim ownership as state land. This is despite the fact that many of them hold various documents attesting to the purchase of land prior to the establishment of the state and some still live on their lands.

In the 1970s, the state allowed Bedouin residents of the Naqab/Negev to file land claims to the "Settlement Officer," but within a short time the authorities reversed this policy and decided to freeze the procedure. Over the years, the state has worked in two distinct ways to regulate the ownership over these lands: first, put pressure on Bedouin citizens in the Negev/Naqab to enter a process of negotiating their lands with the Authority for the Development and Settlement of the Bedouin in the Negev (known formerly by various names), and second, filing counter claims over the same lands claimed by Bedouin citizens to the Be'er Sheva District Court on the grounds

that they are state lands.⁴³

The State of Israel does not recognize the right of Bedouin to live in the unrecognized villages in the Negev/Naqab, whether they existed prior to the establishment of the state or were transferred from their previous location during the 1950s by the military administration. One of the main tools of the state in its struggle against these villages—along with the denial of services and infrastructure—is the policy of demolition. The various enforcement agencies are working mainly to demolish new buildings and structures that have been renovated in the Bedouin localities, and as presented in this chapter, pressure their owners to enter into negotiations on their land and move to the government planned towns.

Thus, while the different enforcement agencies acting under various laws⁴⁴ to evict lands they refer to as "state lands" and demolish houses, they often refer to lands under conflict, which still have pending claims yet to be settled in court. In contrast to the state's immense power to take control over the Bedouin lands in the Negev/Naqab, the residents of the villages are practicing *ṣumūd* (صمود)—“steadfastness” in Arabic—living on their land without running water, electricity, and basic services, in the hope that their land rights will be recognized in the future, allowing them to remain in their homes.

2.2 The Authority for Development and Settlement of the Bedouin in the Negev

The Authority for Development and Settlement of the Bedouin in the Negev (hereafter: “Authority”) is the governmental body responsible for the development of the Bedouin settlements in the Negev/Naqab. Of the thirteen administrative officials in the Authority, there is only one Bedouin employee, who manages the Society and Community Department; all other officials are Jews.⁴⁵ While the Authority is apparently trying to present itself as acting *for* the Bedouin community, a variety of statements by the Authority’s Director General, Yair Maayan, indicate that the interests promoted by them are not in line with the interests of the community. Moreover, the Director General’s statements reveal his disrespect for the community

⁴³ 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>

⁴⁴ Planning and Construction Law – 1965; Public Lands Law (Land Eviction) – 1981.

⁴⁵ Officials in the Authority. The Authority for Development and Settlement of the Bedouin in the Negev. <https://tinyurl.com/lzw22me>

whose good he is supposedly responsible for.

Thus, regarding the village of Wādi an-Na‘am, the largest unrecognized village in Israel, the Director General of the Authority said:

"They live on state land in a place that is forbidden to live in. We cannot give them a settlement in the current location, because we have to remove them from the radius of risk. We establish a settlement for them, south of Segev Shalom, and this way return 70,000 dunams to the Jewish People."⁴⁶

In a situation in which the Director General of the Authority sees the land in the Negev/Naqab as belonging to the Jewish People, and not to the citizens of the state, whatever community they may belong to, and further, sees the Bedouin citizens as occupying the lands of the Jewish People, there is no doubt that he, just like the Authority he directs, work to achieve goals that are not in the interests of the Bedouin community.

In another instance, the municipality of Rahat objected to the transfer of the residents of the unrecognized village of az-Zarnūg into the city's territory. General Director Maayan expressed his displeasure with the mayor, Talal al-Qarnawi:

"No one asks the mayor, it is state land, and the mayor has no legal ability to determine who will live in his city, some of the moves will be forced, there is a sovereign, and he will decide what to do. If the mayor doesn't like that, he can go to the High Court to explain."⁴⁷

From the point of view of the Director General of the Authority, it is of no importance that he is an appointed civil servant, while the mayor was elected by the city's residents in democratic elections. Furthermore, he does not even consider the Bedouin community's well-being, its traditional way of life, nor the will of its people, as represented by their elected officials.

