



UNIVERSITY OF CALIFORNIA PRESS
JOURNALS + DIGITAL PUBLISHING



The Negev Land Question: Between Denial and Recognition

Author(s): Ahmad Amara

Source: *Journal of Palestine Studies*, Vol. 42, No. 4 (Summer 2013), pp. 27-47

Published by: [University of California Press](#) on behalf of the [Institute for Palestine Studies](#)

Stable URL: <http://www.jstor.org/stable/10.1525/jps.2013.42.4.27>

Accessed: 04/11/2013 14:05

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at
<http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



University of California Press and Institute for Palestine Studies are collaborating with JSTOR to digitize, preserve and extend access to *Journal of Palestine Studies*.

<http://www.jstor.org>



THE NEGEV LAND QUESTION: BETWEEN DENIAL AND RECOGNITION

AHMAD AMARA

This article explores the legal issues and policies surrounding Bedouin land ownership and dispossession in the Negev. By tracing the colonial legal trajectory—from Ottoman to British and finally, to the current Israeli adoption and development of legal doctrines—the author exposes an intricate manipulation of historical legal policies being used to further displace tens of thousands of Bedouin Arabs living in the Negev today. This displacement is further contextualized as not only legally steeped in colonial heritage, but also as part and parcel of an active, larger colonial Judaization scheme by the Israeli state towards its Palestinian citizens. This article discusses the most recent of these schemes in the Negev: the Praver Plan.

SINCE ITS ESTABLISHMENT, Israel embarked on its colonialist project of replacing the Palestinian Arab space and landscape with a Jewish Israeli one. Expulsion of Palestinian residents, demolition of Palestinian villages, replacing Palestinian geographical names with Hebrew ones, and concentrating Palestinian communities and limiting their expansion are all part of this colonial Judaization project. Currently, in the Negev, such policies are at their height. The Praver Bill—which passed the first round of voting in the Knesset in June 2013—will regulate Bedouin settlement in the Negev, including tens of villages with no legal status. The bill is expected to displace tens of thousands of Negev Bedouins, demolish their villages, and establish new urban sites for them.

On 21 August 2013, al-'Araqib, a Bedouin Arab¹ village located in the Negev, witnessed its fifty-second demolition since July 2010. Al-'Araqib has become the focal point of the ongoing struggle between the Israeli government and the Bedouin Arab communities of the Negev over land ownership since 1948.² Intertwined with the land ownership dispute is an additional major question of housing. There are about forty Bedouin Arab villages that are deemed “illegal” by the Israeli government. These villages lack state services and proper infrastructure, and their houses and

AHMAD AMARA is a human rights advocate and PhD candidate in history and Hebrew and Judaic studies at New York University. He holds an LLB and LLM from Tel Aviv University. The author thanks Oren Yiftachel, Alex Winder, Zinaida Miller, Shay Hazkani, and Samuel Dolbee for their comments and assistance with edits.

Journal of Palestine Studies, Vol. XLII, No. 4 (Summer 2013), pp. 27–47, ISSN: 0377-919X; electronic ISSN: 1533-8614. © 2013 by the Institute for Palestine Studies. All rights reserved. Please direct all requests for permission to photocopy or reproduce article content through the University of California Press's Rights and Permissions website, at <http://www.ucpressjournals.com/reprintInfo.asp>. DOI: [jps.2013.XLII.4.27](https://doi.org/10.1215/0377919X-2013-004)

structures are subject to demolition. These interrelated issues can be referred to collectively as the Negev question.

The Negev question reveals a web of legal strategies that were transferred from one region to another and from one era to another. In denying Bedouin land ownership, the Israeli government and judiciary developed a legal doctrine, applied first in the Galilee and later in the Negev, which relied upon Ottoman and British legislation, dating as far back as 1858. At the outset of the British Mandate, the British adopted all Ottoman law and implemented a few amendments to suit British imperial interests.³ Similarly, the newly created Israeli state passed a law in 1948 proclaiming that all Mandate-era laws would remain in force, subject to legal modifications resulting from either the state's establishment or subsequent legislation.⁴ Thus, some British and Ottoman laws became part of the Israeli legal system.

By shedding light on the use and transformation of Ottoman and British imperial and colonial legislation, we learn a lot about the methods and dynamics that define the relationship between the Israeli government and its Bedouin Arab citizens. The continuities of the legislation and the discontinuities in its interpretation illustrate the transformation in notions of property and property relations under imperial, colonial, and postcolonial settings, as well as the relations between the different governments and their own subjects. While colonial heritage continues to impact the structures and modes of authority in many modern states, this is particularly evident in the case of Zionism and the Israeli state, which currently undertakes colonial policies against the Palestinians. Elia Zureik has suggested using the internal colonial paradigm to study Palestinians in Israel, and more recently Oren Yiftachel recommended the same approach to study the Negev question.⁵ Israel's application of imperial and colonial laws offers further evidence of the colonial nature of the relationship between Israel and its Palestinian citizens.

A selective interpretation of Ottoman and British land laws provided tools for Israeli land expropriation, while also partially helping legitimize the Israeli state's position. However, despite the power of legal formalism in denying Bedouin land rights, it has also proved to have its limitations. The Israeli government seems to have been unable to settle the Negev question—that is, to take possession of all Bedouin lands and concentrate the Bedouin population in urban centers. In light of this inability and a complete formal legal denial of Bedouin land rights, the Israeli government speaks in more than one language. Alongside this formal denial, the government has expressed tacit recognition of land rights by offering compensation to Bedouin land claimants in the form of alternative land and monetary compensation. It has also kept the consistent threat of house demolition and removal in force, alongside a proposal for building alternative Bedouin urban centers. Further, the Israeli government uses the law and courts to carry out land dispossession and house demolition, while adopting administrative strategies and public policies to “solve” the Negev

question outside the courts. Praver, which was preceded by tens of different committees and governmental teams to recommend solutions for the Negev question, is the latest of several such extrajudicial attempts to solve the Negev question.

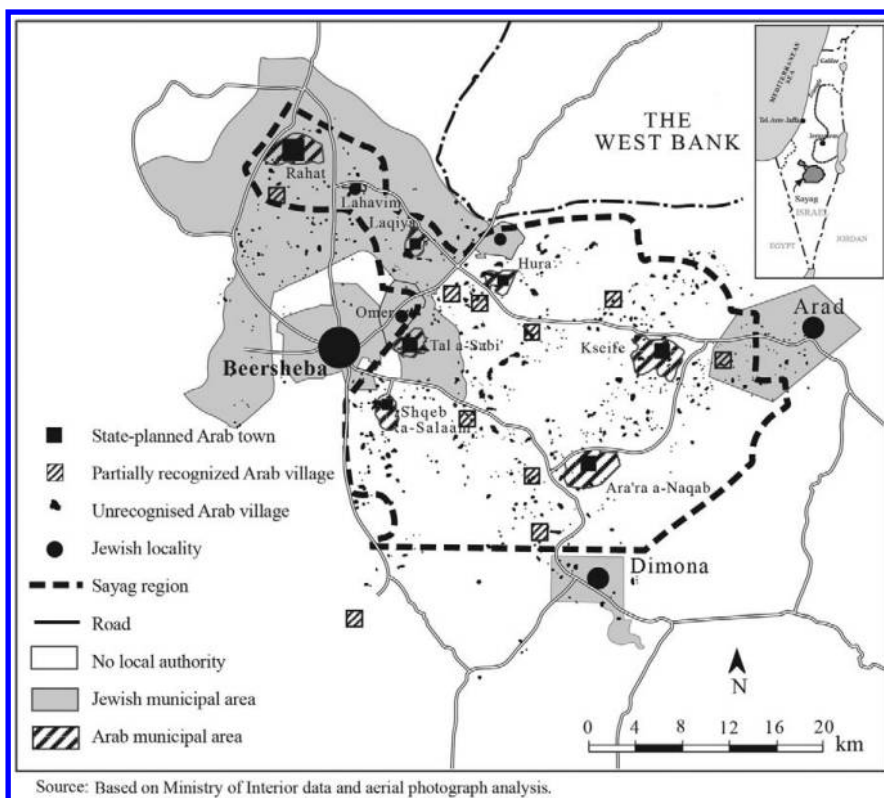
In using a strictly formalistic legal framework to the Negev question, the Israeli government has transformed the Bedouins into criminals and lawbreakers. Their very existence—villages, habitation, and centuries-old presence—in the Negev has been outlawed. The process of dispossession has continued under different forms, beginning with the armed conflict and continuing through the more mundane—yet no less destructive—instruments of legislative expropriation, administrative measures, and court cases. The Bedouins in turn must either resist the system by remaining on their land and disengaging from the process, or become ensconced in an administrative system that promises resolution while never relegating control. This article explores the legal arguments surrounding the Negev question and their impact on Praver, as well as previous Israeli governmental attempts to solve the Negev questions.

