

The Problem of the Unrecognized Villages in Israel

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The problem of the unrecognized villages began with the foundation of the state of Israel in 1948. At that time many residents of those villages were driven out of their houses during the war, and thereafter the authorities did not recognize tens of the Arab villages which were not included the Israeli map. The authorities applied the "present and absent" law on those villages aiming to confiscate the properties of the Palestinian refugees that abandoned their homes during and after the war. The residents of these villages have suffered from the deprivation of the fundamental services, and upon the enactment of the Planning and Construction Act 1965 their situation even deteriorated. The constructional planning for Israel ignored them and did not take them into consideration on the one hand, and they were subject to the demolition restrictions on construction policy on the other hand. The Israeli authorities have started persecuting the residents of these villages and working on demolishing their villages: even those houses that were built before the foundation of the state of Israel, with the allegation that they did not carry building permissions.

The Planning and Construction Act contained tens of regulations that are aimed to apply to the Arab citizens in the unrecognized villages. These regulations included a division of land resources into two types: land designated for construction, and agricultural land.

The law prohibited any form of constructions on agricultural land, and obligated every citizen who wishes to build his house to acquire permission from the Planning and Construction committees that belongs to the home office (ministry of interior). The land on which many villages existed was classified as "agricultural" land. Consequently, the houses in those villages were deemed "illegal". The law has only provided one remedy for this situation, which is evacuating the houses and demolishing them.

The Israeli authorities have refused converting agricultural land into constructional land although this possibility existed in the law and was applied in the Jewish districts. Thus the phenomenon of the unrecognized villages emerged. Recent surveys indicate that the number of people that live in the unrecognized villages reaches approximately 75 thousands in the Negev, and 15 thousands in the north of Israel.

a- The Land

We have mentioned above the Planning and Construction Act, according to which, villages were not recognized. The failure to recognize those villages has been justified on the grounds that they were built on agricultural land.

The status of the land has direct implications for the rights of the residents. The Planning and Construction law denies the people of the unrecognized villages the right to live and develop on their private land. The Israeli government refuses to grant the people building permissions and issues against them hundreds of demolition

orders every year. It also summons them to courts and accuses them of breaching the Planning and Construction Act, although, as the study of the Association of Forty has shown, 95% of the houses in the unrecognized villages were built before the legislation of the act in 1965.

In fact, most of the land in unrecognized villages is registered in the official documents which are in the possession of its owners. Very rarely has there been any dispute over the ownership of the land. However the official claim always stresses that these lands are considered agricultural, and according to the law, building on it is prohibited. It could be clearly discerned, by looking at some of the Jewish settlements in the Galilee, that this claim is no more than an ominous excuse that the authorities use as a cloak to conceal its obvious discriminatory policy against the residents of the Arab villages, for no other reason than being Arabs.

The irony is that there are tens of Jewish localities next to, and even on the, land of the Arab villages that the authorities have refused to recognize because they are built on agricultural land. This prohibition seems not to apply to houses built for Jewish citizens. In case of Jewish localities, the status of such land was converted from agricultural to constructional land by a simple draw of a pin, and the new Jewish localities were immediately provided with all necessary infrastructure and services.

Another allegation on which the authorities have based their refusal to recognize these villages, is that the villages are too small and isolated and can not be supplied with services. This claim is countered by the fact that the size of the neighboring Jewish villages and the number of its residents does not exceed the number and the size of the unrecognized villages.

According to the publication of the Central Administration of Surveys for 1990, the percentage of the villages in which the number of the residents is less than 500 is 62.7%. However, the authorities have time and again refused to recognize Arab villages with population exceeding 1000. The discriminatory policy seems even more obvious from the statistics which are in the publication itself in regard to the villages with a population of less than 100 people. It appeared that out of the 85 villages in which the number of residents does not reach 100 there are 83 Jewish villages that the authorities recognize and supply them with all facilities.

In a survey that was conducted by the Association of Forty in the unrecognized Arab villages in the Negev it appeared that some of these villages have a population of 5000 citizens and in spite of this the authorities still refuse to recognize them. The total number of the Arab citizens that live in the Negev in unrecognized villages is approximately 75 thousands. The Israeli authorities have always worked on driving them out of their houses and land and concentrating them in seven townships, which were especially founded for the purpose of concentrating the Arab citizens of the Negev. Today nearly 50 thousands people that were driven out of their villages live in those new townships, and those were part of the plans to take over their land and transferring its ownership to the institutions of the Jewish settlements.

b- Deprivation of Services and Demolition Policy

The successive governments of Israel has long refused, over the past decades, to supply the people of the unrecognized villages with the vital services and facilities such as water, electricity, transportation, educational and health services etc. This was so despite the repeated demand of the citizens of these villages to be supplied with the aforementioned services.

