

المجلس الإقليمي للقرى غير المعترف بها في النقب
המועצה האזורית לכפרים הבלתי מוכרים בנגב
The Regional Council for the Unrecognized Villages in the Negev-RCUV



Goldberg Commission's Recommendations

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Introduction

On 23 December 2007, The Minister of Construction and Housing, Mr. Zeev Boim, appointed a committee to recommend a policy for *regulating*¹ Bedouin settlement in the Negev and, within this, the formulation of proposals for amendment of the legislation (Appendix 1).

The committee was set up in accordance with Government Decision 2491 dated 28 October 2007 (Appendix 2), which amended Government Decision 1999 dated 15 July 2007 in which it was decided to establish an Authority for Regulating Bedouin Settlement in the Negev – its future, roles and organizational structure (Appendix 3).

As determined in the Government Decision (Appendix 2), there were to be eight members of the committee, as follows:

1. Retired Supreme Court Justice, to be appointed by the Housing Minister – Chairman;
2. Two public representatives to be appointed by the Housing Minister;
3. Two public representatives from the Bedouin populace, to be appointed by the Housing Minister.
4. A government representative to be appointed by the Housing Minister;
5. A government representative to be appointed by the Prime Minister;
6. A government representative to be appointed by the Minister of Finance;

Accordingly, the Committee consisted of the following members:

Retired Supreme Court Justice Eliezer Goldberg – Chairman;
 Ms. Bilha Givon – representative of the public;
 Adv. Yoram Bar Sela – representative of the public;
 Mr. Faisal el-Husael – public representative from the Bedouin Community;
 Mr. Ahmad el-Assad – public representative from the Bedouin Community;
 Mr. Dudu Cohen – Government representative; appointed by Housing Minister;
 Mr. Yossi Yishai – Government representative; appointed by Prime Minister;

¹ The Hebrew word “Hasdara” cannot be directly translated into English, and the word “regulating” will be used throughout. The words closer meaning is “fixing up” in a manner that it will fit with governmentally defined and desired criteria.

Mr. Sharon Gambaso – Government representative; appointed by Minister of Finance.

Upon its appointment the Committee published a public notice that anybody who could contribute to its recommendations should present a written position. Following the notice the Committee received 130 written responses. Most of the respondents were also invited to appear, and at the initiative of the Committee, others also appeared. In all 117 invitees appeared before the Committee (a list according to order of appearance in Appendix 4). The Committee held 20 sessions, and made four visits on the ground. The Committee's sessions were open to the public, and citizens did indeed attend.

Ms. Sharon Nicolitz was appointed Committee Coordinator. When she took maternity leave her position was filled by Ms. Tzippi Shechori until the conclusion of the Committee's work. The Committee thanks both of them for their devoted work. Our gratitude and esteem is also expressed to Adv. Havatzelet Yahel, the Director of the Lands (Civil) Department in the Southern District State Attorney's Office for considerable help with know-how and expertise in fact and law.

The Committee Chairman – Justice (retired) E. Goldberg

Introduction

1. The Committee's content is an issue of the utmost national importance. No one, for whom the future of the Negev is important, can remain indifferent to events there. The reality undermines the wellbeing both of the State and of the Bedouins. The time factor is not neutral: it bears down with critical significance. The more time that passes, the harder the solution. A quick and comprehensive solution, that will arrange the settlement of the Bedouin in the Negev, is an immediate priority.

The Committee debated the problem, with attention to the goal of proposing to the Government a policy that will finally break through a conflict that is as old as the State itself.

2. The subject we dealt with must not be seen as a problem of the Bedouin in the Negev, but as the problem of the Negev. The approach of "us" and "them" is not acceptable to us, and it will not advance a solution, but rather drive it further away. The fate of the Negev, including the achievement of the plan for Beersheba Metropolitan Area, is the issue waiting in the wings.

It is desirable that the policy to be suggested by the Committee to the Government will balance between the position of the Government and that of the Bedouins: a policy that considers the claims and needs of the Bedouin, but to the same degree does not ignore the needs of the State, and its land and financial reserves.

In this spirit, we formulated our position, to be detailed hereinafter, which should be seen as one entity, in which all the parts fit and are integrated into each other.

Bedouin Settlement in the Negev in the Ottoman Period

3. The Negev Bedouin lived in almost complete freedom until 1896. The Ottoman regime was not at all interested in the Bedouin, and did not intervene in Negev life. This was, according to Dr. Yosef Ben-Dor, a period of absolute anarchy.¹ It was only following inter-tribal warfare that the Turkish regime, in 1896, marked out the borders between tribes. These, in principle, remained until the establishment of the State of Israel. The Turks consolidated a new territorial order in which each tribe was permitted to hold that area which it controlled. The regime institutionalized “tribal arrangements and conventions not accepted in a state based on law. This is said primarily on the subject of ownership of land where the seemingly-legal code was founded on the Turkish regime’s recognition of tribal territories.”² In the arrangement, the Turkish regime did not give the Bedouin “ownership” over the tribal territorial lands. With the said fixedness of the tribes began a transition from nomadism to semi-nomadism.

4. An additional turning point in that period was the creation of the city of Beersheba, at the beginning of the 20th Century, which from the moment of inception “set the fate of nomadism, and henceforth there began a process of settlement of the Negev Bedouin.”³

5. The Ottoman Land Law of 1858 also bears mentioning. It classified the Negev lands, as elsewhere in the country, into five categories: wholly owned lands (*mulkh*)⁴; governmental lands in which the right of use of the land and its fruits is given to the cultivator of the land (*miri*)⁵, land at general disposal (*matruca*), *waqf* or *mukufa* lands, and dead lands (*mawat*)⁶, which will be discussed in detail below.

British Mandatory Period

6. The British, in 1920, adopted the Ottoman land laws in a “Land Transfer Order”. They added, in 1921, the Land Orders (*mawat*); the purpose of which was the prevention of squatting and recognition of non-permitted land seizure⁷.

7. The pre-1948 distribution of Bedouin tribes in the Negev was mapped by the researcher Aaref El-Aref.⁸ After the British drew up a primary listing of the lands in 1934, they began to levy land taxes.

8. As Dr. Haim Sarbero, Director General of the Israel Mapping Centre, commented while appearing before the Committee, it is possible to find in the mandatory maps the location of tribes without noting the borders of each tribe,

or noting the existence of villages.

9. The 1943 British census of villages notes that Bedouin cultivated some two million dunams (half a million acres) in Beersheba District and Jews worked 65,231 dunams (16,307 acres).⁹ Dr. Aharon Zohar notes in his paper¹⁰ that a survey by the Mandatory Government from December 1945 till January 1946, submitted to the Anglo American Committee of Inquiry, also stipulates that two million dunams were cultivated by Bedouin in Beersheba District, and adds that Yosef Weitz also repeats the same statistic,¹¹ while "Shimoni and Tartakover estimate the area cultivated by Bedouin in the Negev at only 60,000 dunam [15,000 acres]."¹²

10. We recall in this context that, since 1939, after publication of the British Government's White Paper, Jews were forbidden access to the Negev.

11. In the first census held by the Mandatory Government, in 1931, the Bedouin in the Negev numbered 65,000. According to an official estimate, on 31 December 1941, they numbered at that time 66,553.

12. A 1944 mandatory map of population in Beersheba Sub-District estimated the number of Bedouin in certain seasons of the year at 60,000, while noting that there are much higher estimates.

Other estimates of the number of Bedouin in the Negev before the establishment of Israel were: 63,750¹³ 65,000 55,000¹⁴, 60,000 - 80,000.¹⁵

13. In his book, Prof. Emanuel Marx presents the following picture, with the area in which each of the tribes in the eight groupings were found:¹⁶

Bedouin Tribes in the Negev Before 1948*

Branch	No. of Tribes	Population	Location
Tarabin	25	21,000	West Beersheba Valley
Tiaha	28	18,000	Center & East Beersheba Valley
Azazmeh	12	12,000	Central Negev
Hanajreh	4	7,000	South of Gaza
Jberat	14	5,000	North of Gaza
Saidiyen	6	1,000	South of Dead Sea

		8	
Aheiwat	3	1,000	Near Eilat Bay
Jahalin	3	750	Hebron Mountains
Total	95	65,750	

*All the data are estimates according to Shimoni. Official censuses of Negev Bedouin were taken in 1931 and 1946, with partial or unclear results. H.V.Muhsam, *Beduin of the Negev* (Jerusalem 1966), p. 22, reports the number of Bedouin in the Negev according to the 1946 census as a maximum 57,000, based on examination of aerial photographs, and as 95,000 in a census from tent to tent. These numbers do not include the Jahalin.

14. According to data of Dr. Yosef Ben David the Tiaha numbered in 1947 27,069, Azazmeh 16,505 and Tarabin 33,064. In total there were in the Negev on the eve of the War of Independence 70,000 Bedouin.¹⁷

15. In relation to data detailed thus far, and that which follows, there is difficulty in determining precise data, both of the Bedouin population and of the area that they held, and each body dealing with the field has its own evaluations and numbers.

The Bedouin Settlement in the First Years of Israel

16. Between October and December 1948, the IDF took most of the Negev from the Egyptians. The majority of the Bedouin population left the Negev during the War of Independence or, in another opinion, was driven from the Negev into Sinai, South Jordan and the Hebron Mountains. According to official data, there were in 1951 12,740 Bedouin in the Negev in 17 tribes, mostly (11,270) in the Tiaha Group. There were 740 more from Azazmeh and a similar number from Tarabin.¹⁸

17. The attitude to Bedouin who remained within the State of Israel has been characterized since creation of the State, by two conflicting trends: "On the one hand, as a population that demonstrated identification with, and loyalty to the State, primarily by massive enlistment in the security services and IDF, and it is therefore fitting to reward and invest in them. On the other hand, as a nomadic society that threatens the territoriality of the new State."^{18a}

18. The Bedouin who remained in the Negev were all gathered into a well defined area, known as the "*siyag*," (*literally: bordered area*) under a military government, which was cancelled only in December 1966. The *siyag* area was previously mostly populated by three large tribes of the Tulam Group (Tiaha), that remained intact: Abu Rabiah, Abu Qrinat, and Abu Joid, and the el-Assam and el-Assad tribes, with pieces of Abu-Raquiek and Hoziel. These Bedouin were joined by members of the remaining 11 tribes which were previously spread outside the *siyag*. These were brought to the area and not allowed to return to their lands¹⁹.

The concentration of Bedouin within the *siyag* was carried out without attention to dividing lines between the tribes.²⁰

19. The Bedouin who were brought, against their wishes, to the *siyag* are classified as "internally evacuated," and remained in the area without "tribal territory" as opposed to the tribes that were in this area previously. So two classes were created: that of "landowners" and that of "landless."

20. We heard from invitees who appeared before the Committee that the internally evacuated, or a part of them, were told by the bodies that transferred them to the *siyag* that their transfer was temporary.

21. The area of the *siyag* was about 1100 square kilometres. It spread from the Hebron-Beersheba road in the east along the Green Line (international frontier)

to the environs of Tel Arad, then descended southward to Mamshit, and back to Beersheba by way of Tel Yeruham. Another tongue spread from Shoal southeastward to join the main area next to the Hebron-Beersheba road.^{21&22} In 1954 the Negev Bedouin were accorded Israel citizenship. According to Interior Ministry publications (List of Arab Communities in Israel, 1955), the Bedouin population numbered in December 1955 – 12,540.

22. According to a document submitted by the Association for Assistance and Defense of Bedouin Rights in Israel, the Bedouin population numbered 17,756 in 1961, and in 1983, 39,641. They are divided by tribes as follows:

Tribe	1961 Census	1983 Census
Abu Balal	310	122
Abu Joid	1,213	1,050
Abu Sarhan	154	404
Abu Abdun	218	392
Abu Amar	*	274
Abu Amra	93	37
Abu Qrinat	1,584	1,564
Abu Rabia	2,518	1,518
Abu Raqeik	3,063	2,938
El Atrash	*	411
El Assad	304	501
El Assam	1,072	2,043
El Apnis	335	290
Aleg Nabib	-	146
Elyahu Washla	*	439
El Hazeil	2,430	1,833
El Zabarga	-	282
Misudin El	1,657	3,614
Azazmeh		
El Qasra	**	557
El Said	*	790
El Atuna	464	832
El Amur	***	432
El Akabi	504	378
Qabua	***	241
Qadirat El Saana	1,212	2,298
El Qouin	242	623
Tarabin El Saana	383	535
Qasifa	-	2,075
Rahat	-	9,214
Tel Sheva	-	2,544
Abu Arir	-	1,262
	17,756	39,641

* Counted with Abu Raqeik

** Counted with Abu Qrinat

*** Counted with Abu Rabia

**** Almost two-thirds of the Bedouin were included in the census

Source: 1) Central Bureau of Statistics, Population and Housing Census 1961, Publication No. 50

2) Central Bureau of Statistics, Population and Housing Census 1983, Publication No. 6.

23. It is important to note here that, according to Interior Ministry data, the Bedouin population of the Negev numbered 172,169 on 30 November 2007. Thus during 52 years the population has grown by 159,630. These and other data that we received indicate that the annual birth rate among Negev Bedouin reaches 5.5%. The significance is a doubling of population every 13 years. If this trend continues, then the Bedouin population will number 360,000 in 2020. There is an opinion that the rate of natural increase is declining and will continue to do so.^{22a}

24. The high natural increase rate created among Negev Bedouin a distorted pyramid of ages, with 60.5% of the population being children and youth:

Age	0-5	6-12	13-17	18-21	22-40	41-60	60+
% of population	23	24	11	8	24	8	2

One of the reasons for the high birth rate is the phenomenon of bigamy among Negev Bedouin, despite it being a criminal offence (with a blind eye from the authorities).

25. As Gila Stoppel wrote in her article "Israel's Demographic Policy in the Field of Birth and the Rights of Women and Minorities," "There is international agreement that the best way to reduce births in a population in which the birth rate is too high is by giving proper education to women, and the opportunity for satisfactory work outside the home to strengthen their social status."^{22b}

The struggle for the land

26. Even though the Bedouin insist that they have land ownership rights in the Negev, the State refuses to recognise these claims, arguing that they are not backed up by sufficient documentary proof, and that the land referred to is of a character and category that makes it ineligible for assertion of ownership. This struggle over land ownership rights, ongoing for many years, casts a long shadow over relations between Bedouin and the State, especially as it comes on top of a long list of other grievances. In the opinion of this committee, it is no longer possible to circumvent this issue and leave it unresolved. The Bedouin's belief in the State has been seriously compromised, and it cannot be re-established until a solution is found for this problem. Furthermore, resolving the land issue is also the key to the resolution of another major bone of contention, that of the normalisation of Bedouin settlement in the Negev. We cannot ignore the fact that the struggle over land rights is the dominant factor which blocks progress towards normalised settlement.

27. According to the Bedouin, both the Turkish and the British authorities recognised the Bedouin's right to the land on which they have lived for many generations. This recognition was expressed, *inter alia*, in the land taxes they were required to pay. Not only that, but the Bedouin also sold land to the Zionist movement during the Mandate period, and these sales were recognised and registered in the Land Registry (Tabu). The explanation offered by Dr. Josef Ben-David for this is that the Ottoman and the British authorities were both happy to see the land passed from the Bedouin to the new registrants as it increased the chance of the land being used intensively, irrespective of who its owners were²³.

28. The Bedouin have historical and cultural explanations for why the land was not registered, including their alienation from the State institutions, their desire to avoid conscription, poor accessibility to the registry offices because of their dispersed living patterns, poor education, and their ignorance of the law and the importance of registration. In practical terms, registration was not really necessary as there was a functioning, traditional system of property rights that for many years organised the land regime among the Bedouin, an internal regime which recognised historical holding rights and traditional selling agreements.

