



JLAC
JERUSALEM LEGAL AID AND HUMAN RIGHTS CENTER



BANISHED IDENTITY

Israel's Systematic Destruction of Palestinian Bedouins



BANISHED IDENTITY

Israel's Systematic Destruction of Palestinian Bedouins

July 2011

Acknowledgements

JLAC would like to thank the following people for their contributions to this report:

Ahmad Samara – JLAC Board of Directors

Zainab Ramahi – JLAC Intern

Mohammad Korshan – Head of the Bedouin Development Association

Mukhtar Sliman Ara'ara – Ara'ara Tribe

Rifk Ebeid – JLAC Advocacy Officer

Table of Contents

Introduction	1
I. Bedouin Tribes in the West Bank	2
II. Israel’s Obligations Under International Humanitarian and Human Rights Law	4
a. Violation of Bedouin Rights in the West Bank	
III. Case in Point: Khan al-Ahmar	9
a. Summary of Findings: Khan al-Ahmar Case Study	
IV. Israel’s “Priorities” for Demolition and Displacement	13
V. JLAC’s Legal Interventions	15
a. Bedouin Communities Serviced	
VI. Recommendations	22
Conclusion	24

Maps

Khan al-Ahmar Bedouin Community

2010 ICA Map of Fasayel Bedouin Communities Facing Demolition

Bedouin Communities Serviced by JLAC

Introduction

To the average person, the word “Bedouin” typically evokes a romantic image of an older, wise man roaming the desert on a mystical camel, or a beautiful woman with mysterious eyes piercing through a face-cover adorned with intricate designs and golden coins. The reality facing the Bedouin communities in the Occupied Palestinian Territory (“oPt”), however, is far from such romantic notions of nomadic life. Israeli policies in the oPt have systematically been designed to expand Israel’s territorial control and powers of the military to include very aggressive and controversial measures that have fueled international criticism and condemnation. As an already marginalized minority group, indigenous Palestinian Bedouin communities are particularly vulnerable to such policies. The majority of the Bedouins in the West Bank are concentrated in “Area C” on land they do not formally own, lands designated as “state lands,” or military zones. Israel retains full administrative and security control over “Area C” of the West Bank. As a result, Bedouins remain dangerously susceptible to Israeli policies targeted at displacing them and destroying their way of life. Unfortunately, although the Bedouins are a part and parcel of Palestinian society, their unique plight is not widely known and often overlooked.

Most of the Bedouins currently residing in “Area C” of the West Bank were first displaced from the Negev in 1948. Palestinian Bedouins are a distinct sub-group of the indigenous Palestinian population due to their semi-nomadic and traditional lifestyle. They earn their living through herding and agricultural activity and are, therefore, dependent on freedom of movement and access to land. Having lived on the land for generations, Bedouins developed a system of inter-tribal land allocations (without keeping a written record of land ownership) argued to have been accepted by both the Ottomans and British.¹ With the creation of the State of Israel in 1948, however, the lack of a written record of land ownership proved pernicious for the fate of the Palestinian Bedouins.

Israel’s policies in “Area C” distinctly affect the Bedouin communities socially and economically, severely thwarting their ability to maintain their culture, customs, and traditional way of life. Through forceful evictions, destruction of property, refusal to compensate, and confinement to constricted spaces, Israel aims to further marginalize an already marginalized community and destroy their culture through forced urbanization.

The most basic premise or foundation of human rights law is the inherent dignity of all human beings regardless of race, language, or national or social origin, among others. According to the Universal Declaration of Human Rights, human beings are entitled to live in dignity regardless of the political, jurisdictional, or international status of the country or territory to which a person belongs. The discriminatory policies Israel carries out in “Area C,” which continue to threaten and slowly destroy indigenous Palestinian Bedouin lifestyle and economic viability, are an absolute affront to these communities’ dignity and most basic human rights.

1 Charlotte Silver, *Palestinian Bedouins in al-Araqib: “We won’t leave,”* The Electronic Intifada, 17 March 2011, Viewed on 23/3/11 <<http://electronicintifada.net/v2/article11860.shtml>>

I. Bedouin Tribes in the West Bank

“Slowly but surely, people are coming to understand that the well-being and sustainability of indigenous peoples are matters that concern us all... The loss of irreplaceable cultural practices and means of artistic expression makes us all poorer, wherever our roots may lie.”

