

# Land and labor in the Negev: Palestinian Bedouin citizens of Israel

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**This paper seeks to broadly examine the relationship between the State of Israel's transfer and resettlement policies targeted at Palestinian Bedouin of the Negev region and the subsequent position of this population in the labor market of Beer Sheva – the region's largest urban center. In 1948, the newly established state set out a clear policy agenda to consolidate state land ownership in peripheral regions of the country, to promote Jewish settlement in these regions, and ultimately further control densely populated Palestinian spaces. The Negev region was a marker of this policy agenda. This study centers on *El Huashla vs. The State of Israel* as the landmark 1984 Supreme Court case that legalized state claims over the majority of Bedouin land in the region and ultimately set a powerful precedent for future land disputes between this indigenous population and the state. The purpose of the research aims to ultimately illustrate the various means by which the state continues to utilize the law as a primary tool to reconfigure regional geographic and political landscapes and empower state policy goals. This area of study remains significant due to the way in which the struggle over land between the state and Palestinian Bedouin of the Negev has led to the involuntary entrance of this population into the region's urban labor market and its continued inability to adequately access and integrate into it.**

## 1. Introduction

The State of Israel has implemented expansive transfer and resettlement projects since the 1950s, significantly impacting the socioeconomic development of the Palestinian Bedouin population in the southern Negev region. A historical marker in this continuing struggle for land is the 1984 Supreme Court case *El Huashla vs. The State of Israel*, which solidified state land claims over the vast majority of land in the region at the expense of Bedouin claimants. The impact of these developments will be illustrated through the subsequent “proletarianization” of the Bedouin population, specifically in the region's urban capital Beer Sheva<sup>1</sup>. Following the formation of Israel in 1948, the newly established state sought to strengthen and consolidate Jewish presence throughout its territory particularly in targeted, peripheral and densely populated Palestinian areas such as the Galilee and the Negev. Land law has served as one of the state's most formidable tools to achieve this policy goal. Israeli land use planning ultimately served to strengthen Jewish presence throughout the newly established state. These policies remain controversial because they place Palestinians and Palestinian Bedouin communities in systemic cycles of underdevelopment and

underrepresentation, which prompts several questions: how did the Supreme Court's empowerment of state land claims in the *El Huashla* case facilitate larger state policy goals in the Negev? how does the position of Bedouin citizens in this region's urban labor market reflect the impact of this ruling, and rulings like *El Huashla*?

The Supreme Court's ruling in the 1984 *El Huashla* case was largely based on a reinterpretation of existing land laws, notably the 1921 Mewat Land Ordinance. This ruling functioned to empower state land claims and facilitate the larger goal of territorial control and increased Jewish settlement in this densely populated Arab region. *El Huashla* was one case amongst many that facilitated the legalization of widespread state land expropriation during this time period. Furthermore, the subsequent landlessness of the affected Bedouin tribes coincides with the loss of traditional livelihood, leaving a large percentage of Bedouin to enter Beer Sheva's urban market as medial laborers.

### 1.1 Palestinian Bedouin & the Land Question

Bedouin Palestinians in the Negev region have become a recent focus in modern scholarship. Traditionally, this population has been studied for its culture, folklore,

and post-nomadic experience with modernization. However, recent scholars in the field of political geography, legal geography, and historical geography have begun to study this population through its experience with state land planning policies.

The Bedouin faced a rapid reconfiguration of their traditional livelihood following the establishment of the State of Israel. Until 1948, the Palestinian Bedouin in the Negev relied on cattle, herding, rain-fed agriculture, and local commerce as their source of livelihood<sup>2</sup>. Although they fell under the jurisdiction of both the Ottoman government and the British Mandate, the Bedouin population traditionally followed its own system of land ownership and was generally not subject to land registration<sup>2</sup>. After the 1948 war and the establishment of Israel, however, only 19 of the original 95 tribes remain in the Negev region to be recognized by the state<sup>3</sup>. Currently, there are around 120,000-140,000 Palestinian Bedouin living in the Negev region. They constitute 15 - 20 percent of the region's population and own around 1.3 percent of the land, the majority of which is considered under illegal possession in the eyes of the state. Traditionally, the Palestinian Bedouin citizens of Israel have been subject to extreme poverty, high crime rates, and increased tensions with state authority, particularly due to the ongoing struggle over land in the region.

