

Violations of Civil and Political Rights in the Realm of Planning and Building in Israel and the Occupied Territories

Shadow Report

Submitted by

Bimkom – Planners for Planning Rights

Response to the State of Israel's Report to the United Nations
Regarding the Implementation
of the Covenant on Civil and Political Rights

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Abstract

This shadow report is a response to the periodic report submitted by the State of Israel (No. CCPR/C/ISR/ 4) on October 14, 2013, pertaining to the implementation of its obligations under the Covenant on Civil and Political Rights (CCPR). The shadow report was prepared by the NGO Bimkom – Planners for Planning Rights, which has been working for some 15 years to integrate aspects of human rights and social rights into planning and building.

The shadow report deals with sections of the state report pertaining to issues of planning, building and adequate housing in the Bedouin localities in the Negev, in Arab localities in Israel, in the Palestinian neighborhoods of East Jerusalem, and in Palestinian localities in Area C in the West Bank. The goal of the report is to serve as a complementary source of information and offer a critical position regarding the state's administration of these realms. The main topics in the shadow report are unsuitable or non-existent planning, and the violation of civil and political rights of residents as a result, including the need to construct housing without a permit and demolition of these houses as a result.

Regarding the Bedouin villages in the Negev, we will relate in the document to all of these villages, some populated for decades, and in some cases prior to the establishment of the state in 1948. There are 46 Bedouin villages in the Negev, some recognized, some undergoing a process of recognition, and some unrecognized – all dealing with the tremendously difficult reality of a lack of infrastructure, lack of basic health and educational services, lack of access to water and electricity, and more. Given the absence of a planning framework that allows for legal construction, residents in these localities are forced to construct homes, agricultural structures, etc., without building permits. As a result, an acute threat of demolition constantly hovers overhead; couples are forced to avoid marrying due to the impossibility of building a home; and there is a deep crisis of faith between the Bedouin residents and the authorities. This crisis obviates dialogue between the parties, which is essential for finding a real and long-term solution to the situation described.

The Arab localities in Israel are deeply engaged in a gradual process of transition from a purely village fabric to a crowded urban fabric, without parallel planning processes and without adjusting the infrastructure systems for a population that is constantly growing in scale. There are many reasons for this process, key among them being the ongoing omissions regarding the allocation of suitable land reserves for rural-style building in these areas. In light of the fact that the Israeli-Arab population increased sevenfold during the past 50 years, while the scope of the territories allocated to it for housing construction has remained almost unchanged, a severe lack has developed in solutions for housing, mainly affecting those who do not own land, and for those landowners whose holdings are located outside of the locality's area zoned for development. Suitable local outline plans are vital to the resolution of this problem.

In East Jerusalem, some 370,000 people live in the Palestinian neighborhoods, 75% of them below the poverty line. In these neighborhoods, the housing crisis is extreme, arising from lack of plans that can actually be implemented and difficulties at the permit-granting stage. The outline plan currently in preparation, known as "Jerusalem

2000,”ostensibly enables a certain expansion of the Palestinian neighborhoods of East Jerusalem, as well as considerable increase in construction rates in some of the built-up areas, but the conditions it stipulates for this are exceedingly difficult if not outright impossible to fulfill in the existing situation.

Area C in the West Bank (henceforth: “**Area C**”), whose the planning and administration are the responsibility of the Israeli Civil Administration, is home to an estimated minimum of 150,000 Palestinian residents. In most cases, no local outline plans have been approved for the Palestinian villages in Area C, obviating the possibility of obtaining permits for legal construction therein. Measures towards the enforcement of the prohibition against building without a permit are applied selectively, according to various Israeli interests; demolition orders are issued for hundreds of Palestinian structures in Area C, including residential buildings, and in some cases, the demolitions are actually carried out. At the same time, Israel recently has been advancing detailed plans for various settlements that in the past had the status of illegal outposts. Given the security situation in the area at present, the very existence of Israeli civilian areas leads to severe restrictions on movement and access for Palestinian residents, including total or partial prevention of access to private lands located near the borders of settlements, and often, even as enclaves that extrude into the approved planning area.

Our recommendations to rectify the situation are based on the reality, including the characteristics and cultural sensitivities of the population in each area of the areas specified above. Generally speaking, it is necessary to create outline plans that are appropriate to the localities and their residents, even if they are not necessarily in keeping with the accepted systemic approach, and to enable subsequent implementation in a similar fashion; to increase the allocation of land and budgets for creating realistic development reserves for said localities; to freeze housing demolitions when there is no choice but build without a permit; to rehabilitate the current relationship with the authorities, characterized at present by a lack-of-faith.

Introduction

This shadow report was prepared by Bimkom, a non-profit organization specializing in human rights in spatial planning, and it focuses on the violation of rights in this realm.

Bimkom was established in 1999 with the goal of enhancing the connection between planning systems and human rights. A main focus of activity in the organization is professional guidance for communities faced with professional, economic or civil disadvantages, for the purpose of actualizing their planning rights, and active participation in processes of legislation and policy formulation. The organization's staff comprises professionals in planning and related realms such as anthropology, research, law and communications.

This shadow report is based on information collected over the years through field research and fieldwork with residents of these communities, including assisting in processes of planning and vis-à-vis the various governmental authorities.

For additional information: www.bimkom.org

Response to Pars. 44-48 in the State Report: Territorial Application of the Covenant

According to the state's approach, the Covenant for Civil and Political Rights does not apply to the occupied territories, with the exception of East Jerusalem and the Golan Heights. Without entering into the matter of the applicability of the covenant as a legal issue, we will note that Area C is subject to routine violations of civil and political rights in realms relating to and affected by planning. This is part of the modus operandi of the government institutions in these areas.

We recommend reaching agreements with the state regarding a flexible framework of handling these issues that will enable the state to respond in writing to rights violations in these areas without getting bogged down in the legal issue of recognition of the covenant's applicability. This will make it possible for Bimkom and other organizations and of course the Committee on Human Rights itself to respond properly to these violations and to obligate the state to address them.

Question 6a – Demolition of Illegal Constructions

Response to Pars. 57-59 in the State Report: House Demolition in the Bedouin Population

In these paragraphs, the state addresses the planning reality in the Bedouin localities in the Negev. The text implies that residents of these localities prefer or choose to build in contravention of the directives of the Planning and Building Law, 1965 (henceforth: "**Planning and Building Law**" or "**The Law**"). In fact, legal building is a non-existent possibility for the Bedouin residents. The state's description suggesting that residents "ignore" the planning and building laws is an abdication of responsibility regarding the situation that the state itself created and regarding the

predicament of the Bedouin in the Negev, while placing all of the responsibility on the residents.

The non-recognition of the Bedouin villages makes it impossible to approve outline plans for them in keeping with the Planning and Building Law. This means that it is impossible to create plans that specify the character of the building, chart out the course of roads and define other infrastructure, nor is it possible to allocate land for housing, public buildings, open areas, or agricultural use. It is thus not possible to obtain building permits, which must be issued in accordance with a plan. As a result, construction in the existing Bedouin villages takes place entirely without permits and in violation of the law.

The lack of detailed planning, on which the issue of a building permit relies, exists in the entire area of the unrecognized villages. When the Bedouin communities were transferred from their traditional place of residence to sites selected by the state in the 1950, the lands were left with plans only at the outline level. Even in those villages that were recognized over the years and for which a detailed plan was approved, the state only rarely carries out infrastructure development, and binds the granting of the permit with the issue of land ownership (see below), and this in turn becomes a further reason to deny the granting of residential building permits. This situation, in combination with the lack of land and severe lack of housing that characterizes many of the Bedouin localities, does not leave the residents any option but to build without permits. For example the city of Kseyfeh has a jurisdictional area of approximately 21,000 dunams, of which approximately some 4,500 cannot be developed due to the lack of a solution for the issue of ownership.

Regarding demolition orders, article 58 of the state's response claims that the state is compelled to issue such orders in cases of illegal buildings. In fact, the state is not compelled to do so, but rather the reverse is true: it is compelled to exercise sound judgment, both in the case of administrative and court-mandated demolition orders.¹ Moreover, planning committees are empowered to determine enforcement priorities on their own and in line with the circumstances.²

To the best of our knowledge, during 2012 and during the first half of 2013, 1,376 houses were demolished in the southern district, 91% of them (1,261) in Bedouin villages. The policy of the Israel Lands Authority and the enforcement authorities, according to which owners of homes demolished by the authorities are required to personally bear costs of the demolition,³ has led to a situation in which some 636 houses owned by Bedouin in the Negev were demolished by the owners themselves. While in past years it was the practice to carry out demolitions for new construction, in recent years, the enforcement authorities have begun using a policy of issuing demolition orders for entire buildings following marginal additions, or even following

¹ Administrative demolition orders are issued by the local planning committee without a legal process; court-mandated demolition orders are issued by the court after criminal proceedings.

² See, for example, par. 4 of the ruling in Administrative Appeal 10-04-27158, **B'Tsedek et al. v. The Jerusalem District Planning and Building Committee et al.** (published in the Nevo database).

³ This policy is permitted and is grounded in pars 205(1) – 211(a) of the Planning and Building Law in the case of a judicial order, and in par. 232 of the Administrative Demolition Order.