29. One undisputed fact is that only a small minority of Bedouin with land claims have documentary proof of their claim (an example provided by Dr. Ben-David in his evidence to the committee was that of the Abu-Kaaf tribe).

Most of the Bedouin do not have any documents and their claim rests on the tribal code and, so it is claimed, on their having held the land and worked it for tens or even hundreds of years. On the other hand, the State's refusal to recognise Bedouin claims in the absence of documentary proof of ownership, is based on legal claims of law and precedent.

30. The Bedouin land claims can be divided into three groups: those claiming land they currently hold (most of whom resided in the *Sayig* region before the founding of the State). This group has about 387,000 dunam; a second group claiming land held in the past but which is not held today (mostly internally displaced families); a third group is made up of those claiming land currently held by others.

A land settlement

31. The direct confrontation over the Negev lands came out into the open with the adoption, on 2 May 1971, of the procedure for land settlement in the Northern Negev, according to the Land Rights Settlement Order (new version) 1969, by which all lands were registered in the Land Registry in the name of their owners.

32. This declaration, which affected the Northern Negev, was not the first declaration concerning this region. It was preceded by declarations on settlement procedures in other regions of the Negev, including the Negev Mountains, under which the Bedouin did not make any claims (in the words of the Order: "Claims memoranda") and all the lands in these settlements, totalling about 220,000 dunam, were registered in the name of the State without any opposition.

33. Following the declaration of the settlement procedure of the Northern Negev, the Bedouin submitted, in accordance with the procedures laid down in the Order, by 24 October 1979, 3,220 claims affecting 776,856 dunam.

34. According to the Claims Officer, Mr Rami Damari, over the years claims affecting about 205,670 dunam (18%) made by 380 claimants (12%) have been settled: About 150,000 dunam were settled in compromise agreements and about 50,000 in court rulings which were given *in absentia* of the claimants, or for which the claimants withdrew their claims after the State submitted counter-claims to the Claims Officer. There are thus about 571,186 dunam, affecting 2,840 claims, still to be settled.

35. According to the latest figures submitted to the Committee by the Bedouin Administration there remained, in July 2008, 2,749 claims covering a total area of about 592,000 dunam, as set out in the following table:

Range	Total claims		Area	Of these - claims in settlements	
	Area (dunam)	No. of claims		No. of claims	Area (dunam)
D = 20	2,390	209	39,832	66	697
	9,197	293	21-40	49	1,489
	14,779	281	41-60	44	2,202
	18,667	265	61-80	53	3,761
	21,482	237	81-100	48	4,294
Total	65,915	1,295		206	11,744

Range	Total claims		Area	Of these - claims in towns	
	Area (dunam)	No. of claims		No. of claims	Area (dunam)
D = 50	50,824	418	401-150	53	6,490
	44,411	256	151-200	37	6,360
	43,923	197	201-250	32	7,071
	34,067	124	251-300	20	5,514
	26,904	83	301-350	10	3,206
	19,465	52	351-400	8	3,031
	21,609	51	401-450	8	3,334
	21,093	44	451-500	6	2,900
	14,534	28	501-550	4	2,088
	12,735	22	551-600	4	2,267
	9,983	16	601-650	1	603
	10,668	16	651-700	1	658
	6,490	9	701-750	2	1,410
	36,166	8	751+800	2	1,513
	10,707	13	801-850	3	2,479
	10,497	12	851-900	0	0
	8,325	9	901-950	1	926
4,862	5	951-1000	1	969	
Total	357,363	1,363		193	50,830
D = 100	20,860	20	1001-1100	1	1,035
	17,269	15	1101-1200	0	0
	6,389	5	1201-1300	0	0
	10,825	8	1301-1400	0	0
	7,185	5	1401-1500	0	0
	7,793	5	1501-1600	0	0
	1,648	1	1601-1700	0	0
	10,516	6	1701-1800	2	3,472
	3,726	2	1801-1900	0	0
	5,849	3	1901-2000	0	0
Total	92,060	70		3	4,507
D = 500	19,903	9	2001-2500	0	0
	5,685	2	2501-3000	0	0
	13,426	4	3001-3500	0	0
	3,750	1	3501-4000	0	0
	4,134	1	4001-4500	0	0
	0	0	4501-6000	0	0

	12,192	2	6001-6500	0	0
	0	0	6501-7500	0	0
	7,911	1	7501-8000	0	0
Total	67,001	20		0	0
D = 2000	9,672	1	8001-10000	0	
Grand Total	592,011	2,749		456	67,081

Notes: The above data have a margin of error of $\pm 10\%$

“Settlements” include existing and planned settlements and enlargements

36. A further distribution of the 3,220 original claims by tribe and by use of the claimed land (crops, pasture) can be found in the work by Dr. Aharon Zohar²⁴ which is based on data from the Land Settlements Bureau in the Ministry of Justice, analysed by Y. Jian from the Israel Land Administration in Beer Sheva dated 4 November 1979 (the same classification is to be found in the report by the Association for Assistance and Defence of Bedouin Rights in Israel).²⁵

Staff	Tribe	No. of claims	Area claimed			Percent of all claims
			Crops	Pasture	Total	
Al-Tiaha	Al-Huzeil	480	39,774	5,156	44,930	5.8
	Al-Assad	90	13,450	5,668	19,118	2.5
	Abu 'Abdun	37	8,182	1,691	9,873	1.3
	Al Qawain	12	789	21	2,810	0.4
	Al Aassam	191	27,237	17,964	45,201	5.8
	Abu-Amar	31	2,869	485	3,354	0.4
	Abu-Raqaiq	736	84,004	48,986	132,990	17.1
	As- Saana	200	33,015	6,163	39,178	5.0
	Abu-rabiya	573	80,354	61,265	141,619	18.2
	Abu Qrinat	205	33,129	47,641	80,470	10.4
	Abu Jawiad	287	34,233	44,886	79,119	10.2
	Al Nassassra	52	4,904	1,657	6,561	0.8
	Az Zabarka	31	3,971	1,858	5,829	0.8
	Al Afinish	76	11,845	1,198	13,043	1.7
	Al Atauna	92	13,672	1,689	15,361	2.0
Al Azama	Al Uqbi	118	13,634	1,764	15,398	2.0
Al Tarabin	Al Azama	144	37,525	49,625	87,150	11.2
	Abu Srihan	47	9,305	720	10,025	1.3
	Abu Amra	48	4,727	43	4,770	0.6
	Abu Sahiban	40	7,297	253	7,550	1.0
	Abu Balal	14	4,087	643	4,730	0.6
	Others	16	6,436	321	6,757	0.9

Total	3,220	476,809	300,047	776,856	100
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37. We should add that according to the Bedouin Administration, of the 592,000 dunam still to be adjudicated, the Bedouin today hold 386,000, of which 61,000 are within the areas of [approved] master plans. The Bedouin Administration's position is that "the current settlement of the Bedouin outside existing and planned official settlements, on State lands, covers an estimated 130,000 dunam^{25a}.

The Hawashleh precedent

38. The Bedouin claims to land ownership made in the context of the land settlement procedure were tested in the High Court, Appeal 218/74.²⁶ The appellants, members of the Hawashleh tribe, had made a claim under the land settlement procedure. They based their claim to ownership of a number of plots of land in the Qasr-A -Sirr area near Dimona on an unregistered right, transmitted from generation to generation, through holding and working the land. The district court rejected their claim and so they appealed to the High Court. The appellants argued that the land in question had always been regarded as fit to be worked and was not *mawat* land. The state, on the other hand, argued that this was *mawat* land.

39. The judgement, given by the late Avraham Halima, noted that the case must be decided on the basis of three laws: paragraphs 6 and 103 of the Ottoman Land Law, and the [British] Lands Order (Dead Land) of 1921.

According to the definition in paragraph 6 of the Ottoman law:

"Land which is not possessed by anyone, and has not been designated for public use, and which is so far from a village or town that a loud voice from the edge of the settlement cannot be heard, in other words, unused land which is a mile and a half or a half hour walk from the settlement"

Paragraph 103 of the same law (before the Mandate Order came into force) stated:

"Abandoned places, which were not held by any person by Deed of Registration and which had not been allocated since time immemorial to the residents of a town or village: and if such abandoned places are to be found so far from a town or village, that a man's loud voice standing on the edge of the settlement cannot be heard there, such as rocky hills (*tashlik*), uncultivated fields (*utlaq*) and oak groves (*franluk*) – are *mawat* (dead) lands: those in need can develop them for cultivation, with official permission, without charge – on condition that ownership remains with the state, and all laws relating to cultivated land relate to this land type of land. However, if someone receives official permission to so develop the

land, and leaves it idle for three years, without due cause, the land will be handed to someone else. Someone who develops such land and cultivates it, without permission, will pay value of the registration and will receive a Deed of Registration when the land is handed over to him” (from Dr. A. Ben-Shemesh, *Land Law in Israel*, Massada, 1953, p. 147).

The court noted that according to Ottoman law, *mawat* land should be handed over for cultivation and development, but it specified that this should be done only after receiving permission from the authorities. The Mandatory Lands Order (Dead Land) of 1921 emphasised the need for prior permission from the authorities, and stated:

“Anyone who fences in or cultivates unused land without permission from the director of the Lands Department, will not be entitled to a Deed of Ownership on that land. Furthermore that person is liable to prosecution for trespassing. Anyone cultivating such land without a licence must inform the Keeper of the Records within two months and receive a certificate of registration.”

“As we can see,” declared the Court, “receiving prior permission from the authorities is a necessary condition, without which the land-holder is liable as a trespasser; and if the land has been brought back to life before the Order is given, the land-holder is required to notify the authorities within two months . . . the requirement that prior permission be obtained from the authorities before *mawat* land can be worked is a constant theme running through all legislation on this issue.

40. In its conclusion, the Court stated that the State had proven, beyond any doubt, that these were *mawat* lands, both in terms of the distance from a place of settlement, as stated in the law, as the closest place of settlement to the parcel of land under discussion was Dimona, which is 30 km. away, and further they had proved that the land was unused since time immemorial and had not been held as *miri* (State) lands by anyone and had not been allocated to the public as Public Lands (*matruka*). The judgement further notes that:

“Palmer (exhibit T/21) reported on the condition of the Negev in 1870 after travelling in the area and studying its condition carefully. He found desolation, ancient ruins and nomadic Bedouin who did not work the land, did not plough it, and were not agriculturalists. Even when it rained

and natural vegetation sprouted, they used the water to water the herds but not for agricultural cultivation.”

41. It has also not been proven that the appellants or their forebears requested or received permission to hold the land, just as they did not make use of the opportunity provided by the Lands Order (dead lands) form 1921, and did not inform the authorities, in the time allocated, of their use of the land. In the last line, and before rejecting the appeal, the Court referred to the appellants’ claim for special consideration because of the special conditions of land in the Negev, and said, “If neither the Ottoman Law (nor the mandate authorities in the Order of 1921) saw any reason to address separately the lands in the Negev, the likes of which were to be found plentifully in the Ottoman State, it is not the duty of this Court to make concessions . . . which are not in line with the letter of the law.”

42. With respect to *mawat* lands, it is important to reiterate the text of paragraph 155 of the Land Law, 1969, which states that:

“Land which at the time of the enactment of this law were classified as “*mawat*” will be registered in the name of the State; however, holders of Land title deeds according to Paragraph 103 of the Ottoman Land Law of 1274 in the Hijrah calender or according to the Land Transfer Order are entitled to register the land in their name.”

And paragraph 156 states:

“Nothing in paragraphs 153, 154 or 156 should be construed as detracting from land rights which existed prior to the enactment of this law.”

Implications of the Hawashleh Precedent

43. There are solid grounds for supposing that, given the Hawashleh precedent, the fate of the Bedouin suits currently before the courts concerning land settlements will be the same as those of the Hawashleh tribe, with the exception of those claims based on documentary evidence (which, as we have already pointed out, are a very small minority).

44. Since the start of the land settlement procedure, the Beer Sheva district court has handed down 80 judgements, covering 50,050 dunam, in claims the Settlement Officer placed before the courts (223 cases). 13 of these judgements have been given as compromises reached with the claimants, and 67 judgements rejected the claims, either because the claimant did not appear in court or because they did not pursue their claim, and the land was registered in the name of State. None of judgements given to date has held up the Bedouin claimants ownership of the land. The Hawashleh precedent effectively invalidates “the possibility that the Bedouin’s historical land claims will be recognised.”²⁷

45. We can conclude that, so far as the legal disagreement over land ownership is concerned, the Bedouin will also lose their case in the future, given the State’s claim that most of the land in the Negev is of the *mawat* category, and they should therefore be registered in the name of the State. In order to make this point, the State has even introduced counter claims, in order to warn the Bedouin what fate awaits them if they do not reach a compromise agreement. The High Court judgement in the case of Appeal 518/61 also underscores the difficulty facing the Bedouin in claims of land ownership²⁸.

Committees and more committees

46. We shall refrain from enumerating all the committees which have, in the past, proposed solutions for the resettlement of the Bedouin in the Negev. Most of these committees have had no serious impact on the issue they were set up to deal with, they left no mark and almost nothing changed as a result of their work. Not only have the struggles over the land and resettlement not diminished, they have indeed intensified over the years for reasons related to the rapid changes which are taking place in Bedouin society.

a. Among these committees we recall the Parliamentary Investigation Committee on the subject of “The Bedouin Sector in the Negev” headed by the then MK David Mena, set up on 18 October 1994.²⁹

In its introduction to the subject of "land in the Negev and Resettlement of the Bedouin" the committee wrote (p. 20):

"20 years have passed since a ministerial committee decided to set up a negotiating committee whose job it was to reach a compromise with the Bedouin land holders, with land-holding rights in the Negev. During this time the government has managed to reach an agreement with just a half of the Bedouin population of 85,000, settled in 7 permanent settlements.

About 45,000 Bedouin in the Negev still live in spontaneous settlements outside the permanent settlements, and refuse to reach a compromise over the lands . . . What is required, in order to break the stalemate in the settlement of the Bedouin and to reach a breakthrough in land settlement, is a government initiative in policy, planning and implementation such as the initiative taken by the government in the resettlement of Kuseifeh and Aroer"

On page 18 of the report is a table showing that in the seven recognised settlements at that time (Rahat, Tel sheva, Aroer Negev, Kuseifeh, Segev Shalom, Laqqia, Hura) were hundreds of vacant plots and the committee notes (page 19) that "both the government and the Bedouin insist that there be no transfer to a permanent settlement without a settling of the [family's] land claim. Most of the Bedouin, in particular those holding land, refuse to accept the compensation offered to them".

47. We need to remember that at the end of the 1990's the then Minister of Justice, Yossi Beillin, initiated a joint project of the Israel Institute for Economic and Social research, together with Bedouin researchers, in order to find a solution to the Bedouin problem. The programme, which was presented to the government in March 1999, was on the agenda of the ministerial committee on Bedouin affairs composed of Haim Oron (Chair), Mathan Vilnai and Yossi Beillin. The committee reached a number of decisions in the spirit of the programme but its work ended at the end of that government's term of office.

The proposed programme stated that, "The policy regarding the Bedouin needs to base itself on the recognition of right of the various tribes in the Negev to live in the existing settlements, while developing these settlements and maintaining the tribal structure, all of which must be done in coordination and consultation with the Bedouin tribes and their institutions. The problem lies in the underlying incompatibility between two judicial systems, between Israeli law and the

Bedouin's internal property laws, which have been recognised for generations and according to which they live to this day."

48. We should also recall the position paper presented in January 2006 by the Council for National Security on "The Negev Bedouin, Policy, Difficulties and Proposals" (the position paper was written by Ehud Praver, then deputy chair of the council, and Lirit Serpis from the Interior Branch of the council, and approved by the Council Chair, Giora Eiland). This document points to the uncontrolled geographical expansion of the Bedouin in the Negev "in a broad area including the Beer Sheva and Arad valleys, and along the main routes leading to Dimona and Arad." The document further notes that ownership claims which have not been settled for tens of years impede the development of whole areas of the Negev, and of Bedouin towns which are located on broad stretches of claimed land. Only a portion of the population has moved into the seven designated towns, and after the establishment of the town of Hura the whole transfer came to a halt. "The land claims are a fundamental barrier to the development of the Negev, to the establishment of further Bedouin towns and to the expansion of the existing ones."