In using a strictly formalistic legal framework to the Negev question, the Israeli government has transformed the Bedouins into criminals and lawbreakers.

LAND USE IN THE NEGEV

The Bedouins have inhabited the deserts of the Middle East and the Arabian Gulf region for many centuries, and have lived in the Negev desert at least as far back as the seventh century.⁶ According to population estimates, in 1880, 32,000 Bedouins lived in the Negev, a number that rose to 55,000 in 1914.⁷ By 1948, that number reached between 75,000 and 90,000 Bedouins belonging to ninety-five different tribes.⁸ Bedouins have traditionally lived in communal affiliation within their tribes, and groups of tribes formed the tribal confederation, a larger communal unit. Eight Bedouin tribal confederations have inhabited the Negev: Ahaywat, 'Azazma, Hanajra, Jubarat, Tarabin, Tiyaha, Saideyin, and Jahallin. Land use, grazing, watering, and camping took place within each confederation's territory. Over the years, confederations expanded or lost territory due to conflicts with other tribes or due to climate conditions such as drought or rain. The Negev, today's southern Jordan, the Sinai in Egypt, and northern Saudi Arabia, all formed one spatial unit that the Bedouins inhabited before modern national borders changed this reality, profoundly affecting Bedouin life.⁹

For many centuries Bedouins were the sole sovereigns of the desert and enjoyed almost full autonomy in their daily lives. According to Clinton Bailey, "up to the end of the Ottoman Empire in 1918, government confined their presence to imperial or provincial capitals located at the edges of the desert."¹⁰ Nevertheless, the Ottoman government practiced its partial authority by enlisting tribal chiefs who primarily took care of collecting



taxes.¹¹ An Ottoman census on taxation collection as early as 1596 mentioned agricultural activity by the Bedouins.¹²

Bedouins have developed their own law based on what is commonly acted upon among them as custom.¹³ This customary law regularized both inter- and intra-tribal relationships. The law developed and evolved over many years, as did their customs and norms. Bedouin customary law still operates today, in various degrees and locations, to resolve disputes.¹⁴ In the late-nineteenth century, the conditions of the Bedouins and their lifestyle changed. They increasingly relied on farming and began moving from semi-nomadism to a sedentary lifestyle. This adaptation increased the importance of land and its cultivation.¹⁵ In a British census from 1931, 89.3 percent of the Negev Bedouins mentioned that they relied on agriculture as their main source of livelihood.¹⁶ The estimates of the cultivated lands in the early-twentieth century in the Negev ranged between 2 to 3.5 million dunams.¹⁷

The value of land rose during the late-nineteenth and early-twentieth centuries, as did the sale of lands in the Negev to non-Bedouin purchasers (including Palestinians from Gaza and Jerusalem, and Zionist individuals and organizations). These activities expanded the traditional law system's use of documentation to include *sanad baya'* (sale deed), *sanad rabn* (mortgage deed), and registration with the Ottoman and British land

registries. *Sanad baya'* and *sanad rabn* normally include information identifying the contracting parties, date, price, sale or mortgage conditions, payment, and description of the land and its boundaries, as well as names and signatures of witnesses.¹⁸ In some cases, such *sanads* are stamped and/or sealed by shaykhs or by Ottoman or British authorities.¹⁹

OTTOMAN AND BRITISH GOVERNANCE OF THE NEGEV LANDS

The Ottoman Empire, like other empires, maintained some degree of legal pluralism and continuity of customary and religious laws in order to sustain social and political stability.²⁰ In the Negev case, the Ottomans started to increase their authority and presence toward the end of the nineteenth century due to various developments, including the empire's *Tanzimat* reforms,²¹ part of which included legal reforms on landed property. The opening of the Suez Canal in 1869 and the British presence in Egypt made the Negev an important frontier against British penetration. As the Ottoman Empire faced increasing needs for taxation and conscription, tribes and tribal areas became an important previously untapped resource. In 1891, following a number of conflicts between the tribes on land use and boundaries, the Ottomans intervened by demarcating the tribal areas in the Negev.²² In keeping with Ottoman efforts for centralization and regularization, in 1900, the Ottomans purchased two thousand dunams from the 'Azazma tribe to build the modern city of Beersheba as the Negev administrative center. Finally, the Ottomans established a council of Bedouin chiefs in Beersheba that served as a tribal court, which, in accordance with a 1903 imperial edict, ruled based on tribal law on land cases related to ownership, boundaries, and mortgages.²³

The relevant Ottoman laws to the Negev land question are the 1858 Ottoman Land Code (OLC) and the *Mecelle*, which tried to restructure some aspects of the Ottoman land regime. The OLC set up five different categories of land entailing different clusters of rights: (1) *mulk* land, privately owned lands in towns and urban areas; (2) *waqf* land, endowed to benefit a religious group; (3) *metruka* land, given for public benefit, including roads or forests;²⁴ (4) *miri* land, owned by the sovereign, yet used for cultivation, pasture, and so on purposes under lease; and (5) *mawat* land, unpossessed, uncultivated lands, including rocky fields and mountain areas.²⁵ Most relevant to the Negev question are the *miri* and *mawat* land categories.

In accordance with Article 78 of the OLC, anyone who possessed and cultivated *miri* land without unjustified interruption for more than ten years could request a title deed over such land. *Miri* rights, under the OLC and later under the 1913 Provisional Law of Immovable Property, consistent with Ottoman practice, qualified the possessor for almost full rights over the use, transfer, and inheritance of the rights to possess and cultivate the land, though the ultimate ownership was in the sovereign's hands.²⁶

Most arable lands outside of towns and villages were of this land category, and they were a main source of tax revenue for the Ottoman government. The government made efforts to ensure that those lands under cultivation remained so, hoping also to further expand arable areas. As for *mawat* land, it is defined under Article 6 of the OLC as:

...land which is occupied by no one, and has not been left for the use of the public. It is such as lies at such a distance from a village or town from which a loud human voice cannot make itself heard at the nearest point where there are inhabited places, that is a mile and a half, or about half an hour's distance from such.²⁷

Whereas according to Article 103 of the same code:

The expression dead land (*mevat*) means vacant (*kbali*) land, such as mountains, rocky places, stony fields, pernalik and grazing ground which is not in possession of anyone by title deed nor assigned *ab antiquo* to the use of inhabitants of a town or village, and lies at such a distance from towns and villages from which a human voice cannot be heard at the nearest inhabited place.²⁸

More importantly, according to Article 103, anyone who had “revived” dead land and cultivated it could acquire a title deed to it, even if he has done so without a permit from the authorities, in which case he would have to pay the value of the land before its revival. When revived, *mawat* land becomes of the *miri* category.