Regarding the residents of the unrecognized villages in the Negev/Naqab, the Director General Maayan said:

"After we regularize those that can be regularized in their current location we will remain with another 5-7 percent, and with them we can wait another hundred years and dry them out."⁴⁸

⁴⁶ A Change of Perception: Construction for Bedouin Regardless of Ownership Claims, *NRG*, 17.01.2017. <https://tinyurl.com/kd3ddzv>

⁴⁷ See supra note 46.

⁴⁸ See supra note 46.

This is a harsh and cynical statement in regards to the citizens of the state, who are in fact the employers of Maayan, a public servant. Instead of acting on behalf of the citizens whose welfare he is in charge of, the Director General of the Authority presents himself as representing the "sovereign." Not only does he feel he can ignore the needs and desires of citizens, he imposes his own desires and demands on the Bedouin community.

In 2017, the government approved the "Plan for Socio-Economic Development among the Bedouin Population in the Negev 2021-2017", and it came into effect.⁴⁹ The plan is supposed to improve social and community services, the education system, develop the economy and provide employment opportunities, as well as empower local councils, but Article 3 of the resolution states that the plan is to be implemented in only the government-planned towns and recognized villages. This is presented as an investment for the benefit of the residents in these localities. However, an integral part of the plan is the development of about 25,000 lots for construction, intended to absorb many of the residents of the unrecognized villages in the Negev/Naqab. Article 13.b details the enforcement activities in the Negev/Naqab, stating as a policy: "To instruct the Authority to prioritize in its work plan the regularization of population centers that reside unlawfully on state lands outside the jurisdiction of the permanent settlements."⁵⁰ As such, through a government plan that is supposedly for strengthening the Bedouin local councils and improving the quality of life of its citizens, the government is acting to displace communities against their will and to expand existing Bedouin towns even more.

2.3 Involvement of Enforcement Authorities in the Regulation of Settlement in the Negev/Naqab

Although the members of the Bedouin community in the Negev/Naqab are citizens of the state, the Bedouin community is subjected to a separate development system under the Authority and a separate enforcement system under the Southern Directorate. In practice, although these should be treated as separate—that is, development and planning, as separate from law enforcement—this is not the case. The Southern Directorate's 2016 activity report states that in addition to the enforcement activity against new construction in the Negev/Naqab, the Directorate operates in two additional areas: first, in "enforcement promoting regularization" and

⁴⁹ Government Resolution 2397 dated 12.02.2017. <https://tinyurl.com/y7b7fzar>

⁵⁰ See supra note 49, clause 13.b.

the in the other, "regularization promoting enforcement." These courses of action raise two main problems: first, that the planning and building laws, whose purpose is to regulate planning and building in Israel, become, instead, a tool for exerting pressure on civilians to enter into compulsory "regularization" procedures, and second, that enforcement bodies are de facto becoming active actors in the negotiations held by the state vis-a-vis the citizens and in the general "regulation" processes throughout the Negev/Naqab.

2.3.1 "Enforcement Promoting Regularization"

"Enforcement promoting regularization" is a course of action that has been used by the Southern Directorate for several years, in which it utilizes enforcement—i.e. the threat of demolition and evacuation orders for structures, the issuance of such orders, or the actual demolition of houses and other structures—to put pressure on civilians to enter negotiations with the Authority. In other words, state bodies threaten civilians with home demolitions in order to force a negotiation and pressure individual citizens to enter into the procedures of regularization. This channel of action is implemented in all the Bedouin localities in the Negev/Naqab: in the government-planned towns, the recognized villages, and the unrecognized villages.

For instance, the Southern Directorate reports on its activities in the city of Rahaṭ:

"Some of the residents are not progressing to the regularization solution as proposed by the Bedouin Authority [...], and lawsuits were filed against 21 residents who refuse the regularization process. Later verdicts were accepted for the eviction, and after these were handed to the residents, the course shifted, and the residents started cooperating with the regularization process of the neighborhood."⁵¹

According to the report, residents who do not accept the solution that the Authority is interested in imposing on them, are brought eviction lawsuits, and after these are accepted by the court, "cooperation" from the residents is achieved. Thus, enforcement is used to impose a solution that citizens refused to accept. Despite this, their submission is presented as "cooperation."