"The Bedouin's historical desire to be part of the State, and their great disillusionment with the way they have been treated, intensify the sense of alienation and radicalisation, and strengthen the process of Palestinisation and Islamisation".

49. We should also remember the flood of ministerial committees and the inter-departmental committees and work teams. The state Comptroller had harsh words to say about these in his 2002 report on "The Bedouin Sector in the Negev", and this is what he wrote:

"The question of the Bedouin in the Negev has been discussed many times by the government. The government of Israel and various ministerial committees acting in its name have made decisions about setting up organisational frameworks, inter-departmental teams, Director General Committees and a Bedouin Administration. The State Comptroller's Office has reviewed the government decisions, the decisions of the ministerial committees and the position papers on the subject in the past five years. The review has also encompassed the setting up, the powers and the operation of the Bedouin Administration.

1. Ministerial committees: Between August 1996 and August 2001 the government appointed two ministerial committees to deal with the

Bedouin sector. The first, set up in August 1996 called “The Ministerial Committee to Coordinate Government Policy in the Bedouin Sector”, headed by the Minister of Infrastructures; and the second, set up in August 1999, called “The Ministerial Committee on the Arab Sector”, headed by the Minister of Science, Culture and Sport, which set up a “Subcommittee on the Bedouin in the Negev” headed by the Minister of Agriculture. Decisions on the Bedouin were taken both in the committees and in the aforementioned subcommittee. The remit of the committees was mainly to determine the overall policy for dealing with the Bedouin sector, including land settlement, relocation of the *pzura* (population outside the recognised villages) and the setting up of further permanent settlements for the Bedouin, including the development and treatment of permanent settlements and their infrastructure. In practice, none of these committees came up with an overall policy, as we detail below:

In August 2000 the ministerial committee decided to adopt a new policy for dealing with a variety of subjects in the Bedouin sector, in order to “close the large gap which had developed between the Bedouin and the rest of the population, through integrating the Bedouin of the Negev as citizens with equal rights and obligations in the State.” This decision was ratified by the government (November 2000). However, no decision was taken who should be responsible for the working out the details of the programme.

2. Setting up inter-departmental committees and teams: Over five years, starting in May 1996, the government and the ministerial committees set up five inter-departmental committees or teams whose task it was to propose ways of dealing with the Bedouin sector, and to develop an overall policy programme. However, such a programme was never developed:

a. A committee set up by the government in May 1996 and headed by the Director General of the Prime Minister’s office in order to “investigate and advise the government on the economic, social and legal aspects of the resettlement of the Bedouin in permanent settlements in the Negev,” never submitted proposals or position papers to the government or to the ministerial committees as required.

b. An inter-departmental team set up by the government in May 1997 also did not formulate “an overall policy for a long-term programme of action which will include the physical, planning,

social and economic aspects of Bedouin resettlement in the Negev" as required.

c. Just half a year later, in October 1997, the government appointed a new inter-departmental team charged with presenting the ministerial committee with a document which would define "an outline of policy and action" for dealing with the Bedouin sector, following guidelines established by the ministerial committee. This team submitted a document in November 1997 summarising its discussions and proposals for an outline of policy and action in this matter. However, the ministerial committee never discussed the team's proposals, and consequently never ratified them.

d. Two years later, in November 1999, the government again decided that the Bedouin Administration should "present the ministerial committee a policy document which would include detailed background information and a detailed plan of action," and indeed the Administration submitted, in December 1999, a long-term work plan. However, the ministerial committee only approved the work plan for the year 2000.

e. The last team was appointed in December 2000, the government then deciding to set up a team headed by the Director General of the Ministry of Infrastructures together with representatives from the Ministry of the Interior, The Israel Land Administration, the Ministry of Finance, the Ministry of Justice and the [Bedouin?] Administration (the Team). This Team was charged with formulating a proposal for the structure of the central body which would deal with advancing Bedouin affairs, including what its powers should be and to whom it would be responsible. The Team was also charged with preparing a policy document recommending ways of dealing with the subject of the Bedouin sector.

According to this decision, the team was supposed to set up four secondary teams, which would consider various subjects concerning the Bedouin, and to present proposals to the ministerial committee by 1st March 2001. The Team did set up secondary teams, as required but, as we noted, the proposals were never submitted to the committee, at least not until the closing of the Comptroller's report, in November 2001. Nonetheless, the Director

General of the Minister of Infrastructures reported to the Comptroller's Office , in July 2001, that some of the secondary teams had submitted position papers, with proposals, but these had yet to be approved by the whole Team. The reason for this, according to the DG, was that since the new government was set up in February 2001, no ministerial committee had been appointed for the Bedouin sector in the Negev, and there was therefore no-one to receive the recommendations of the Team. The first meeting of the ministerial committee for the Negev and the Galilee took place in November 2001 and its agenda included, among other things, the proposed settlements for the Bedouin of the *pzura*.

As noted above, more than half a year after the date set for the submission of the team's proposals to the ministerial committee, the secondary teams' proposals have yet to be discussed by the Team, or by the ministerial committee. This review of the actions of the government, the ministerial committees and the DG committees thus shows that no overall policy has been formulated, and where documents and proposals have been submitted, they have not been discussed, and if discussed, no action has been taken to formulate a long-term, budgeted programme for dealing with the Bedouin sector in the Negev. From the above it would appear that the governments, for all their committees, are not working in a systematic way, there is no continuity, and the solution to the central and difficult questions is pushed back from one committee to the next, and sometimes, from one government to the next."

50. We need to give special consideration to the "summary report of the experts" committee on land settlement in the *sayig* area and the Northern Negev" (the committee headed by the late Plia Albeck) which was submitted to the government in October 1975 and approved. These proposals have served as a basis for all government proposals since then concerning the settlement of the land issue. The committee determined that the land in the *sayig* area is *mawat* and that "the Bedouin cannot claim any rights, even if they have held the land and worked it for a long period, and that therefore all the land is State land", an argument which was accepted by the Court in the Hawashleh precedent. Nonetheless, the committee added, and it is worth quoting verbatim, that "it is humanly unthinkable, and the high Court will no doubt concur when it comes to deal with the land settlement, that the Bedouin be removed from the *sayig* area without any compensation in the framework of a land settlement, despite their many years in the area, and just because there was no rural or urban settlement

there in 1858.” The committee thus recommended an arrangement “beyond the letter of the law” according to which the State will compensate the Bedouin for “evacuating the land which they hold, or which they held in the past, and which they are claiming as their own.”

Since 1997 the Israel Land Administration has been updating the details of the settlement in the committee’s summary report, while maintaining three basic elements of the proposal, namely: no recognition of Bedouin rights over the land, a willingness to offer land claimants compensation “beyond the letter of the law” and conditioning the payment of compensation on the evacuation of the land and transfer to one of the recognised settlements. In the words of the proposal, “compensation will only be given to those who evacuate the area, or have already evacuated it and do not live in any part of the *sayig* area other than on land apportioned to them in the townships set up for the Bedouin or in areas set aside for Bedouin agriculture.” The committee added that claimants will receive the proposed settlement only if they have reached a signed and binding agreement with the authorities. In the absence of such an agreement, there is no obstacle to the claimant’s claim being evaluated according to due process of law.

The Recognised Towns

51. Between 1969 and 1999 seven permanent settlements were established. Tel Sheva was set up in 1968, three years later (1971) Rahat was established and 25 years later (1996) another group of settlements was established: Hura, Kuseifeh, Laqqia, Aroar Negev, and Segev Shalom. Rahat was given full municipality status and the rest of the settlements are governed by urban councils. The policy of “comprehensive urbanisation” which was decided on without the Bedouin being in any way involved or consulted, has failed. The main, if not the only reason, lies in claims made on land within the boundaries of the towns (in particular in Kuseifeh and Laqqia). The municipal boundaries (the “blue line”) were set without any settlement of the land issue. Apart from the Bedouin tradition that no Bedouin will settle on land claimed by another, without the other’s agreement, those Bedouin who had land claims refused to move to the recognised towns, fearing that such a move might be interpreted as a renunciation of their claim to land within the confines of the town.

52. According to the data of the Bedouin Administration, the land area of Rahat is 16,820 dunam of which 3,020 dunam are the objects of land claims; the area of Tel Sheva is 9,400 dunam of which 4,040 dunam are the object of land claims; the area of Aroar Negev is 11,641 of which 4,400 dunam are the object of claims; the area of Hura is 7,423 of which 1,410 are the object of claims; the area of Laqqia is 7,052 of which 4,800 dunam

are the object of land claims; the area of Segev Shalom is 4,010 dunam, with no land claims; the area of Kuseifeh is 21,000 dunam of which 18,250 dunam are the object of land claims.

53. The Bedouin Administration notes "the land claims refer to the total area, including both land held, and not held, by the Bedouin." The Administration also noted that the plans for Laqqia, Tel Sheva and Kuseifeh "include areas for the planned expansion of the towns, these plans are currently under discussion and have yet to be approved." Summing all the above shows that 46.4 percent of the total land area of the seven towns is the subject of land claims.

54. By contrast, Eli Atzmon, in the past a senior figure in the Administration, presented this committee with the following data: the area of Rahat is 21,000 dunam of which 7,500 dunam are the object of land claims by the Bedouin; Tel Sheva has 10,500 dunam of which 4,000 dunam are the object of claims; Arara Negev has 12,500 dunam, of which 7,000 dunam are the object of claims; Hura has 7,200 dunam of which 1,500 are the object of claims; the area of Laqqia is 5,850 dunam, of which 4,000 are the object of claims; Segev Shalom has 5,500 dunam, none of which are the object of claims; and the area of Kuseifeh is 13,300 dunam of which 10,500 are the object of claims.

55. The following table brings out the implications of the above concerning claims to ownership in the recognised towns, and the number of uninhabited land plots.

Location	Total Land Plots	Undeveloped Plots	Developed Plots	Marketed Plots	Plots to be Marketed
Hura	3,252	886	2,366	1,580	786
Kuseifeh	2,804	1,699	1,105	939	166
Laqqia	2,287	948	1,339	860	479
Aroer	2,039	278	1,761	1,220	541
Rahat	4,121	17	4,104	3,975	129
Segev Shalom	1,732	205	1,482	1,037	445
Tel Sheva	2,070	149	1,921	1,529	392
Total	18,305	4,227	14,078	11,140	2,938

56. The towns' unattractiveness is also a potent factor explaining the failure of the urbanisation process, even without the land problem. Living conditions in the towns is far from being a real improvement over life in the unrecognised settlements, in

particular following various judgements by the High Court according to which the unrecognised settlements are entitled to receive basic services. If we add to this the lack of work places in the towns which were built without an appropriate economic infrastructure we can understand why the Bedouin prefer to remain in their unrecognised settlement where they do not have to pay municipal and other taxes, rather than move to the recognised towns. We have heard that given this situation there is a “negative migration,” that is, people leaving the towns to return to the unrecognised settlements.

57. The State Comptroller further reports³⁰ that the recognised towns remain disadvantaged and neglected. The unemployment rate in the recognised towns is considerably higher than the national average; the Bedouin towns were established with only the minimum of infrastructure: there is no sewage system, the roads were paved at only half the planned width, water drainage is above ground, public spaces were not developed and there are only a handful of public institutions. None of this has seriously improved since the towns’ establishment. The report further notes that the towns are at the bottom of the socio-economic scale as evaluated by the Central Bureau of Statistics.

58. In May 1996 the government decided to set up a further 5-7 settlements for the Bedouin. Following on the government decision work started on the planning and establishment of nine further settlements: Makkhul; Bir Hadaj; Qasr A-Sirr; Abu Qrinat; Um Battin; A-Sayyad; Tarabin A-Saana; Durijat and Mulada. Approval was also granted for the settlements Kakhala and Abu Tlul. In these settlements there was a partial recognition for unrecognised villages that already existed on State lands (except for Bir Hadaj which was entirely on State lands) and the “blue line” for the settlement would take into account the facts on the ground. These eleven settlements are grouped in the framework of the Abu Basma regional council, set up in 2004. According to the population register in the Ministry of the Interior, on 30th November 2007 these settlements had a total population of only 3,028 people. It must be emphasised that when it was set up, this regional council included only five settlements and the rest were added subsequently. Permission was also granted for the establishment of two new settlements – Ovdad and Al-Furaa – which have yet to be assigned to any municipal authority and which are currently at various stages of planning. The implication is that, on top of the seven existing towns, 13 new settlements are being established. In the opinion of Eli Atzmon, about 90 percent of the land in the new settlements is the object of land claims by the Bedouin³¹. The Abu Basma regional council also provides welfare and educational services for the unrecognised settlements.

59. As even Amaram Kalaji, the appointed chair of the Abu Basma council, agrees, the establishment of the settlements within the framework of the council has not been an “outstanding success.” This is because “land is one thing, but if I do not include employment and education and move them forward together, the whole thing starts to stand still, to mark time without any progress being made.” Planning has to be done “with the population, not to be dictated.”³² In sum, the settlements in the Abu Basma regional council have not significantly moved us any closer to a solution to the settlement of the Bedouin, and they too have not been able to circumvent the struggle over land, on top of which must be added their disregard for the Bedouin way of life, their physical needs and their culture.

60. We cannot leave the subject of the recognised settlements without referring to the decisions taken by the governments of Israel concerning the not inconsiderable sums set aside for the Bedouin sector since 2003. According to government decision 881 from the 25th September 2003 (Arab/15) the sum of 1,100 billion shekels was allocated over 6 years for development and infrastructure in the towns and new settlements in the Bedouin sector. On 22nd July 2005, government decision 3956 (Arab/40) the government decided to allocate 0.4 billion shekels over 4 years for the development of villages in the Abu Basma regional council. As these funds were not fully utilised the government decided, on 14th September 2008, “to extend decisions 881 and 3956 designated to improve infrastructures in the new and old settlements in the Bedouin sector, to the end of 2009.” As part of the national programme for the development of the Negev the government allocated 6.3 billion shekels over 10 years, on top of a further 2 billion shekels for regional initiatives and infrastructures. The total budget from these government decisions reaches 9.8 billion shekels.

61. On top of the fact that the allocated budgets were only partially utilised we need to remember and remind ourselves of the obstacles coming from the Bedouin sector itself, for these too have played their part in stalling the process of urbanisation. These have included: refusal by land claimants within the towns to reach a settlement, and a determined and uncompromising position that no other Bedouin will settle on these lands; the sharpening of internal conflicts between different subsections of Bedouin society (*Fallahim, Bedouim*) and within these groups themselves; covert struggles over municipal administration, on top of which must be added religious, national, political and other influences.

The Unrecognised Villages

62. Spontaneous concentrations of Bedouin, later to be termed the *pzura* ("dispersal") began to form as early as the 1950's. Hundreds of buildings, of stone, corrugated iron and tents began to appear, without permission and with no planning. Today there are approximately 46 villages which are unrecognised. The list of these unrecognised villages, as drawn up by the Regional Council for Unrecognised Villages was presented to this committee by Bimkom, Planners for Planning Rights (see Appendix 5). Just as there is no agreement by different organisations over the actual size of the Bedouin population, so there is no agreement over the size of the unrecognised villages. According to the Ministry of the Interior, as of November 2007, there were 62,487 people in the unrecognised villages, noting that registration of the tribe in the Identity Card as place of residence without mention of a recognised settlement was taken as an indication of living in the *pzura*. Eli Atzmon gives the figure of 84,641 living in the *pzura*³³.