These formal laws, however, were not the most important guidelines in regulating tax collection, administration, or authority in the Negev. Landed property affairs continued to be administered mainly in accordance with local custom. The Bedouins cultivated their lands, paid taxes, and mortgaged and sold lands much as they had before the OLC. This situation was not unique to the Negev. The Ottoman authorities did not apply the OLC in its entirety to other parts of the empire; rather, they continued to accommodate local customs and practices, governed through center-periphery negotiation, and sought to maintain stability by protecting current tenants and cultivators of the lands.²⁹

Though the reforms relied in large part on previous Ottoman legislation and Islamic principles of land rights, the new requirements for land registration were revolutionary as a new approach to identifying land parcels and their owners. Its requirements for registration, exemplifying a new form of governance, sought to impose direct control over owners and land taxation, replacing the old form of tax collection through middlemen.³⁰ Ottoman archival evidence shows that the Ottoman government was eager to register Bedouin-possessed lands in the early-twentieth century. Among the benefits of land registration in the eyes of Ottoman officials was the elimination of tribal disputes over boundaries and the introduction of

civilization, which would benefit the local communities. The Ottoman registration initiative, however, remained largely an aspiration. By the end of the Ottoman period, only 5 percent of the land in Palestine had been registered under the new registration system, while most if not all Bedouin lands remained unregistered.³¹ Then, the concept of divisible property rights, composed of rights of access to the land and access to surplus, as illustrated in *miri* land, changed over the years in Palestine and collapsed into one unified individual right to property.³² The application of the formal legal provisions changed as well, first under the British and then more significantly under the Israelis.

Equipped with their own Western notions of private property, the goal to better administer and control Palestinian space and population, and in accordance with their obligation under the Mandate to establish a Jewish home in Palestine, the British embarked from the outset on restructuring the existing land regime of Palestine. They amended the Ottoman land laws, enacted new legislation, and, more importantly, undertook a land title settlement process. Established in 1928, the land settlement process aimed to identify the owners of every parcel of land in the country, mainly through a quasi-judicial procedure. It relied entirely upon cadastral and topographical surveys, which divided lands into clearly demarcated blocks and parcels. By 1948, the British had settled title on about 5.5 million dunams of Palestine's 26 million dunams, about five million dunams of which would fall within Israel.³³

There was no state-initiated land title settlement in the Negev, but some Bedouin landholders did register their lands. Archival evidence shows that the registration process also involved the integration of state law with local knowledge and practice. Registration requests were addressed to the Gaza and Beersheba registrar who, after ensuring that the relevant forms were complete and the taxes and fees were paid, would ask the relevant *mukhtars* and shaykhs to confirm the applicant's rights over the specific lands. Then, the registrar would send the agriculture inspector to confirm that the land was under cultivation. When completed, the land would be registered in the land registry under the name of the applicant, who would be granted a certificate of registration.³⁴

Among other formal laws that came to have a special impact on the Bedouin land question, mainly after 1948, are British amendments to the 1858 Ottoman Land Code, made in line with introducing a new understanding of property rights, particularly with regard to "state lands." The 1921 *Mawat* Land Ordinance was a key piece of early land legislation by the British military government in Palestine aiming to increase the government's control over public lands. The ordinance stated that moving forward, the revival of *mawat* lands required a prior permit from the government; cultivators without permits were to be subjected to prosecution as trespassers. The ordinance allowed a two-month registration window for those who claimed rights to such lands.³⁵ These amendments

sought to make the state itself a landowner and to strengthen its grip over lands. The Ottoman notion of “public land” was land that, though formally owned by the state, would be accessible for cultivators. The British understanding of “state land,” however, was to keep it under state control and out of public reach, unless otherwise assigned by the government.

Despite increased British administrative power in the Negev, the Negev Arabs continued to enjoy a large degree of autonomy; laws concerning registration of land titles and transactions were not enforced in the Negev.³⁶ The British maintained tribal courts and applied a different system of taxes.³⁷ Due to its social and geographic specificities, the British adopted a special administrative mode and legal order in the Negev, which integrated the local customs and social order within state law and administration.

On 29 March 1921, Secretary of State for the Colonies Winston Churchill “reaffirmed the assurances already given at Beersheba by the High Commissioner to the Sheikhs that the special rights and customs of the Bedouin Tribes of Beersheba will not be interfered with.”³⁸ Land affairs were subject to both tribal customary law and the state’s law and judiciary. In principle, jurisdiction over land disputes among Bedouins in the Negev was in the hands of the tribal court and not the land court.³⁹ Nevertheless, land disputes also came before the state land court and were appealed before the Palestine Supreme Court. Yet, case law illustrates that Bedouin and non-Bedouin landholders in the Negev were treated as owners, that formal land law had limited application in the Negev, and that courts relied on customary documentation, such as *sanad baya’* and *sanad rabn*.

The British government, too, seemed to treat Bedouin-held and cultivated lands as *miri* lands. In the Survey of Palestine, the British government stated: “Some 12,577 square kilometers lie in the deserts of Beersheba. It is possible that there may be private claims to over 2,000 square kilometers which are cultivated from time to time. The remainder may be considered to be either *mawat* or empty *miri*.”⁴⁰

British attempts to make the Palestinian space legible was contested, negotiated, and adapted with local practices in the Negev. In the Negev, the British did not implement the land law on land partition, registration of land transactions and title, or the *mawat* ordinance (which was partially implemented even in other parts of Palestine).⁴¹ Nevertheless, these legal amendments and the process of making the government a major landholder through the new category of “state lands” was reproduced and abused by the Israeli government after 1948.

THE NEGEV UNDER ISRAEL: DISPOSSESSION, DENIAL, AND NEGOTIATION

The policy of land nationalization in the Negev is part of a larger Israeli national policy of land nationalization/Judaization, made possible by a dint of mass expulsion and seizure of land in 1948 and the special legal regime

constructed thereafter.⁴² Following the 1948 conflict and the creation of the State of Israel, the majority of the Negev Bedouins were expelled or fled the Negev for the Gaza Strip, Jordan, and Sinai. Only 11,000 Bedouin Arabs from nineteen tribes remained within Israel. In the early 1950s, the Israeli army forcibly transferred eleven of the remaining tribes from their residence in the southern and western Negev to an enclosed area in the northern Negev known as the Siyag, joining the eight tribes who already lived there. The Siyag constitutes 8 percent of the Negev area. The Israeli government subjected all Bedouins within the Siyag to military rule, like all Palestinian citizens of Israel, until 1966.⁴³

According to Joseph Ben-David, in November 1948 Ben-Gurion did not perceive the Bedouins as an obstacle to the Jewish settlement of the Negev, but suggested that their number be limited to 10,000.⁴⁴ Indeed, 11,000 Bedouins remained in Israel after the end of the conflict in 1949. Government representatives discussed options for the Bedouin communities' future, and the prevailing solution was to resettle them in state-built townships. While the state originally considered three townships to be sufficient to resettle all Bedouins, by the 1990s, seven such townships had been built.⁴⁵

There are currently about 200,000 Bedouin Arab citizens of Israel living in the northern parts of the Negev region. About half of them live in the seven state-planned townships, and the other half live in forty-five villages referred to as the unrecognized villages. The townships are overcrowded and impoverished. Bedouin residents suffer from high unemployment and crime rates. Meanwhile, the unrecognized villages accommodate between two hundred and five thousand people each, and generally lack basic services such as electricity, running water, garbage collection, and paved roads. Deemed illegal by the Israeli government, the residents are subject to eviction and their homes are subject to demolition.⁴⁶

The "illegality" of the villages stems primarily from zoning laws and land ownership questions. When preparing state zoning plans in the Negev, Israeli planning authorities excluded Bedouin villages from these plans and zoned their lands as military, industrial, or green areas rather than residential. This characterization enabled the Israeli government to treat the villages as having been "illegally" built over "state land."⁴⁷ While in 1960 there were one hundred such "illegal" structures, this number increased to 410 in 1962,⁴⁸ to 1,000 in 1966, to 5,944 in 1986, and reached 42,500 in 2007.⁴⁹ Similarly, the Negev Bedouin population grew from 27,460 at the time of filing the land claims in 1970⁵⁰ to about 200,000 in 2010. The townships did not provide the intended solution and the villages did not fade away.⁵¹