The deprivation of services was used as another pressure means to coerce villagers to leave their localities. The authorities have also made sure to legalize the exerted deprivation of service policy. In 1981 the Planning and Construction Act was amended and prohibited the supply of any services to the "illegal" houses. There are hundreds of orders that command the evacuation of houses and destroying these houses in the unrecognized villages. The policy of demolition and evacuation has been exerted against the Arab citizens since the foundation of the state of Israel. The authorities have created special committees that had the role of evacuating the Arab villages and the demolition of the houses. One of these committees was created by the Administration of the Israel Land (Keren Kayemet), managed by Yakob Borazane who launched an organized campaign for the purpose of taking as much Arab Land as possible in the fifties and the sixties. He also played an important role in the eviction and demolishing of houses so the residents will not be able to return to their villages.

Furthermore, the authorities created a special unit in the late 80s, which belonged to the Ministry of Interior. Its role was to supervise the construction process in the Arab communities and to demolish any building that does not have permission. It appears from its report that the unit has demolished between 1988 and 1996 approximately 2100 houses in the Arab community because they did not carry building permission. At the same time the report shows the spreading of the phenomenon of the unlicensed building in the Jewish community as well. However it seems that the unit treated both cases that are alike differently and was more lenient with the Jewish community. According to its report 90% or more of the houses that the unit has demolished were Arab houses.

Despite the big scale of this problem, from which 10% of the Arab population in Israel suffers, the Israeli authorities have not yet found solutions for the housing problem within the Arab community in order to stop unlicensed building. Instead, Arab citizens are brought to court and sanctioned with high fines or imprisonment in addition to demolishing their houses.

c- Governmental Committees for authorizing the Demolition of the Unrecognized Villages.

Israeli governments have not worked on solving the problem of the unrecognized Arab villages since the foundation of the state and until the middle of the 90s. Instead, the policy employed was house demolition and land confiscation.

For the sake of executing this policy the authorities created official committees whose alleged purpose was to look into the problems of the villages and search for solutions. However these committees have always adopted the plans of the authorities and

recommended that these plans should be enforced. No member of the committees was an Arab citizen or a representative on behalf of the people affected by the problem.

The Kobarski committee was formed in 10/09/1976, and called for tougher legal procedures against the so called "illegal building". The Markovich I Committee was formed in 28/09/1979 and called for the implementation of the recommendations of the Kobarski committee and the demolition of every Arab house that was not built in compliance with the Israeli "development plans". The recommendations of the Markovich committee II (formed in 15/11/1985) and then Mena committee of (1/10/1994) are discussed in more detail below. Afterwards, at the beginning of 1996 a ministerial committee was formed and was led by the (then minister) Ariel Sharon, to investigate the conflict between the Israeli authorities and the Arabs of the Negev over their land.

No one of these committees proposed a fair solution for the problem of the unrecognized Arab villages. On the contrary, these committees tried to intensify the pressure meant to force the Arab villagers to voluntarily leave their homes and land.

d- Markovitch Committee Report 1986

This report was published in July 1986 and was adopted by the Israeli government. What distinguishes this report from previous ones (Kobarske and Markovitch I) is the creation of a "stick and the carrot" principle for dealing with the unlicensed houses in the Arab sector. The report proposed, on the one hand, to prevent the demolition of thousands of illegal houses, describing such demolitions as ineffective; however, on the other hand the committee recommended putting these houses in the so called "gray area" – denying them any facilities. The committee also recommended using hard measures against the Arab citizens to stop the phenomena of illegal building. The recommendation included: imposing high fines (double the house cost) on the owners of the houses, imprisonments sanctions on the owners, and charging demolition expenses from owners of demolished houses. The Markovitch committee gave the district judges wide power and it became possible for every clerk in the district committee for planning and building to issue demolition orders without the need for judicial order. The committee also recommended creating a special unit whose role would be to execute the demolition orders – a "special unit for enforcing the unlicensed building law", also known as the "gray unit".

