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# Principles for Arranging Recognition of Bedouin Villages in the Negev

The Bedouin Issue  
What is Goldberg? What is Prawer?  
The Prawer Plan: Pros and Cons  
A Proposed Solution: Guiding Principles

## Policy Brief

האגודה לזכויות האזרח בישראל  
جمعية حقوق المواطن في إسرائيل  
The Association for Civil Rights in Israel



במקום  
במקום  
מחברים למען זכויות תכנון ועיר  
مخططون من أجل حقوق التخطيط  
Planners for Planning Rights BIMKOM

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



## **Principles for Arranging Recognition of Bedouin Villages in the Negev**

### **Policy Brief**

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- Unrecognized villages and the violation of basic rights of the Negev Bedouin population
  - What is the Goldberg Commission? What is the Prawer Committee?
  - Prawer plan – Pros and Cons
  - Objections to aspects of report that hinder a solution
  - Proposed solution
- 

### **The problem of unrecognized villages and the violation of basic rights of the Negev Bedouin population**

- 90,000 Bedouin (half of the Negev population) live in seven urbanized Bedouin townships established after the end of martial law (1966);
- Another 90,000 Bedouin live in 45 villages;
- Ten of these are currently in the process of being recognized and included in regional planning;
- 35 villages have not yet been recognized and are not regulated by regional or municipal planning and zoning.

The problem of the unrecognized villages in Israel came into existence together with the birth of the state and is reflective of government policies directed against the Bedouin population. Since its establishment in 1948, Israel has ignored the Bedouin's historical presence in the region and has sought to transfer and concentrate the population into a small geographic area in the northeastern Negev – in order to confine their living space and free up the most fertile areas of the Negev for Jewish agricultural settlement. The state continues to deny recognition to the Bedouin villages and to deny the villagers their right to their own soil, which they have lived upon and worked for decades. This situation represents an open wound that refuses to heal, precluding the healthy development of the Negev and its residents, Arabs and Jews alike.

Master plans for the northern Negev, prepared in accordance with the 1965 Planning and Building Law, entirely ignored the existence of the Bedouin villages and their residents' land rights. In the master plan, Bedouin lands were designated as agricultural land, or under other such headings as industrial, military, infrastructure, etc., all with the same result – that residential construction in these areas was prohibited.

Bedouin villagers were placed in the impossible situation that continues to this day whereby they cannot legally obtain any building permits, and the homes in which they were born and raised are considered illegal by the state. These homes are perpetually under the threat of demolition and of incurring fines. It should be obvious that any construction without permits in the unrecognized villages is performed not out of a desire to break or flout the law, but out of necessity – a necessity created by the state policy which refuses to recognize the Bedouin rights to their land. At the same time, the state continues to establish new rural Jewish settlements in the Negev. More than one hundred Jewish settlements exist today in the Be'er Sheva district, with an average population of only 300 residents.

The pitiful conditions of the unrecognized villages in the Negev are reflective of the government's policies over the years – **policies that violate basic rights of the Negev Bedouin population, including the right to equality; the right to dignity and housing appropriate to their way of life and culture; and refusal to recognize the Bedouin system of land acquisition.**

### **What is the Goldberg Commission? What is the Praver Committee?**

In late 2007 the Israeli government voted to create a commission to make recommendations on the Bedouin issue, to “solve the problem of the Bedouin in the Negev.” With retired Supreme Court Justice Eliezer Goldberg presiding, the Goldberg Commission consisted of 8 people, 6 Jews and 2 Arabs, none of whom were residents of the unrecognized villages. They published their findings on November 20th, 2008, giving us cause to be cautiously optimistic. The findings include: Recognizing most of the villages; allowing most of the homes to go through a legalization process and; establishing a committee to hear and settle traditional land claims.

In May 2009, the government established the Praver Committee to outline a plan to implement the Goldberg Commission's recommendations.