For a long period, the state refused to recognize any Bedouin locality other than the seven townships, and used various coercive tactics—from crop destruction to house demolitions—to push the Bedouins to move to the townships. A slight change in the government's resettlement policy

appeared after 2000, when the government decided to recognize six of the forty-five unrecognized Bedouin villages and consider others for future recognition.⁵²

The Land Dispute and Its Legal Framework

Under the 1951 State Property Law, the Israeli government inherited the land and property of the British Mandate government. The 1950 Absentee Property Law effectively gave the state control over the property, movable and immovable, of all Palestinian refugees.⁵³ According to Michael Fischbach, Israel appropriated 4,865,334 dunams, 55,000 houses and apartments, and 8,000 businesses under this law. Lands confiscated under this law in northern Beersheba reached more than 1.7 million dunams.⁵⁴ Three years later, the 1953 Land Acquisition Law passed, retroactively endorsing expropriations undertaken directly after the 1948 conflict and laying the ground for further land expropriation for development, settlement, or security purposes. Out of 1.25 million dunams expropriated under the 1953 law, 137,400 dunams were taken from Negev Arabs.⁵⁵ By 2011, through an intensive process of land expropriation, nationalization, and reallocation, Israel managed to gain control of 93.5 percent of the land in Israel.⁵⁶

Aside from legislation, the land title settlement process was another major tool of land dispossession, playing a major role on the Negev land question. As of 2011, according to the Israel Land Administration (ILA), there are only 494,157 dunams of land in Israel whose title remains unsettled, mainly in the Negev.⁵⁷ During the 1950s and 1960s, Israel continued the British-initiated land title settlement process, starting in the northern region. A combination of new legislative and judicial standards significantly restricted Palestinian landholders' ability to prove or gain land title.⁵⁸

In 1966, a confidential report of the Office of the Adviser on Arab Affairs stressed the fact that the vast majority of the Negev land had been expropriated and registered formally under state ownership except those lands whose expropriation was expected to lead to a confrontation with the Bedouins.⁵⁹ In 1970, the Israeli government declared the northern Negev, including the Siyag, subject to land rights settlement. Under this process, Bedouins filed 3,220 formal land claims over 1.5 million dunams, including about 600,000 dunams of tribal pasture lands and 200,000 dunams that had been registered as state lands.⁶⁰ The final amount of Bedouin-claimed land according to the state was 778,856 dunams.⁶¹

Initiating what would become a familiar pattern of following a bureaucratic-administrative (rather than a judicial-administrative) route to handle the Negev land claims, in 1975 the government formed a special committee to address Bedouin land claims.⁶² Plia Albeck of the State Attorney's Office, known for her prominent role in legalizing land expropriation and building Israeli settlements in the occupied Palestinian territories, headed the committee.⁶³ Relying upon the 1858 Ottoman Land Code and the 1921

British *Mawat* Land Ordinance, the Albeck Committee confirmed the government's position: that the lands claimed by the Bedouins are *mawat* lands, and thus state lands.⁶⁴

However, alongside this complete denial of legal land rights, the Albeck Committee anticipated that the Israeli Supreme Court would not approve the eviction of the Bedouins without compensation. Thus, it recommended that the government make a show of "goodwill" and, going beyond the strict formal law, grant the Bedouins some negotiated compensation on the condition that claimants give up their land claims and move to one of the state-planned townships.⁶⁵ The Israeli government's position since the 1970s has been characterized by a position of complete legal denial, on the one hand, and partial practical recognition of Bedouin land rights, on the other.

Between Denial and Recognition

As it turned out, Albeck was wrong in her prediction of Supreme Court hesitation regarding the Negev land question. In its milestone decision in the 1984 al-Hawashli case, the Supreme Court approved the government and Albeck's positions, affirming the *mawat* judicial doctrine based on Ottoman and British legislation (first constructed with regard to Galilee lands). In defining *mawat* lands, the doctrine stated that the distance from the town or village by which *mawat* land was defined should be measured from a modern town or village and, for this purpose, a Bedouin encampment is not considered a legitimate point for measurement. Moreover, such a town or village should have existed in 1858, the time of the legislation of the OLC. The Negev was exclusively inhabited by Bedouins until the early-twentieth century, and only in 1900—already forty-two years after the enactment of the OLC—was Beersheba established as the only "modern" city in the region. Further, the doctrine stated that only the 1.5 mile factor will be considered for the distance, nullifying the vocal and walking factors. Lastly, the Israeli judiciary concluded that the Bedouins had their last chance to register their lands in 1921 and have only themselves to blame for not having done so.⁶⁶ The al-Hawashli decision set a precedent that determined the results of all subsequent land claims in the Negev. The decision served as the departure point for governmental bodies seeking to solve the Negev land question.

The specific use of the *mawat* doctrine, defining Bedouin lands as wasteland, has special political implications as well. Under this land category, land possession, no matter how long it extends back in time, does not qualify the possessor to own the land. In this way, Negev Arabs are erased as the legitimate first landholders and sovereigns of the Negev centuries before the establishment of Israel. The selective definition of *mawat* land, combined with commonly heard arguments of Bedouin nomadism, cast the Bedouins as people who have no particular connection to the land.⁶⁷ Thus, monetary compensation, in the state's view, can replace the

“incidental” connection to the land—land that is wasted until it is redeemed and developed by the state.

Under the umbrella of legal denial of land rights in the Negev, the Israeli government, acting in accordance with the Albeck committee’s recommendations, started a process of negotiation with the Bedouin Arab claimants and concurrently froze all land claims in the 1970s.⁶⁸ The negotiations were conducted by the IIA, whose council drafted a number of resolutions regarding the compensation, using the Albeck compensation scheme as its basis.⁶⁹ As of 2008, only 12 percent of total land claims (380 out of 3,220) had been settled, covering an area of 205,670 dunams (about 18 percent of total claimed lands).⁷⁰ The Israeli government has amended the offered compensation several times. However, it was clear to the government that Bedouin claimants viewed the compensation as insufficient and unjust.⁷¹

In parallel, and in light of its failure to solve the Negev question, the government has appointed a number of governmental bodies to study and draft recommendations concerning the Negev question. Between August 1996 and August 1999, the government established two ministerial committees to make recommendations on the Bedouin issue, and between May 1996 and December 2000, five inter-ministerial teams and committees were formed for the same purpose.⁷² These attempts only produced reports and recommendations with no significant impact. However, since 2000, and particularly in the last five years, the Israeli government has been trying more intensively to settle the Negev question, possibly because the situation is growing dire.

Moving Toward Confrontation

Government personnel have realized that the housing question and the land question cannot be separated. Bedouin Arab claimants remained on their claimed land to retain some measure of power and rights over it, and they likely had nowhere else to go. Further, the success of newly recognized Bedouin villages hinges on the resolution of the land question. Bedouins refuse, in accordance with their custom, to reside on lands claimed by another Bedouin tribe, even when confiscated and allocated to them by the government. Presently, hundreds and even thousands of land plots in the middle of the townships remain, and have remained for more than thirty years, empty.⁷³

Other pressures may have also influenced the move for decisive government action. The 2001 report of the Israeli state comptroller highlighted the state’s negligence of the Bedouin land question, the underdevelopment in the townships, and the overall lack of law enforcement.⁷⁴ Communal resistance in the form of protests and civil society advocacy had its own impact as well. Increasing numbers of petitions to the Supreme Court for the provision of educational, health, and social services to the unrecognized villages put additional pressure on the state. Jewish settlement and development projects have also played a role. In 2005, the government

adopted the 2015 Negev Development Plan (known as the Sharon-Livni Plan). The plan, defined as a “national project,” suggests incentives and aims to relocate “economically productive” Israeli Jews from central Israel to the Negev, increasing its population from 535,000 to 900,000 by 2015. The plan calls for addressing the frozen land claims by bringing them before the judiciary.⁷⁵

In 2004, the Israeli government started pursuing a strategy of “counter-claiming” the Bedouin Arab land claims in court. The State Attorney’s Office would choose to dispute, under unknown criteria, one of the frozen Bedouin land claims, eventually bringing these cases to court. By May 2008, the state had submitted about 450 counterclaims, and the court had ruled on eighty cases, all in favor of the state.⁷⁶ Recent figures indicate that the state has won about two hundred counterclaims over about 70,000 dunams of land.⁷⁷ Under the counterclaim policy, the government moved to an active role of legal confrontation with the Bedouins.