In the Bedouin town of Ḥūrah, the Southern Directorate operated similarly:

"During the negotiations conducted by the Authority, some of the nuisances were

⁵¹ See supra note 6, page 16, article 4.a.

evacuated and against other nuisances, enforcement activity was conducted, which was integrated into the meetings of the Directorate with residents in order to advance the process. The owners of the nuisances were referred to the Authority and agreed upon the way of regularization and the removal of nuisances."⁵²

Residents, defined as “nuisances” owners by the Authority, found themselves in meetings with the Southern Directorate, whose role is enforcement rather than regularization. The Southern Directorate operated various enforcement actions against residents while holding meetings with them, until residents succumbed to the demands of the Authority. Here, too, there are no free negotiations, since enforcement is used to impose the final outcome onto the weaker side.

The recognized villages in the Negev/Naqab are also subject to the same regularization policy, even though they were recognized in the early 2000s and still have not yet been developed by the state. Regarding the village of Bīr Haddāj, the Southern Directorate reports:

"Together with the Bedouin Authority, we continue to concentrate efforts to set in motion enforcement activities in the village in order to advance the process of regularization."⁵³

For years, the Authority has not been able to reach an agreed-upon solution with the residents of the village of Bīr Haddāj regarding its regularization. While its residents are interested in an agricultural village, over the years the state offered smaller lots to residents, not taking their wishes into account. In this case too, the authorities resort to a forceful solution and carry out enforcement by issuing orders and demolishing homes, in order to coerce the residents of the village to accept the solution offered to them.

In the recognized village of Abu Grīnāt, the situation is similar:

"At the moment, a process of negotiation is proceeding alongside an enforcement procedure in order to solve the problem. Some of the residents expressed their consent to join the regularization process and some of them refused. Together with the enforcement authorities, it was agreed to carry out enforcement actions against the refuseniks in order to persuade them to join the regularization

⁵² See supra note 6, page 17, article 5.a.3).

⁵³ See supra note 6, page 18, article 8.a.

process."⁵⁴

Negotiations with the residents are conducted in the shadow of an enforcement procedure, "in order to solve the problem" in the words of the Southern Directorate. The residents who do not accept the solution determined by the Authority are defined by the Southern Directorate as "refuseniks", and in order to force them to accept the solution, enforcement is carried out against them. In other words, when the negotiations run aground, the authorities resort to enforcement in order to get citizens to relinquish their demands.

In the unrecognized villages in the Negev/Naqab, this policy is applied more vigorously. For example, in regards to residents of an unrecognized village in the area of Hura, the Southern Directorate reports:

"The treatment of the dispersion took place during the previous working year during which the residents of the dispersion refused to be evicted to neighborhood 15 in Hura, and therefore indictments were issued for eviction by the ILA [Israel Land Authority]."⁵⁵

The residents of the village do not want to move from the settlement where they live to the town of Hura, and since they do not agree, the ILA issued indictments against them.

Until now, the Authority has not succeeded in moving residents of an unrecognized village in the area of Šgīb as-Salām (Segev Shalom) into the town. In this case too, enforcement has been used to impose the Authority's demands on the citizens:

"In the current working year we continue to deal with the dispersion. The objective is to put the dispersion in motion towards reaching a regularization with the Bedouin Authority to enter the designated lots in Segev Shalom. So far we have executed a number of judicial demolition orders in order to advance the process of negotiations with the Authority, but there has been no progress."⁵⁶

In this case, the enforcement authorities carried out actual demolitions, in order to pressure the villagers to give up their demands and submit to the Authority's demands.

⁵⁴ See supra note 6, page 21, article 16.b.

⁵⁵ See supra note 6, page 17, article 5.c.1).

⁵⁶ See supra note 6, page 18, article 7.a.

2.3.2 "Regularization Promoting Enforcement"

"Regularization promoting enforcement" is a new course of action that began in 2016, according to which the Southern Directorate is working to find a settlement solution for citizens, in order to complete the "regularization process" without the need for enforcement. This means that the Southern Directorate, which is responsible for enforcement, intervenes in the process of "regularization" itself, that is, law enforcement authorities intervene in what should be civil negotiations.