- UN Secretary General Ban Ki-Moon

Palestinians residing in “Area C” of the West Bank can be categorized into three main groups: 1) recognized communities possessing master plans, [comprising 16 localities], 2) communities lacking master plans and significantly varying in the extent of available basic services (i.e. electricity, water, primary education, health services, transportation, roads, etc.), [133 such localities], and 3) Bedouins, or nomadic pastoral communities spanning vast areas and ranging in size from several families belonging to a single grandfather, his sons, and grandchildren, up to a single clan including dozens of families in close vicinity to each other and sharing specific basic services.

Most Bedouin tribes in the West Bank reside in the southern districts, the eastern region of Hebron, southern Bethlehem, eastern Ezariyeh and Abu Dis, and along both sides of the Jerusalem to Jericho road (called the Al Mu’arajat Road). The remaining communities reside in the northern West Bank, namely in the district of Tubas.

Bedouin families stem from five main tribes: Ka’abneh, Jahalin, al-Azazme, Rashaydeh, and Ramadin. Prior to the creation of Israel in 1948, these tribes lived on the land stretching between eastern Beersheba, in the Tel Arad village, and southeast Hebron, in the al-Masfara, eastern Yatta and Samu, and Bani Naim villages.

1. The Ka’abneh Tribe – divided into two parts:

a. Azwaidiin Clan: The bulk of the clan resides in the village of Im Aldaraj, while a large portion also resides in the al-Mu’arajat area and Ein Samia. The tribe consists of the following families: al-Basaitah, al-Ithmeen, Taemat, Rashidat, Al Amrien, Al Khalaef, Zawaidein, and Albraidat.

b. Farjat Clan: The tribe initially settled in the al-Farhat and Hamida villages, however the majority of the clan’s families now reside in eastern Deir Dibwan and al-Mu’arjat, with a smaller number residing near the Abu George junction from Anata until the Khan al-Ahmar area. The clan consists of the following families: al-Najda, al-mlyhat, al-Brka, and al-Kerab.

2. Al-Jahalin Tribe – divided into three large families:

a. Al-Saray’a: divided into several smaller families:

i. Al-Fakir and al-Sara’ra – located in the area of the Im al-Khair village south of Yatta. A large portion of the families

also live along the Abu George and Jerusalem to Jericho roads.

ii. Al Saray'a (al-Hathalin) – located in the village of Khushm al-Daraj south of Yatta. Other sub-families include: al-Hathalin, al-Hamdiyin, and al-Zawahra, located in the al-Malha area. The al-Tabna, al-Ajarmeh, and Abu Alia families are distributed in different areas throughout the West Bank.

b. Salamat: predominantly residing in eastern Ezariyeh and Abu Dis, in the Abu Hindi valley.

c. Abu Dahuk (Al Dawahik) – mostly residing in the eastern Abu Dis and Ezariyeh areas, as well as in the area of Beit Ikhsa, al-Nabi Saleh, and along the Jerusalem to Jericho road.

3. Al 'Azazmeh Tribe – the majority of whom are spread throughout the Bani Na'im area, with others residing in several other regions, such as along the Jerusalem to Jericho road.

4. Al-Rashaydeh Tribe: clan resides in southeast Bethlehem along the stretch of land between Seir, and Teckoa, with many family members living in the Jiftlik area and west of al-Dyuk.

5. Al-Ramadin Tribe: a large portion of the clan lives in al-Rahwor, south of al-Thaheria.

II. Israel's Obligations Under International Humanitarian and Human Rights Law

Israel's obligations as an Occupying Power are set out in two provisions of international humanitarian law: the Hague Regulations and the Fourth Geneva Convention. The Israeli government has accepted the applicability of the Hague Regulations due to its customary nature and is a signatory to the Fourth Geneva Convention. Although Israel denies the applicability of the Fourth Geneva Convention to the oPt, the International Court of Justice, numerous United Nations General Assembly and Security Council Resolutions, and statements issued by governments worldwide have affirmed its applicability to the region.²