Bringing the claims to the court does not only help legitimate the state’s actions and policies, but aims at exerting serious pressure on the Bedouins to accept the solution offered by the government.⁷⁸ This policy was accompanied by increased house demolitions.⁷⁹ At the same time, the Israeli government realized that it needs a lot of time and resources to settle the Negev question through demolitions and through the courts. Further, in light of the increasing Bedouin Arabs’ resistance to this strategy, the government took a familiar step in 2007 by appointing a new committee, headed by emeritus Justice Eliezer Goldberg, to recommend a resolution to the Negev question. The Israeli government ordered the committee to restrict any recommended land compensation to 100,000 dunams or less in total.⁸⁰ In December 2008, the committee drafted its report, which recommended that more villages should be recognized, subject to the Beersheba metropolitan zoning plans; formulated a compensation formula for land claims (roughly 20 percent in kind and 30 percent in monetary compensation of the claimed land); and suggested increasing state law enforcement.⁸¹

The Israeli government adopted the Goldberg report and appointed a team for its implementation, headed by Ehud Praver of the Prime Minister’s Office, formerly deputy head of the National Security Council.⁸² A copy of the final Praver report was leaked in early 2011 and its major outline is a retreat from the Goldberg report, particularly with regard to recognition of villages. Israeli right-wing politicians criticized the leaked Praver report for being too generous with the Bedouins, and Prime Minister Benjamin Netanyahu tasked Yaakov Amidror, head of the National Security Council, to revise the plan. The revised Amidror-Praver Plan was adopted by the Israeli government on 11 September 2011.⁸³

Bringing claims to court not only helps legitimate Israel’s actions and policies, but aims at exerting serious pressure on the Bedouins to accept the solution offered by the government.

The revised plan decreased land compensation, imposed a strict timeline on implementation, established special bodies for this purpose, and called to enshrine the plan within special legislation. It also stated that no new Bedouin villages should be recognized and no Bedouins settled outside the Siyag area.⁸⁴ The 64-page proposed bill based on this plan (known as the Prawer Bill) was published on 3 January 2012 for public input and commentary.⁸⁵ The plan is estimated to have decreased the proposed land compensation from 183,000 dunams to 90,000 dunams. The Bedouins see this recent plan as a grave threat to their rights, entailing displacement, land expropriation, and a government policy of continuous exclusion and discrimination.⁸⁶

The government also decided to undertake what it called a “listening process” for the community regarding the bill, seeking to mitigate inevitable Bedouin resistance. The process, headed by Likud minister Benny Begin, was supposed to last six weeks, but was extended for more than three months. Many in the community have seen this process as an artificial ruse to facilitate the bill’s adoption, and thus they refused to meet with Begin. Nevertheless, Begin conducted a round of meetings and drafted his own suggestions for amendments.

Begin, like Goldberg, recommended that the future recognition of any of the villages should be in line and within the Beersheba metropolitan zoning plan, while canceling the restriction on establishing Bedouin villages outside the Siyag. With regard to the land dispute, the Begin recommendations to amend the Prawer Bill included the following: (1) All claims that were brought and dismissed by the court will not be compensated; (2) Lands that were confiscated in the 1950s and 1960s (about 200,000 dunams) will be compensated by money only; and (3) For the rest of the claimed lands, Begin suggested the following scheme:

- a) Those who accept the Prawer proposal and have rights over 50 percent of the specific claim:
 - i. will receive 50 percent land compensation in kind and the rest in money if they possess the claimed lands;
 - ii. will receive 25 percent land compensation in kind and the rest in money if they do not possess the land.
- b) Those who accept the Prawer proposal and have rights over less than 50 percent of the specific claim:
 - i. will receive 20 percent land compensation in kind and the rest in money if they possess the claimed land;
 - ii. will receive only monetary compensation if they do not possess the land.

The land possession question is central to the compensation scheme, yet it is not clearly defined in the bill, and its determination might face many difficulties. Article 45(d) defines possessed land as one that was under cultivation or was used for residence around the time of filing the land claim. Such decisions are to be made based on aerial photos in accordance with

specific rules that the prime minister will set. The state possesses most of the aerial photos, and the photos do not reflect an accurate use of the land. For example, many of the Bedouins cultivate the land every other year.

Finally, the Begin document called for strong law enforcement (eviction and house demolition), and stated that claimants have only five years to claim compensation, or they will lose their claim. Begin ended his document with sincere thanks to Ehud Praver, "who acted, with dedication, consistency, and determination, for eight years to make the end of Bedouin hardships possible."⁸⁷

CONCLUSION

For a long time, most Israeli scholars who have studied the Bedouins, mostly as anthropologists, have focused on Bedouin sedentarization, modernization, and development. Yet, scholars focused less on the legal aspects and historical origins of the land ownership question, and the role of Israeli discriminatory policies in constructing the state of illegality in the Negev. Due to the use of geographical, legal, and historical arguments in the government's legal position, there is a need for broader investigation of the Negev reality under both the Ottoman and the British regimes. Historicization helps us better understand the current reality in the Negev due to the direct use of both Ottoman and British laws in complicating this process, whether or not the scholarly and academic historical and geographical research will change the Israeli judicially-determined truths.

In the Negev, the Israeli government preferred the use of British and Ottoman land legislation to control Bedouin Arab lands. The government's policy included active displacement and demolition, and the utilization of formal legal arguments to support these policies. The legal argument encompassed a reconstruction of the definition of property rights and land categories, as well as reinterpretation of century-old legal provisions. This was done based on modern understandings and interpretation of a range of historical, geographical, and political realities. Under the Ottoman and British regimes, there was a particular legal and political order that applied to the Negev and which recognized Bedouin land rights. The political and legal transformation under Israel, including policies of land control and forced urbanization, gravely impacted the Bedouin community and its lifestyle. Praver is the most recent governmental attempt for settling the Negev question.

On 27 January 2013, the Israeli Cabinet adopted the Begin recommendations and the amended Praver Bill. Four months later, on 6 May 2013, the bill was approved by the Ministerial Committee on Legislation. Some members of parliament opposed Begin's recommendations as too generous, thus the Ministerial Committee on Legislation added, to its approval, a few conditions on restricting the area where lands could be granted as compensation, shortened the time from five to three years for claimants to

accept the proposal, appointed a governmental committee to oversee the implementation of the plan, and added more police forces to carry out the plan. On 24 June 2013, the amended bill passed the first round of voting in the Knesset by a small majority of forty-three to forty.⁸⁸ The bill will now pass onto the Knesset Committee for Interior Affairs and Environment to be prepared for the second and third round of votes, on its way to become final legislation.

Since the recommendation on the recognition of villages is vague, the clear number of those who will be displaced is unclear, ranging from 30,000 to 70,000, based on different estimates. Similarly, since land compensation qualifies those who cultivate and possess the lands, and depends upon the ration of those who accept the deal, it is also unclear how much land will be included under the bill, which is also estimated at about 150,000 dunams.⁸⁹ The governmental progress with all these plans was accompanied by intensive house demolitions and communal resistance. In the past few years, house demolitions have intensified and the government added more policing man power for this purpose. On the other hand, the wider Palestinian community in Israel has joined the struggle of the Negev Bedouins more strongly since Praver, launching a number of demonstrations and protests, including a national strike on 15 July 2013.