### **Praver Team plan to implement Goldberg Commission proposal – Pros and Cons:**

**On a declarative level, the Goldberg Commission made several critically important statements:**

- Israel's official policies toward Bedouin citizens in the Negev have been inappropriate and ineffective, and that **Negev Bedouin must be viewed as equal citizens**, that their needs must be accounted for, and that they must be involved in the planning that will determine their future.
- **Bedouin are legitimate residents of the Negev and not trespassers or squatters.** This represents a turning point away from the common perception of the Bedouin, both in state institutions and in the public's perception.
- **Forced migration by the government of the Negev Bedouin to the *Siyag* – an area between Be'er Sheva, Arad and Dimona - was one of the sources of the current conflict.** In effect, the Committee recognized that those citizens forcibly removed from their ancestral historic lands and relocated in the *Siyag* constitute an internally displaced people.

**The Goldberg Commission also adopted important principles regarding a desired solution for the Negev, notable among them:**

- Found that the primary principle to be employed in arranging Negev settlement should be **recognition of the existing villages**. This is a central principle of the report – recognizing the existence of Bedouin population in their current physical space. The Commission stated that “recognition of the unrecognized villages and their institutionalization, within the stipulations detailed above, will prevent the perpetuation of the current intolerable situation, with all its negative consequences” - an extremely important recommendation, which opens the door to a historic resolution of the conflict.
- Recognized that the issue of **land ownership claims** lies at the heart of the Negev problem, and that without resolving this problem there is no point in any regional development efforts for any settlements – recognized, unrecognized, or in the process of being recognized.
- Recognized the need to somehow **legalize structures built without a permit**, since the government will not offer any other construction solutions, and so that villagers can escape the cycle of home-demolitions and conflict.
- Recognized the need to **deal with the problem systematically**, instead of piecemeal with various measures through parallel channels often leading to contradictory policies. The Commission also proposed building a mechanism for the implementation of a systematic solution.
- Recommended that the issue be treated as a **disagreement between the government and its citizens**. As

such, it rejected the approach which views the conflict with the Bedouin as a clash of nationalist interests.

- Recognized the **historic ties between the Bedouin and the land**. This represents a critical turning point in the state's attitude towards the Bedouin and contradicts the official position – advanced by government officials in legal proceedings – that the Bedouin lack any intrinsic connection to the land and are trespassers squatting on state lands.

#### **Objections to aspects of Goldberg Commission report that hinder a solution:**

- **Refusal to recognize Bedouin ownership rights to the land:**

Despite the important principles that the Goldberg Commission did recognize, it refrained from recognizing the ownership rights of the Negev Bedouin to their land, choosing rather to recognize “their general historical ties to these lands.” Although the committee broke new ground in acknowledging these historical ties – an admission of symbolic importance for the Bedouin whose relationship to the land they lived on and worked before 1948 had been denied by the government for decades – the principal issue of Bedouin land ownership rights was left unanswered. By all measures legal, moral, and historical, the Arab citizens of the Negev do have ownership rights to their lands deriving from customary law and tribal law, and as indigenous people who have dwelled on these lands for generations. These rights were recognized and honored by the region's previous rulers before the founding of the State of Israel. Recognition of the Bedouin's ownership rights to their lands lies at the heart of any solution.

- **Making recognition of Bedouin villages conditional on ill-defined criteria:**

Although the Goldberg Commission stated that Bedouin villages should be recognized whenever possible, it conditioned that recognition upon four criteria, whereas no parallel criteria exist for Jewish settlements, in the Negev or elsewhere in Israel. These criteria are: “Minimum mass of residents,” “Municipal fitness,” “That it accords with the master plan,” and “Any other reasonable concern.” These criteria are not grounded in the regulations normally applied to Jews or are intentionally vague. They therefore allow the relevant administrative bodies, never designed to represent the Bedouin in the first place, too much discretion to decide the fate of Bedouin. We believe that **by using objective planning criteria that apply to Jewish and Arab populations alike, it should be possible to recognize all the unrecognized Bedouin villages.**