63. As the villages are unrecognised, they receive no municipal budget, they have no system of local government, and the residents do not pay municipal taxes. As they have no master plan, no building is allowed, they cannot receive planning permission and all buildings are illegal. The population in these villages do not receive orderly government services and they do not have basic infrastructures (water, electricity, sewage, roads and so forth). The water situation is deplorable, and it is of poor quality, only a portion of the inhabitants are connected through private piping to the mains supply on the main roads and the rest have to bring water over long distances in containers. The lack of electricity affects, in particular, people with handicaps and chronic patients who need electric equipment or refrigeration for their medicine. Till 1995 there was not even one clinic in the villages. Following an appeal to the High Court of Justice there are now clinics in 11 of the villages, and in only eight villages are there family health [well-baby] clinics.

64. With no other option, the villagers of the *pzura* occasionally turn to the courts for help, asking for its intervention in matters relating to their life and welfare. Since 2000 over 50 petitions have been made to the High Court of Justice. For instance, there is a whole series of judgements concerning education, and another concerning water. Sometimes the courts provide a general solution, sometimes it is more specific, with the courts noting the difficulty they have assisting in matters relating to villages whose very existence is illegal.

65. In one case a small child, resident in one of these villages and who was afflicted with cancer, needed injections which had to be kept in a refrigerator, which was impossible as there was no electricity in the village where she lived. The family appealed to the

High Court of Justice asking it to force the respondents in the petition to connect the house to the national electricity grid, or to provide her with a regular supply of electricity. This is how the court concluded its judgement, after finding there was no cause for its intervention for the reasons stated:

“Nonetheless, this young girl is struggling for her life, and in these circumstances no-one can stand aside, even if he has no legal requirement to act. Thus, even though we find no cause for the court’s intervention, we feel the respondents would do well if they keep a constant track, through the health and welfare services, of the child’s needs over the next few months and will help her parents, directly or indirectly, to meet her needs, in the hope and prayer that she will soon recover and regain her good health.³⁴”

66. In one of the petitions³⁵ the court stated “the question of the dispersed population of Negev Bedouin and the unrecognised villages is a systemic problem of the first order facing the state and society in Israel . . .the residents of the villages are an integral part of the Israeli population. The State and its agents are responsible for finding suitable solutions in a manner that will respect all parties to the dispute. Nonetheless, the point of departure must be the adherence to the basic norms of upholding the law and its enforcement.”

67. These basic norms of adhering to the law have been eroded in the *pzura*, in particular in all matters concerning illegal building which has reached enormous proportions. The Bedouin justify this through the needs of a growing population to have a roof over its head. In the absence of any alternative, and as they cannot receive planning permission in the villages, they have no alternative, so they claim, but to build illegally. We must also note that state authorities, too, lacking any alternative way of providing required services, have built schools and clinics in the *pzura* without planning permission.

68. In 1945 there were 290 illegal buildings in the south (of which 236 were tents). In 1956 the number of illegal buildings in the *pzura* reached 955. The Parliamentary Investigation Committee, mentioned above, which was appointed in 1994, estimated the number of illegal buildings in the *pzura* at 12,000³⁶. By 1998 this number had grown to 24,225, and by 2004 to 42,561. Today the number of illegal buildings has reached 50,000 (!). According to Avraham Dothan, director of the Ministry of the Interior’s national unit supervising building,³⁷ 1,500-2,000 illegal buildings are added each year.

69. Between 1998 and 2001 the destruction of illegal buildings was stopped as a matter of policy, and it was renewed gradually after that. In practice, the enforcement of the law has failed and there is today no practical way that the State can implement all the destruction orders, and destroy all the illegal buildings. The threat of destruction does not deter anyone from illegal building even though there is an Administration for the Coordination and Enforcement of Land Laws (ACELL), set up by government decision in 2004.

70. We have heard stinging criticism from Deputy Commander Menashe Arviv, head of the ACELL, stating that the government decision was not taken in a professional manner, and that the Administration lacks effective powers of implementation. In an inter-departmental forum which met on 27 July 2007 DC Arviv stated that "the Administration's position is that without greater power and more personnel the Administration cannot fulfil its mandate and should be disbanded." The Administration cannot, therefore, be viewed as an enforcement agency capable even of dealing with new buildings. It is ineffective in preventing illegal building and has no deterrent value. Hence the proposal submitted by DS Arviv to the attorney general and approved by the Police Commissioner, concerning the necessary changes in the Administration and its powers so that it will be able to enforce the law adequately.

A Proposed Policy Outline

71. The Bedouin are residents of the State and its citizens, and as such they are not "transparent", lacking status and rights. We need to listen to their claims and to take their needs into consideration, and they must be involved in determining their own future. We must not ignore the forced removal of part of the population to the *sayig* area after the establishment of the State, and the fact that the other part of the population has been holding land in the *sayig* area for many years. Neither those that were there nor those that were transferred encroached upon the *sayig* even if it is clear that over the years they have illegally extended their holdings in the area beyond their original boundaries. Given all this, what is needed is a practical initiative, going beyond the strictly legal aspect, which will lead to a fair and implementable solution to the struggle over land and the confrontation over patterns of settlement, a solution that will renew the Bedouin's faith in the state and its intentions. The integration of the Bedouin into Israeli society is a challenge which the State must face up to, and a goal the Bedouin must aspire to.

72. What is needed is an all-encompassing and integrated solution which will cover the land and the planning of settlement, employment and education, combined with living

conditions in the different localities (those which are recognised and those which have yet to be recognised). There is no justification for the State treating the Bedouin residents of these localities any differently from the way it treats all other citizens of the State.

73. In order to achieve this there must be one hand directing and implementing [policy] instead of the current splintering of powers between the various ministries. The general overview, the power to implement and the overall responsibility must rest in one place, especially as time is fast running out and the proposed policy must be implemented as soon as possible. The more time goes by, the more difficult it will be to find a solution.

74. The policy must be well defined and consistent, and for that reason all details must be laid down as law with no room for discretion. There is no room for individual compromises or for personal negotiations (see, for example the recent High Court of Justice ruling 2908/05 Salman A-Sanna and others vs. the Israel Land Administration and others). Such a policy sends a message of indecisiveness and inconsistency.

75. The proposed policy will cut through the historical and legal knot concerning the Bedouin's right to the land. It involves, we believe, a fair compromise taking all circumstances into consideration. It does not impose the compromise, and all claimants will continue to be entitled to have their case heard in court, if they feel they can prove that they are the legal owner of the claimed land. However, having chosen this route, and failed, they will no longer have recourse to the proposed arrangement.

76. We should also add that in the past, too, the State has granted the Bedouin ownership rights in land, in the Negev Land Purchase Law (Peace Treaty with Egypt), 1980 (the Peace Law). This was after the peace agreement with Egypt, which required the State to evacuate speedily the Bedouin from the Tel Multakha area. The Peace Law not only granted monetary compensation for the land vacated, it also gave them legal title to a plot of land. The law did also state, however, that the inclusion of land rights in the law "does not imply any admission that the lands were not State property before the law came into effect, or that the State does not, or did not, have any rights to the land."

77. Our proposal for the settlement solution is also based on the principle that the State grant land ownership rights on the basis of due consideration for the Bedouin's historical attachment to the land, and not in recognition of any legal bond (which does not exist).

The Proposed Settlement – Ownership Claims

78. Subject to the above, the settlement proposed by this committee (the Proposed Settlement) will apply to claims as presented following the procedure for settling land claims in the Northern Negev according to the Land Rights Settlement Order (new version) 1969 (the claimed land) and it will not be possible split up the original claims.

79. Agreements reached in the past between the State and land claimants will not be reopened, and the details of these arrangements will apply in full. The Proposed Settlement will not apply to them.

80. For land subject to the Land Order (Purchase for Public Use), 1943; or which is subject to the Land Purchase Law (Approval of Acts and Compensation), 1953 or which is subject to the Law for the Purchase of Land in the Negev (Peace Treaty with Egypt), 1980, and concerning which no agreements have been made in the past, rules will be established for the implementation of the settlement, under the condition that the land be handed over to the State so that it may be used as designated.

81. Procedures for the settlement of land in the Northern Negev according to the Land Rights Settlement Order (new version), 1969, (the Order) will be discontinued, by law, for six months (the Period)

82. Anyone who made an ownership claim according to the Order, following the declaration of the procedure for settling land rights in the Northern Negev, or their legal heirs (the Claimant) may inform the authority arranging the settlement of the Bedouin in the Negev (the Authority), during the six month Period, on a form to be determined, that he does not accept the Proposed Settlement.

83. The Proposed Settlement will not apply to any Claimant who, during the six month Period, thus announces his non-acceptance of the Proposed Settlement. The Period will be non-extendable, as will be specified in the law.

84. Implementation of the Proposed Settlement will commence at the end of the six month Period. At the same time procedures for the settlement of land claims according to the Order will be renewed, without delay, for claims which the Claimant had declared to the Authority his non-acceptance of the proposed settlement. It will be necessary to increase the complement of judges in the District Court in Beer Sheva for this purpose, as well as the complement of prosecutors in the District Attorney's office for the Southern Region.

85. The proposed settlement will apply to claimed land for which the claims committee (see below) has ascertained that the Claimant held and worked in the years before the founding of the State. The necessary length of time will be stipulated in the law (the Conditions). This, without reference to the classification of the land according to Ottoman law.

86. If the Conditions laid out in the law have been proven (a Proven Claim), a certain portion of the land (the Ownership Portion) as specified below, will be registered as owned by the original Claimant or his heirs as designated in an order of inheritance, and the rest (the Remaining Land) will be registered in the name of the State. If the Conditions are not proven, or if the Claimant does not appear before the claims committee (see below) when summoned, or if he withdraws his claim, the whole of the claimed land will be registered in the name of the State.

87. If the claimed land is legally held by a third party, the State will pay the Claimant of a Proven Claim, or his heirs, monetary compensation for the Ownership Portion, as detailed below. If the claimed land is outside the area whose boundaries are specified below, the Ownership Portion of a Proven Claim will be registered for alternative land, of the same quality, lying inside the said boundaries, and not for the land in the original claim. The boundaries of this area are: the area to the east of Route 40 (starting north of Bet Qama, south through Beer Sheva, Tsomet HaNegev, Tsomet Tlalim and from there along Route 211) plus the "Rahat Triangle" area defined by the Bet Qama junction, south along route 264 to the Hanassi junction and from there east along Route 310 to Lehavim junction and north along Route 40 to the Bet Qama junction (the Area).

88. All monies paid in exchange for the non-registration of the Ownership Portion, or a part of the Ownership Portion will be tax free.

89. Nonetheless, the Proposed Settlement will apply to a Claimant against whom there was a court judgement with no inquiry, in a counter-claim submitted by the State, if an appropriate request is submitted to the Authority during the six month Period.

90. The Proposed Settlement will apply to lands settled according to the Order in other regions of the Negev and registered in the name of the State, so long as no claims were made at the time by the Claimant. The basic conditions of a Proven Claim, as set out above, will also apply to such claims. However, in such Proven Claims the original Claimant, or his heirs, will only receive monetary compensation from the State. Anyone claiming these lands will have to submit to the Authority, on a form to be determined,

during the six month Period, the claim, as well as his acceptance of the Proposed Settlement and his agreement to move to a permanent settlement.

91. These conditions imply that the Proposed Settlement will only apply to land which the Claimant held and worked as specified above, and not on claims for pasture land. These were lands in which the tribe only had grazing rights and the law will specifically exclude them from the Proposed Arrangement.

92. A number of claims committees will be set up in order to apply the Proposed Settlement. Each claims committee will be headed by a retired judge and its members will be the DG of the Authority or his representative, and a Bedouin representative appointed by the Minister of the Interior.

93. A claims committee will have the power to determine if the necessary conditions have been met for a Proven Claim, to determine for a Proven Claim the land area of the Ownership Portion; to determine for a Proven Claim the level of compensation which the State will pay instead of registration of the Ownership Portion, in the cases set out above, and according to the level of compensation set out in the law. A claims committee will not determine who are the heirs of an original Claimant deceased since submitting the claim, and its decision will only relate to the proof of the Proven Claim as regards the claimed land.

94. A claims committee will also have the power to determine the alternative land within the Area and the Ownership Portion thereof, for those cases in which there is a Proven Claim relating to land outside the Area. A claims committee will also have the power to split up its decision so that it will decide first if a claim is proven and what the Ownership Portion will be on the alternative land, while the decision concerning the specific plot of alternative land within a settlement in the Area will be put off until the detailed planning of the settlement is completed.

95. In those cases in which competing claims were submitted to the Settlement Officer by Bedouin claiming the same land, and one of the Claimants declares that does not accept the Proposed Settlement, the claims committee will transfer the decision of the dispute to the District Court in Beer Sheva.

96. A claims committee will decide cases in which the legal heirs are divided over whether to accept the Proposed Settlement. If a majority of the heirs favours the Proposed Settlement, the claims committee will act to implement the Proposed Settlement.

97. A claims committee will be entitled to demand from a Claimant all information and documentation needed to determine the veracity of the claim, and to request information, documentation and opinions from individuals, bodies and authorities, if it feels these are necessary in order to decide the claim.

98. A claims committee will act in a way which it feels is the most appropriate in order to reach a just and speedy decision in a claim, and will not be bound by legal procedures and rules of evidence as practised in the law courts. This includes the claims committee's right to determine the appropriate way to summon parties and witnesses.

99. A claims committee's decision will be given no later than 60 days from the time when all the evidence necessary was presented in a manner it considers satisfactory for making a decision, and it has completed hearing the claims of the various parties.

100. A unified set of procedures will be established for the working of the claims committees and timetables for their operation.

101. Anyone who feels they have been injured by the decision of the claims committee, when this is not an interim decision, will have the right to appeal to the District Court in Beer Sheva. The Court will decide disputes on agreements to the settlement of competing claims which have been passed to it by a claims committee, as well as appeals, by law and by rules of natural justice. Decisions of the District Court can be appealed to the High Court on questions of fundamental importance, and the High Court will hear the appeal in the presence of one judge.

102. The Ownership Portion and the requirement for monetary compensation will be determined by distinguishing between land which is within an existing or planned Bedouin settlement ("blue line") and land which is outside the "blue line", according to the following table:

Area of Proven Claim, in dunam	Ownership Portion, in Percent, within an existing or planned Bedouin settlement	Ownership Portion, in Percent, outside an existing or planned Bedouin settlement	Minimum proportion of the Ownership Portion, in percent, of monetary compensation (exchange),
All claims up to the first 20 dunam	100	100	0
Each further dunam	50	50	60

103. Furthermore, and in accordance with the above, the original Claimant, or his heirs, will be entitled, should they so desire, to receive from the State monetary compensation in respect of further parts of the Ownership Portion beyond the minimum monetary exchange proportion, as stated above, instead of registration in their name. In this case, the monetary compensation will be increased by 25 percent as an inducement. In any case, the original Claimant or his heirs will be entitled, should they so desire, to receive from the State monetary compensation for the whole of the Ownership Portion instead of registration of the land in their name.

104. The above data should be added to the table above:

Area claimed from all claimed lands	Claims – Claimants			Area in dunam		
	No. of claims	%	Cumulative %	Total Area	%	Cumulative %
Up to 20	219	8	8	2390	0.4	0.4
21 - 80	839	30	38	42043	7	7.4
81-200	911	33	71	116717	19.8	27.2
201-400	456	17	88	124359	21	48.2
401 up	324	12	100	306502	51.8	100
Total	2749	100%		592011	100%	

105. If all of the claimed land is outside a Bedouin settlement, whether existing or planned, a part of the Ownership Portion will be given within a settlement in order to provide a residential solution for the Claimant or his heirs, as a part of the Proposed Settlement. To avoid any misunderstanding, registration of the Ownership Portion in the name of the Claimant or his heirs will not grant them “immunity” from the application of the Planning and Construction Law to these lands, neither in terms of planning nor of construction. The Ownership Portion will therefore be “gross” and subject to deductions according to the provisions of the law.