ENDNOTES

1. The Negev Arabs are part of the Arab-Palestinian national minority in Israel. The term "Bedouin" has generally been used in public and scholarly circles without real scrutiny or analysis of the historical genealogy and formation of the term as a subject over time, or to the political and social significations attached to it. In the Israeli-Palestinian context, the use of the term is criticized as denationalizing and divisive to the Palestinian collective. Historically, the Zionist movement looked for subgroups within the Arab community—such as Druze, Bedouin, or Maronite Arabs—in an attempt to forge alliances with such minorities and thus divide the Arab collective. Similarly, the Israeli government treats the Arab minority in Israel in plurality—that is, as separate minorities including Muslims, Christians, Circassians, Bedouins, and Druze. William Young has suggested avoiding the use of the term "Bedouin" altogether because it distorts the complex reality of interrelations between different groups—whether nomadic or sedentary—and eventually creates an "empty signifier,"

lacking neutrality and replete with ideological baggage. See William C. Young, "'The Bedouin': Discursive Identity or Sociological Category? A Case Study from Jordan," *Journal of Mediterranean Studies* 9, no. 2 (1999), pp. 275–99. Space constraints prevent further discussion of these questions, significant as they are. In this paper, the terms Negev Arabs, Negev Arab Palestinians, and Bedouin Arabs are used interchangeably to refer to the same group.

2. Haia Noach, "Report on the Demolition of Arab-Bedouin Homes in the Negev-Naqab," Negev Coexistence Forum for Civil Equality, December 2011, accessed 5 January 2012, <http://www.dukium.org>. Israeli authorities demolished about one thousand homes in the Negev in 2011, and 456 in 2010. Prior to 2010, Israeli authorities demolished an average of about 250 houses a year in the Negev.

3. See British Order in Council 1922 in Norman Bentwich, ed., *Legislation of Palestine 1918–1925*, vol. 1 (Alexandria: Whitehead Morris Limited, 1926), p. 1.

4. See Law of Administrative Ordinance No. 1 of 5708/1948, Provisional Council of the State of Israel, accessed 3 May 2011, <http://www.israel-lawresourcecenter.org>.

5. Elia Zureik, *Palestinians in Israel: A Study in Internal Colonialism* (London: Routledge and Kegan Paul, 1979); Alexandre (Sandy) Kedar, "On the Legal Geography of Ethnocratic Settler States: Notes towards a Research Agenda," *Current Legal Issues* 5 (2003), pp. 401–41; and for the Negev case, see Oren Yiftachel, "Naqab/Negev Bedouins and the (Internal) Colonial Paradigm," in Ahmad Amara, Ismael Abu-Saad, Oren Yiftachel, eds., *Indigenous (In)Justice: Human Rights Law and Bedouin Arabs in the Naqab/Negev* (Cambridge: Harvard University Press, Human Rights Program, Harvard Law School, 2012), pp. 289–318.

6. Emanuel Marx, *Bedouin of the Negev* (Manchester: Manchester University Press, 1967).

7. Justin McCarthy, *The Population of Palestine: Population History and Statistics of the Late Ottoman Period and the Mandate* (New York: Columbia University Press, Institute for Palestine Studies Series, 1990), p. 35.

8. *Survey of Palestine*, pp. 141–56; McCarthy, *Population of Palestine*, p. 36; and Hussein Abu Hussein and Fiona McKay, *Access Denied: Palestinian Land Rights in Israel* (London: Zed Books, 2003), p. 112.

9. See Clinton Bailey, *Bedouin Law from Sinai and the Negev: Justice without Government* (New Haven: Yale University Press, 2009); Marx, *Bedouin of the Negev*; and Avinoam Meir, *As Nomadism Ends: The Israeli Bedouin of the Negev* (Boulder, CO: Westview Press, 1997).

10. Bailey, *Bedouin Law*, p. 9.

11. Bailey, *Bedouin Law*, pp. 9–10.

12. Wolf Dieter Hutteroth and Kamal Abdulfattah, *Historical Geography of Palestine, Transjordan and Southern Syria in the Late 16th Century* (Erlangen: Erlanger Geographische Arbeiten, 1977), pp. 28–29.

13. Some scholars have referred to this law as "Bedouin law" or "tribal law." I will refer to it as Bedouin customary law. The law's foundations, according to Bedouin proverb, are *al-'urf wa al-'ada*: commonly accepted knowledge,

behaviors, and custom. See Bailey, *Bedouin Law*.

14. Bailey, *Bedouin Law*, pp. 263–71.

15. Meir, *As Nomadism Ends*; and Y. Habakok, "From the Tent to the Stone House: Bedouin Housing in Transformation, Ethnographic Research" (Israel: Ministry of Defense, 1986), p. 105.

16. Ghazi Falah, "How Israel Controls the Bedouin in Israel," *Journal of Palestine Studies* 14, no. 2 (Winter 1985), p. 36.

17. One dunam is equivalent to about 1,000 square meters, or four dunams is approximately one acre. Government of Palestine, *A Survey of Palestine, Prepared in December 1945 and January 1946 for the Information of the Anglo-American Committee of Inquiry* (Washington, DC: Institute for Palestine Studies, 1991 [1946]), vol. 1, p. 257; and 'Arif al-'Arif, *Tarikh Bi'r al-Saba' wa qaba'iliba* [The History of Beersheba and Its Tribes] (Cairo: Maktabat Madbuli, 1999 [1934]), p. 274.

18. Bailey, *Bedouin Law*, p. 269.

19. 'Arif, *Tarikh Bir al-Saba'*, p. 274. 'Arif notes that Bedouins prefer to mortgage land rather than selling it, as the Bedouins consider land part of their dignity.

20. For further discussion of imperial legal strategies, see Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002), pp. 1–30.

21. The Tanzimat were political reforms of "reorganization" of the Ottoman Empire and its organs, between 1839 and 1876, to better administer the empire in the face of increased European influence and nationalist movements.

22. Salman Abu Sitta, "The Denied Inheritance: Palestinian Land Ownership in Beer Sheba" (Palestine Land Society, 2009), p. 6, accessed 15 April 2011, <http://www.plands.org>. Abu Sitta presents in Figure 1 the original agreement between the shaykhs, which includes their signatures (cited as IMMS 122/5229, 4 May 1891).

23. See Gideon Kressel, Joseph Ben-David, and Khalil Abu Rabi'a, "Changes in the Land Usage by the Negev Bedouin since the Mid-19th

Century: The Intra-Tribal Perspective," *Nomadic Peoples* 28 (1991), pp. 29–30; Marx, *Bedouin of the Negev*, p. 32; and Yasemin Avci, "The Application of Tanzimat in the Desert: The Bedouins and the Creation of a New Town in Southern Palestine (1860–1914)," *Middle Eastern Studies* 45, no. 6 (November 2009), p. 976.

24. *Metruka* land could be assigned for pasture to a specific village or remain unassigned, ultimate ownership remaining in the sovereign's hand.

25. The term *mawat* is from the Arabic for that which is lifeless or dead. Different transliterations include *mevat*, *mavat*, and *mewat*.

26. Alexandre (Sandy) Kedar, "The Legal Transformation of Ethnic Geography: Israeli Law and the Palestinian Landholder, 1948–1967," *NYU Journal of International Law and Politics* 33, no. 4 (2001), p. 933; and Kenneth Stein, *The Land Question in Palestine, 1917–1939* (Chapel Hill: University of North Carolina Press, 1987), p. 11.