Israel is also bound by the provisions outlined in various international human rights conventions such as the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights ("ICCPR") and the International Covenant on Economic, Social and Cultural Rights ("ICESCR"), as the rights listed therein have been codified in numerous international and regional treaties and now reflect customary international law. Additionally, on 13 September 2007, the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples ("UNDRIP"), asserting the rights of indigenous peoples in maintaining their traditional way of life and the standards other parties must adhere to in respect of indigenous populations. Such human rights treaties are applicable in areas which parties exercise effective control, regardless of sovereignty. The applicability of international human rights standards in the oPt was also upheld in the 2004 ICJ Advisory Opinion on the Annexation Wall, wherein the Court observed that Israel is bound by the provisions of the ICCPR and the ICESCR inasmuch as the oPt have been subject to Israel's territorial jurisdiction for decades.

a. Violation of Bedouin Rights in the West Bank

Palestinian Bedouins are nomadic pastoral communities that have historically been among the most marginalized and impoverished factions of the Palestinian population. The vast majority of the Bedouin communities are refugees who were forcibly displaced between 1948-1952 from the Beersheba area, never presented with alternative equitable solutions, and forced to find refuge in vacant areas in the West Bank. At varying intervals, the communities came to resettle within the West Bank (against their will or on account of inaccessibility to basic services) on land classified as "state lands" or upon the



² International Court of Justice, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," General List No. 131 (July 9, 2004), p. 36-37.

vacant private property of others. Their dependence upon animal husbandry and the consequent need for large open spaces for grazing and storing hay, proximity to water sources, and the ability for seasonal mobility in search of pasture and water sources, lead them to live along the periphery of urban and rural communities rather than to integrate and settle among them.

The “state lands” and “closed military zones” classifications of the lands the Bedouins reside upon makes them particularly vulnerable to Israeli decisions to appropriate large areas of the West Bank. In addition to the demolition of their homes and subsequent forced eviction and displacement, Bedouins often face hefty fines and severe penalties such as the detention of their sheep. Bedouins who live on lands classified as “Islamic Waqf” lands are also vulnerable to displacement, such as in the case of the villages of Anata and al-Esawiye. Making them even more vulnerable is the fact that a critical prerequisite to obtaining a building permit is the possession of land ownership certificates (issued by the Israeli Lands Administration). If the Bedouin communities do not hold such documents, they are forced to “illegally” erect makeshift homes since they do not own the land.



According to the UNDRIP, indigenous peoples have the right not to be subjected to forced assimilation or destruction of their culture.³ The Bedouins’ culture and means of livelihood require the ability to move freely and use of vast amounts of land as fields and grazing grounds. Mohammad Abu Dahook, a 60-year-old Bedouin man from the Beit Iksa community, explained the organic connection between the sheep and the land, “If I have sheep, I am tied to the land. I consider the sheep part of the cultural heritage and a national treasure at the same time.” Israeli actions and policies in “Area C” have aimed at significantly reducing the lands available for use and detaching Bedouins from the lands and resources necessary to maintain their traditions and livelihood. Such policies directly violate the Bedouins’ rights as indigenous peoples because they are being forced to relocate to neighboring towns that do not have vacant land for grazing, thereby crippling the maintenance of their culture and subjecting them to forced urbanization and assimilation.

As a majority of Palestinian Bedouin communities now reside on “state lands,” they are constantly subject to the threat of forced eviction or displacement by Israeli authorities. Evictions are usually followed by destruction of the Bedouin structures, including all water and agricultural facilities. For Israel, Bedouins are seen as a major obstacle in its desire to appropriate “state lands” for its ultimate goal of acquiring control over the West Bank. In forcibly evicting and displacing Palestinian Bedouin communities out of “state lands” within “Area C,” Israel manages to effectively confiscate and control key areas of the West Bank (i.e. the majority of the Jordan Valley). Such actions are directly at odds with the purpose of designating lands as “state lands,” which should be land utilized by a state or occupying power for the betterment of the occupied indigenous population (i.e. for public facilities, highways, parks, etc.).