“illegal” measures taken to ensure basic maintenance of the building, such as the addition of a few steps or replacement of a leaking roof.⁴

Response to Pars. 60-62 in the State Report: House Demolition in East Jerusalem

The state’s comments in these sections constitute an oversimplified and inaccurate description of the demolition of buildings in East Jerusalem. To the best of our knowledge, in 2013, 565 homes were destroyed in East Jerusalem under demolition orders.⁵ According to information presented by the District Inspection Department on May 27, 2013 to the Jerusalem District Planning and Building Committee, there are 400 judicial demolitions awaiting implementation within the Jerusalem municipal borders, including East Jerusalem⁶ (a single demolition order can apply to a number of residential units). As an example of an extreme case, the state submitted court requests for demolition orders for 11 buildings, apparently containing at minimum 500 housing units in the neighborhood of Ras Hamis, considered part of the Jerusalem municipality but located beyond the Separation Barrier, during the first week of July 2013. These buildings were built on land for which no planning was carried out, and therefore, for which building permits cannot be obtained, since the planning status obviates a path of legal building for these residents (see below).⁷

Furthermore, the state’s comments regarding the right of demolition order recipients to a hearing are also inaccurate. According to par. 238a(a) of the Planning and Building Law, the chairman of the local committee is authorized, under certain conditions, to issue an administrative demolition order for the building. According to this paragraph, however, orders of this type can only be issued for buildings whose construction has not been completed, or was completed during the 60 days that preceded the order’s issue, and that are not inhabited or have not been inhabited for more than 30 days.

According to par. 238a(f) of The Law, an administrative demolition order can be carried out within a time period ranging from 24-72 hours from the time the notice is affixed to the wall of the building (the time period is determined on a per case basis). During this exceedingly brief time period, a request can be submitted to the Magistrates Court to delay the implementation, but this requires a very quick understanding of the situation and close legal guidance. A party that does not contact the court is not eligible for a hearing.⁸

⁴ According to the Report on House Demolitions of Arab-Bedouin in the Negev 2012/2013 the Negev Co-existence Forum for Civil Equity, p.2 (Hebrew version: <http://www.dukium.org/heb/wp-content/uploads/2012/03/House-Demolitions-Report-2013.pdf>).

⁵ OCHA Humanitarian Bulletin – Monthly Report, December 2013, p. 8

http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_01_20_english.pdf

⁶ Protocol of the Jerusalem District Planning and Building Committee, discussion of May 27, 2013, p. 5, par. 2, published on the website of the Interior Ministry Planning Administration [file:///C:/Users/win7/Downloads/File%20\(56\).pdf](file:///C:/Users/win7/Downloads/File%20(56).pdf).

⁷ Mag. Court 4642/2013 State of Israel v. Unknown Defendant; 4644/1013 State of Israel (Jerusalem Municipality) v. Unknown; and additional cases, equaling the number of buildings.

⁸ In a discussion held by the Jerusalem District Planning and Building Committee on May 26, 2014 regarding the carrying out of demolitions by a national police unit, the committee chairwoman stated that the great advantage of administrative demolition orders is rapidity of execution. This correlates with the non-existence of a hearing in these orders. See p. 14 of the discussion transcript published on the Ministry of Interior website: [file:///C:/Users/win7/Downloads/File%20\(53\).pdf](file:///C:/Users/win7/Downloads/File%20(53).pdf)

In any case, exercising one's right to a hearing is subject to initiating contact with the court and is not a default. Even if the right to a hearing were offered as a default, this would be insufficient for rectifying the serious violation of the right to adequate housing and suitable living conditions that result from the policy of house demolitions for building without a permit, considering there is no true possibility for plans to be approved and/or receiving building permits to satisfaction.

Regarding the difficulty of carrying out legal construction in the Palestinian neighborhoods of East Jerusalem, see the response to pars. 78-80 in the state report, below.

Question 6b – Planning in the Arab Localities

Response to Pars. 64-77 in the State Report: Outline Plans in Arab Localities in Israel, Infrastructure and Industrial Zones

The number of recognized Arab, Bedouin, Druze⁹ and Circassian localities within the State of Israel, with the exception of the Negev,¹⁰ is 126. Of them, for 86 localities, 75 local updated outline plans have been advanced since 2000 (of these, 66 localities are included in 54 local outline plans in the framework of the outline planning project of the Interior Ministry, launched at the beginning of 2000).

As of January 2014, 46 updated local outline plans had been approved for 53 localities (61% of the total plans advanced since 2000). In addition to these, 19 updated plans (26% of the plans) for 21 other localities were deposited for public review, while 10 local outline plans (13% of the plans) for 12 localities were accepted by the planning institutions, but did not reach the stage of being deposited.

There are 38 Arab localities (approximately 32% of the Arab, Druze, Bedouin and Circassian localities) whose local outline plans were advanced prior to 2000 and cannot be defined as presently updated. Among these, the local outline plans of 30 Arab localities were approved during the years 1990-1999, while the valid local outline plans of eight additional localities were approved prior to 1990.

There are two Arab localities that do not have any local outline plan whatsoever.

It is important to state that many Jewish localities also do not have local outline plans. In the city of Haifa, for example, the local outline plan dates to the Mandate Period, and the updated outline plan was deposited for objections only in March 2014; in Jerusalem, the outline plan in effect to date is the outline plan approved in 1959;¹¹ the outline plan for the city of Tel Aviv was deposited on December 5, 2013, and the objections hearings are still underway. And yet, planning and development processes for new neighborhoods in Jewish localities are not being halted due to this fact.

⁹ Including four Druze localities in the Golan Heights, to which the Israeli Planning and Building Law applies: Mas'adeh, Buqa'ta, 'Ein Qinya and Majdal Shams.

¹⁰ The planning situation of the recognized Bedouin localities for which there are existing legal arrangements, as well for large portion of Bedouin localities that the state does not recognize, is discussed separately.

¹¹ Regarding the new Jerusalem outline plan, "Jerusalem 2000," see the chapters concerning East Jerusalem.

In our opinion, the forecast for approval of all of the outline plans for Arab localities in Israel in stages of preparation for the next two years, is not realistic, and its chances of coming to pass are nil. As of 2011, the average time for preparing an outline plan for an Arab locality was 70 months.¹² We shall present a number of specific examples: the outline plan for Barta'a, no. 391/ג/973/נע¹³ was submitted in 2006. It was deposited for objections in mid-2012, and it is presently under discussion in the appeals subcommittee of the National Planning Council (the locality's current plan was approved in 1982). An outline plan for the city of Qalansawa, no. 276/קג, was submitted in 2007, and deposited for objections in 2011. No decision has yet been given regarding the thousands of objections filed (it should be noted that there is no prior approved outline plan for the locality). The outline plan for these two localities was preceded by master plans for which preparation was commenced in 2000, but further statutory planning procedures rendered it obsolete. An outline plan for the Kufr Qar'a regional council, no. 130/נע, has been in preparation since 1998, but during the 16 years that have since passed, it has not yet been deposited. The currently valid outline plan for the village (ק/569/ג) was approved in 1983. In the city of Um al-Fahm, approx. pop. 50,000, there is no outline plan whatsoever, and an updated outline plan for the entire city has been in preparation for several years, but has not yet been formally submitted to the District Committee.

The data presented in par. 68, according to which the outline plans have added 70% to the lands area of Arab localities in Israel, also differs greatly from the reality that we see in the field. Our experience indicates that in most cases, the outline plan for Arab localities offers a planning solution applicable only to the immediate problem and only for the existing locality. They do not deal with population needs anticipated in the distant future, including the need to create land reserves for residential purposes. For example, regarding the outline plan suggested for Barta'a (no. 391 /ג /983 /נע), the investigator appointed to hear objections to the plan determined that due to the prolongation of the building process, the demographic forecast for 2020 is no longer relevant, nor is the projected land allocation needs. The investigator recommended updating the plan's directives to take into account the needs of the population for 2030, but the district committee did not accept this assessment and chose to approve the proposed plan without adding any land to the locality's planning area.¹⁴

Regarding par. 77 of the state's report, it should be noted that the industrial area is teeming with life on paper only, and as far as we know, there is no expectation that it will actually be established.

¹² Outline Planning for Arab Localities in Israel, Bimkom & Arab Center for Alternative Planning, 2012, p. 19, <http://bimkom.org.il/eng/wp-content/uploads/Outline-Planning-for-Arab-Localities-in-Israel-English2.pdf>

¹³ The Israeli planning system uses both numbering and Hebrew lettering in the official names of plans. In this paragraph we bring the plan names in their original forms, including Hebrew letters, so that it will be possible to track them in the Israeli governmental websites if so desired.

¹⁴ The protocol of the decision of the sub-committee appointed to complete the plans of the Haifa District Committee for Planning and Building, of November 13, 2013, is available (in Hebrew) on the Ministry of the Interior website: [file:///C:/Users/win7/Downloads/File%20\(57\).pdf](file:///C:/Users/win7/Downloads/File%20(57).pdf). An appeal against this decision with objections was submitted by the local council and also by Bimkom, in collaboration with residents of the locality. The appeal was discussed in July 2014 and no decision has yet been rendered.

We note that the state allocated a budget for a development plan for 15 Arab localities in Israel (including the Bedouin city of Rahat), altogether inhabited by some 500,000 residents. In most of these localities there is a planning crisis due to the lack of suitable local outline plans. Following government decision 1539 of 2010, which mandated the budget for this development plan, additional decisions were passed: decisions 2861 and 3211 (in 2011) and decision 4432 (in 2012). These decisions pertain to budgets allocated for local development, including advancing planning processes for specified groups of localities, without determining a budgetary framework for the entire locality, in contrast to decision 1539. The decisions defined a five-year period for carrying them out.

Response to Pars. 78-80 in the State Report: The Neighborhoods of East Jerusalem

According to the state's approach, the new outline plan for Jerusalem, currently undergoing what the state and planning institutions refer to as "approval proceedings," improves the planning situation in the East Jerusalem neighborhoods, by enabling expansion of the existing neighborhoods and increasing density. The outline plan achieves this, ostensibly, by increasing the construction rates and adding 14 new residential areas. The state thus implies that every plan submitted in keeping with the principles of outline planning is therefore eligible for support from the planning institutions. The State invokes examples of plans in a number of East Jerusalem neighborhoods.

The situation, in practice, is different.

The outline plan prepared for the entire city of Jerusalem including East Jerusalem, "Jerusalem 2000," (henceforth: "**the outline plan**") was never deposited for objections and in any case was not approved, even though a decision was made to deposit it already in 2009 (and on an earlier occasion in 2007). To date, it is not clear whether – if at all – the statutory planning procedure for this plan will be set into motion.