Lustik points out that among the many grievances that form the basis of Palestinian discontent with the status of their citizenship rights, expropriation of land is one of the most pressing alongside economic discrimination and problems facing educated Arab youth. He elaborates on this point of land extensively as a root cause of intra-state ethnic conflict between Arab and Jews, emphasizing “without a doubt the extensive and continuous expropriation of Arab lands has aroused the passionate antagonism of Israeli Arabs to a greater degree than any other single issue”<sup>4</sup>. Quite a few years after Lustik published his book, Shafir and Peled also point out that “the struggle for land has been at the heart of the frontier conflict in Palestine/Israel, as elsewhere, and continues to be the most hotly disputed issue in the relations between Israel and the Palestinian, both citizens and non-citizens, to this day.”<sup>5</sup>

### 1.2 Land Planning in the Negev: 'Making the Desert Bloom'

The Negev constitutes an internal frontier

in the state of Israel. Largely left untouched by state authorities well into the 1960s, this region has become the new subject of government development with land planning policies being the integral government instrument. Longstanding slogans of “making the desert bloom” packaged this endeavor in frontier romanticism<sup>6</sup>. As early as 1948, the Negev region was seen as the future of the State of Israel – an unchartered territory for Jewish settlement and revival<sup>6,7</sup>.

Upon the establishment of a military government in Israel in 1948, 12 of the 19 Negev Bedouin tribes were involuntarily transferred to a designated territory in the northeastern part of the Negev called the Siyag<sup>8,9</sup>. Not only was this region already populated by seven Bedouin tribes, but is also infamous for its low agricultural fertility<sup>2</sup>. Until 1966, Palestinian Bedouin were also denied freedom of movement like their Palestinian counterparts in the northern Galilee. This forced enclosure of Bedouin society induced the community’s rapid sedentarization and ultimately forced many tribes to give up their tradition of herding<sup>6,7,9</sup>. Unable to rely on their customary means of livelihood coupled with the Siyag’s close proximity to the only urban center in the Negev, Beer Sheva, these Palestinian Bedouin quickly became another segment of the Arab proletariat in Israel as they sought employment from the Jewish sector in the city<sup>9</sup>.

Bedouin Palestinians of the Negev were largely left in the Siyag by the planning authorities until the mid 1960s. In these twenty years no socioeconomic development took place for the newly transferred Bedouin communities<sup>5</sup>. Bedouin tribes were forbidden from establishing permanent settlements in the restricted area, and instead created makeshift tents and shacks to accommodate basic living needs<sup>7</sup>. The state considered the second resettlement project in the 1960s a compromise with the Bedouin because it provided Bedouin with limited state services and the opportunity to live in “modern” villages with electricity and running water, but the intention of land planning policies in the region remains clear<sup>7</sup>. As Ben-Gurion stated:

“Negev land is reserved for Jewish citizens, whenever and where ever they want... we must expel Arabs and take their places...and if we have to use force, then we have force at our disposal not in order to dispossess the Arabs of the Negev, and

transfer them, but in order to guarantee our own right to settle in those places.”<sup>4</sup>

### 1.3 The State’s Legal Claims in the Negev

Through a number of legal tools, nearly the entire Negev region was declared state land by the Israeli government. The state’s claim was based on an interpretation of the 1921 Mawat Land Ordinance. Mawat land (spelled *mawat* in British documents) was a legal category created in the 1858 Ottoman Land Code, and is defined as land left for the public use of nearby villages and could be recategorized as *miri* (land with private title) if it came into continuous cultivation<sup>10</sup>. This land was traditionally used as a source of water, timber, or other resources for public needs. Through the 1921 Mawat Land Ordinance, such public land was no longer available for free use by local villages. In fact, under the Ordinance, any person known to use these areas without the consent of the Director of Lands would face punishment as a trespasser<sup>11</sup>.