3 UN Declaration on the Rights of Indigenous Peoples, Article 8, Section 1.

The International Covenant on Economic, Social and Cultural Rights guarantees the right to an adequate standard of living, a prime component of which is the right to adequate housing. As such, everyone has the right to live somewhere in security, peace, and dignity, with protection from forced evictions or other threats to one's dwelling. For Palestinians, 2010 consisted of a significant deterioration of their right to housing through Israel's escalation of human rights offenses in "Area C" of the West Bank. Conservative estimates based on JLAC interventions indicate a doubling in the number of house demolition orders issued to Palestinians by Israeli authorities, and a tripling in the number of threats of forced evictions. These measures are a significant part of Israel's plan to rid "Area C" of as many Palestinians as possible, in an effort to gain further control over the area (nearly 59% of the West Bank, and home to approximately 160,000 Palestinians).

Israel's widespread practice of demolishing Bedouin structures directly violates longstanding principles of international humanitarian law that prohibit an occupying power from destroying property unless rendered an absolute military necessary.⁴ Due to the Bedouins' fluid relation to the land, the structures they establish in these areas are rudimentary, temporary structures that can be easily moved. If necessary, the nature of such structures make them easily moveable and can be relocated without difficulty rather than swiftly destroyed. The destruction of Bedouin homes and facilities are part of a larger plan prepared by the Israeli government to secure the land and resources in "Area C," not merely for the purpose of military necessity, but for the purpose of maintaining control over the region.

Israeli evictions and forced displacement of the Bedouin communities also violate the principles of international human rights and humanitarian law that strictly prohibit forcible transfer, removal, or deportation.⁵ Under the Fourth Geneva Convention, forcible transfer is prohibited unless for imperative security or military reasons, and must be carried out in satisfactory conditions of health and safety as well provide proper accommodations. The UNDRIP is more strict in its prohibition of forcible removal, as it does not provide for a military or security necessity. Instead, it holds that relocation must take place through free, prior, and informed consent and agreement on just and fair compensation of the indigenous peoples concerned. Israel's actions are neither justified by security or military necessity, nor carried out with the safety of the Bedouins in mind. Instead, Bedouin families are evicted from their ancestral lands to make room for the expansion and benefit of Jewish settlements,⁶ and are usually accompanied by violence and confiscation of livestock and equipment, and completed without compensation.

Among the many other factors that further marginalize the disenfranchised Bedouins and make them among the poorest and most vulnerable factions of Palestinian society are the limited grazing areas left available for their use, successive seasons of drought, rising global and local levels of feed prices, and a lack of basic services.



4 Hague Regulations, Article 23. Geneva Conventions, Article 53.

5 Fourth Geneva Convention, Article 49. UNDRIP Article 10.

6 UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding Observations: Israel, 4 December 1998, E/C.12/1/Add.27, <<http://www.unhcr.org/refworld/docid/3f6cb4367.html>> Viewed on 23/3/2011.

In addition to being targeted by Israel, Bedouin communities are also neglected by the Palestinian Authority (“PA”). The PA fails to provide the Bedouins with adequate basic services and also lacks a consistent policy on importing fresh or frozen meat, thereby devastating the Bedouin market. The PA should create balance between producers and consumers by consulting and negotiating with Bedouin producers regarding such issues. The problem, however, when the PA does try to intervene on behalf of the Bedouins is that their attempts are usually blocked by Israel. The United Nations Relief and Works Agency for Palestine Refugees (“UNRWA”) is left as the Bedouins’ only real recourse for the provision of services, but UNRWA concentrates its interventions only within refugee camps.

The right to life is a central tenet encompassing a number of fundamental rights consistently upheld in countless international human rights and humanitarian law provisions. To fulfill these rights, all people must be given the freedom to pursue their economic, social and cultural development through the guarantee of other rights, such as freedom of movement, economic freedom, or an adequate standard of living. A standard of living adequate for health and wellbeing includes the rights to food, clothing, housing, medical care, and necessary social services. Bedouins are severely limited in their movement, particularly between the Jordan Valley and the West Bank. Access to main roads are often blocked, forcing Bedouins to travel longer distances to reach the necessary neighboring towns in order to obtain necessary social services or medical care. In addition to restricting Bedouin movement to neighboring towns, Palestinians not registered as residents of the Bedouin communities are also prevented from entering Bedouin communities by private vehicle, making it increasingly difficult to access the communities. Such restrictions gravely affect their ability to sell various milk and meat products obtained from their sheep, causing the Bedouins to be isolated socially and economically from neighboring towns.