The failure to deposit the outline plan means that the plan documents were not published for the public as mandatory by the Planning and Building Law. The plan was never subjected to administrative, legal or public scrutiny, and in contrast to a valid plan, it does not grant compensation for loss of land value it may cause.¹⁵ Despite this, the directives of the outline plan apply for an indefinite period, as if the an administrative petition against the use of an unapproved outline plan made by the planning institutions, was submitted by Bimkom in conjunction with the Association for Civil Rights in Israel. The petition was rejected in October 2013 (Adm. Pet. 36572-04-13 **Bimkom et al v. The Jerusalem District Committee for Planning and Building et al**, henceforth: "the petition").

In any event, it is not possible, in our opinion, to state that the outline plan improved the building situation in the Palestinian neighborhoods of East Jerusalem, since in order to actually benefit from the expansion of building rates proposed by this plan, it

¹⁵ In contrast, compensation can be obtained in relation to a valid plan, according to par. 197 of the Planning and Building Law.

is necessary to fulfill conditions that are almost or completely impossible to implement.

- a. The outline plan distinguishes between zoning for “an urban residential area” and zoning for a “proposed urban residential area.” As a rule, “urban residential area” zoning applies to residential neighborhoods that for the most part are already built up. It is possible in these areas to broaden or increase the density of existing construction by increasing the construction rates (below). “Proposed urban residential area” zoning applies to land that immediately borders existing neighborhoods, and is for the most part not planned or not slated for construction according to plans currently in effect. These areas are land reserves for neighborhoods, but in Palestinian neighborhoods, a considerable portion of them are in practice already built-up. According to the outline plan, the conditions necessary for approving a detailed plan in a “proposed urban residential area” is approval of a local outline plan including the entire compound, i.e. all of the polygon marked as a “proposed urban residential area.” Outline planning of this scope, it should be clear, is not in the hands of an individual person, and is the responsibility of the authorities, who, for their part, are advancing overall planning only in a small portion of the expansion area of the Palestinian neighborhoods, and the condition becomes a requirement that cannot be fulfilled; in contrast, the overwhelming majority of the plans that include expansion of the Israeli neighborhoods have already been approved. In reality, then, construction of residential buildings in all land defined as a “proposed urban residential area” that borders on Palestinian neighborhoods in East Jerusalem is effectively frozen.
- b. The definition of “urban residential area” applies to existing residential neighborhoods that have already been mostly planned. In these areas, the outline plan, “Jerusalem 2000” enables the densification of existing construction by increasing the building rights on the land zoned as “urban residential area”, even prior to the entrance into effect of the plan’s directives. However, in practice, the overwhelming majority of ostensibly increased building rights allowed by the outline plan cannot be realized. Increased building rights are permitted under conditions that were not previously used, and that are not realistic for Palestinian neighborhoods in East Jerusalem, such as laying a road 12 meters wide and spanning an area of at least 10 dunam. Again, all according to directives of the invalid outline plan. Moreover, every increase in rates in the outline plan is subject to the directives of par. 4.5.2.(f) in the regulations of this plan.¹⁶ This paragraph stipulates that regarding extant construction, the addition is limited to two stories only, and to the condition that the overall number of stories subsequent to the addition will not exceed what is permitted in that area. Since most of the area in question is already densely built, this paragraph renders meaningless the decisive majority of permitted additions.

In par. 78, the state relates to the 14 new residential areas specified in the outline plan, elaborating on the planning of a few of them as an example. In practice, the advancement of outline plans for these areas is practically frozen, and their approval is not imminent in the foreseeable future, or at all. For example, the plan for extending

¹⁶ The regulations of the Jerusalem 2000 outline plan at the Jerusalem municipality website: http://www1.jerusalem.muni.il/pdf_books/Jerusalem_Outline_Plan/index.html

the neighborhood of A-Sawahrah was discussed in 2011 in the Jerusalem Local Planning and Building Committee, and since then has not been advanced (see Adm. Pet. 31084-03-13, **Suwalhi et al v. The District Committee et al** of June 4, 2013, published in the Nevo database). An additional petition on this matter submitted by the same petitioners is pending; a plan in Tel Adasa mentioned in the report is not being advanced, to the best of our knowledge. The Ein al-Luza plan that is mentioned, which includes the arrangement of 450 existing residential units, is not being advanced. In its response to the petition regarding **Suwalhi**, the Jerusalem Local Committee declared that planning would commence for some of the residential areas under discussion in 5-10 years. In other words, at least two decades are likely to pass, before an outline plan for them would be approved, and according to the policy of the planning institutions today, only then would it be possible to submit detailed plans for individual plots or plot clusters in these areas. In the discussion held in the Jerusalem District Planning and Building Committee on July 8, 2103, under court order, whose subject was the planning of extending the a-Sawahra Neighborhood (see the Sawalhi matter, above), then Legal Advisor to the District Committee, Atty. Dani Horin, stated that “these polygons are going nowhere,” referring to the lack of progress in overall planning in these 14 areas.¹⁷

It should be noted that approval of comprehensive outline planning as a condition for the approval of detailed planning might, under certain conditions, constitute a reasonable professional planning requirement. However, given the reality in which nothing is done to advance the overall planning, such a requirement leads to an effectual freeze of detailed planning, as described. There are rulings that attempt to deal with this problem and to require the District Committee to discuss a particular plan without waiting for approval of the overall planning, as in the **Suwalhi** case, Admin. Pet. 45588-12-11, **Sha’aban et al v. Jerusalem District Planning Committee et al** (both published in the Nevo database); however, as long as a costly and protracted legal procedure is required to reach this result, the problem remains relevant.

In summary, a lack of overall outline planning, and stipulating the condition of approval of overall planning as a necessary prerequisite to a particular detailed plan, generates a difficult problem and exacerbates the planning situation and housing crisis in the Palestinian neighborhoods of East Jerusalem.

The difficulties created by the outline plan and its implementation worsen the planning situation in the Palestinian neighborhoods of East Jerusalem. In addition to other factors, this causes extreme difficulties in receiving building permits:

- a. **Lack of planning and lack of land reserves for residential purposes and/or development:** Of the planned area in the Palestinian neighborhoods (just 17% of the total Jerusalem municipal area), only some 46% – which in practice is just a tiny area of approximately 9,750 dunam – are zoned for residential building according to the plans in effect. The planned area zoned for residential construction for Palestinians is only 7.8% of the area of the city overall (only 14% of the area of East Jerusalem).

¹⁷ Transcript of discussion in the Jerusalem District Planning and Building Committee, July 8, 2013, p. 38, published on the Ministry of Interior website: [file:///C:/Users/win7/Downloads/File%20\(61\).pdf](file:///C:/Users/win7/Downloads/File%20(61).pdf)

- b. **Plans in effect that do not fulfill the needs:** The plans prepared by the planning institutions for the Palestinian neighborhoods do not offer a satisfactory planning solution for the existing housing crisis for the following reasons: the area is too small, and it does not include all of the lands owned by residents. Residential zoning was applied only in areas where there were actually residences at the time the plan was prepared (i.e. without setting aside land reserves for development). A large number of areas were zoned as open landscapes, which means that no development will be permitted, to an extent disproportional to the rest of the city. There is an acute lack of land zoned for public buildings; a meager road network in poor condition; lack of attention to existing road networks, indicative of historical agreements between land owners and voluntary allocations of land for this purpose; insufficiently detailed plans that require a tremendous investment of time and capital to prepare an additional plan before submitting a building permit request; an insufficient percentage of building rights; and difficulty in completing re- parcellation plans that are a condition for implementing the plan in effect, among other reasons due to the difficulty in proving land ownership (carried out by presenting proof of registration in the land registries, problematic because the registration process that applied during the Jordanian period was never completed).
- c. **An effective freeze on land planning for the Palestinian population – conditions for detailed planning that cannot be fulfilled and failure of the authorities to advance overall planning:** Amendment 43 to the law of 1995, made it possible, inter alia, for private land owners to submit plans. However, the momentum in the submission of detailed specific plans by Palestinian landowners in East Jerusalem, as a result of the amendment, was to a great extent stymied by prerequisites for submitting specific plans, stipulated by the planning institutions some ten years after the amendment went into effect, such as the requirement for contiguous development and for a minimum planning area of 10 dunam. Beyond this, and as stated, planning in areas that remained as construction reserves in the neighborhoods (proposed urban residential area) was stymied by imposition of the requirement for overall planning approval for the area as a condition for depositing detailed plans within said area, coupled with the authorities' avoidance of advancing overall planning. This situation leads to a complete freeze on detailed planning on those lands zoned by the outline plan as land reserves for neighborhood residential construction. Between 2009-2012, 2,629 housing units were approved in 317 plans, i.e. an average of 7.7 housing units per plan; only one of these plans is located in the realm of the residential building reserves ("proposed urban residential area") and to the best of our knowledge, mainly in the case of retroactive legalization of existing construction, as opposed to the actual addition of housing units. And all this is in spite of the extreme housing crisis.

The lack of physical space for housing as a result of all that is described above, leads families to live in spaces that are not zoned and are not suitable for housing, such as parking enclosures and storage spaces. This situation constitutes a severe infringement of the right to adequate housing and to suitable living conditions, and it also indirectly infringes on the right to raise a family: given the lack of a

more reasonable option, young couples avoid marrying and remain living in their parents' homes.

- d. **Difficulties in the licensing stage:** the Planning and Building Law, which Israel applies to East Jerusalem, creates a connection between land ownership and the possibility of receiving a building permit on that land.¹⁸ In the Palestinian neighborhoods of East Jerusalem, there is a large percentage of unregistered land and/or land not legally arranged, i.e. for which no ownership can be present in the manners required by law. This makes it extremely difficult to submit plans and grant building permits and requires creative solutions and the authorities' motivation to be flexible. This is the source of the "interested party in lands procedure," according to which the submission of an affidavit, the declaration of two mukhtars of ownership and agreement of the neighbors on the boundaries of the plot, together with the district surveyor's approval of the status of the land, constitute sufficient evidence for submitting a plan and for the existence of "an interest in the land." This procedure is accepted by the Jerusalem Local Planning and Building Committee, and its use has been approved by the courts.¹⁹ However, the request for a permit based on a plan approved according to the "interested party in lands procedure" runs up against the requirement for additional planning in order to arrange registration of the land, returning the land owner to square one, even when there is an approved and effective plan. We note that the issue of proving ownership constitutes a significant difficulty in receiving a building permit, even when the land is zoned as residential area.