106. The monetary compensation in appropriate cases, as explained above, as an alternative to the registration of the land in the proportions noted in the table above, will be determined in the law according to the categories of land in the Peace Law: The monetary compensation for land in the area of jurisdiction of an existing or planned settlement (“the blue line”) will be NIS10,000 per dunam. The monetary compensation for land outside the area of jurisdiction of an existing or planned settlement, if still claimed and held at the time of the government decision on the setting up of this committee (28th October 2008):

NIS5,000 per dunam for deep plane soil
 NIS4,000 per dunam for shallow plane soil
 NIS2,000 per dunam for hilly plane soil

The monetary compensation for land outside the area of jurisdiction of an existing or planned settlement will be:

NIS3,000 per dunam for deep plane soil
 NIS2,500 per dunam for shallow plane soil
 NIS2,000 per dunam for hilly plane soil

The monetary compensation in lieu of registration of ownership will be paid within 60 days from the date of the claim committee’s decision, subject to the following.

107. The Ownership portion will be registered in the name of the original Claimant or his heirs only after the remainder of the land has been handed over to the State. In cases as noted above, too, where monetary compensation is paid for the Ownership Portion, the monetary compensation will be paid to the original Claimant or his heirs only after the remainder of the land has been handed over to the State. In any case, registration of the Ownership Portion in the name of the original Claimant or his heirs, will subject to permitted use of the land according to all laws and regulations, and subject to a signed

agreement which will allow the land to be used for any purpose which may be designated, including the settlement of other Bedouin.

The Proposed Policy – Settlement

108. The only way to prevent the continuation of the present intolerable situation, with all its negative consequences, is to recognise the unrecognised villages, according to the limitations to be described, and formally to incorporate them. These settlements need to be incorporated, as much as possible, within the existing array of settlements, as a continuation of the policy which led to the establishment of the Abu Basma settlements.

109. Implementation of this proposal requires the adoption of a new definition of settlement for the unrecognised villages, which will determine that they will be recognised in the future. These villages will have a temporary “blue line” and the National Council for Planning and Construction will mark them on the Partial District Master Plan, which has yet to be approved, (DMP 23/14/4) as a special category of “settlement in transition.” This designation will remain in place until their final recognition and the fixing of the settlement’s area of jurisdiction, which will take into account the planned population, at least up to 2020. This will create clusters of settlements such that each cluster will have a “focal settlement” which will serve the settlements of that cluster and provide necessary services. In the interim, “settlements in transition” will receive services as if they were fully recognised, and the residents will be required to pay municipal taxes and to change their registered address accordingly. In settlements in transition no new building will be allowed, in order to prevent further obstacles to the detailed planning of the settlement.

110. In principle, we recommend recognition, as far as possible, of all the unrecognised villages which have a critical mass of residents, at a level to be determined, and which can maintain themselves as municipal units, on condition that such recognition in no way contradicts the District Master Plan.

111. Bedouin living in and outside the unrecognised villages will be required, within six months, to provide the Authority with a reasoned notice, signed by a majority of residents, that they do not wish their village to be recognised in its current site, and that they wish to be transferred to another site in the Northern Negev, from a list they will provide. They will also state the type of settlement they would prefer out of the following list: residential; rural; mixed residential-rural; urban; rural enclave within an existing or planned urban location. The same holds for residential concentrations outside the unrecognised villages.

112. The aforementioned notice concerning the establishment of a new settlement, and its character, will also be provided by villages which are informed by the Authority that they cannot remain in their current location, either because they do not have a critical mass of residents, as determined, or because the location is in conflict with the District Master Plan, or for any other reasonable reason, and they must therefore move to another location. The village's response will be presented within six months of the village receiving notification from the Authority.

113. In the aforementioned case the Authority will identify a new location for settlement within the search space of mixed rural-agricultural zones of the Metropolitan Plan, taking into consideration, as far as possible, the villagers' desires with regards to the location and type of the new settlement. The planning of the new settlement will also consider the need to designate industrial and commercial zones in keeping with the character of the settlement.

114. In all cases, the Authority will give the village an opportunity to state its case concerning the identified location, the character and the master plan of the new settlement, before the final decision concerning the location of the new settlement is taken.

115. After the establishment of the new settlement is approved (see below) and the Chair of the Authority has determined that it can be occupied, the village residents will move to the new location. In order to ensure the complete transfer and evacuation of the old location, or part thereof, the Authority Chair will be empowered by law to make an evacuation order on the land area whose boundaries will be set out in the order. The order will determine the period of evacuation. Appeals concerning the evacuation order and the timing of the evacuation will be heard by a committee whose composition will be determined in the law (the Appeals Committee), and decisions of the Appeals Committee will be final.

116. During its deliberations, this committee heard requests from various representatives of the Bedouin sector for the relocation of a number of unrecognised villages. We have proposed above a mechanism for dealing with such requests. Nonetheless, and given the special circumstances surrounding these requests, the committee recommends the establishment of a new settlement near Dimona for the Abu Sulb tribe; near Yeruham (Rahama) for the Al Azazmeh tribe; to move the members of the Al Azazmeh tribe currently resident in Wadi A-Naim (south of Beer Sheva along Route 40) near Ramat Hovav, to the area of Segev Shalom or to Bir Hadaj or to Yeruham

(Rahame); to settle the members of the Zaydane tribe and others currently located north and east of Rahat in rural - residential neighbourhoods as part of the development and construction project of this city. Naturally, the implementation of these recommendations is subject to, and complementary to, our recommendations concerning the land claims which these populations may have.

117. In villages which will be recognised and will remain in their current locations, the intention is to enable those residents who do not receive a land holding (as proposed above) in the village in which they are resident, the status of leaseholders of the land, in accordance with the decisions of the Israel Lands Council in general, and the specifically in the Negev. Landless Bedouin who do not remain in their present location but move elsewhere will receive the same leaseholder status as stated above.

118. Those transferred will receive compensation in respect of fixed assets which they will leave behind in their current location, the level of compensation depending on the quality of the assets (stone dwelling, tin shack, wooden shack, fruit trees and so forth) as will be laid out in the law.

Notes

24. Supra note 10, pp. x - 15

25. Supra note 8, p.9

25a. Document by the Bedouin Administration, 19 May 2008

26. Court Ruling 38(3) (1984) 141

27. Statement in support of the recognition and regularisation of the Bedouin villages in the Negev, submitted to the committee by a group of researchers and lecturers.

28. Court Ruling 16 (1962) 1717.

29. Report of the Parliamentary Investigation into "The Bedouin Sector in Israel," (1996)

30. Annual Report 52 b, (2002) pp 100-102.

31. Committee meeting, 17 February 2008, p. 124

32. Committee meeting, 14 February 2008, pp. 55-56.

33. Eli Atzmon, presentation presented to the committee

34. High Court of Justice 8002/05 Al atrash vs Minister of Health and others

35. High Court 2778/05 Regional Council Ramat Hanegev vs Prime Minister and others

36. Supra, note 29, p. 21

37. Committee meeting, 13 April 2008, pp. 6.

Proposed planning procedures

[This section was written by committee member Dudu (David) Cohen]

119. The existing cumbersome planning procedures would obstruct the implementation of these recommendations, which should proceed as quickly as possible. As repeatedly stated above, time is short.

120. From the creation of about 10 Bedouin settlements we learn the average time that passes from the date of the Government Decision on the creation of the settlement and up to the approval of a detailed plan for living quarters and a services centre in the settlement is approximately 8 years!!! Some government decisions are yet to reach the stage of approving the settlement's code in the District Master Plan. After the approval of the detailed plan, it might take several more years until the actual development works are completed. To sum up, it takes many years to get from the planning stage to the development of residential lots based on a detailed plan in force.

121. Amending the limits of an existing settlement, regardless of the magnitude of this amendment, requires a long and cumbersome planning procedure: on the level of the District Master Plan, the Local Master Plan and detailed plans. These planning procedures take many years to complete.

122. Even the tiniest amendment to an approved Local Master Plan or of an approved detailed plan, requires a lengthy statutory process, identical to the process of approving a new plan. On average, it takes 18–24 months, once the amended plan is submitted to the planning authorities, to complete this process.

123. Appending new territory to a settlement's municipal limits and planning zone requires very lengthy bureaucratic procedures that take many years to complete: setting up a Limits Commission, filing its recommendations, processes of consultation with the planning authorities, General Manager's recommendations, approval by the Minister of the Interior, preparing maps and orders and publication in the Official Gazette.

124. Although according to government decisions and to the opinions of the various committees there is an urgent need to settle the problem, no real action has been taken to address this need.

125. The magnitude of the problem our committee was presented with and the urgent need to find a just, available and viable solution, clearly outweighs the need to maintain the ordinary rules of procedure and planning and municipal hierarchy. It is clearly

preferable to create an efficient planning and municipal shortcut procedure, limited both in the time and in the geographical area to which it applies, albeit at the price of somewhat disrupting the regular planning and municipal procedures.

126. In this state of affairs, a very fast planning track should be established in law, limited both in the time and the geographical area to which it applies, that would make it possible to implement the committee's recommendations in the tightest of schedules. For this purpose, a distinction should be enacted between the planning procedure required to complete initial planning for a new territory (a new settlement or an extension of an existing one), and inserting changes and amendments in an existing and approved plan. In the latter case, a more practical orientation will be in place.

127. A new, practically oriented, planning authority (an implementation mechanism) shall be established, subjacent to the Southern District Planning Commission, to deal specifically with the subject of Bedouin settlement in the Negev. This authority shall be called the CEPSBSN (Committee for Enacting a Proper Solution for the Bedouin Settlement in the Negev).

128. The CEPSBSN shall deal solely with amending plans that are in force, as proposed by the Authority or with its consent.

129. The geographical area of jurisdiction ("the planning zone") for the CEPSBSN shall be limited to the area between the northern boundary of the Beer-Sheva Sub-District and the northern boundary of the Hevel Eilat Regional Council. The CEPSBSN will exist for seven years, and the Government will be authorized to extend this period for up to three more years.

130. The members of the CEPSBSN shall be:

- a. Commissioner of the Southern District and Chair of the District Commission – Chair of the CEPSBSN;
- b. The District Planner;
- c. A representative of the Authority, appointed by the General Director of the Authority;
- d. A representative of the Bedouin municipalities in the Beer-Sheva Sub-District, selected by recommendation of the mayors of these municipalities and appointed by the Minister of Interior;
- e. A representative of the Ministry of Construction and Housing, appointed by the Minister of Construction and Housing;

- f. A representative of the Ministry of Environmental Protection, appointed by the Minister of Environmental Protection;
 - g. A representative of the Ministry of Health, appointed by the Minister of Health.
131. The CEPSBSN shall be authorized to invite additional members of the District Commission to its discussions, as counseling observers only.
132. The CEPSBSN will have all the powers of the District Commission with regard to the planning entities entrusted to the CEPSBSN, including the power to receive objections and reservations.
133. The amount of time allowed for filing objections and reservations to detailed engineering planning promoted by the CEPSBSN shall be 30 days (instead of 60).
134. The CEPSBSN shall proceed according to the tracks for planning entities defined in the table below.
135. The District Commission, when discussing plans submitted by the Authority or plans falling within the jurisdiction of the CEPSBSN, shall act with all the powers of the National Council and of the Committee for the Preservation of Farm Lands and Open Spaces (CPFLOS).
136. The District Commission shall be authorized to deviate, in order to alleviate procedures, from instructions and planning standards, inasmuch as it considers these deviations to involve marginal affairs, if such alleviation of procedures allows promoting the enactment of a proper solution for Bedouin settlement.
137. The Planning Bureau at the Southern District of the Ministry of Interior shall be the professional body supporting the work of the CEPSBSN (in a manner similar to the relations between the Planning Bureau and the District Commission). For this purpose, regular senior staff shall be added to the Planning Bureau. It is unlikely that relying on the present staff alone would be sufficient to make the necessary achievements.
138. We have noted above the option of recognizing an unrecognized village that is “adjacent” to an existing recognized settlement by extending the limits of the latter to include the former. In this regard we should add here that in case a plan for such an extension is approved by the District Commission, such approval shall be considered as a recommendation to the Minister of Interior to include the territory in the planning

zone and municipal boundary of the existing settlement. The Minister of Interior shall have the authority to issue directives and maps announcing these changes in planning zones and municipal boundaries without establishing a Research and Boundaries Committee, as required by the Municipalities Order and the Local Councils Order, and without going through additional consultation procedures with planning authorities, as required by the Planning and Construction Law, based solely on the decision of the District Commission, and after municipal boundaries have been determined in the plan.

139. As for the establishment of new settlements, as part of the government decision on the creation of the new settlement and as part of the discussions of the National Planning and Building Council, as listed in the table below, a recommendation to the Minister of Interior regarding municipal division and the local planning zone shall be formed. In this case, too, the Minister of Interior shall have the authority to issue directives and maps announcing these changes in planning zones and municipal boundaries without establishing a Research and Boundaries Committee, as required by the Municipalities Order and the Local Councils Order, and without going through additional consultation procedures with planning authorities, as required by the Planning and Construction Law, based solely on the decisions of the government and of the District Commission, and after municipal boundaries have been determined in the plan.

140. The proposed procedure in the District Commission and in the CEPSBSN is detailed in the following table:

No.	Planning entity type	Required process	comments
1.	Amendment of detailed plan in force with no change in plan limits	<p>1. A new detailed plan shall not be debated and submitted. There will be an exemption from the requirement of preparing a new detailed plan.</p> <p>2. Detailed engineering planning, possibly at the level of building permits, with the proposed amendment, including the necessary changes, if any, to the</p>	Requires change in legislation and regulations

		<p>instructions of the current plan, shall be submitted for approval to the CEPSBSN.</p> <p>3. Following an initial discussion at the CEPSBSN, that would yield a new plan number, personal notice shall be given to land owners and the owners of adjacent lots, to receive objections and reservations from them within 30 days.</p> <p>4. After approval at the CEPSBSN, the Local Commission shall issue building permits to be realized based on the new “plan”.</p> <p>5. Once development works are completed, the Local Commission or the Authority shall submit new planning documents (drawings & instructions) to be ratified and documented (as is) for follow-up and future development in the planning zone these documents shall be published to come into force as required by law.</p>	
2.	Amendment of detailed plan penetrating into a spot zone, in the framework of approved plans	In order to issue building permits as soon as possible, the procedure shall be identical to the procedure for planning entity type 1.	Requires change in legislation and regulations
3.	A spot zone for residenti-	1. A detailed plan shall be prepared under the authority of the	Requires change in legislation and re-

	<p>al, institutional or other use, as part of a master plan that has been approved or is in force, without amending the plan boundaries</p>	<p>District Commission.</p> <p>2. Permits and exemptions from the National Council or the CPFLOS, if required, shall be granted by the District Commission.</p> <p>3. The plan shall be deposited for 60 days.</p> <p>4. To the extent amendments to the plan are required <i>after it was approved</i>, as part of the implementation process, the plan and amendments will undergo a procedure identical to that of planning entity types 1 and 2.</p> <p>5. Once the plan is approved, the planning zone and municipal boundaries shall be adjusted immediately to fit it by the Minister of Interior.</p>	<p>gulations</p>
4.	<p>An extension plan, for an area adjacent to an existing settlement.</p>	<p>1. Obtaining the opinion of the Authority for Enacting a Proper Solution for Bedouin Settlement.</p> <p>2. Exemption from the requirement to amend the District Master Plan.</p> <p>3. A local master plan, including detailed instructions, shall be prepared under the authority of the District Commission.</p> <p>4. Permits and exemptions from the National Council or the</p>	