27. R. C. Tute, *The Ottoman Land Laws with a Commentary on the Ottoman Land Code of 7th Ramadan 1274* (Jerusalem: Greek Convent Press, 1927), accessed 1 May 2011, <http://www.llmc-digital.org>.

28. Tute, *Ottoman Land Laws*, p. 97.

29. Huri Islamoglu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed., *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Center for Middle Eastern Studies, 2000), pp. 3–62; and Huri Islamoglu, "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman Empires," *Journal of Early Modern History* 5, no. 4 (2001), p. 384. Islamoglu argues that if one looks beyond the text of the legislation, the Ottoman Land Code allowed different forms of negotiation, was amended several times, and came to accommodate local interests.

30. Huri Islamoglu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed., *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Center for Middle Eastern Studies, 2000), pp. 3–62.

31. Martin Bunton, *Colonial Land Policies in Palestine, 1917–1936* (Oxford: Oxford University Press, 2007), p. 49. See also Kedar, "Legal Transformation," p. 933.

32. Roger Owen, *New Perspectives*, p. xii.

33. Dov Gavish and Ruth Kark, "The Cadastral Mapping of Palestine, 1858–1928," *Geographical Journal* 159, no. 1 (March 1993), pp. 70–80. See also Jeremy Forman, "Settlement of Title in the Galilee: Dowson's Colonial Guiding Principles," *Israel Studies* 7, no. 3 (2002), pp. 61–83.

34. Israel State Archives (ISA), M 5018, British Land Registries of Beersheba and Gaza.

35. See Bunton, *Colonial Land Policies*, pp. 30–59; and Bentwich, *Legislation of Palestine*, pp. 135–36.

36. 'Arif, *Tarikh Bir al-Saba'*, p. 267.

37. 'Arif, *Tarikh Bir al-Saba'*, pp. 271–72.

38. Official Report, Colonial Office documents, 733/2, Government House, Jerusalem.

39. Land Appeal (LA) no. 89 of 1929, *Asbour Ghandour v. Abdullab Abou Ghaban* (Supreme Court of Palestine, decisions delivered 16 April 1930): "in view of the absence of title deeds to land in the Beersheba area . . . a case such as this appears to be one of those for which the application of tribal custom under Article 45 of the Palestine Order-in-Council is specially intended." The case is in the Palestine Law Report (hereafter PLR). These reports include decisions collected and edited by the Chief Justice of the Supreme Court of Palestine for the entire Mandate period. They are available online at <http://www.llmc-digital.org>.

40. *Survey of Palestine*, p. 257. Two thousand square kilometers is the equivalent of 2 million dunams.

41. Kedar, "Legal Transformation," p. 957; and Bunton, *Colonial Land Policies*, p. 23.

42. "Judaization, that is, the spatial, political, and discursive forces associated with Jewish expansion and control over Israel/Palestine." The process goes in parallel to the de-Arabization process. Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia: University of Pennsylvania Press, 2006), pp. 1–9, 101–30. For more

details about the nationalization process and land expropriation, see Sabri Jiryis, "The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel," *Journal of Palestine Studies* 2, no. 4 (Summer 1973), pp. 82–104; and Kedar, "Legal Transformation."

43. On the policy toward Arab citizens in general as well as the military regime, see Ian Lustick, *Arabs in the Jewish State: Israel's Control of a National Minority* (Austin: University of Texas Press, 1980); Alina Korn, "Crime and Law Enforcement in the Israeli Arab Population under the Military Government," in Noah Lucas and Ilan Troen, eds., *Israel: The First Decade of Independence* (Albany: State University of New York Press, 1995), pp. 659–79; Don Peretz, "Early State Policy towards the Arab Population, 1948–1955," in Laurence J. Silberstein, ed., *New Perspectives on Israeli History: The Early Years of the State* (New York: New York University Press, 1991), pp. 82–102; and Nadim Rouhana, *Palestinian Citizens in an Ethnic Jewish State: Identities in Conflict* (New Haven: Yale University Press, 1997).

44. Joseph Ben-David, *Ha-Beduin be-Yisrael* [The Bedouins in Israel] (Jerusalem: Mekhon Yerushalayim le-Heqer Yisrael, 2004), pp. 278–79.

45. H. Porat, "The Bedouin-Arab in the Negev between Migration and Urbanization, 1948–1973" [in Hebrew] (Beersheba: Negev Center for Regional Development, Ben-Gurion University, 2009), pp. 1–38.

46. See Ismail Abu Saad, "Introduction: State Rule and Indigenous Resistance among al-Naqab Bedouin Arabs," *HAGAR: Studies in Culture, Polity, and Identities* 8, no. 2 (November 2008), pp. 2–24, especially p. 15. The official number of Bedouins in 2005, according to the Israel Central Bureau of Statistics, was 150,500. See http://www.cbs.gov.il/ishuvim/demographic_report.pdf (accessed 12 April 2011).

47. On townships and the unrecognized villages, as well as the planning aspects to the Bedouin questions, see *HAGAR: Studies in Culture, Polity, and Identities* 8, no. 2 (November 2008), special issue on Bedouin Arab Society in the Negev/Naqab; and Ghazi Falah, "Israeli State Policy toward Bedouin Sedentarization in the Negev," *Journal of*

Palestine Studies 18, no. 2 (Winter 1989), pp. 71–79.

48. "Recommendation of Inter-ministerial Committee on Locating Sites for Future Bedouin Settlement," 14 September 1962. ISA GL/17001/22.

49. Ahmad Amara, "The Battle for Land and Housing Rights of the Negev Bedouin," *Housing and ESC Rights Law Quarterly* 5, no. 1 (2008), pp. 1–6; Falah, "Israeli State Policy," p. 72; and M. Grinberg and Y. Stern, "State Demolishes 17 Houses in Unrecognised Bedouin Village in Negev," *Ha'aretz*, 6 December 2006, online at www.haaretz.com (accessed 12 December 2011).

50. Porat, "Bedouin-Arab," p. 176.

51. State of Israel, Ministry of Justice, "Summary Report of the Experts Team on Land Settlement on the Siyag and the Northern Negev" [in Hebrew] (Jerusalem, 20 October 1975), p. 1. Copy with the author, in Hebrew. Hereafter referred to as Albeck Report.

52. Israel Prime Minister Office, Government Resolution No. 2562 (2000), accessed 3 May 2011, <http://www.pmo.gov.il/PMO/Archive/Decisions>. The newly "established" villages are Abu Krinat (Um Mitnan), Um Batin, Drejat, Moladah, Makhoul, Qasr Alsir, Tarabin al-Sani', Bir Hadaj, Alsayyid, Kohle, and Abu Tluul. See the Abu Basma Regional Council, at <http://abubasma.org.il/index.php?m=text&t=&la=&lib=759> [in Hebrew].

53. The Absentee Property Law (Transfer of Property Law) defined "absentee" broadly. Consequently, 75,000 Arab-Palestinian Israeli citizens were also considered absentees by the law although they lived in Israel, known as "present-absentees." Hillel Cohen, *al-Gba'ibun al-badirun: al-laji'un al-Filistiniyyun fi Isra'il mundbu sanat 1948* [The Present Absentees: The Palestinian Refugees in Israel since 1948], trans. Nisreen Moghrabi (Beirut: Institute of Palestine Studies, 2003), p. 23. For more on the use of the law, see Yifat Holzman-Gazit, *Land Expropriation in Israel: Law, Culture and Society* (London: Ashgate, 2007), pp. 101–17; and Abu Hussein and McKay, *Access Denied*, pp. 69–76.

54. Michael R. Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (New York: Columbia University Press,

Institute of Palestine Studies Series, 2003), pp. 30, 50–51, 80. The United Nations estimated the abandoned Palestinian property after 1948 at 16,335,443 dunams, while Israeli authorities treated most of the unregistered lands as “state lands” and not Palestinian land.