An analysis of the information we received from the Jerusalem municipality pursuant to a request we made according to the Freedom of Information Law, depicts the harsh outcome of the situation described above, in the form of significant gaps between the rate of building permits granted to Palestinians in East Jerusalem relative to other parts of the city. The analysis revealed that in the five years from 2005-2009, 3,215 residential building permits were granted citywide in Jerusalem, only 662 of which (20.6%) were for building in Palestinian neighborhoods of East Jerusalem. 1,931 permits (60.1%) were granted for construction in West Jerusalem, and the remaining 622 (19.3%) for Israeli neighborhoods in East Jerusalem. The inquiry also revealed that the permits granted during these years enabled the construction of 17,715 housing units across the city, of which only 2,350 units – 13.3% – were for Palestinian neighborhoods in East Jerusalem. The permits enable the construction of 11,417 housing units (64.4%) in West Jerusalem and 3,948 housing units (22.3%) in the Israeli neighborhoods of East Jerusalem. Since 1967 and to the end of 2012, a total of 4,300 construction permits were granted in the Palestinian neighborhoods, with an average of four housing units per permit. **The Palestinian population of Jerusalem, which constitutes 39% of the city's population, lives in fewer than 25% of the existing apartments in the city.**

- e. **Other difficulties can be seen in the aspect of enforcement of the Planning and Construction Law, and particularly a fear of selective enforcement**

¹⁸ Amendment 2(b) to the amendment to the Regulations (Request for Building Permit, Conditions and Fees) – 1970, which causes difficulties of this type also in the Bedouin population.

¹⁹ Admin. Pet. Appeal 11/3435 'Abidat v. Jerusalem District Committee for Planning and Construction, June 19, 2013, par. 5 of the ruling.

which leads to discriminatory outcomes. In enforcing demolition orders issued for violations of planning and building, the planning institutions ostensibly apply objective professional rules. However, prioritizing enforcement on lands defined according to the plans for “open landscape areas” leads to over-enforcement in the Palestinian neighborhoods, where there are vast areas zoned in this manner. On the other hand, as stated above, it is exceedingly difficult to approve detailed plans, and subsequently to receive building permits based on them. In a discussion conducted in the District Committee for Planning and building in Jerusalem, May 27, 2013, our claims regarding this matter were rejected.²⁰

Accessibility to Adequate housing in East Jerusalem

Given the lack of ability to plan and build legally on land reserves designated for this purpose, illegal building is widespread, and in parallel, as stated, unsuitable spaces are used for residential purposes. The result is life in the shadow of a real fear of demolitions and non-fulfilment of the right to adequate housing. This population, of which 75% lives under the poverty line, also has difficulty in keeping pace with the fines and exorbitant legal expenses involved.

At the end of this chapter, we will briefly address the Palestinian neighborhoods of East Jerusalem that remained east of the Separation Barrier, physically cut off from the city but within its jurisdictional limits. The neighborhoods in questions are three large enclaves inhabited by tens of thousands of residents: the Shu’afat Refugee Camp enclave, which also includes Ras Khamis, Ras Shehadi, and the A-Salaam Neighborhood of ‘Anata; the enclave of the village of ‘Aqb; and the enclave of Wallajeh, only part of which is located within the Jerusalem municipal area. With the exception of ‘Aqb, these are neighborhoods that were never planned, and therefore, the problem of services and infrastructure is particularly severe, and even worse since the imposition of the Separation Barrier. The ‘Aqb and Shu’afat enclaves constitute a main construction area in recent years in a manner that enabled a certain easing of the severe housing crisis of the East Jerusalem Palestinian population. There are also “reverse” enclaves (Dahiyat al-Barid, Wadi al-Humus, A-Sheikh) – in other words, West Bank areas enclosed on the Israeli side of the barrier, such that subjects of the Palestinian Authority who live in them are entirely cut off from the center of their lives in the West Bank, and on the other hand, are prevented from moving freely within the boundary of the Jerusalem municipal area.

Question 6c – State of the Unrecognized Bedouin Villages, Means for Halting House Demolitions and Proposed Law of 2012 for Arranging the Bedouin Localities in the Negev

Response to Pars. 81-88 in the State Report: The Bedouin Population

Over 200,000 Bedouin live in the Negev. Approximately one half of them live in towns of an urban nature, established between 1960-1990. The other half live in 46 rural villages, of them, 11 villages that were recognized beginning in 2000.

²⁰ See note 5.

In recent years, there has been a growing recognition of the need to find flexible solutions for the difficult problems of Bedouin localities in the Negev, both in terms of regularizing land ownership rights as well as in the aspects of planning, construction and adequate housing. However, the situation is still far from being resolved. The demolition of homes and other structures has already become a routine, due to building that does not conform to the planning and building laws, while at the same time, the residents have no option to build legally. As mentioned earlier, even the existence of an approved plan for a locality is not sufficient, as the state has linked planning and construction to land ownership such that every dispute over ownership blocks the possibility for planning or for implementing a valid plan.

The Bedouin Localities in the Negev

The Bedouin localities in the Negev include rural localities, some recognized and some not, and towns established from the outset as localities of an urban nature.

The Unrecognized Villages: Most of the unrecognized villages are located on land that constitutes an area that does not belong to a particular local council, and is under the responsibility of the Ministry of the Interior. In the absence of a local authority, the residents are unable to vote or be elected to such an authority, thus depriving them of the possibility of influencing decisions that affect their lives at the local level, and violating their basic right to local self-governance, dignity and equality, and to suitable living conditions.

The recognized villages: In 2004, 11 Bedouin villages were joined in an appointed local council named Abu Basma. In 2012, residents of the villages petitioned for municipal elections for the council (HCJ 3183/10 **al-Rafi'ah v. Minister of the Interior**). In a compromise that was given the validity of a legal ruling, the Interior Minister made a commitment to hold elections for the Abu Basma council on a precise agreed-upon date: December 4, 2012. However, the minister subsequently decided to dismantle the council and instead, to establish two regional councils, also appointed: Neve Midbar and Al-Qasum. This decision constitutes circumvention of the agreed upon ruling. Given this situation, for the past ten years and to this day, even the residents of the recognized villages have no right to participate in the basic democratic process of conducting municipal elections.

The Bedouin towns: The towns were established, as stated, from 1960-1990. During the planning and establishment, many errors were committed. The main errors were planning that was not suitable to the unique needs of the target population and did not lend expression to their traditional lifestyle; lack of attention to the topic of land claims within the localities; creating secondary ("sub") budgets for the planning and development of the localities. No industrial areas were established in the localities, and no employment solutions whatsoever were devised. The infrastructure developed in them was at a very low level: no sewage systems were laid, internal roads were paved at only half-width and without sidewalks, no open public areas were developed, and no public buildings of required size and quality were built. As a result of all of the above, these veteran cities were unable to attract the populations for whom they were established, and they are at the bottom of the Israeli socio-economic ladder.

The concept of Land Ownership in Bedouin Society

The relation to the land among the Bedouin is complex. The ties are family-based, cultural and community-based. Just as the family constitutes the almost only safety net for the individual, so does the land constitute the only safety net for the family, which views it as the main resource for ensuring its existence in the present and in the future, while preserving a traditional lifestyle.

According to the traditional structure of ownership, the land is owned by a **family branch**, which includes relatives on the father's side. Family ownership is deeply rooted in local social and cultural arrangements accepted universally among the Bedouin. Residential land is also divided among the families,²¹ and in the case when economic considerations force an owner to sell a plot (the division a contiguous stretch of lands among family members), his relatives are given priority of purchase over any other buyer. One of the most outstanding manifestations of land ownership in Bedouin society is the manner in which the different families respect this ownership. People not only recognize the boundaries of their neighbors' land, but also scrupulously avoid making any use of land that is not theirs, to the point that they will not pass through it without the owner's permission.²² Even when public use is made of private land – whether at the initiative of the owners or as a result of land expropriation by the state, the view of ownership does not change. Both the “previous owners” and the other residents who enjoy the public function continue to view this land as belonging to its original owners.²³ The same applies when private use is made, by agreement, of land that belongs to someone else.²⁴

Both in terms of the state and in the eyes of the Bedouin, land ownership has a deep symbolic value that relates to questions of identity, sovereignty and existential security. Control and ownership of land are perceived by the state authorities as an expression of governability – oversight, establishing government, and creating order in the space. At the same time, the Bedouin view land ownership as an anchor for survival,²⁵ a basis for the existence and continuity of the extended family, and therefore, a basis for the continuity of the fabric and functioning of life.

²¹ In the past, most of the lands were used for agriculture and the residential land was not divided between the families. The population of the Negev was sparse relative to the space, and the Bedouin bought and sold land with a sense that it was a plentiful resource. This situation changed after the establishment of the state and the transfer of many Bedouin from the western Negev to Siyag area . Limitations on movement, which worsened, the entrance into effect of institutional planning, the imposition of limitations on the use of land, and the increase in the Bedouin population – all of these led to a dramatic rise in the importance of land, as it became an increasingly rare resource.

²² One aspect of this reality is the empty plots in the older Bedouin towns that cannot be placed on the market, the Bedouin claim that they are private Bedouin-owned lands, and as long as the Bedouin landowners have not given their consent, other Bedouin will agree to settle on them.

²³ Even use of a mosque, for example, is public. Everyone knows the identity of the landowner who, in their view, is hosting them in the mosque.