		<p>CPFLOS, if required, shall be granted by the District Commission.</p> <p>5. Once the plan is approved, the planning zone and municipal boundaries shall be adjusted immediately to fit it by the Minister of Interior.</p> <p>6. To the extent amendments to the plan are required <i>after it was approved</i>, as part of the implementation process, the plan and amendments will undergo a procedure identical to that of planning entity types 1 and 2.</p> <p>7. Once the plan is approved, the planning zone and municipal boundaries shall be adjusted immediately to fit it by the Minister of Interior.</p>	
<p>5.</p>	<p>A new settlement in the Beer-Sheva Sub-District</p>	<p>First alternative</p> <p>1. A government decision and approval by the National Council of only a memorandum on establishing a settlement, according to paragraph 13.1 of National Master Plan 35, also regarding municipal division and planning zone.</p> <p>2. Promotion of a the Local Master Plan, skipping the District Master Plan, by the District Commission, acting with the full powers of the National Council and the CPFLOS.</p>	<p>A single planning authority shall discuss and decide on all planning issues related to the settlement.</p> <p>Requires change in legislation and regulations</p>

		<p>The plan shall be deposited for 60 days.</p> <p>3. To the extent amendments to the plan are required <i>after it was approved</i>, as part of the implementation process, the plan and amendments will undergo a procedure identical to that of planning entity types 1 through 4.</p> <p>4. Once the plan is approved, the planning zone and municipal boundaries shall be adjusted immediately to fit it by the Minister of Interior.</p>	
5.	A new settlement in the Beer-Sheva Sub-District (continued)	<p>Second alternative</p> <p>1. A government decision and approval by the National Council of only a memorandum on establishing a settlement, according to paragraph 13.1 of National Master Plan 35, also regarding municipal division and planning zone.</p> <p>2. Preparation of a detailed-level National Master Plan or a detailed-level District Master Plan for the settlement, which will provide the legal grounds for issuing building permits.</p> <p>3. To the extent amendments to the plan are required <i>after it was approved</i>, as part of the implementation process, the plan and amendments will undergo a</p>	

		<p>procedure identical to that of planning entity types 1 through 4.</p> <p>4. Once the plan is approved, the planning zone and municipal boundaries shall be adjusted immediately to fit it by the Minister of Interior.</p>	
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Building permits

141. The enormous number of illegal structures built by the Bedouins testifies to the fact that law enforcement is random and almost nonexistent. We heard no claim that the cases in which law was enforced, it was a result of some consistent policy. Indeed, the gap between the letter of the law and the degree to which it is realized is a multifaceted and complex phenomenon. However, in this case it is not a gap, but rather an abyss. One may say that the non-enforcement policy has solidified into a permanent pattern over the years. "This is a situation in which, faced with overt and repeated breaches of the law by the public, the Executive Branch adopts a clear and distinct policy of non-enforcement, which becomes acceptable to it and turns into a custom. The public gradually develops an expectation that the Executive Branch will continue in the same fashion, and the mutual relationships between the individual and the Executive Branch are thus based on this pattern of behavior, rather than on what the law states".³⁸

142. While we take note of the fact that it constitutes a breach of the law, if the illegal construction is within the boundaries set by a plan that is in force, and if granting a retroactive permit to the construction does not hinder the implementation of the detailed plan or the laying of common infrastructure or of infrastructure for a given lot – such structures would be defined by the Local Planning and Building Commission as "gray" structures, and the procedure for obtaining a retroactive permit for their construction shall differ from the usual procedure for obtaining a building permit set in the Planning and Construction Law. The aim of issuing such a permit is legitimizing the "gray" structure, thus also allowing to connect it legally to infrastructure. This procedure for issuing retroactive building permits to "gray" structures and the conditions and requirements for issuing such permits, such as the requirement of installing a Residential Secure Space, testing the structure's stability and the like, shall be set in legislation or in regulations.

This recommendation shall also be valid in the case of illegal construction in the unrecognized villages, and the proposed mechanism for granting a retroactive permit to

“gray” structures shall only be enacted once the final “blue line” is set for the transitional settlement, and only if it is decided that the unrecognized village would remain at its current location.

143. Structures that will not be defined as “gray” structures in an existing or transitional settlement, even if they are located inside the “blue line” of an existing or transitional settlement – be it because they conflict with a detailed plan or for some other valid reason, e.g. if the structure makes it impossible to lay infrastructure, lies on the route of a road, etc. – shall be destroyed. In this case too, the Chairperson of the Authority shall be authorized by law to issue an evacuation order from a land area on which this structure stands, subject to the right of appeal before an appeals committee, which shall be formed as described above.

Enforcement

144. Future law enforcement against illegal structures built after the committee has been formed is a completely different affair. From this point on law enforcement should be firm and intensive; otherwise there would be no point to our recommendations. Appearing before the committee, Eli Atzmon quoted Eliahu Nawi, former Mayor of Beer-Sheva, who described law enforcement in the Negev in the 1950s saying that north of the town of Gedera there is God and there is State rule, between Gedera and Beer-Sheva there is God, but no State rule, and south of Beer-Sheva there is neither God nor State rule. This description, valid for later periods as well, must become a thing of the past. Speaking at a committee hearing on the subject of law enforcement in the Negev, Adv. Yiska Leibowitz, Southern District Attorney (Criminal), said that it is difficult “to accept the notion that there is a sector of the population subject to a different legal system or to different rules”. Adv. Itai Bar, Southern District Attorney (Civil), added on this issue that the Bedouin sector would not come to respect the State of Israel unless the State of Israel respects itself and its own laws and begins to implement “law enforcement”. Well said. The lack of law enforcement significantly damages the public’s trust of State power and undermines the social order.

The Authority for Enacting a Proper Solution for Bedouin Settlement

145. The many years of stagnation in reaching an arrangement regarding land ownership and Bedouin settlement in the Negev, as well as the multiplicity of bodies that have dealt with Bedouin settlement in the Negev unguided by a single factor holding chief authority and responsibility for it, are among the causes of the intolerable situation we have reached, as described in the present report. For this reason the

government has decided to set up within the Ministry of Construction and Housing the authority, whose objectives and functions are listed in the Decision (Appendix 1). It is the opinion of this committee that not only will the Government Decision have to be revised to adapt it to the recommendations of this report, but also the committee fears that this authority, as set up by the Government Decision, will have difficulties coping with the implementation of the recommendations, when it is not this authority alone that bears the responsibility for implementation. Thus the committee recommends that the authority be set up as a public corporation mandated by law, to be the official body serving the purpose of that law.

Final remark

146. Paragraph 5 of the Government Decision (Appendix 2) states that:

“Before finalizing its report the committee shall hear the positions of the Attorney General, the Budget Departments [of the Ministry of Finance], a representative of the Ministry of Environmental Protection, the Israeli Land Administration and the Planning Administration in the Ministry of Interior, unless representatives of these bodies serve as committee members, regarding the implementation of proposals made in committee discussions”.

147. But clearly, this paragraph is not aiming to put in doubt that as the committee discussions near their end, its members will come up with proposals which they deem to be viable; otherwise they would not have made these proposals. It is also clear that the bodies and authorities mentioned in Paragraph 5, quoted above, are not supposed to serve as an “appeals committee”, as it were, on the proposals raised by our committee, and it is obviously not their task to raise counterproposals. The bodies listed in Paragraph 5 are only requested to give their opinion on whether the proposals are feasible, with this opinion being merely advisory for the members of the present committee, who alone were charged by the government with the task of making recommendations to it on the proper policy for enacting a proper solution for Bedouin settlement in the Negev.

148. This was the status in which the committee considered the responses received from the bodies listed in Paragraph 5 of the Government Decision, to which it passed the proposals that came up in its discussions.

149. One more comment on the same issue. As aforesaid, the Government Decision (Appendix 2) was to set up a committee that would make its recommendations as to the due policy for enacting a proper solution for Bedouin settlement in the Negev, and this

was the way in which the committee has operated. The proposals made by the committee thus aim to outline a *policy*. In this capacity, it was not and it should not have been the committee's business to descend to the finest detail of each issue raised by its proposals. The finer details will have to be filled in after the proposed policy is approved (as we hope it is) by the government.

150. The ??? shall determine the structure, function and powers of the Authority, as needed to fulfill its purposes.³⁹ Thus the Authority shall be an independent body, not sharing its powers with other governmental agencies. This status will strengthen the Bedouin public's trust of the Authority, a trust the Authority needs to succeed.

Conclusion

151. Not only the government, but also the Bedouin public has to realize that time is running out and any additional delay in finding a solution for Bedouin settlement in the Negev could be disastrous. The policy proposed in this report reaches a fair middle ground between the position of the State and that of the Bedouins. The State should aim to implement the proposed policy within 5–7 years, with the leaders and elders of the Bedouin sector joining the effort of promoting it.

152. Our recommendations are interdependent, like the links of a chain. The settlement problem cannot be solved without solving the land problem; the land problem cannot be solved without solving the settlement problem; and both these problems cannot be solved without finding a solution to the problems Bedouins are facing in such matters as employment, welfare and education (even though much has been done and large funds have been invested in this field). These problems cry out for a solution, as part of the complex of issues that need to be settled.

153. We should also add that incentives should be given to those who serve in the IDF and other security forces, so as to increase motivation for such service to past levels, and make the common fate of both the state and the Bedouins tangible.

154. It is no longer possible to turn a blind eye in law enforcement matters. Enforcement must be resolved and intensive, to deliver the clear message that the Negev is not the back yard of the country, in which state law is treated as a mere recommendation.

155. Lastly, the Negev, in the words of David Ben-Gurion,⁴⁰ is "the country's most dangerous weakness and its greatest prize". The proposed policy comes to cope with the danger and increase the prize.

Notes

- (1) Yossef Ben-David, "The Bedouins in the Negev, 1900-1960", *Idan*, 6, published by the Rachel Yanait Ben-Zvi Center for Jerusalem Studies, 1958 [should be 1985 – trans.], p. 82.
- (2) *ibid*, p. 84.
- (3) *ibid*, p. 86.
- (4) Moshe Duchan, *Land Law in the State of Israel*, 2nd ed, 1952/3, p. 39.
- (5) *ibid*, p. 41.
- (6) *ibid*, p. 47.
- (7) Chaim Zandberg, *Israeli Land, Zionism and Post-Zionism*, The Institute for Legislation Studies and Comparative Law, Faculty of Law, The Hebrew University of Jerusalem, 2007, pp. 145–146.
- (8) The Association for Support and Defence of Bedouin Rights in Israel Report. Aug. 1990, p. 55.
- (9) *Village Statistic Book*, 1943, p. 3.
- (10) Aharon Zohar, *Development Plan for the Beer-Sheva Valley*, 1982, p. J–8.
- (11) *ibid*, pp. J–8, J–9.
- (12) Y. Weitz, *The Power of Israel*, 1944/5.
- (13) Yossef Ben-David, *The Bedouins in Israel – Social and Land Aspects*, the JNF Institute for Land Policy Research and the Jerusalem Institute for Israel Studies, pp. 117, 119.
- (14) Emanuel Marx, "The Bedouin Society in the Negev", *Reshafim*, 1974, p. 17.
- (15) Arnon Soffer, "The Bedouins in Israel – Geographical Aspects", *Ofaqim be-Geografia* [Horizons in Geography] 68-69, Haifa University, 2007, p. 225.
- (16) See note 14 above, p. 37.
- (17) See note 1 above, p. 94, where the source is cited: Y. Ben-David, *Stages in the Development of Spontaneous Bedouin Settlement in the Negev, Shifting from Seminomadic to Permanent Settlement*, Ph.D. Dissertation, Hebrew University, Jerusalem, 1982/3, p. 55.
- (18) See note 1 above, p. 94.
- (18a) Arnon Medzini, "The Policy of Settling the Bedouins in Israel: Success or Failure?" *Ofaqim be-Geografia* [Horizons in Geography], 2007, p. 241.
- (19) See note 14 above, p. 37.
- (20) See note 1 above, p. 95.
- (21) See note 14 above, p. 89.
- (22) The drawing appears in: Chanina Porat, "The Negev Bedouins, Conflict and Controversies on the Issues of Land Ownership and the Creation of Permanent Settlements, 1960-1973", *Cathedra* 126, Yad Ben-Zvi, 2007, p. 138.

- (22a) Arnon Soffer, *Israel, 2007–2020, On Demography and Density*, 2007, p. 76.
- (22b) *Mishpat u-Mimshal* [Law and Government], 11(2), 2008, pp. 473, 498.
- (23) See note 13 above, p. 261.
- (24) See note 10 above, p. J–15.
- (25) See note 8 above, p. 19.
- (25a) Document by the Bedouin Administration, 19 May 2008.
- (26) *Piskei Din* [Court Sentences], 38(3), 1984, p. 141.
- (27) *Public Statement: Supporting the Recognition of and Finding a Solution for the Bedouin Villages in the Negev*, submitted to the committee by a group of researchers and lecturers.
- (28) *Piskei Din* [Court Sentences], 16, 1962, p. 1717.
- (29) *Report by the Parliamentary Investigation Committee on the Bedouin Sector in Israel*, 1996.
- (30) *Annual Report 52b*, 2002, pp. 100–102.
- (31) Committee hearing of 17 Feb. 2008, p. 124.
- (32) Committee hearing of 14 Feb. 2008, pp. 55–56.
- (33) Eli Atzmon, in a presentation submitted to the committee.
- (34) High Court of Justice case 8002/05, El-Atrash vs. The Minister of Health *et al.*
- (35) High Court of Justice case 2778/05, Ramat Negev Regional Council vs. The Prime Minister *et al.*
- (36) See note 29 above, p. 21
- (37) Committee hearing of 13 Apr. 2008, p. 6.
- (38) Michal Tamir, *Selective Enforcement*, Nevo Publishing, 2008, p. 31.
- (39) Yitzhak Zamir, *Administrative Authority*, vol. 1, 1996, p. 381ff.
- (40) In his article “The Significance of the Negev”, 17 Jan. 1955.

Committee Members' Comments

Committee Member, Mr. David (Dudu) Cohen

I accept the position of the Chair of the Committee, with the reservations and additions listed below:

Reservations

1. **In paragraph 91 – the whole paragraph should be deleted.** The first part of the paragraph repeats things already said in paragraph 85. I have reservations regarding the rest of the paragraph, beginning with the words: “and not on claims of ownership of grazing areas. On these lands the tribe has only the permission to herd. It would be stated in the law that the arrangement does not include them”. I believe this statement may fatally undermine the chances of finding a solution, inasmuch as the relative amount of grazing lands in the total registered land ownership claims reaches dozens of percent.
2. **In paragraph 82 – the notification mechanism should be changed from a negative one to a positive one, i.e., whoever once filed an ownership claim should notify of his agreement to the proposed arrangement.** The reason for this is the normative perception and behavior in the Bedouin population, according to which, so long as the Bedouin who claims ownership has not announced his agreement to the arrangement, the conflict remains in place, even if the State believes that failing to announce the refusal to join the proposed arrangement should be considered as a sign of agreement.
3. **In paragraph 90 – at this stage the land conflict should not be broadened.** The implementation of paragraph 90 should be considered only after most of the land ownership claims that have been filed have been settled.
4. **In paragraph 140 – the Authority for Enacting a Proper Solution for Bedouin Settlement should be a government-appointed body implementing government policy, rather than a statutory public corporation, as recommended in the report.**
5. **In paragraph 102 – the ratio of ownership.** Today too, the state distinguishes between land ownership claims for areas above and below 400 dunams. Therefore, in claims of more than 400 dunams, 20% should be added to the result one gets *after* the ratio of ownership is calculated according to the rules set out in the report, and then the monetary conversion can proceed according to the table.

Additions

1. It should be added that the priority in implementing the proposed arrangement should be given to lands in use and lands within settlements, so that it could be “rezoned” for other uses, including allocating ownership ratios for

ownership claims outside the region and providing housing solutions within the permanent settlements.