The Israeli government adopted these recommendations and accordingly, the Israeli Ministry of the Interior has executed during the past years hundreds of demolition orders.

It is worth noting that the majority of the houses of the unrecognized villages are now in the "gray houses" category. The gray houses are those houses which cannot be renovated or bequeath it or connected to the necessary services such as water electricity and transportation. And the planning and building committees have the right to demolish these houses if they see that they are not fit for living.

e- Mena Committee Report 1996

The Mena committee admitted that the government cannot impose on the Arab citizens housing solutions which contradict their desires and traditions. However, it

can also be discerned from the report that the committee did not propose new resolutions different from those proposed by the government over the years to the issue of the Negev. The proposal demands from the Arabs in the Negev to surrender 80% of their land to the government in return for recognition and services.

According to the Mena committee report, which relied on official surveys, the number of residents in unrecognized Arab villages in the Negev is 50% of the total Arab population in the Negev. The authorities claimed that those villagers live on government land and have to evacuate it. The authorities use the Ottoman “Dead Land” Act 1858 which allows citizens to retain the land of the dead with permission from the ruling authorities. On the basis of this law the Israeli government claims that the Arab citizens retained this land and lived on it without permission from the government, although large numbers of those people had lived in their land before the foundation of the state of Israel, while others were transferred by the authorities to new places in the early 50’s after confiscating their land.

According to the report of the Mena Committee the size of the land over which the Arabs in the Negev and the government are disputing reaches 800 thousand acres. It also appears from the report from the information provided by the researcher Yosif Bin David that 50% the residents of the unrecognized villages live on land which is in their property and registered under their name in official documents, whereas 40% were driven out of their original homes.

f- The Plan of the National Security Council 2006

In early 2006 and in compliance with the demands of the right wing parties to fight the Arabic existence in the Negev alleging “the Arab conquering of the state’s land”, the Israeli national Security Council headed by Geora Iland, designed a new plan for the eviction of the unrecognized Arab villages in Negev and transferring their residents to new villages which were created by the authorities by way of implementing the “Eviction and Compensation” law which the Israeli government has enacted to evict the settlers from Gaza strip and the north of the west bank.

This plan was supposed to be proposed in the sixth conference which was arranged by the institution of Politics and Strategies in December 2006 in Hertseliya, however the Arab move against this proposal led to postponing it. This plan calls for using every available means, including force, to evict the villagers if no satisfactory agreement is achieved.

The plan maintains that the population in the unrecognized villages reaches 40,000. However the data of the Arabic committees in the Negev indicates that the number of the residents of these villages is double of what has been shown in the Iland report. According to this data the number of the population of the unrecognized Arab villages is approximately 75,000.

The Israeli National Security Council suggested the Israeli government to declare an interim two years period to give the Arab residents in the Negev the chance to accept the compensation and to move to live in the seven permanent villages which were lately built under a regional council called “Abu Basma”.

g- Alternative Solution.

The Israeli authorities have relied on the element of time as basis for solving the problem. Their policy has also relied on the fact that the deprivation of services and buildings would drive the people out of their houses and villages. However, the villagers have not succumbed to the pressure that was exerted on them during the past decades and they struggled through the local committees that they have formed in their villages and through the regional Association of Forty to put forward comprehensive solution for the problem of these villages. This solution was the alternative for the deprivation and demolition policy, and is constructional plan for all the unrecognized Arab villages in Israel. The solution was prepared by a team of experts and it suggests the following principles:

1. Recognizing some of the villages as independent villages.
2. Merging the other villages with the territory of the neighboring villages and cities.
3. In case there are individual houses, an agreement should be reached with its owners on the appropriate solutions, on the condition that the people will not be removed forcefully from their houses

The solution also stipulates that the people will be given their vital rights and will be allowed to have licenses for their houses and build new houses in their villages.

h- The Duties of the Israeli Government

There are tens of villages whose residents are awaiting recognition. The Israeli government is requested to:

1. Adopt the solutions which were proposed by the Association of Forty and other active Arab committees in the unrecognized villages to ensure a fair solution for the problem of the unrecognized villages.
2. Stop immediately all house demolitions.
3. Stop forceful evictions.
4. Stop the policy of the land confiscation.
5. Make all necessary services available for all the Arab citizens in the country.
6. Allow the residents of the villages to build their houses or to renovate them and to resolve their housing problems.