Of the 2,560,000 dunams of mawat land expropriated in the region, Bedouin Palestinians previously owned and cultivated 1.2-2.2 million dunams until their forced resettlement<sup>4,7</sup>. The state could legally assert this claim based on the enforcement of the 1921 Mawat Land Ordinance registration stipulation, which mandated that any mawat land be registered with the Mandate administration by April 1921. Due to the fact that the Negev never underwent settlement of title under the British Mandate, this registration system never reached the Bedouin. Moreover, both the Ottoman administration and British Mandate sought to respect the general autonomy of the Bedouin land ownership system<sup>3</sup>. It was through the 1921 Mawat Land Ordinance that the state justified its claims to land in the Al-Huashla case, which will be examined in detail later on.

Although state attempts towards resettlement to townships emerged by the 1960s, these plans have largely failed through the active resistance of the Bedouin population. Upon the end of military rule in 1966, these displaced Arabs had brought forward 3,200 legal claims regarding expropriated land based on traditional Ottoman or British records. With their citizenship status, Palestinian Bedouin have been able to exercise campaigns for land rights and equality more broadly than under other regimes. Nevertheless, presently not one Bedouin claimant has received full land

ownership rights in a land dispute case<sup>7</sup>. 95 percent of Arabs claims to land have not been settled in the court system, and these claims cover around eight hundred thousand dunams; Jewish citizens have already settled half of this land.

## 2. Al-Huashla vs. The State of Israel

Al-Huashla was the first significant Supreme Court land case to derive from the Negev and sets an important precedence for future Supreme Court cases involving Palestinian Bedouin land disputes. In 1984, the Supreme Court upheld a ruling brought to them in 1974, involving 13 Bedouin tribes who asked for court’s recognition of their title to a delineated area of land. In *El-Huashla vs. The State of Israel*, these tribes asserted their title based on prescription - the historic use of this land for generations through herding and seasonal cultivation. The state’s claim to land was based on the argument that the tribe did not in fact use the land in question – it was uncultivated and should be categorized as *mawat*, thus belonging to the state. The state further pointed to a registration stipulation in the 1921 Mawat Land Ordinance. Due to the fact that this law was never formally enforced in this peripheral region of Mandate Palestine, the Bedouin tribes had not fulfilled this registration requirement.

Without official legal title over the land, the only legal recourse for the appellants was to convince the court that the land in question did not qualify as *mawat*, but *miri*<sup>3</sup>. However, the state succeeded in rebutting this claim as well. Its claim was based in a previous Supreme Court ruling from the Galilee, which established the One-and-a-half Mile rule. This legal interpretation of Article 78 of the Ottoman Land Code deemed any land that lay One-and-a-half Miles outside of an inhabited village or settlement to be categorized as *mawat*. In the Al-Huashla case the nearest village to this land was 20 miles away and was a Jewish “development town” established after 1948. Moreover, the court dismissed the Bedouin’s claim that an Arab village (Kurnov) had historically existed there before 1948 because it maintained only one permanent structure and a number of Bedouin tents. The judge further stated that the lack of agriculture in the area amounted the land to “a barren desert.”<sup>3</sup>

The court’s rulings empowered state land claims through a number of important legal mechanisms. First, the use of a very narrow definition of a village or

town dismissed the notion that a Bedouin encampment could be considered a legitimate form of settlement. The imposition of these definitions, although seemingly objective, ultimately devalues the Bedouin way of living – reducing it to a few tents and wild vegetation instead of a historical cultural lifestyle and community. The court's treatment of the Bedouin encampment paints it as socially invisible, another part of the wild vegetation and desert<sup>3</sup>. The Bedouin pastoral lifestyle also constituted an “abstract” form of possession in the state's legal framework, dismissing seasonal agriculture and herding as a valid use of land, and thus made it easier for the Court to justify expropriation.