2. As for the issue of ownership ratio, it should be added that no distinction should be made between a claim for ownership of lands in use and claims of ownership of vacant lands, so as to avoid "rewarding delinquency", to avoid new invasion of unused lands and to create an equitable and fair situation, in which the arrangement can be implemented.
3. To paragraphs 93 and 94 it should be added that the claims committee, when determining the net ratio of ownership and the monetary compensation would, among other option, consider a mechanism of uniting and re-distributing within the limits of the "blue line" so as to distribute the load of allocation for public use, the mechanism of land improvement taxing for calculating the difference between the original use of the claimed land and the new use, set out in the plan, all that with the purpose of making the decision of the claims committee integrative and complete.

Committee Member, Ms. Bilha Givon

I accept the position of the Chairperson of the Committee as stated.

The members of the committee have listened for many days and hours to positions, attitudes, professional opinions, research and knowledge, have read many materials related to the subject, and after listening to all those who appeared before it, the committee reviewed, pondered and discussed each and every paragraph in the earlier drafts of its opinion.

To the best of my understanding, the Chairperson's position, as stated above, reflects my own position, and implementation should commence as soon as possible, so as to put an end to the intolerable situation that exists at present. Any delay, indecision and inaction would not only perpetuate the situation, but would lead to further deterioration. No doubt, [these recommendations] will be tested by their implementation.

Committee Member, Adv. Yoram Bar-Sela

I agree with the opinion expressed by the Chairperson of the Committee as stated.

Committee Member, Mr. Faisal el-Huzayel

Principles for agreements with the Negev Bedouins

General background:

The Bedouin population of the Negev today is more than 180,000 people, most of them younger than 20 years old.

Most of the population lives in unrecognized villages or in unregulated housing within the limits of recognized settlements.

Most of the population lives in unstable structures, tin shacks and light buildings without running water or connection to a sewage system.

Most of these buildings are subject to legal injunctions under the Planning and Construction Law.

Most of the lands within the boundaries of existing and new permanent settlements are claimed by other Bedouins, which prevents population and development for many years.

Dozens of thousands of young couples have no proper housing solution, and live in disgraceful conditions.

Most of the population, especially children and youths, is under the poverty line, according to reports by the Central Statistics Bureau and Welfare Offices.

About 65% of the labor force is unemployed and subsists on welfare only.

The permanent settlements offer no employment options to the population, and especially to women, who could have made a contribution to their families' livelihood.

Infrastructure in most settlements is poor. There is no public transport.

Most settlements have no independent sources of income and the municipalities find it difficult to function properly and to provide proper basic services to their residents.

Historical background:

Most of the population consists of traditional Bedouins, who were nomads once and have been evacuated and shifted from their lands to other areas of the Negev as a result of a decision made by the military and the state.

The Bedouins who remained in Israel tied their fate with that of the state, as they were promised that no harm will be done to them and that their rights will not be restricted.

Most traditional livelihood has been liquidated because of economic unfeasibility and lack of open lands.

The traditional leadership, which lead the population based on its tribe and clan structure has disappeared, and today traditional frameworks are disintegrating, which bolsters negative processes in society.

The accelerated process of urbanization, forced upon the population, does not fit its traditional religious and tribal character.

The existing policy for settling the Bedouins in permanent settlements and solving their land conflict with the state has failed miserably.

Expectations from the committee:

I decided to join this committee as a member while taking a great risk, but also with the hope of a chance to promote the Bedouin population, to which I belong, and to end its continuous suffering.

The time spent studying the subject and hearing testimonies was fascinating. I too learned that the scope of the problem is larger than I had thought and that it is our duty to propose a fair and viable solution.

I drew encouragement from the Committee Chairperson's words that there will be recommendations made to help promote the issue, and especially from the emphasis made on the importance of their feasibility.

After a long period of work and of forming the recommendations I am more than disappointed. My heart aches to see another opportunity for a historical agreement with the Bedouins lost, because of mental stagnation by state officials, who crucially confused the committee members and led to recommendations that would make things even worse than they were.

Manipulating the data and proposing a seemingly fair solution, while limiting its time and making entitlement criteria tougher without making any recommendations on settling tens of thousands of families in permanent settlement give the impression that the state continues to prefer a forced solution, rather than an agreed one, and that it alone will determine the conditions for the arrangement, whether the population agrees to them or not.

This was exactly the situation that I feared, but I believed that the government's willingness to set up an authority and appoint this honorable committee, headed by you, heralds a commitment to a different attitude, and I admit I was disappointed once more.

My attempts to influence the position of the Committee Chairperson and of other committee members, who forced their opinion on him, and eventually shaped the content of the report, while disregarding a whole population, awaiting change and hopeful news from the committee [were in vain].

My main recommendations:

On the subject of entitlement to lands

Any land ownership claim submitted shall be examined by experts and deemed justified based on criteria of tenure and continuous cultivation since the 1940s.

Any Bedouin resident of the Negev and Israeli citizen, who lives in a recognized or an unrecognized settlement and who has claims of ownership over lands in the Negev is to be considered a claimant.

The monetary compensation for land shall be calculated according to the area in which the land is located, rather than according to a table dictated by the Ministry of Finance and divorced from reality.

Compensation in land shall be raised to 50% for agricultural land, whether or not it was cultivated in the past.

Prosecution or expropriation of any kind by the state shall not prevent land claimants from claiming and receiving compensation from the state.

For land ownership claims within settlements, the claimants shall receive at least 50% of their substitute land within the limits of the settlement.

Claimants shall have the option to trade their monetary compensation for building and industrial development lots at a reduced cost.

Legal procedures on counterclaims shall be halted for the time of the implementation of the solution, and shall be resumed on an individual basis at the end of the period of time defined above.

Substitute lands allocated under the proposed arrangement shall be registered under the claimants' names in the Land Registry (*Tabu*) at the state's expense, within 3 years from the time at which they are passed into the claimants' possession.

All compensations paid to claimants under this paragraph shall be exempt from all taxes.

On the subject of evacuating dispersed unrecognized settlements:

- a. Every citizen aged 18 or above who, or whose family, has not moved to a permanent settlement in the past and have received no compensation for moving, shall be entitled to receive compensation and benefits under this paragraph.

Compensation for fixtures shall be paid according to an appraisal table that would be updated annually.

All buildings constructed before the publication of this report shall be recognized for the purposes of compensation.

The legal procedures against such building shall be halted and the timetables for enforcement shall be coordinated with the timetables for evacuation set by the Authority.

All those entitled shall receive a developed lot in one of the permanent settlements free of charge.

Every evacuee and his family members shall have the moving expenses covered up to a sum *per capita* determined by the appraiser and the Chairperson of the Authority.

Every evacuated family shall receive professional assistance in its process of adaptation to life in the permanent settlement.

Evacuees shall be entitled to receive mortgage loans with state collateral.

Families with many children shall receive special assistance in the process of their evacuation and absorption in the settlement.

Business owners, who manage businesses in one of the unrecognized villages, shall receive special compensation and a lot for reopening their business in the permanent settlement under special conditions to be determined by a special committee within the Authority.

Small businesses shall be guaranteed accompaniment and assistance by the state for 5 years from the date of evacuation.

On the subject of creating new settlements:

- a. A special committee shall be formed in the Ministry of Interior to promote the creation of new settlements and quarters and to make the necessary procedures briefer.
- b. Settlements shall be created for organized groups, to match their character, and shall be planned with their participation.
- c. Improving the infrastructure in existing settlements is of paramount importance for building for the next generation and for the evacuees.
- d. The government shall commit to a national program for the improvement of employment situation in Bedouin settlements.

Committee Members, Mr. Sharon Gambasho and Mr. Yossi Ishai

Our position on the report of the Committee for Suggesting a Policy for Reaching a Proper Solution for Bedouin Settlement in the Negev

Out of a sincere desire to solve the national problem facing us, we agree to the committee report with the reservations listed below:

1. Extending the scope of land ownership claims (paragraphs 89 and 90)

The report includes a recommendation to extend the proposed arrangement also on lands on which a decision has already been made, and which have been registered as belonging to the state after no ownership claims have been submitted. This means adding some 270 thousand dunams to the approximately 590 thousand dunams that remain to be decided on.

We wish to register our reservation from this recommendation, because it implies that past procedures for deciding land ownership, enacted according to law, were less than fully legitimate. Moreover, we believe that extending the scope of land ownership claims would increase the differences in position between the Bedouin population and the state and will escalate the land conflict in case the proposed solution fails.

Joining the proposed arrangement by default (paragraphs 82 and 83)

We believe that making the acceptance of the proposed arrangement a default option would undermine the validity of the assent given by those who claim ownership of lands to the arrangement. It will be impossible to decide whether the lack of response by those claimants should be interpreted as silent acceptance or whether they chose to ignore arrangement the state proposed. We therefore propose that joining the arrangement would be accomplished by positive assent, committing those who claim land ownership to it.

Conditioning the proposed arrangement upon most land ownership claimants' acceptance of it

In principle it would have been proper to decide on the proposed arrangement in agreement with the elected representatives of most land ownership claimants. Since this is not possible, in view of the population's desire for reaching individual arrangements and the lack of proper representation, we believe that at the very least a majority of land ownership claimants has to agree to join the arrangement before it can be implemented. Moreover, if most land ownership claimants join the proposed arrangement, this would make it clear to the state that most of the Bedouin population accepts it, before implementation begins, would give the arrangement public legitimacy and would make it easier to cope with the obstinate minority. The lack of such conditioning could bring the proposed solution to failure and to make it into the starting point for future negotiations between the state and the land ownership claimants.

Registration of the land ownership ratio within the bounds of the original claim (paragraphs 86, 105 and 107)

We believe that the registration of the land ownership ratio within the bounds of the original claim should be limited only to cases in which such registration does not hamper planning policy, the ability to develop infrastructure, finding housing solutions for the Bedouin population and allocating lands for public use. As explained in the position papers submitted by the Israel Land Administration and the Planning Administration in the Ministry of Interior, presented to us, assigning property rights regardless of the planning situation would make it difficult to implement [the current] planning policy and would require the use of various expropriation instruments, the application of which is a very difficult matter. In addition, this would perpetuate the phenomenon of illegal construction in a population that does not distinguish between ownership rights and building rights. Furthermore, granting extensive areas of land to few people within the limits of existing or planned settlements would create difficulties in finding housing solutions for the landless Bedouin population and hamper the normal development of the settlements. We therefore believe that the area of land given to a land ownership claimant within the bounds of an existing or planned settlement should be limited. Moreover, we believe that in case lands will have to be allocated for public needs, it would be better to do that in advance, and not after land ownership has been registered for the claimants, when expropriation instruments would have to be used.

Allocating part of the ownership ratio within the limits of a settlement (paragraph 105)

The report states that for a land ownership claim for lands located wholly outside the limits of a settlement, part of the ownership ratio in land shall be allocated within the limits of a settlement, so that the claimant or his heirs would have a housing solution. We believe that the principle behind this is justified, but it should be stated that such land allocation would be made in accordance with standards and rules set out by the

government. In addition, since lands within the limits of settlements are more expensive than lands outside the limits of settlements, a conversion rate based on land worth proportions should be set to calculate the area of land deduced from the ownership ratio lands outside the settlement and the substitute lands inside a settlement.

Deciding on claims for which there is disagreement between the heirs of the original claimant (paragraphs 93 and 96)

Assuming a majority of heirs wishes to join the proposed arrangement, it should be made clear that the Claims Committee decision shall only apply on those heirs that have joined the arrangement. Otherwise the obstinate heirs would directly or indirectly draw benefits from the decision of the Claims Committee in the cases of the other heirs, which would create a negative incentive for joining the arrangement.

Recognizing unrecognized settlements and the creation of new settlements (paragraphs 108–116)

On the whole, we believe that settlement solutions should be provided as much as possible within the settlements that exist or are planned to be created today. Furthermore, we believe there should be no individual recommendations on settlement solutions for particular populations, and each case should be examined on its own merits, based on equal criteria set based on this report. As the report itself states in its concluding part (paragraph 144), the committee's recommendations are intended to outline a policy, and not deal with the details of the proposed solution.

Moreover, we believe that it should be the responsibility of the government to set additional criteria for the recognition of unrecognized settlements and the creation of new ones, including criteria that have to do with planning policy, with a minimal mass of residents, economic viability and the feasibility and cost of extending infrastructure to these settlements.

Retroactively approving illegal structures (paragraphs 135–138)

We believe that the recommendation on halting law enforcement against illegal structures should not be set in law. Such a legal provision would create obvious difficulties in enforcing the law on many other structures, as presented in the Attorney General's position. Instead, we believe that changing the policy of law-enforcement agencies in accordance with the recommendations of this committee would be sufficient. However, it should be emphasized that we view the committee's recommendations on retroactive approval of illegal structures as following from constraints that are the result of the situation on the ground, and are totally *ex gratia*; they are not the result of negligence by law enforcement agencies or of a policy of non-enforcement, as the report presents them to be.

Implementation of the proposed policy by the government (paragraphs 84 and 140)

We believe that statements going beyond issues of policy and purporting to determine how the government is to allocate its resources when implementing the committee's recommendations should be avoided. In addition, we believe that the Authority for Enacting a Proper Solution for Bedouin Settlement in the Negev will not be able to replace the relevant government departments and that therefore the implementation of the recommendations contained in this report would require the mobilization of all governmental mechanisms in any case. It is thus unclear what is the benefit of recommending that the Authority be a public corporation mandated by law. We request that our detailed reservations listed herein be appended to the committee's report.

Committee Member, Mr. Ahmad el-Assad

1. Paragraph 83 – the proposed arrangement shall not apply to a claimant who has announced that he does not accept the proposed arrangement within the time limit set. The time limit may not be extended. Instead of “may not be extended” – the issue shall be reviewed by another committee that would examine how the matter shall proceed.
2. Paragraph 26, a reservation – if the claimant failed to appear before the committee, failed to arrive at the committee hearing or has retracted his claim, half of the land, rather than all of it, shall be registered as owned by the state.
3. Paragraph 86 – shall not apply to those who claim land ownership and have actual tenure on the land or have continuously cultivated it since the time the State [of Israel] was established.

If the claimant has retracted his claim, half of the land will be registered as state-owned, and the other half will be in the status of an unresolved claim.

4. If as part of the arrangement, the claimant receives 50%, subsequent substitution should not be mandatory.
5. As part of the land ownership claims arrangement, the claimant shall receive half of his claimed lands, and will not be obliged to convert 60% of the substitute lands into monetary compensation. This applies to claimants who have cultivated and held tenure over the claimed lands continuously since before the establishment of the State [of Israel].

Land ownership claimants who have not had tenure and have not cultivated the claimed lands shall receive 20% of their claims as compensation.

In order to join the proposed arrangement and receive compensation in lands the claimant has to claim at least 50 dunams.

A person who claims ownership of less than 50 dunams shall be entitled to monetary compensation only, and shall not be entitled to compensation in lands.

Any person who claims ownership of lands within the limits of a settlement or of a planned blue line [and who] shall be entitled to receive the 50% compensation in land shall be allowed to market or develop his lots for marketing instead of receiving compensation from the state.

6. I agree with the position of Mr. Dudu Cohen.

APPENDICES

Appendix 1

Minister of building and housing

23.12.08

To the respected,

The respected judge Eliezer Goldberg, Judge of the Supreme Court – chairman of the sitting

- Mrs. Belha Givon
- Attorney Yoram Bar Sela
- Mr. Faysal al-Hazayl
- Mr. Ahmad al-Asad
- Mr. Dudu Cohen
- Mr. Yossi Shay
- Mr. Sharon Kamsho

Greetings,

The subject: appointment letter

According to the decision of the state number 2491, dated 07/10/28, and according to the decision of the state 1999, dated 15/07/07, I appoint you as a member of the committee, which shall advise the government about the procedures for the regulation of the residence of the Bedouin in the Negev and in general to make recommendations to modify the law.