"Together with the enforcement authorities and the Bedouin Authority, we have defined a further action plan – 'regularization promoting enforcement', in the context of which we are seeking to find housing solutions for residents of dispersion, for which eviction orders have been issued against in the past and have not yet been implemented."⁵⁷

As noted, 2016 is the first year in which the Southern Directorate tried to implement "regularization promoting enforcement," and according to the annual summary report, it was carried out in only six cases. According to the report, none of these proceedings succeeded. Two cases ended with the execution of demolition orders, one is waiting for the issuance of enforcement orders, and in another there are eviction orders that have yet to be implemented. Another case has not progressed because there is no real solution offered to the residents, and another has not progressed because the residents petitioned the High Court of Justice. In practice, the attempts of law enforcement agencies to intervene in the area of "regularization" are failed attempts that work contrary to the aspiration they define, that is, to refrain from enforcement. Instead, they usually result in issuing demolition orders and actual demolitions.

⁵⁷ See supra note 6, page 23, article 27.

Summary

The struggle over the arrangement of space in the Negev/Naqab have been continuing from the establishment of the state in 1948 until today. Instead of negotiating a solution to the issue of land ownership and Bedouin settlement in the Negev/Naqab, the State of Israel is working with all means at its disposal to concentrate the Bedouin community in large and overcrowded localities, against the will of the community. In practice, there is nothing to prevent the achievement of a mutually agreed solution, one that respects the wishes of the community and the aspirations of the state. However, conducting aggressive and violent negotiations that uses a policy of demolition will not lead to this solution.

The members of the Bedouin community in the Negev/Naqab are citizens of the state, but the state insists on treating them as enemies rather than as citizens with equal rights. Instead of working to protect the right of these citizens to live with dignity and in adequate housing, the state authorities act unilaterally in coordination to demolish Bedouin homes and transfer citizens, against their will, from their place of residence. Thus, the state deepens the severe housing shortage that impacts the Bedouin community in the Negev/Naqab and works to concentrate more and more citizens in localities that do not have the means to cope with natural population growth and have difficulty providing the most basic services to their own residents.

Most of the budgets currently earmarked for the development and advancement of the Bedouin community in the Negev/Naqab go through and are under the supervision of the Authority for the Development and Settlement of the Bedouin in the Negev. The statements made by the Director General of the Authority, presented in this report, as well as the contents of the new development plan, attest to the lack of public participation in the implementation of the plan and the adaptation of development and planning to the needs of the community. As long as external authorities (in which the Bedouin community is not represented) determine regarding the development of settlements and the investment of budgets in economic and social services, these plans will constantly fail. The State of Israel, if it maintains genuine and honest public participation, can channel the budgets to contribute to the development of the Negev/Naqab for the benefit of all its residents, Jews and Arabs.

During 2016, 1,158 structures were demolished in the various Bedouin settlements in the Negev/Naqab. A policy of home and building demolition is not a policy that builds trust between citizens and states. It is a violent and aggressive policy that can only create alienation and frustration among citizens whose rights are violated on a

daily basis. The State of Israel must cease its policy of demolitions and initiate confidence-building measures towards the community that will allow for a fair and agreed-upon solution that respects the Bedouin way of life and the aspirations of members of the community, in keeping with the planning logic of the state.

The Bedouin community constitutes more than a third of the residents of the Negev/Naqab region, which constitutes about two-thirds of the territory of the entire State of Israel within the Green Line. The State of Israel must act to allocate land resources and economic resources justly and equally among the various communities in the Negev/Naqab and reduce the enormous gaps between the communities living in this common space. Budgetary funding that continues without reaching an agreed solution will not improve the situation. On the contrary, it will perpetuate the gaps between the communities and prevent the Bedouin settlements from developing. Only a solution based on the public's participation and recognition of its aspirations, desires and way of life will lead to the organization of the space in a way that respects and enables a dignified life for all its residents, Arabs and Jews alike.



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



www.dukium.org

info@dukium.org

050-7701118/9