Through the court's defense of state land claims, the Bedouin are left to confront the redefinition of time and space: the court began their legal history of land ownership at the moment of their involuntary displacement and when the state does permits them to leave their enclosure, they are treated as newcomers on the land that they had once inhabited for generations. The refusal of many Bedouin to lease state land and resettle for a second time in the state's “development towns” categorizes them as illegal squatters under Israeli law<sup>3</sup>. The court essentially retells Palestinian Bedouin history through the framework of the state's legal system in order to justify and defend the legitimacy of state land claims. Although seemingly neutral in language, the use of evidentiary preferences, legal categorizations, burden of proof on Bedouin appellants, as well as procedural rules ultimately function to empower the state in court at the expense of Palestinian claimants.

### 3. Impact: Bedouin in the Urban Labor Market, Beer Sheva

The Israeli land tenure system centrally transformed the sociological characteristics of Palestinian society in Israel. The decline of village life and the virtual stagnation of the Palestinian economy turned this minority population into a rural proletariat virtually overnight<sup>1</sup>.

Generally, Palestinians in Israel make up 20 percent of the population yet constitute 11 percent of the workforce in Israel. Most of the employed Arabs occupy labor-intensive parts of the Israeli economy (unskilled industry, construction, and agriculture). The Arab population is almost completely absent from the “prestigious” parts of the Israeli economy that offer higher salaries (hi-tech, banking, electricity,

water, etc). Moreover, the representation of Arabs in other “prestigious” branches of the economy such as academia, technical professions, and managers is significantly lower than their Jewish counterparts. These barriers to Arab employment reflect both discrimination from Jewish employers and also a shortage of jobs in Arab centers of the country.

The following general facts regarding the Beer Sheva District economy construct a framework through which Bedouin employment in the urban labor market will be examined. These facts are from the Main Findings of the Negev Center for Regional Development's most recent 2007 Report.

- In the year 2003 there were 159,200 people employed in the Beer-Sheva district.
- In the Beer-Sheva district there is a high percentage of employment in agriculture, food services and accommodation, transportation storage communication and education, in relation to the national percentage. The high percentage of employment in the food services and accommodation can be explained by the two large tourism centers in the area: The Dead Sea and the city, Eilat .
- There is a relatively low percent in the fields of wholesale commerce, banking, insurance, financing and business services.
- In the settlements that are the strongest economically and socially, Lehavim, Meitar and Omer (all Jewish settlements), and also in the weakest ones (the Bedouin settlements) there are few people who are in professional training.
- Half of the people in professional training in the Negev were residents of Sederot, a Jewish locality.
- Unemployment allowance receivers in the urban settlements within the area of the Negev Development Authority constitute 10.5% of the total unemployment allowance receivers in Israel in 2004, as opposed to 9.4% in 2003; 50% of them are men.

Ultimately, the economy of the Negev region is largely built off of tourism and industry. Although there is a lack of a professional market for both the Jewish and Bedouin Arab sector in the region, this study will highlight the way in which Palestinian Bedouin face disproportionate challenges in the region's labor market.

Historically, the Bedouin built their economy from land-intensive agrarian and herding activity. With this sort of economic activity no longer feasible due to state resettlement plans, urban types of employment were made necessary for this population. Although state reports recognize Bedouin state townships as “urban or suburban centers”, they have no independent economic base; very few jobs can be provided locally<sup>12</sup>. Although even adjacent Jewish suburbs largely commute to city centers such as Beer Sheva, most Bedouin have no means to get to the country's main cities because there is no public transportation into Bedouin towns. Therefore, these impoverished communities must resort to their own means of transportation or systems of collective taxis<sup>13</sup>. Abu-Saad points out that in 2000, the Bedouin state township of Rahat had 5 cars per 100 residents, while the Jewish settlement of Omer had 41.1 cars per 100 residents<sup>4</sup>. For the Bedouin workers who do have the means to commute to city centers such as Beer Sheva, prospects for employment are dismally low.