Israel’s forced displacement and targeting of Bedouin communities violate their right to life and an adequate standard of living. Such violations are a breach of their obligations under human rights law, which affirms that indigenous populations have the right to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in their traditional economic activities.⁷ Rather than providing just compensation, as required by law, Israeli infringement on Bedouin livelihood and economic growth has left a majority of the Bedouin population suffering unusually higher levels of malnutrition and poverty. In a recent food and security nutrition survey jointly conducted by multiple UN agencies, 79% of the surveyed Bedouins in “Area C” were found to be suffering from food insecurity.⁸

7 UNDRIP, Article 20, Section 1.

8 UNRWA, *High Food Insecurity Levels among Bedouins, a Silent Emergency in the West Bank*, 16 April 2010. Viewed 15/6/2011. <<http://www.unrwa.org/etemplate.php?id=653>>

9 UDHR, Article 26, ICESCR, Article 13, UDRIP, Article 14 all assert the right to an education.

10 Palestine Monitor, *Uncertain Education*, 20 May 2010, <<http://www.palestinemonitor.org/spip/spip.php?article1411>> Viewed on 24/3/2011

Bedouin children are particularly affected, as they are severely limited in their access to education.⁹ School buses with Palestinian license plates are forbidden from driving on some parts of the roads in “Area C,” subjecting bus drivers to daily fines and the risk of losing their driver’s licenses.¹⁰ As a result, bus drivers stopped driving to the Bedouin areas and the children are forced to walk distances spanning at least 12 kilometers to reach their schools, or wait hours for public transportation.¹¹ Deprivation from such basic services is particularly dangerous for the children during inclement weather or the summer heat, and is also a threat for young girls who must walk long distances alone, causing many of them to drop out. The few schools that are built in the



communities themselves are consistently demolished, as Israeli policies forbid new permanent structures from being constructed. The UNDRIP stresses that, particularly for children, indigenous peoples have the right to all levels and forms of education. In “Area C,” only 33% of Bedouin children reach secondary school, a figure significantly lower than the national average of 77.6%.¹² Inam Waheidi, the local co-coordinator in the Wadi Abu Hindi community, described how the destruction of their school puts the “Area C” problems into the light, “The international community can see that our children have no rights, no facilities, no education. It is an emergency now.”¹³

11 Rosemary Sayigh, *The West Bank Bedouin: The New Refugees?*, al-Majdal Quarterly Magazine,

12 Ibid.

13 *Oasis in the Sand*, This Week in Palestine, Issue No. 154, February 2011.

<<http://www.thisweekinpalestine.com/details.php?id=3332&ed=191&edid=191>> Viewed on 24/3/2011.

III. Case in Point: Khan al-Ahmar

The Bedouin communities in the Khan al-Ahmar area are particularly targeted by aggressive Israeli policies aimed at pushing them (among other Palestinian communities) out of “Area C.” Khan al-Ahmar is located east of Jerusalem in the Jordan Valley, near the large Jewish settlement of Ma’ale Adumim. Route 1 is the main road in the Jordan Valley and its current expansion (which runs through Khan al-Ahmar) will put surrounding Bedouin communities at an even greater risk of forced eviction or displacement. A case in point is the Khan al-Ahmar school, which received a demolition order due to both its presence upon “state lands” and its proximity to Route 1. Moreover, the road construction is failing to provide exits through which the Bedouins may access their homes. It is also speculated that once Route 1 expansion is complete, all Palestinians will be banned from traveling upon it.

The increased threat to the Bedouin communities in Khan al-Ahmar posed by the expansion of Route 1 prompted JLAC to undertake a legal needs assessment of these communities as a first step to providing legal interventions. The assessment was based on a survey of the legal needs of the Bedouin communities scattered along both sides of Route 1, from the edge of the Israeli settlement of Ma’ale Adumim (from the West) to the outskirts of the Dead Sea (from the East) and branching along both sides of intersection of Route 1 with Road 60.