55. Haia Noach, *The Existence of the Non-Existent Villages* (Haifa: Pardes, 2009), p. 36. See also George Bisharat, “Land, Law, and Legitimacy in Israel and the Occupied Palestinian Territories,” *American University Law Review* 43 (1994), p. 519.

56. State land includes the lands also owned by the Jewish National Fund. See <http://www.mmi.gov.il>. The remaining 7 percent of the land is under private ownership, almost equally divided between Jews and Arabs. See Kedar, “Legal Transformation,” p. 947.

57. Israel Land Administration, Annual Report (2011), p. 52, accessed 20 September 2013, <http://www.mmi.gov.il>.

58. On the extension of the qualifying possession period by the Israeli laws, see Forman, “Settlement of Title”; and Abu Hussein and McKay, *Access Denied*, p. 118.

59. *Settling the Bedouin in the Negev*, Office of the Adviser on Arab Affairs, 1966, ISA/GL/17003/1, Vol. c. According to the report, “In the Southern Negev the land settlement process was declared over 9 million dunams, out of which 7.5 million have been already registered under state name (ownership). Also in the Northern-Western Negev an area of more than one million dunams has been registered under the State’s name.” The report also noted, “The main difficulty of the state in determining the formal ownership exists with regard to 400,000 dunams that are cultivable and currently possessed by Bedouin . . . it is obvious that the registration of these lands (under state ownership) in this manner . . . will be accompanied by harsh confrontation with those Bedouin who cultivated these lands for many years. The fact that the Jewish National Fund purchased, during the British Mandate, lands in the Negev from Bedouin . . . adds to the difficulty.”

60. Albeck Report, p. 3.

61. For more details, see Joseph Ben-David, *A Feud in the Negev: Bedouins, Jews, and the Land Dispute* [in Hebrew] (Ra’anana, Israel: Center for Studying the

Arab Society in Israel, 1996), pp. 73, 75. See also Falah, “Israeli State Policy,” p. 76.

62. The obligations of the land officer under the ordinance include declaring the boundaries of settled land, preparing a list of claims, preparing a list of rights, and publicizing such documents. These duties were to be executed in a period ranging from several days to several months, depending on the circumstances.

63. B’Tselem, “By Hook and by Crook: Israeli Settlement Policy in the West Bank,” (Jerusalem, July 2010), p. 25, accessed 25 July 2013, <http://www.btselem.org>.

64. Albeck Report, p. 3.

65. Albeck Report, p. 1. In 1975, there were two Bedouin townships.

66. CA 518/61, *State of Israel v. Salach Badran*, 16(3) PD 1717; and CA 323/54, *Abmad Hamda v. Al Kwatli*, 10(2) PD 853, 854. See also CA 342/61 *State of Israel v. Sawaaed and others*, PD TO(2), 469; and *State of Israel v. Salach Badran*, p. 1720.

67. Ronen Shamir, “Suspended in Space: Bedouins under the Law of Israel,” *Law and Society Review* 30, no. 2 (1996), p. 236. The nomadism claim also helps normalize this conflict as one between a modern state and pre-modern nomadic tribes.

68. Shlomo Swirski and Yael Hasson, “Invisible Citizens: Israeli Government Policy toward the Negev Bedouin” (Tel Aviv: Adva Center, 2006), pp. 16–19.

69. Roughly speaking, the Albeck compensation scheme offered a variety of compensations featuring combinations of alternative land, money, and water for agriculture, and included a compensation of 20 percent in land to claims over 400 dunams. Albeck Report, pp. 2–3.

70. See Goldberg Committee, “Final Report of the Committee to Propose a Policy for Arranging Bedouin Settlement in the Negev” [in Hebrew] (Jerusalem, 11 December 2008), accessed 10 September 2013, http://www.moch.gov.il/SiteCollectionDocuments/odot/doch_goldberg/Doch_Vaada_Shofet_Goldberg.pdf.

71. The recent official proposal is within Resolution 1028 of the Council of the Israel Lands Administration. Previous resolutions were 813, 932, and 996. The texts of resolutions are available online at

<http://www.mmi.gov.il> (accessed 11 December 2011).

72. Israel State Comptroller, Report 52B, 2001, available in Hebrew, at <http://www.mevaker.gov.il/serve/contentTree.asp?bookid=235&id=153&contentid=&parentid=undefined&sw=1366&hw=698> (accessed 12 December 2011).

73. A letter from the Israeli Ministry of Justice to Human Rights Watch mentions that there are 3,000 empty plots within the townships. See Human Rights Watch, "Off the Map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages" (March 2008), accessed 12 December 2011, <http://www.hrw.org/en>.

74. Israel State Comptroller Report (note 84).

75. Shlomo Swirski, Shlomo (2007), "Current Plans for Developing the Negev: A Critical Perspective, (Tel Aviv: Adva Center, 2007), p. 96, accessed 2 December 2011, <http://www.adva.org>.

76. See testimony of Ilan Yishoron, general director of the Bedouin Advancement Administration, before the Goldberg Committee, 20 May 2008, minutes of the Goldberg Committee, pp. 123–26 (author's copy).

77. At the annual conference of the Planners Union at Ben-Gurion University on 10 February 2011, Ilan Yishoron, deputy director of the authority responsible for Bedouin land and housing matters, spoke during a special panel titled, "Going Forward to Solve the Bedouin Problem."

78. Havatzelet Yahel, head of the land settlement unit in the State Attorney's Office in the Negev, notes with regard to the counterclaim policy: "As history shows, and according to my experience, the parallel method of implementing the legal procedure is essential as it encourages compromise and agreed-upon settlements." Havatzelet Yahel, "Land Disputes between the Negev Bedouin and Israel," *Israel Studies* 11, no. 2 (Summer 2006), p. 14.

79. For statistics see the Coexistence Forum in the Negev, http://www.dukium.org/eng/?page_id=885.

80. Ahmad Amara, "The Goldberg Committee: Legal and Extra-Legal Means

in Solving the Naqab Bedouin Caste," *HAGAR: Studies in Culture, Polity, and Identities* 8, no. 2 (November 2008), pp. 227–43.

81. On the Goldberg Committee, see Amara, "Goldberg Committee"; Goldberg Committee Report (2008).

82. Government Resolution no. 4411, 18 January 2009. The resolution emphasized that the Bedouin case is of national priority. Available in Hebrew at <http://www.pmo.gov.il/Secretary/GovDecisions/2009/Pages/des4411.aspx> (accessed 10 September 2013).

83. See Government Resolution no. 3707, 11 September 2011, available at <http://www.pmo.gov.il/Secretary/GovDecisions/2011/Pages/des3707.aspx> (accessed 10 September 2013).

84. Jonathan Cook, "The Negev's Hot Wind Blowing," Middle East Research and Information Project, 25 October 2011, accessed 25 July 2012, <http://www.merip.org>.

85. See Israel Ministry of Justice, text available at <http://www.justice.gov.il/MOJHeb/News/HasdaratHityasvut.htm> (accessed 5 January 2012).

86. See, for example, Jaki Khuri, "6,000 Bedouin Demonstrate against the Praver Plan in front of the PM Office," *Ha'Aretz*, 12 November 2011; commentary of Association for Civil Rights in Israel on the plan, accessed 25 July 2012 <http://www.acri.org.il>.

87. "Summary of the Listening Process regarding the Bill on Arranging the Bedouin Settlement in the Negev" [in Hebrew], 23 January 2013, p. 13 (author's copy).

88. See The Praver-Begin Bill and the "Forced Displacement of the Bedouin," Position Paper by Adalah; and the "Forum for Coexistence in the Negev," Adalah's Newsletter nos. 104, 108, 2013, accessed 10 September 2013, <http://adalah.org/Public/files>.

89. See different estimates and papers on the Praver, by Adalah, <http://adalah.org/eng>, accessed 10 September 2013; and by the Negev Coexistence Forum, http://www.dukium.org/heb/?page_id=10339, accessed 10 September 2013.