Harvey Lithwick asserts that by 1995, five of the seven official Bedouin state townships in the Negev (Rahat, Arara, Tel Sheva, Kseifa, Segev Shalom) hold the lowest socioeconomic ranking in Israel. This can be compared to their neighboring Jewish settlements, such as Omer, Lehavim, and Metar, which hold some of the highest rankings in the country<sup>13</sup> (Table 1). Illustrates the economic disparities between Arab and Jewish localities in the region<sup>13</sup>. Generally, average urban Bedouin's income is lower because of a lower rate of pay and also due to lower rates of employment throughout the course of one year. Moreover, since Bedouin women work an average of seven months in a year as opposed to the average Israeli woman who works nine months out of the year, gross family annual income is also seriously affected: the family salary income of Bedouins in Negev towns is ultimately less than half of the average Jewish family in Beer Sheva; family salary per person (per capita earned income) can be as low as 20 percent of the Israeli average<sup>12</sup>. Although there are Jewish towns whose income gaps are closer to that of Bedouin towns such as the Jewish town, Ofaqim, Lithwick asserts “the bottom line is that it is significantly harder for a breadwinner to support a family if one is a Bedouin.”<sup>16</sup>

A recent survey of industries in

the Negev confirms that most of the larger, more successful firms, such as Motorola, Dell-Vishay, the Dead Sea conglomerate, and so forth, employ few, if any, Bedouin. According to Lithwick's publication from Ben Gurion University in 2000, Bedouins held 2.5% of all the industrial jobs in the Negev in 1998. This publication further noted that a recent follow up inquiry confirmed no change in this percentage amongst the biggest firms<sup>13</sup>. In 2000, the Center for Research on Bedouin Society and Development wrote that in the entire Negev region, which holds a work sector of 15,000, fewer than 400 Bedouin are employed in manufacturing jobs. A few are employed in larger modern industry, and none are employed in high-tech industry<sup>4</sup>. The extremely low levels of employment in the main industrial companies in Beer Sheva illustrate this reality (Table 2).

The lack of employment in larger industrial companies has left Palestinian Bedouin men to search for menial jobs in construction, gardening, car repair, and service trades. These jobs offer little pay or security and provide lower opportunity for upward movement in the economy. With such little employment in the private sector, one might expect to find some sort of improvement in public sector employment. Due to the fact that this population constitutes around 15-20 percent of the region's population, one might expect there to be high employment in industries that serve the Bedouin sector. However, a 1998 survey shows that in Negev government offices, Muslims (almost all Bedouin) occupied 32 positions out of 25,000<sup>13</sup>. Out of the 32 Bedouin employees working for the government, 13 were in Beer Sheva where there is a much larger capacity for employment positions. This also means that there were only 17 Bedouin employees working for the service of Bedouin towns.

The question of land has held a potent impact on the Bedouin population in the Negev. State urbanization policies have not only left Bedouin Palestinian landless, but continuously subject to institutional discrimination and policies of neglect. The position of Bedouin Palestinian in the region's labor market, particularly in urban center such as Beer Sheva, illustrate the

impact of state land policies on this minority population.

#### 4. Conclusion

The struggle over land in Israel has centrally shaped the inability of Palestinian citizenry to develop and grow relative to Jewish citizenry in the state, rendering development both separate and unequal between the two populations. In a peripheral region such as the desert Negev, economic disparities are particularly acute. As state expropriation of land continues and Bedouin Palestinians increasingly resist state efforts to resettle and further transfer this population, the negative impact on this landless indigenous population continually poses a serious threat to intra-state ethno-national conflict on the national level.

Historically, the state has utilized a number of legal mechanisms to further its land policies in regions such as the Negev. The court has traditionally functioned to empower state land claims at the expense of Palestinian Bedouin claimants. For instance, using rules of evidence, prioritizing the burden of proof on the native landholder, and using legal categories to undermine Palestinian land rights have been means by which judges have been able to rule in favor of the state. Although the court provides a forum through which Bedouin tribes can indeed bring forth their evidence and dispute state claims, no Arab claimant has won a land dispute case in Israel's Supreme Court since 1948. The sheer scope of state land in the Negev region can be attributed to the early policies of transfer and resettlement in the 1950s and 1960s, which left Palestinian Bedouin in complete isolation for years. Unable to assert their title over land during the time of expropriation, Bedouin would not even be able to face the state in court until decades after their land was taken from them. By this time, large areas of this land were already settled and developed into Jewish localities. Bedouin who remain on their expropriated land have been subsequently labeled "illegal" – their communities' subject to state transfer policies or demolition at any time.