The survey was conducted from July 2010 through September 2010, and targeted 12 localities in the above-mentioned areas. The survey was conducted through use of a specialized questionnaire, field work, and data analysis that allowed us to identify key information pertaining to the communities’ legal needs in regards to their right to adequate housing. Our researcher met with representatives (individuals and assemblies) from the various communities to complete the questionnaire and attain the necessary information.

JLAC’s method took into account the finesse needed in interacting with the Bedouin communities, who have grown not to trust outsiders. The survey also employed a high level of accuracy and took into consideration the homogeneity of the communities targeted. JLAC was cautious to not raise the particular expectations of those surveyed (i.e. that we are not distributors of humanitarian aid, or may not improve road conditions, etc.). The researcher reiterated the limited focus of assignment, which was to identify the communities’ legal needs (whether of immediate urgency or short-term needs) towards forming a strategy in prospectively rendering legal aid to the Bedouins in the surveyed area.



Khan al-Ahmar Bedouin Community



Jewish Settlement



Bedouin community

a. Summary of Findings: Khan al-Ahmar Case Study

Results of the JLAC needs assessment survey conducted between July 2010 – September 2010 are shown in the following table:

#	Name of Cluster	Location	Ownership of Land	Constructions	Families	Individuals	Relocations	Demolition of constructions	Notifications	Pressing Issues	Pressing Needs
1	Abu Eid	Al-Nabi Mousa	Islamic Waqf	17	4	35	2	No	Yes	lands closure/ The Israeli Nature Protection Authority (INPA)	Feed for animals
2	Wadi Kati	Wadi Kati	Islamic Waqf	15	11	32	1	Yes	Yes	INPA/ Transportation/ Grazing lands	Feed for animals
3	Abu Faiz Al-Ka'abneh	Wadi Al-Qilt	Islamic Waqf	8	5	28	1	No	Yes	INPA/Closing Grazing lands/ Nature Reserves	Feed for animals
4	Al-Kal'a Al-Samra'	Al-Kal'a Al-Samra'	Islamic Waqf	70	20	200	1	No	Yes	Closing the Bedouin Community entrance/ INPA/ Displacement Threats	Feed for animals/ Water
5	Abu Al-Hilo	Abu Al-Hilo	Anata residents	25	80	320	1	Yes	Yes	everything mentioned above	Medical Clinic/ Water
6	Al-Mahtoush	Al-Mahtoush	Anata residents	75	60	450	2	Yes	Yes	everything mentioned above	Medical Clinic/ Water
7	Wad Al-Masqa	Wad Al-Masqa	Al-Asaweah Lands	15	8	40	1	No	Yes	near the streets/ Israeli Army Patrols	Medical Services/ Water
8	Abu Falah	Al-Jisr Al-Garbi	Al-Essawiye Lands	30	16	65	1	No	Yes	water/ Israeli Army Patrols	Electricity/ Water
9	Tajamo' Al-Kasarat	Anata	Anata residents	100	70	300	2	Yes	Yes	Transportation/ Closing Grazing Lands/ dust from stones queries	Feed for animals
10	Abu Galyeh	Al-Kasarat	Anata residents	20	12	65	1	No	Yes	everything mentioned above	Medical Clinic/ Water
11	Al-Kerab Tribe	Al-Kasarat	Anata residents	70	10	60	1	No	Yes	there are no work places for the youth	Feed for animals
12	Al-Fokra' - Dar Abdallah	Al-Kasarat	Anata residents	9	7	50	1	No	No	Closing grazing lands	Feed for Animals/ Transportation
	Total	454	303	1645							

The following information can be summarized from the survey results:

- 1,645 Bedouins reside in the areas.
- 318 families reside in the areas.
- 454 facilities are erected in the areas.
- All communities were displaced at least once, and 25% of them were displaced twice.
- A third of the communities faced prior demolition of their homes and facilities.
- 11 out of the 12 communities received valid/active demolition/displacement orders. Though injunctions temporarily freezing demolition orders have been obtained, the orders may be reactivated at any time. There is likewise the possibility of additional orders being issued against the communities. Families receiving a second demolition/displacement order are often only given 3 days to leave their house. Such is particularly problematic if the order is issued on a weekend (Thursday for example, while official departments are not open on Fridays and Saturdays), as then there is no opportunity to attain legal intervention.
- Nearly most of the residents surveyed belong to the al-Jahalin Clan, with a portion belonging to the al-Ka'abneh and al-Azazmeh Clans.
- Lack of representation or fragmentation in representation. Fragmentation is a consequence of Israeli policies aimed at limiting space for Bedouin communities to reside in. Due to limited space, the communities had to disperse into smaller groups and settle into separate areas, creating rivalry on both tribal and personal levels. The PA added to the problem by deeming the title "mukhtar" to anyone who requested it. The Local Affairs Ministry can agree to anyone being a mukhtar, sometimes even leaving some families with more than one mukhtar. There are now 12 different representatives for 318 Bedouin families.