²⁴ Many Bedouin, on their private land, host landless families or groups forced to leave their lands for various reasons. The families may remain for many years on their hosts' land, and even build a home on it with the agreement of the landowner, but their status will always remain that of permitted guests.

²⁵ Many Bedouin express the fear that if they do not possess land, the government will be able to deport them on the claim that Israel is a Jewish state. In the framework of the existing lack of faith,

In this context, the economic incentive proposed by the state to some 90,000-100,000 Bedouin who live in residential clusters built without a permit, in exchange for moving to recognized villages, is problematic and does not properly address the deep significance of land ownership in Bedouin society. The state proposes an ownership arrangement of 20% land compensation (alternative land that is agriculturally zoned, whose area is 20% of the land being claimed) and the remainder as monetary compensation, and the granting of a developed residential plot subsidized at 90% of the land value. In practice, this means that most of the land historically owned by a particular resident, which is also the source of his livelihood, is transferred to the state, and is even likely to be offered for residential purposes to a different person. In most of the cases, the arrangement also involves moving one's place of residence.

Discrimination against the Bedouin Population in Israel, and in the Negev in Particular

There is systematic discrimination at every level against Bedouin in the villages in the Negev, beginning with operational mechanisms, complete lack of representation in these mechanisms, and even the actual planning policy.

- a. In the operational mechanisms and inclusion (in effect, lack of inclusion) in decision making, the Bedouin are distinct from other Israeli citizens through government offices that were established specifically for their affairs, but without including the Bedouin themselves: the Authority for the Regulazation of Bedouin Settlement in the Negev (henceforth: **“the Regulazation Authority”**) and the Council for Implementing the Praver-Begin Plan. The existence of these bodies in the central government perpetuates the state's treatment of Bedouin as distinguished from the rest of the population, while excluding them absolutely from these mechanisms. There are thus no Bedouin residents among the employees of the Arrangement Authority, and not even a Bedouin implementation team. As stated above, at the municipal level – to date – elections have never been held in this municipal authority, made up solely of the Bedouin villages.
- b. The planning practices under the existing planning policy are discriminatory. The planning principles applied to the Bedouin residents of the Negev villages, such as the particular density rates and the exclusion of agricultural lands from the plan boundaries, do not apply and cannot be applied to localities intended for Jewish residents. This is reflected in the fact that these criteria are not met by any Jewish locality. In effect, the approach to establishing Jewish localities in the Negev is entirely different, as illustrated, for example, by government decision 3782 of October 27, 2011 regarding the establishment of seven villages in the “Arad Gateway” area, in the words of the decision, for the purposes of “reinforcing the organized Jewish settlement.” The area includes those same localities, some 180,000 dunam, described in government decision 3782 as an “unpopulated area” containing two Jewish localities, four Bedouin farms, and a

documents such as identity cards, birth certificates and proof of roots do not relieve fears and dispel rumors, and land ownership is perceived as the ultimate proof that their rights to the place are ensured. These fears probably influence the interpretation the Bedouin give to the density policy, as one that seeks to reduce their land holdings.

“sparse scattering of Bedouin.” This “sparse scattering of Bedouin,” however, is actually five unrecognized villages inhabited by some 8,000 civilians; two of them – ‘Atir / Um al-Hiran and Tel Arad, have existed in their current locations since the 1950s, after their residents were moved there by the state authorities. Three additional villages – al-Humrah, S’awe and al-Bat, have been in their present location since prior to the establishment of the state. These villages are in desperate need of recognition, but when a professional recommendation was received to recognize Atir / Um al-Hiran and Tel Arad, it was in fact the government who opposed recognizing them and demanded their evacuation, claiming that they were occupying an area that “greatly embodied sensitivities and values in terms of environment and landscape.” However, it was this same government that later requested to establish in that area new Jewish localities in a process that is currently proceeding full force in the planning institutions. (We note that the petition submitted by residents and organizations, including Bimkom, against this government decision, was rejected because it was premature – H CJ 6094/12 **Abu Al-Qiy’an et al v. Government of Israel et al**). To date, the National Planning and Building Council has approved the plan for the establishment of seven new localities in the Arad Gateway, and the next stage is passing a government decision that approves the plan.

Response to Pars. 89-93 in the State Report: Goldberg Commission

In January 2008, the Israeli government appointed a commission headed by former Israeli Supreme Court Justice Eliezer Goldberg, and vested him with the job of recommending policy principles for regularizing the settlement of the Bedouin in the Negev, and in particular, the topic of land claims and ownership. The recommendations of the committee were submitted in January 2009. The main innovation in the recommendations of the Goldberg Commission regarding arranging the issue of ownership was its suggestion that the state recognize the historical relationship of the Bedouin to their lands, and stemming from this, their ownership claims would be regularized based on compromise, transcending the letter of the law. Regarding planning arrangements for existing localities, the committee’s position was that to the extent possible, a recommendation for recognition was necessary for each of the unrecognized villages, in keeping with the following conditions: a minimal mass of residents, municipal carrying capacity, and lack of contradiction vis-à-vis the district outline plan.

However, these suggestions were not reflected practically in further steps - the Praver Report and the Draft Law for the Arrangement of Bedouin Settlement in the Negev, 2012, discussed below.

Response to Pars. 94-103 in the State Report: The Bedouin Population in the Negev – Government Decisions 3707 and 3708; Par. 104 of the State report: Legislation on behalf of the Bedouin Population

We will relate to the above paragraphs together, according to their chronological and logical order. Following the Goldberg Commission report, the government appointed a team headed by Ehud Praver, Head of the Planning Policy Department in the Prime Minister’s Office. The Praver team was requested to submit a detailed and implementable outline for arranging Bedouin settlement in the Negev, based on the

Goldberg recommendations. The Praver report was approved by the government in September 2011, following which the 2012 Memorandum of Law to Regulate the Bedouin Settlement of the Negev was prepared. The report constitutes a significant retreat from the trend towards recognition evidenced in the planning policy since the 1990s. It ignores the Goldberg Commission recommendations “to recognize the villages to the extent possible,” entirely avoids calling the villages by name, and uses the insulting term “scattering” to refer to dozens of localities, the overwhelming majority of which have existed since prior to the establishment of the state.

In summary, the Praver plan recommends a multi-staged plan for concentrating Bedouin settlement into a minimum number of urban localities or appendages to existing localities. The outline includes legislation that revokes Bedouin ownership on most of their lands, while conditioning the receipt of planning rights on a land compromise with the state. The Praver plan stipulates that most of the Bedouin be transferred or annexed to existing localities, and that a new administrative system be established, which will be under the direct control of the Prime Minister’s Office, with no Bedouin representation. The Praver Report constitutes a serious violation of the Bedouins’ right to recognition, equality and development. The report imperils the future of the villages and of the Negev as a whole.

Following the work of former Minister Begin, changes were made in the Praver plan, which constitute a return to the spirit of the Goldberg report, but we believe that these are minor changes that to a large extent are rhetorical (such as resuming usage of the term “unrecognized villages” rather than “scattering,” as well as the idea of “recognition to the extent possible” of the villages); in addition minor changes were suggested in the terms of the arrangement (an increase in the amount of compensation, compensation for types of land that were not included previously, and the like), but they do not essentially change the suggested arrangements and their underlying principles.

Following the Praver Report, the government, in September 2011, adopted a plan for advancement and development for the Bedouin in the Negev, following which two government decisions were accepted: 3707 and 3708. Decision 3707 deals with policy and tools for arranging Bedouin settlement in its various attendant aspects, including arrangement of land ownership claims, the adoption of the Praver plan, advancement of the Draft Law for the Arrangement of Ownership and Settlement, establishment of an implementation team, transfer of the Bedouin Authority to the Prime Minister’s Office, establishment of a liaison administration for the enforcement of land laws, establishment of a committee for investigating municipal boundaries in the Bedouin sphere, and more; decision 3708 is a five-year economic development plan budgeted at 1.2 billion NIS, which will be invested from 2012-2016 for the advancement of employment (360 million NIS), education (90 million NIS), infrastructure supporting employment (450 million NIS), personal security (215 million NIS), society and community (90 million NIS).²⁶

Details of the Plan Proposed by the Praver Report

²⁶ Decision no. 3707, on the Prime Minister’s Office website, <http://www.pmo.gov.il/BranchesAndUnits/beduin/Documents/3707.pdf>. Decision 3708, *ibid.* http://www.moch.gov.il/SiteCollectionDocuments/gov_decisions/des3708.pdf.

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The Praver-Begin Plan includes two central tracks which occur simultaneously: (1) the arrangement of land claims through a mechanism based on pending legislation and (2) the planning track, to be regulated by the Beer Sheva Metropolitan Outline Plan (BSMOP) which was approved in late 2012

. We believe that both proposed approaches have severe ramifications on the Bedouin community in the Negev, including a glaring violation of the residents' human and civil rights, enumerated and elaborated on below.

The Land Track:

The goal of the report's approach to the land issue is to arrange Bedouin land ownership rights in the Negev. Implementation of this approach is carried out through a Draft Law, which proposes an arrangement for registering claims within a defined period; recognition beyond the letter of the law of claims for only a percentage of the land; and compensation in land or payment in exchange for lands recognized in the arrangement. We emphasize that the ownership arrangement also has a direct effect on the recognition and planning arrangement for the villages, inasmuch as it deals with land allocation: quantity of lands, their location, type of lands, etc.