#### **Proposed Solution: The need for a systematic, sustainable and just solution, and for guiding principles for recognizing Negev Bedouin Villages**

If the state wishes to end its ongoing conflict with the Negev Bedouin and to alleviate the plight of the residents of the unrecognized villages, it must adopt a systematic, holistic solution based on respect for the human rights of the Bedouin population. It must, on the basis of objective planning criteria, grant recognition to all 35 unrecognized Negev villages in their current locations, and to the traditional Bedouin ownership mechanisms. All proposed plans and solutions should be based on the principles of equality, respect for Bedouin culture and way of life, and distributive justice. The solution should also recognize the Bedouin's historical rights and ownership right to their lands in the Negev, and involve the Bedouin public in planning decisions, as detailed below:

#### **Legal rights and principles of action**

- The right to equality, dignity and preservation of the Bedouin way of life.
- The right to adequate housing, including housing that is compatible with one's culture.
- Participation of the Bedouin in planning decisions so that their needs and aspirations are taken into

consideration.

- Protection of Bedouin property and culture, including the obligation to refrain from forcibly removing a population and resettling them without their consent and without full and fair compensation.
- The state should respect the proprietary connection of the Bedouin to their land, and should recognize the Bedouin system of property acquisition as one of their unique cultural characteristics.
- The state should recognize the traditional Bedouin system of land ownership.
- The planning status of the Bedouin communities should be measured against that of Jewish communities.
- The state should adopt and implement the recommendations of the Or Commission regarding the equitable allocation of land resources to the Arab population and allow Bedouin to reside throughout the Negev and not solely in the *Siyag* area.

**Recognition of Negev Bedouin Villages on basis of objective planning standards, which include: settlement size, historic ties to land, socially cohesive communal structure and physical layout of village.**

- Today there are 45 Bedouin settlements in the Negev where anywhere from between 400 and 4,800 people reside. They meet all the objective planning criteria for recognition, including permanent population, population size, number of resident adults, and number of residential units.
- Residents' historical ties to the location.
- Bedouin community social structure and cohesion is evidence of self-administration.
- Bedouin villages have clear and agreed divisions between residential areas, public areas with buildings for the benefit of the community, and agricultural areas that are connected to one another via an internal road network. All these create a functional spatial system, as in any other village or town.

**Creating a variety of settlement models**

- Using objective criteria for granting villages recognition, each village should be further examined to determine the most appropriate settlement model for it from a municipal and organizational standpoint.

**Alternative master plan for the unrecognized villages**

- An alternative master plan will promote recognition of all Bedouin village in current locations, taking historical ties to the land into account and saving the enormous resources necessary to transfer tens of thousands of people against their will.
- The plan recommends regional solutions that incorporate villages into larger regional councils and charts out economic development strategies along geographic axes - north, east and south.
- On a local level, the plan seeks to recognize the Bedouin village as a distinct form of settlement based on relationships between communities and their living spaces, which can be codified in the Israeli planning system.
- On an administrative level, the plan recommends that the state establish a special planning system dedicated to fast-track recognition of Bedouin villages and their subsequent planning and zoning. This is an eight-stage process that arranges Bedouin habitation on the principles of development, population density and suitable infrastructure for rural communities, as is commonly practiced throughout Israel.

The alternative master plan outlined in this Policy Brief should serve as the basis for any solution. State authorities must act with transparency and in partnership with the Bedouin public in determining solutions to the problem. They must refrain from any solution that is unilateral or that involves the forced transfer of the local population. Any solution that does not stand up to the principles detailed in this paper should be

automatically rejected.

This brief is based on a position paper written by ACRI attorney Rawia Aburabia on behalf of ACRI, Bimkom Planners for Planning Rights and the Regional Council for Unrecognized Villages in the Negev.

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