Although the impact of land tenure policies in the Negev can be analyzed in a number of different ways, the status of Bedouin employment in the region clearly

illustrates the obstacles to development that this population continues to face. Staggering unemployment levels and general exclusion from private industries have left Palestinian Bedouin to work in the service sector and construction, which offer a lack of stability or opportunity for upward economic mobility.

A number of policy proposals have been put forth regarding the possible expansion of the urban labor market for Palestinian Bedouin. However, the call for an improvement of the legal status of this population in regards to land and labor has yet to be answered in the Israeli government.

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	Average Monthly Family Salary for the Year	
	NIS	Index Beer Sheva = 100
Bedouin Towns		
Rahat	3989	45
Arara	3583	41
Tel Sheva	3860	44
Kseifa	3878	44
Segev Shalom	3787	43
Hura	3955	45
Jewish Towns		
Beer Sheva	8792	100
Ofaqim	5593	64
Dimona	7791	89
Arad	9237	105
Metar	16707	190
Lehavim	19048	217
Omer	21739	247

**Table 1** Family Salaries for Bedouin and Jewish Towns, 1996<sup>13</sup>

<i>Major Firms and Cities</i>	<i>Industry Sector</i>	<i>Main Product(s)</i>	<i>Workers No.</i>	<i>Bedouins No.</i>
<b>Beer Sheva</b>				
Feuchtwanger Asher Ltd.	Electrical and Electronic	Controls	100	
Kirur Benny	Electrical and Electronic	Refrigerators	98	
Israel Aircraft Ltd – Ramta Division	Electrical and Electronic	Engines	480	
Harsa	Electrical and Electronic	Sanitary equipment	180	2
Fiber Technik	Rubber and Plastic	Chemical fiberglass equip	60	
A.A. Plast	Rubber and Plastic	Containers	60	5
Bel Art Israel Ltd.	Rubber and Plastic	Containers for chemicals	70	9
Triumph International	Textiles and Clothing	Undergarmets	100	
Nimrod	Textiles and Clothing	Shoes and sandals	80	4
Mishkan Hachelet	Textiles and Clothing	Prayer shawls	40	2
Arihant Textiles	Textiles and Clothing	T-shirts	100	
Solog Knitting	Textiles and Clothing	Children's clothing	140	

**Table 2** Total and Bedouin Employment in Negev Industry

<i>Major Firms and Cities</i>	<i>Industry Sector</i>	<i>Main Product(s)</i>	<i>Workers No.</i>	<i>Bedouins No.</i>
Dunhill S. General Industries	Chemical Products	Building material, marble	140	4
Hasin – Esh Ceramic Products	Chemical Products	Ceramics	51	6
Thermal Isolation Center	Chemical Products	Thermal insulation material	43	3
Makhteshim Chemical Words Ltd.	Chemical Products	Crop protection material	901	
Klir Marketing and Manufacturing Ltd.	Chemical Products	Chemicals	85	4
Zer Ma'adanim	Food and Beverage	Catering services	300	
Papa Michel Catering	Food and Beverage	Catering services	120	2
Harishonim Bakeries	Food and Beverage	Baked goods	50	17
Isa Khoury Metal Ind. Ltd.	Metals	Metal products	120	10
Zinor Darom (82) Industries Ltd.	Metals	Metal piping	80	10
Nisir Metal Ind.	Metals	Metal products	50	20
Ozgam Ltd.	Metals	Faucets	70	
M.T.D. Industries	Metals	Metal products	100	3
Razpal	Metals	Aluminum material	89	3
Mitrani	Metals	Bathtubs	47	
Gold & Honey	Accessories	Gold jewelry	114	
Oknin Brothers	Accessories	Stands	200	
Total			4891	160

**Table 2 (continued)** Total and Bedouin Employment in Negev Industry



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