Difficulties with proposed land arrangement:

- a. This is a unilateral agreement not accepted by the Bedouin population. It seeks to dictate a comprehensive arrangement that violates proprietary rights (at least by influencing and changing them). In practice, the arrangement banishes the Bedouin population from 90% of the lands it claims.
- b. The proposed law does not recognize the historical rights of the Bedouin to their lands in the Negev, and ignores the fact that most of the Bedouin villages in the Negev are historical villages in existence since before 1948.
- c. The implementation mechanism determined by the law will give rise to the destruction and evacuation of entire villages, requires the evacuation of between 30,000 (according to estimations of the Praver implementation team) and 40,000 individuals (according to the estimations of the population).
- d. The proposed arrangement gives rise to inequality and discrimination: This land and proprietary arrangement is unique to the Bedouin population. It replaces legal clarification procedures in the regular court system, the access to which is a basic right. It should be noted that the Bedouin have the alternative of legal recourse, but over the years, this option has proven ineffective due to the strict adherence to land laws that require registration as unequivocal proof of land ownership, and the rejection of proofs of ownership according to the norms of traditional Bedouin law.
- e. The law discriminates both within the Bedouin population and between it and the population-at-large, in that it excludes two-thirds of the Bedouin, who claim ownership of the land, accepts land exchanges, and offers exchanges totaling less

than 1% of the lands being claimed by the Bedouin (who are claiming a total of 5% of the total area of the Negev).

- f. The proposed arrangement includes harmful sanctions in relation to the basic rights of the individuals affected by the Draft Law. Among other things, the arrangement stipulates that anyone not joining the arrangement within the timeframe stipulated by law, will face a graduated reduction of his compensation which could reach total loss of proprietary rights; when lands are jointly owned, failure of one of the owners to join will detract from the compensation of the party that did join the arrangement; a period of five years is stipulated, at the end of which those who did not take part will find their lands registered as state lands, etc.
- g. The Draft Law does not include all of the areas where the Bedouin are claiming ownership. For example, areas in the western Negev from which Bedouin were transferred by the state are entirely excluded from the arrangement, and monetary compensation is all they can receive in exchange for them. Lands west of Highway 40 are also excluded from the arrangement.
- h. In addition, the arrangement does not recognize the ownership claims regarding particular types of land, for example, lands of various gradients.

The Planning Track:

The Metropolitan Plan is meant to arrange all aspects of life in the Negev for several decades to come –all types of infrastructure, military bases and regional localities, including Bedouin villages in the Negev. The Praver Plan laid a basis for planning Bedouin localities within the framework of the Metropolitan Plan. The Praver Plan determines the basic planning guidelines for the Bedouin localities, including: a preference for transferring population from unrecognized villages to existing towns, or to the 11 recognized villages; a preference for recognizing localities that border existing towns and annexing them to these towns; the establishment of new Bedouin localities only in cases when there is no other option.

In addition, it was determined that localities will be regularized only if they comply with criteria such as density, contiguous building area, avoidance of leaving areas undeveloped areas, agricultural land located outside the village, critical size, municipal economic capacity, and more.

The planning team in the Prime Minister's Office (in contrast to the regular planning institutions) is carrying out the planning for the Bedouin localities.

Problems with the Proposed Planning Guidelines:

- a. Discriminatory planning guidelines: Unique planning principles were stipulated for the Bedouin localities, which discriminate against this population relative to the Jewish population whose rural localities (including some 115 Jewish localities in the Negev and some 60 private farms) do not meet the criteria and standards required from the Bedouin. The planning criteria, similar to the land ownership arrangements proposed in the Draft Law, reveal that the plan is not based on an

intention to grant in-site recognition to the unrecognized villages that existed since prior to or near to the establishment of the state, but rather on recognition of a small number of the residential clusters in the villages, if any.

- b. Ethnically-based concentration of population: a central goal of the proposed plan is the concentration of various population groups into a pre-determined area (the “search area” in the Metropolitan Plan, which zones the land as “combined rural agricultural landscape”) and preventing the existence of Bedouin localities in areas outside of this defined area.
- c. The plan requires massive relocation of 30,000-40,000 people into and within the “search area.”
- d. The Metropolitan Plan requires the demolition of entire villages, and destruction – rather than recognition – of the rural, socio-cultural and economic fabric of life.

The combination of both approaches detracts from possible progress towards an arrangement. The Praver Plan conflates the ownership and planning approaches due to the assumption that regularizing land rights is a condition for arranging the planning. In contrast, the state, in the past, has already recognized unrecognized villages without regularizing ownership of the land, and even begun planning processes based on the current residential layout that itself is based on ownership patterns, without necessitating proprietary arrangements. But beyond the fact that the issue of ownership is not technically necessary, we claim that tying ownership arrangements to planning detracts from the possibility of reaching a workable arrangement.

Ultimately, in the absence of a genuine manifestation of the Goldberg Recommendations in the Praver Report and in the Draft Law, if both are approved, most of the Bedouin population located outside of the villages will have to evacuate the land it occupies, which constitutes not only a place of residence but also their source of livelihood and income.

The **Draft Law for the Arrangement of Bedouin Settlement in the Negev – 2012** (henceforth: **Draft Law**), is based on the Praver plan which, as stated, incorporated corrections following the work of then- Minister Begin.

The Draft Law aroused broad public opposition among both the Bedouin and the Israeli right wing. In the view of the Bedouin, the arrangement is being forced on them and does not recognize their rights to the land, and its intention is to relocate most of the Bedouin population and concentrate it in localities of an urban nature. All this, while transferring the decisive majority²⁷ of its lands to the ownership of the

²⁷ During the discussions of the Draft Law for the Arrangement of Bedouin Settlement in the Negev, Memorandum of Law containing the understandings and a map, approved by the government along with the Draft Law, was submitted to the Interior Committee as part of its conditions. The memorandum includes a series of coalition agreements that pertain to the regularization of the Bedouin localities in the Negev, including the scope of land that will be registered to the state after ownership is arranged. An analysis of the memorandum and the accompanying map reveals that most of the area subject to land claims in excess of 450,000 dunam will be registered as state lands.
<http://bimkom.org/wp-content/uploads/הערכת-מפת-איתור-ומסמך-הבנות-סופי.pdf>.

State. As stated, the land constitutes for the Bedouin an anchor of security and stability in a life that has no economic, occupational or civil security. Land ownership enables a poor father to marry off his son and fulfill his parental duty by giving him a place to build a home. It also enables him to maintain a flock, which provides basic economic security in the form of food and limited income. The type of arrangement proposed in the Memorandum of Law threatens this lifestyle.

Bedouin opposition, coupled with right wing opposition, ultimately led then-minister, Benny Begin, appointed by the government to deal with the Bedouin issue, to announce on December 2, 2013 that he was resigning from his handling of the Memorandum of Law. Subsequently, the government determined that the Minister of Agriculture would take responsibility for the regulation of Bedouin settlement. The minister and his team embarked on a process of study, and actions relating to the law were suspended. To date, the future of the Draft Law is unclear.

Response to Pars. 105-107 in the State Report: Multi-Year Plan for Development of the Bedouin Population in Northern Israel

This refers to government decision no. 3211 of May 15, 2011. The decision is intended to assist Bedouin localities in the north, while the al-Qasum and Neve Midbar (formerly Abu Basma) villages have been allotted only 10% of the plan's budget. These local authorities are home to approximately 30,000 residents, but provide welfare, education and other services for some 100,000 residents of the Bedouin villages (both recognized and unrecognized). To date, two years after the plan was launched, to the best of our knowledge, the majority of the budget has not been utilized.

Question 9: Access to Natural Resources – Agricultural Land and Adequate Water Supply

Response to Pars. 249-253 in the State Report: East Jerusalem

In East Jerusalem, there is a severe lack of land for recreation, for social services and for agricultural activity. A central problem in this context is the zoning of vast areas as national parks, such that any kind of agricultural or other activity there requires coordination with government authorities which impose severe limitations. In effect, it appears that approval and/or declaration of a national park is a tool for limiting development in the Palestinian neighborhoods.²⁸ The issue of accessibility to agricultural land arose in the case of the Emek Tzurim National Park (declared in 2000), which included olive groves belonging to Palestinian residents. Despite the promise that harvesting could proceed unimpinged, the harvest was halted by the National Parks Authority with the claim that the trees were being harmed – apparently by manual pruning during this season, even though this is a longstanding traditional agricultural practice.

²⁸ From Public to National: National Parks in East Jerusalem, Bimkom, 2012, p.4, http://bimkom.org/eng/wp-content/uploads/From-Public-to-National-English-FINAL2012_withMAPS_lowres1.pdf

A major impact of the lack or inadequacy of planning in East Jerusalem is lack of infrastructure and the inability to receive occupancy permits, which are required before connecting to the electricity and water infrastructure. These result in major difficulties in providing a regular water supply. In recent months, there have been severe problems with the supplying of drinking water to the East Jerusalem neighborhoods on the eastern side of the Separation Barrier but within the bounds of the Jerusalem municipality. These neighborhoods, inhabited by tens of thousands of individuals, suffer from extremely low water pressure, such that the supplying of drinking water is sometimes cut off entirely.

In our opinion, this is a highly problematic pretext for denying essential services to residents who have no ability whatsoever to obtain building permits (or occupancy permits). A legal proceeding regarding this matter is now pending in the High Court of Justice (HCJ 2235/14 **Sanduqa v. Government Authority for Water and Sewage**).

In Unrecognized Bedouin Villages in the Negev

The prevention of access to natural resources occurs mainly by the non-allocation of water quotas for agriculture in a manner that does not allow reasonable employment and livelihood for residents of the villages from this basic and modest occupation. This is not related to planning, and since it does not fall under our area of expertise, we will not expand on this topic.

Question 21: Construction of Settlements

Response to Par. 407 in the State Report: Construction of Settlements in East Jerusalem

The state chose not to relate to this issue, since the Covenant does not apply to the West Bank.

We will relate to the obligation to avoid building settlements in East Jerusalem and in Area C.

In East Jerusalem: In the East Jerusalem neighborhoods, Israeli settlements are multiplying at an accelerated pace. Although small, they are located in the heart of the Palestinian neighborhoods, and receive the full support of the state. For example, these settlements enjoy state-funded security services,²⁹ armed escorts for children walking to school or school buses, and on the level of planning – increased planning rights, and more. In addition, these settlements are established and function as gated communities, fenced-in and isolated compounds that have a negative effect on the surrounding urban space.