As chairman of the committee will be appointed Eliezer Goldberg, judge of the Supreme Court.

The committee will bring forward its recommendations in order to form a comprehensive plan, which is large-scale and attainable, which will define the conditions for the settlement of the Bedouin in the Negev in general, the amount of compensations, the regulations for the allocation of alternative lands, urban amenities and a time schedule to translate the regulations in legal directives, as required.

Minister of building and housing

The committee relies for its task on the report, which it has received from the government, concerning the budget and the amount of land, which can be provided for. The report of the government concerning the budget and the available land will be decided by a commission headed by the director of the office of the Prime Minister and the representatives of the Ministry of Finance and the Ministry of Building and Housing.

Before the presentation of the report, the committee will hear the opinion of the legal adviser of the government, the financial department, the director of the Israeli real estate and the director of planning of the Israeli Ministry of Interior about everything concerning the implementation of the recommendations of the committee, on the condition that the representatives of these departments are not members of the committee.

The recommendations are presented to the minister of Building and Housing, if attainable, six months after the beginning of the activities of the committee.

The recommendations will be submitted by the minister of Building and Housing to the Prime Minister and the government.

I wish you a successful realization of this task,

With respect,
Zeev Boim

CC. Mr. Oved Yeheshkyel, secretary of state

Appendix 2

Governmental decision number 2491 dated 28.10.2007.

Government number 31 Ehud Olmert

Subject of the decision: composition of the committee for the procedures for the regulation of the residence of the Bedouin in the Negev

We decided: Modification of governmental decision number 1999, dated 15.7.2007, in which article (C) of the decision is replaced by the following:

1. The Minister of Building and Housing is charged with the appointment of a committee , which advises the government about the procedures for the regulation of the residence of the Bedouin in the Negev and in general to make recommendations to modify the law.
2. The committee is limited to 8 members:
 - (a) Judge of the Supreme Court , who is appointed by the minister of Building and Housing – chairman of the committee
 - (b) Community representative, who is appointed by the minister of Building and Housing
 - (c) Community representative, who is appointed by the minister of Building and Housing

- (d) Community representative of the Bedouin community, appointed by the minister of Building and Housing
- (e) Community representative of the Bedouin community, appointed by the minister of Building and Housing
- (f) Governmental representative, appointed by the minister of Building and Housing
- (g) Governmental representative, appointed by the Prime Minister
- (h) Governmental representative, appointed by the minister of Finance

In case of equality of votes, the opinion of the chairman of committee is predominant. The opinion of the minority will be incorporated in the report.

3. The committee gives its recommendations in order to form a comprehensive plan, which is large-scale and attainable, which will define the conditions for the settlement of the Bedouin in the Negev in general, the amount of compensations, the regulations for the allocation of alternative lands, urban amenities and a time schedule to translate the regulations in legal directives, as required.

4. The committee relies for its task on the report, which it has received from the government, concerning the budget and the amount of land, which can be provided for. The report of the government concerning the budget and the available land will be decided by a commission headed by the director of the office of the Prime Minister and the representatives of the Ministry of Finance and the Ministry of Building and Housing.

The commission will end its when the committee starts its work, as mentioned in the following article 9.

5. Before the presentation of the report the committee will hear the opinion of the legal adviser of the government, the financial department, the representative of environment and nature protection, the director of the Israeli real estate and the director of planning of the Israeli Ministry of Interior about everything concerning the implementation of the recommendations of the committee, on the condition that the representatives of these departments are not members of the committee.

6. The committee bases its task on the physical infrastructure from the Ministry of Building and housing. The expenses of the committee will be refunded according the application of article 3b from the governmental decision number 1999, dated 15.07.07

7. The recommendations are presented to the minister of Building and Housing, if attainable, six months after the beginning of the activities of the committee.

8. The recommendations will be submitted by the minister of Building and Housing to the Prime Minister and the government.

9. The committee will note that the minister of Building and Housing informed her that judge Eliezer Goldberg accepted the appointment to be the chairman of the committee and that the committee will start its activities at the beginning of January 2008.

Appendix 3

Decision of the state number 1999 dated 15.07.2007

Government number 31 Ehud Olmert

Subject of the decision: composition of the committee for the regulation of the residence of the Bedouin in the Negev.

Decisions: (a) According to governmental decision number 881 (-----15), dated 19.07.2003 and number 631, dated 05.11.2006, from the ministry of Building and Housing regarding the composition of the committee for the procedures for the

regulation of the residence of the Bedouin in the Negev and the role, the duties and the organizational structure of the committee as follows.

(1) The role of the committee:
the regulation of the residence of the Bedouin in the Negev

The organizational structure of the committee is to enable the committee to fulfill its role and its duties efficiently, as following:

(a) The committee functions within the framework of the Ministry of Building and Housing.

(b) Besides this committee an attached committee will be composed in order to remove obstacles in order to regulate the residence and to improve the efficiency of the committee. This attached committee will be headed by the general director of the Ministry of Building and Housing.

(c) The committee has a institutional (?) structure, whose function is to compose the work scheme of the committee and to advise the director of the committee about everything related to the realization of the procedures of the committee.

The committee is composed of 21 members, of whom: 14 appropriate official representatives

(building and housing – chairman of the session, finance, justice, education, interior, industry, commerce and employment, health, social affairs, tourism, development of al-Jalil and the Negev, interior security, agriculture and the development of the villages, environment and nature protection, public transport and safety on the roads.

And 7 community representatives, whom

Note translator: this page is not complete in the Arabic version !!

Appendix 4

Register (List?) of the persons who were heard by the committee

1. Dr. Yusuf Ibn Dud
2. Dudu Cohen
3. Attorney Havatselet Yael

4. Ilan Yeshurun
5. Dr. Khalil Abu Rabiah
6. Professor Ismail Abu Said
7. Professor Gedaon Carsel
8. Chayr al-Baz
9. Faysal al-Huzayl
10. Ahmad al-Asad
11. Hussein ar-Rafayaah
12. Amram Kelaag
13. Ahmad al-Asad
14. Jaber Abu Kaff
15. Mansur Abu Ajaj
16. Eli Atsmon
17. Dr. Shlomo Sperski
18. (-----) Mohammad Abu Sawlab
19. Abu Ashiba Aid
20. Salman Abu Hamid
21. Ofir Shoham
22. Ahmad Nasasrah
23. Dr. Yitshak Nepo
24. Aqil Talalqah
25. Sayyah Abu Madghim
26. Dhawkan Atawnah
27. "Bilmakan" Company
28. Atiya al-Azzam
29. Inad al-Isam
30. Azulay Pinchas
31. Musa Abu Asa
32. Nayif Abu Arar
33. Yeshay Shechter
34. Abu Sabih Ibrahim
35. Eli Ibn Zakan
36. Sheich Jumah al-Kashchar
37. Umar Abu Asa
38. Amal as-Sannaa
39. Ahmad Nasasrah
40. Dr. Ilana Palmekar
41. Ishaq Abu Hamid
42. Sheich Ayyad Abu Rashid

43. Meir Deutsch
44. Alanamy Suliman
45. Ariel Mariott
46. Benny Bitch
47. "Ma'ak" Company
48. Dudik Shoshany
49. Eli Levi
50. Professor Robert Yolon
51. Orlay Almi
52. Company for the Protection of Nature
53. Talal al-Karnawi
54. Abu Fraihah Udah
55. Yoval Karflos
56. Sheich Udah Zenzen
57. Lashkidal "Group Mirkam Yoraham"
58. Attalah Abu Aidah
59. Mohammad an-Nabbari
60. Meir Saar and Shmoel Rivman
61. MK. Dr. Yossi Beilin
62. Attorney Nissim Kuwayti
63. MK. Chaim Oren
64. MK. Professor Aryeh Eldad
65. Professor Avinoam Meir
66. Elayyan Jumah
67. Professor Oren Yiftahel
68. Organization for Human Rights
69. Dr. Mohammad al-Anbari
70. "For mutual understanding"
71. Attorney Rami Damari
72. Forum for Coexistence
73. Professor Arnon Sofer
74. Yoav Morag
75. Udi Frawar
76. Uri Frennerfelt
77. Dr. Yeela Ranaan + Regional Council for Unrecognized Villages (RCUV)
78. MK. Tsipi Handel
79. Dr. Nelly Shori and attorney Yehudit Kraf
80. Avi Dotan
81. Lieutenant Colonel Menashe Arviv

82. Adar Avnenu Am Levin
83. Yacov Turner
84. Dr. Sandy Kidar
85. Ibrahim al-Hawashilah
86. Khalil al-Kurum
87. Dr. Zohar Aharon
88. Said al-Harumi
89. Dr. Yehuda Paz
90. Yunis al-Atrash
91. Physicians for Human Rights
92. Moshe Faol – M.A. Bnei Shimon
93. Ibrahim Abu Afash
94. Attorney Havatselet Yaham
95. Attorney Shmoel Silberman – Tarabin Tribe
96. Musa Abu Krinaat
97. Meir Cohen
98. Attorney Iti Bar
99. “Organization Rights of the Citizens” (= civil rights ??)
100. Attorney Yiska Lebovich
101. Yisrael Pudik
102. “Organization for the development of water rights”
103. Shamay Asif
104. Nuri al-Okbih
105. “Forum for Acquaintance”
106. Dr. Ibrahim al-Amur
107. Gilead Altman and the “Center for Zionistic Strategy”
108. “ The Company for (-----)”
109. Amira Hayim
110. “Center for Jewish Pluralism”
111. Professor Emanuel Marx
112. Attorney Sami Abu Ayash
113. Professor Moshe Ahrens
114. Attorney Mohammed Amara “Harvard University”
115. Professor Moti Meroni
116. Ali al-Qaran
117. Dr. Chaim Serpero

Appendix 5**The existing Bedouin villages**

Name of the village and its number at the map.		Other names	Number of inhabitants	Social structure	Governmental place/ area
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				Origins of the inhabitants	Original family	
1	Dahiyah		700	Dislodged foreigners	Huzayl, Abu Wadi, Abu Hurmah, al-Buheeri	Bani Shimon
2	Khirbat Zubalah		800	Original inhabitants and Dislodged foreigners	Huzayl, Nimr, Hamulat Obeid	Bani Shimon
3	Karooch/ al-Araqib		2300	Original inhabitants	Toori, Widad, Waj, Zayadneh, Nasayrah, Abu Hodayb,	Bani Shimon

						Obeid, Tarabeen, Abu Haddubah, Turshan, Sbetat	
4	Umm Nmeelah			1700	Original inhabitants	Zayadne, Zwaydeh, Huzayl	Bani Shimoon
5	al- Musaadi yyah			600	Original inhabitants	Asad, Obeid	Bani Shimoon
6	Awajan			2100	Original inhabitants	Asad, Marahleh, Nibari, Hajuji, Abu Jaber, Talalqah	Beersheva and Bani Shimoon
7	Al- Muchay man			1100	Original inhabitants	Abu Tares, Abu Haddubah, Abu Khubbezah, Wajili, Abu Darwish	Omer and Bani Shimoon
8	Tarabeen as-Sanea	recogniz ed	Umrah	1000		Tarabeen as-Sanea	Abu Basmah

	Name of the village and her number at the map.		Other names	Number of inhabitants	Social structure	Governmental place/ area
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					Origins of the inhabitants	Original family	
17	Albat			1100	Original inhabitants	Abu Subayh, Abu Wadi, al-Bubayyat, Abu Rawamneh, al-Obeid, ar-Rabit, Ibn Salam, Marahah, Farawneh, Abu Jhehiyyeh	Jaliliyyah Area
18	Al-Hamra h			900	Original inhabitants	Qreshat, Qaran, Hassuni, Abu Rabiah	Jaliliyyah Area

19	Tal al-Millah			850	Original inhabitants	Abu Musaid, Sarayah, al-Maabdeh	Jaliliyyah Area
20	Al-Beherah			1800	Original inhabitants	Ghanami, Abu Mathashah, al-Juwayni, al-Suroor, al-Hash, Farawneh	Jaliliyyah Area
21	Katmat/al-Mathar			1250	Original inhabitants	Ghanami, Abu Uwaymer, Ibn Surrah, Farawneh. Al-Juwayni, al-Hash, Qaran	Jaliliyyah Area
22	Gaza			550	Original inhabitants	Al-Budoor, Sarayah, Maabdeh, Abu Ayyad	Arad, Jaliliyyah Area
23	Tal Arad			850	Dislodged foreigners	Kashkar, Waj, Khamayseh, Nabari, Atrash, Sannaa, Nasasrah, Ammoor	Jaliliyyah Area
24	Kahlah			500	Original inhabitants	Abu Rabia, Abu Ayadah	Abu Basmah

25	Drejat	recognized		1050	Original inhabitants	Dreghat	Abu Basmah
26	As-Surrah			450	Original inhabitants	Nasasrah, al-Omer	Jaliliyyah Area
27	Al-Zarurah			2900	Original inhabitants	Abu Judah, Abu Jabboah, Ammoor, Nasasrah, Hassuni, Dararghah, Abu Ayadah, Abu Ajaj, Dada	Arad, Jaliliyyah Area
28	Al-Forah	To be recognized	Al-Juran	3900	Original inhabitants	Jabboah, al-Dahabshah, Joraan, Dararghah, al-Majnun, Khamayseh	Arad

Note translator: Village 29 t/m 33 and the end page notes are missing in the Arabic version

	Name of the village and her number at the map.		Other names	Number of inhabitants		
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					Origins of the inhabitants	Original family	
34	Khashm Zannah			2300	Original inhabitants	Athamin, Abu Gnemah, Abu Jowaydar, Hmedat, Afawi, Abu Khoti, Aasam	Jaliliyyah Area
35	Ash-Shahbi/ Abu Tlool			4000	Original inhabitants	Abu Sbelah, al-Asm, al-Fayyum, al-Hamidi, Abu Qtifah, Abu Hadubah, Imrani, Abu Jarbia, Rabaya, Nbari, Hamidi	Jaliliyyah Area
36	Wadi al-Mashash			900	Dislodged foreigners	Abu Hazail, Zanun, Azazmah, Abu Zaabut, al-Walidi, ar-Rahif, al-Zanid	An-Naqab Plateau
37	As-Sirr			2100	Dislodged foreigners	Abu Maaruf, al-Harumi, Abu Rasis, al-Amrani, ar-Ratil	Beersheva, Jaliliyyah Area
38	Wadi an-Na'im		Al-Azazmah	4800	Dislodged foreigners	Azazmah, Mhammadin, Masudin,	Jaliliyyah Area

						Sarahin, Asiyyat, Swahnah, Farhin, Sbehat, Mrabat, Zarbah, Zayadnah, Hasnat, Abu Afash	
39	Al- Mazraa h/ Ash- Shahab			580	Original inhabitants	Al-Bdur, Abu Diyah, al-Waj, Abu Amer, al- Zarjan, al- Mahdi,	Jaliliyyah Area
40	Umm Ratam			950	Original inhabitants	Al-Mahdi, al- Jol, Abu Sbeh	Jaliliyyah Area
41	Rakhm ah			1200	Dislodged foreigners	Ibn Amran, al- Hrinj, Klab, Frejat, Awarjan, Sajayrah, Mahasnah, Tawasin, Dalalah, Abu Karshen, Ahmadad, Kshejer, Atayqah	Yiroham, an- Naqab Plateau
42	Kasr as- Sirr	recogni zed	Al- Hawas hlah	2900	Original inhabitants	Hawashlah, Amrani, Abu Salb	Abu Basmah
43	Abu Kreinat	recogni zed	Umm Matnan , Beet Falt	4059	Original inhabitants	Abu Ghrenat, Ghanami, Jol, Abu Sbeh, Abu Rashed, Abu	Abu Basmah

						Frehah, Abu Ashaybah	
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Note translator: Village 44 t/m 46 are missing in the Arabic version