Violation of Civil and Political Rights in Area C

²⁹ A petition submitted on this matter by the residents and the Association for Civil Rights in Israel was withdrawn at the suggestion of the Israeli Supreme Court. HCJ 11/8011, Siam et al v. State of Israel et al.

As stated above, the state chose not to relate to this area. In what follows, we will survey the violations of political and civil rights in these areas according to the information at our disposal, and relative to all the questions presented in the “List of Issues.”

Area C comprises some 60% of the overall area of the West Bank, and according to the Interim Agreement of 1995, all authority over the planning and building is controlled by the Israeli Civil Administration, while authority for the planning of areas A and B is the responsibility of the Palestinians. Most of the built-up lands of some 180 Palestinian villages are in Area C. In addition, there are many Palestinian villages, some of whose built-up lands are in areas A or B and some are in Area C, while there are others in which most of the built-up areas are in Areas A or B. In most such cases that we know of, a significant portion of the village lands – in contrast to the residential areas – are in Area C.

Area C – Question B6 – Housing Policy and the Granting of Building Permits

The problems relating to planning and building in Palestinian villages in Area C are first of all rooted in the fact that neither a municipal boundary nor a local planning area has been defined for any of them. At the same time, most of the Palestinian villages in Area C are not regularized in terms of planning. Only 20 of the 180 villages for which the bulk of the built-up area is located in Area C, have an approved local outline plan. The plans in effect in all of the other villages are outline plans drawn up and approved during the Mandatory period in the 1940s, and they are detached, i.e. not associated with a particular local authority. These plans enable the granting of permits, although their building rights are low.³⁰ Until 2005, the Civil Administration also granted building permits based on these detached outline plans, but according to its most recent interpretation of the law, these plans are not sufficiently detailed, and in order to realize the limited building rates that they stipulate, a detailed plan – or at least a parcellation plan – for the relevant plot must first be approved. This interpretation requires Palestinian landowners to undertake a complex and costly planning procedure, which involves ongoing uncertainty. Moreover, in all of the cases that have come to our attention, the Civil Administration has rejected parcellation and detailed plans deposited by Palestinian landowners, on the grounds that there is no planning justification for changing the directives of the Mandatory detached outline plan applying to the area in question. In this fashion, even the limited rights of the Mandatory outline plans are denied.

In those villages where a local outline plan was approved by the Civil Administration, it is a special outline plan of a kind that is not recognized in the Jordanian law in effect in the area, but is rather an invention of the Civil Administration.³¹ These “special partial outline plans” were prepared by the Civil Administration solely for Palestinian villages, and from a planning perspective, they suffer from many defects:

³⁰ For example, Plan RJ/5 for the Mandatory Jerusalem District, which encompasses almost half of the area of the West Bank, allows the establishment of a single two-story residential building of up to 150 square meters on agriculturally zoned land, on a small plot of approximately 1 dunam.

³¹ A trend is emerging in the Civil Administration, according to which, no further special outline plans will be drawn up. On the other hand, of nine detailed plans submitted by Palestinian villages and deposited, only two were approved, such that it is unclear whether the trend has any significance.

- a. **Low level of detail:** In most of the special partial outline plans, there are at most four zoning categories, which include up to three types of residential areas and a partial road system. In a small percentage of them, open public zone is defined in a manner that is mainly intended to prevent construction, and is not functionally usable as an open public area. These plans do not zone land for public building, but rather assume that these will be built in an area zoned residentially; they do not lay out a proper road system, and in most cases, leave entire residential areas without access roads marked in the plan; the density specified in them is high, and is not appropriate for the rural character of the localities. For example, in land zoned as "Residential Area type B", the standard directives for these plans allow a density of ten units per quarter acre, which is not acceptable in any rural locality, in Israel or in the rural settlements in the West Bank. The area of the partial special plans is small and in most cases encompasses from the outset only part of the existing built-up area in the village that they are meant to regularize.

- b. According to a decision of the Higher Planning Council of the Civil Administration, state lands are not to be included in the boundaries of the special partial outline plans for the Palestinian villages. And indeed, almost all of the state lands in Area C are included in the jurisdictional areas of the local authorities or regional authorities of Israeli settlements. Given the lack of state lands in the partial special outline plans, all of the lands in the plan boundaries are privately owned. In this situation, providing a planning solution for public needs such as public buildings and open public realms becomes increasingly difficult. The lack of state lands in the realm of the plans makes it impossible to provide solutions for residents who do not own lands within these boundaries, mainly because for social and cultural reasons such as preserving the land for the benefit of the next generation in the family, most of these lands are not for sale.³²

- c. An additional typical problem in the special partial outline plans is the failure to address employment needs and non-allocation of lands for agriculture. This arises in part because, as stated, the Palestinian villages in Area C are not part of a municipal jurisdiction, and the Civil Administration is not interested in defining such a jurisdiction for them, apparently due to a fear that in the future, this area would be used for construction, and out of a desire to preserve large land reserves for the settlements. For example, a partial special outline plan (see below) for an area of approximately 122 dunam was approved in 2012 for the village of Um a-Reihan in the Jenin District, pop. 450. The neighboring settlement of Reihan, with a population of only 180, has an approved detailed plan, no. 103/3, spanning some 1,209 dunam. The plan approved for the settlement of Reihan includes broad areas zoned for employment, including approximately 436.8 dunam for agricultural structures.

³² If state lands had been allocated to Palestinian villages, the state could have controlled the solution as it wished, and enable any person who did not possess his or her own lands to build. However, there is no certainty that this would be the result, and in any case, the allocation of state lands to these villages is not the usual case. In the existing reality, the most significant component contributing to the lack of private land for building within the village bounds is the social and cultural significance of land ownership, such as the practice of leaving available land for building for successive generations, rather than selling it for immediate development.

- d. The main goal of the partial special outline plans is to limit Palestinian building and to contain it within as small an area as possible. This is also the reason that the Civil Administration focuses on preventing construction that deviates from the boundaries of the plans, in areas that come under detached Mandatory outline plans, while for the most part, it is lax in enforcing planning and building laws within these special plans. Enforcement in the boundaries of the partial special outline plans takes place mainly due to errors or security motives. The Civil Administration has declared orally the practice of not issuing demolition orders for structures erected without a permit within the plan area. In such a situation, civilians who seek to build within the partial special outline plan usually do not submit permit requests, with the exception of cases in which a person seeks to ensure that a structure demolished in the past within the plan area will not be demolished a second time, or in the case of planning on behalf of organizations or foreign governments who are erecting public buildings and infrastructure.

Area C – Question D6: Availability of Adequate Housing

Access to adequate housing in Area C depends on two factors.

The first is the existence of a local detailed plan. Such a plan usually does not exist, and as stated, the Civil Administration's current interpretation of the detached outline plans is that they can no longer serve as a basis for the granting of building permits. The result is that there is no planning framework that enables legal construction. This situation, in combination with an annual demographic increase of 3% or more, creates a situation in which the residents have no choice but to build without permits. As stated above, to the best of our knowledge, of the 180 Palestinian villages whose entire built-up area is located in Area C, for only 20 is there a plan that enables the granting of building permits. Many villages that have some built-up lands in Areas A or B but whose main built-up areas are in Area C, suffer from the same housing crisis that characterizes villages whose entire built-up area is located in Area C.

The second factor on which access to adequate housing in Area C is dependent is Israel's interest in enforcement, which varies from place to place according to political considerations. Wherever the Israeli interest in preventing building is greater, for example in the Jordan Valley and in the South Hebron Hills, there is stricter enforcement and less accessibility to adequate housing.

Shepherding Communities in Area C

In addition to the unrecognized villages, there are many communities of shepherds, mostly Bedouin, that constitute a broad population negatively affected by the Israeli planning policies in Area C. No solution is offered for the special needs of these communities in terms of adequate housing and their unique lifestyle, which is based mainly on the raising of flocks on open land. The only solution suggested, which has been implemented in some cases in the past, is the concentration of these populations into limited areas without consulting with the residents, while creating housing of a type that is unsuitable for the needs of the population.

For example, at the end of the 1990s, due to an intention to expand the settlement of Ma'aleh Adomim, some 150 families of the Jahalin tribe were forcibly removed from the area zoned for the settlement's expansion, and a village was established for them on an area declared as state lands on the lands of the village of Abu Dis. Plots were

distributed in the new village, and a minimal infrastructure was installed, but no effort was made to devise employment solutions for the residents. The type of living arrangement proposed for this population was not appropriate to their lifestyle and livelihood, based on shepherding, and so the residents were forced to alter their lifestyle, to the continuous and to this day deepening detriment of their cultural fabric.

Israel's planning policy in Area C, with a few exceptions, does not recognize Bedouin and shepherding populations who live under the constant threat of demolition of buildings, forcible removal and the complete lack of essential infrastructure and basic services. Various means have been devised to prevent residents from using the land: declaration of lands as state lands and prevention of their use by Palestinians, as enumerated above; the definition of vast areas, over a million dunam, as military firing zones that limit the livelihood and grazing options of these populations; the paving of roads and erection of fences; and various security measures taken for the Jewish settlements in the West Bank.

Area C – Question 9: Access to Natural Resources

Area C: According to the law in effect in Area C, digging a water collection cistern requires a building permit. The Mandatory detached outline plans that apply to most of the lands in the area enable, through agricultural zoning, the establishment of various technical facilities, including water and electrical installations, without need for an additional plan. However, as stated, the Civil Administration's current interpretation of Mandatory detached outline plans is that they do not enable the granting of building permits, and in order for a permit to be granted, a detailed plan and/or a re-parcellation plan is necessary. In addition, according to the position of the Civil Administration, excavation of a water collection cistern or the expansion of an existing cistern requires a permit, as well as approval by the joint water committee established pursuant to the Oslo Accords. As is known, the decisions of the joint water committee require a unanimous vote, such that non-agreement of one of the parties, in this case, Israel, means that these requests will not be granted. As a result, there is widespread destruction of water cisterns and access to them is prevented, particularly in desert areas such as the South Hebron Hills. The Civil Administration has even declared outright to Bimkom that according to its view, every water cistern excavated or expanded is the cornerstone of a new "illegal" locality, and therefore, priority is given to enforcement in preventing the excavation of new water cisterns.

In addition, in areas where crops are grown, such as the Jordan valley, most of the water resources (wells, springs) are allocated to the Israeli settlements, and as a result, the Palestinian farmers are prevented from working broad swaths of land. The limitations that we know of regarding agricultural land, pertain mainly to the municipal boundaries (inclusion of most of the agricultural lands in the boundaries of the settlement's regional authority) and to land laws (declaring certain areas as state land and thus preventing Palestinians from cultivating them).

Additional limitations on access to agricultural lands arise from the Separation Barrier, which extends deep into the West Bank along most of its route, and leaves large swaths of agricultural lands hemmed in between it and the Green Line. Palestinian farmers whose lands remained on the "Israeli" side, to the west of the barrier, require a special permit from the Civil Administration to reach their lands.

Many requests meet with refusal on various pretexts, and even those who receive permits (which are temporary and require periodic renewal) are only permitted to enter their agricultural lands during particular seasons – for example, during the harvest – and even then, only for a limited time. A similar phenomenon, more severe in character, exists in almost all of the lands adjacent to built-up areas of settlements. In certain cases, access for Palestinian farmers to their lands adjacent to settlements has been prohibited for years.

Area C – Question 21 : Refraining from Construction of Settlements in the Occupied Territories

Of late there has been a wave of plans deposited and others being prepared for regularization of Israeli localities, the previous status of which was “illegal outposts,” as well as for the expansion of settlements established without building permits. In almost all of the cases, the new plans apply to areas zoned for agricultural usage according to the current Mandatory detached outline plans. Among the new plans we note Plan No. 522 for the settlement of Sansana, established only recently, all of whose buildings were erected without permits. The Sansana plan, deposited at the end of June 2013, changes the zoning from agricultural (according to the current Mandatory detached outline plan R/1) to residential and attendant uses (both built and open public areas), and allows the establishment of 293 residential units, of which some 20 have already been built as permanent structures, and another few dozen exist in the form of caravans. A detailed plan (no. 150) was also recently deposited for the settlement of Brukhin, defined as an illegal outpost, in order to reclaim the land and enable expansion by the addition of 550 residential units. Other plans recently submitted include plans for existing settlements recognized by the government that have no currently valid detailed plan and by definition, any construction in them is illegal, such as Eli (Plan 237 for 620 units), Itamar (Plan 163/3/4, for 675 units) and Ofra (Plan no. 221/6, for 250 units).

All of these settlements, if approved, will result in severe violations of the human rights of Palestinian residents, including proprietary rights. The borders within which Israeli settlement in the West Bank have been defined are in most cases based on the boundaries of the area declared by the Civil Administration as state lands. Due to the fact that the main criterion for declaring lands as state lands is that they are not being farmed, a situation now exists in which the area declared as state lands is almost always non-contiguous and is broken up by farmed lands that have remained under private Palestinian ownership. Some of these areas are located outside the boundaries of the plans deposited for settlements, while others are within them, enclaves surrounded on all sides by state lands zoned for building and development for settlements.

Experience shows that this situation leads to a *de facto* loss of Palestinian ownership of the enclaves. Since 1996, the areas of the various settlements have been defined via military order as closed military areas where Palestinians can enter only by virtue of an individual, personalized permit. This legal reality, in combination with the security arrangement in the area, has created a situation in which the owners of Palestinian enclaves located in the heart of a built-up settlement area have for years been prevented from reaching their lands in order to cultivate them and to exercise

their ownership. In many cases, a process results in which Israeli residents take over the enclaves and use them, including for the building of residences and other uses.

For example, within the boundaries of Plan No. 237 for the settlement of Eli, there are seven enclaves of private Palestinian land, surrounded on all sides by lands zoned by the plan for development of the settlement. In four of these enclaves, there are existing structures erected by Israelis, built in contradiction to the agricultural zoning of the land according to the plan currently in effect (Plan RJ/5). While Plan RJ/5 permits the erection of residences even in agricultural zones under certain condition, the existing construction in Eli, as well as in many other settlements, does not fulfill these conditions. Moreover, Plan No. 237 does not mark these structures for demolition, but rather defines no fewer than 50 residential plots for “completion,” some of which are within the area of the deposited plan, and some outside of it, whether within an enclave or outside the plan’s perimeters, on private Palestinian land. These are therefore directives that attempt not only to legalize illegal building, but also to legitimize the takeover of private Palestinian property.

Additionally, in cases where there are no enclaves of Palestinian land within the planning boundary of settlements, the very fact that there is construction in the area has planning implications on the adjacent Palestinian areas: prohibitions and limitation of access, and in many cases, also creation of a special security area that forms a belt surrounding the plan's area, on land that is mostly privately owned by Palestinians. The special security area, entrapped between the border of the private land (which incidentally also constitutes the boundary of the plan's settlement) and the boundary of the security fence intended to protect the settlers, becomes inaccessible or only accessible with significant limitations and for short periods for its Palestinian owners. The result is a severe violation of their proprietary rights, including the ability to use or even access their own land and the right of access to agricultural land and to one’s source of livelihood.

Summary and Recommendations

Spatial planning is a very powerful tool for strengthening or oppressing communities. The State of Israel frequently uses planning as a means of implementing discriminatory policies that include severe abuses of basic civil and political rights: the right to adequate housing and suitable living conditions, the right to access to natural resources and sources of employment and livelihood, the right of minorities to conduct a way of life that is appropriate to their culture, the right to basic democracy and the participation in elections and decision-making processes, and more. All of these have a direct effect both on the communities as communities, and on the life of the individuals within these communities.

Following are our recommendations to prevent the continued violation of civil and political rights described above and to rectify the current situation.

East Jerusalem:

1. An immediate freeze must be ordered on home demolitions and the issuance of house demolition orders, until a realistic solution for the severe housing

crisis is formulated. The authority to issue such an order rests with the National Unit for the Enforcement of Land Laws at the State Attorney's Office and / or with the District Committees for Planning and Building which have jurisdiction over the area.

2. A change in the authorities' planning policy that evinces flexibility regarding the minimalistic size of the planning area, and determines guidelines for allocating land for public needs that works in tandem with the traditional approach (voluntary allocation by landowners), in contrast with the prevailing institutional approach (expropriation). Such a change will encourage the advancement of plans at the initiative of residents rather than the default of rejecting the plans.³³ The authority to set this policy rests with the planning committees in Jerusalem.
3. Significant allocation of municipal budgets for the Palestinian neighborhoods, in a proportion to their representation in the general population, and even beyond, as a form of affirmative action. The authority in this matter rests with the Jerusalem municipality, which administers the municipal budget; the Ministry of the Interior, as responsible for the local authorities; and the Ministry of Finance.
4. Preparation of a an immediate skeleton plan for enclaves created by the Separation Barrier which are located within the city of Jerusalem, in order to enable the laying of basic infrastructure. Authority in this realm rests with the Jerusalem District Planning and Building Committee, but the government as a supreme planning institution, can also order execution of this step.

Bedouins in the Negev:

1. The Draft Law for the Arrangement of Bedouin Settlement in the Negev is not necessary for arranging the planning framework for these communities; moreover, it exacerbates the lack of faith between the Bedouin citizens and the government. In our opinion, the Draft Law should be frozen. Planning should be allowed to move forward, while recognizing the unrecognized villages and providing arrangements for them as for any other locality in the Negev, while at the same time, advancing guidelines that are acceptable to all parties for formalizing land ownership including a recognition of the Bedouin's historical connection to their land. The Bedouin Authority is today the body vested with authority for all of these topics, and must work in collaboration and with full transparency with the residents and with all of the relevant authorities, such as the local councils and the Israel Lands Authority.

³³ Cohen-Bar & Ronel, "Dynamic planning initiated by residents: Implementable plans for the informal built urban fabric of the Palestinian neighbourhoods of East Jerusalem," 2013, at <http://bimkom.org/eng/dynamic-planning-initiated-by-residents-implementable-plans-for-the-informal-built-urban-fabric-of-the-palestinian-neighbourhoods-of-east-jerusalem-2/>

Arab Israelis:

1. State lands must be allocated to the Arab localities, in order to provide a solution for the population that does not own lands on which construction can take place. This issue comes under the jurisdiction of the Israeli Lands Authority and the Ministry of Housing.
2. Resources must be set aside for the advancement of detailed planning, based on which building permits will be granted without applicants having to endure additional long years of expensive and exhausting planning processes. Budgets are necessary for the drawing up of plans, allocation of professional posts for the effective advancement of the plans in the planning institutions, and for making the goal a top priority. This topic is under the responsibility and authority of the Ministry of the Interior, in particular the Planning Administration.
3. At a more general level, a change is necessary in the prevailing perspective of the planning institutions regarding the proper character of development in the Arab localities. These localities have the right to a level of services that is similar to that in Jewish localities, but the character of building and the development processes must be suited to the lifestyles and cultural values of the population. The Planning Administration is the relevant address for determining a policy of adjusting planning to the needs of the community, taking into account the state's obligation to enable ethnic minorities to preserve their lifestyles and cultures without discrimination while responding to the changing needs of modern society.

Area C:

1. To create and expand authorities of the local Palestinian planning bodies, and concomitantly, to determine jurisdiction areas for the Palestinian localities in Area C.
2. To halt the destruction of buildings owned by protected civilians in all of Area C, until proper solutions – devised in collaboration and with the agreement of the communities – are identified and implemented.
3. Until adequate solutions are found, a transition period must be defined during which hookups can be provided between buildings and elementary infrastructure such as water and electricity and the supply of basic services to the locality such as education, health, religious and social services can be ensured.
4. The authority for all of the recommended steps in Area C lies with the Civil Administration in Judea and Samaria as the body entrusted with handling all land and planning issues in the West Bank.