IV. Israel's "Priorities" for Demolition and Displacement

Further devastating Palestinian Bedouin communities are the pressures imposed by Israeli pro-settlement organizations upon the Israeli Civil Administration ("ICA"). The National Land Protection Trust, also known as Regavim, is an Israeli non-governmental organization (supported by a number of Israeli politicians, some of whom hold senior government positions) that has raised several petitions to the Israeli Supreme Court against the ICA for its failure to demolish "illegal" Palestinian homes. These petitions are being raised despite the fact that this same Civil Administration is at present demolishing (or threatening to demolish) hundreds of Palestinian homes in its quest to rid "Area C" of its Palestinian inhabitants and allow for Jewish settlement expansion in the wake. In fact, according to B'Tselem data, demolition of Palestinian homes in "Area C" tripled in 2010.¹⁴ In spite of the hundreds of demolition orders being issued, the Israeli Supreme Court still strangely ruled in favor of Regavim's petitions and ordered the Civil Administration to respond to its demands.

In early 2010, the Civil Administration gave its reply to the charges raised against it by Regavim, pledging to continue in its approach of house demolition and identifying the following priorities therein:

1. Houses or agricultural facilities built on land classified as "State Land."
2. Houses or facilities in proximity to settlements, the Annexation Wall, or security zones as classified by the Civil Administration.
3. Houses within Palestinian communities located in "Area C" as per the interim agreements.

The abovementioned priorities, serve to affect Bedouin communities proportionally the most in terms of eventual demolition and displacement by the Civil Administration; as they predominantly reside upon lands classified as "State Land" (as classified following the Israeli occupation of the West Bank in 1967) and, at times as, 'State Property' (as classified during period of Jordanian rule in the West Bank between 1948 and 1967). Such is evident in the heightened activity of the Civil Administration's Inspection Committees in 2010,



¹⁴ Amira Hass, "Demolition of Palestinian homes in West Bank's Area C tripled in 2010," Haaretz. 26/1/11. Viewed on 28/2/11. <<http://www.haaretz.com/news/diplomacy-defense/demolition-of-palestinian-homes-in-west-bank-s-area-c-tripled-in-2010-1.339216>>

with hundreds of new notifications being issued and tens of demolitions being carried out. Bedouin communities were particularly brutalized, with Inspection Committees destroying dozens of tents, livestock facilities, and water storage tanks needed in maintaining the Bedouin social and economic life.

V. JLAC's Legal Interventions

Since Bedouin communities predominantly reside on "State Lands," legal intervention in their regard is particularly challenging. The sole legal action left available in their defense is to 'buy time' so as to postpone the displacement process and to go directly before the Israeli Supreme Court in resolving the orders issued (i.e. stop-work, demolition, and eviction). Moreover, this classification likewise prevents the communities from applying for and securing licenses for tents/homes, livestock facilities, and water storage tanks essential for maintaining the herder lifestyle.

Among the legal claims JLAC's lawyers use before the Israeli Supreme Court in defense of Bedouin communities situated in "Area C" of the West Bank include:

1. The right of Bedouins (as indigenous peoples) to be protected under international law and international humanitarian law. For instance, the Fourth Geneva Convention bans states from deporting the civilians whom it occupies from their place of residence. Rather, the convention stipulates that occupying powers must provide protection to civilians and afford all which is necessary in continuing their way of life.
2. State property (i.e. State Land) should be used for the benefit of the local population (i.e. Palestinians in this case). Bedouins comprise an integral part of the Palestinian populous and have the right to reside and graze their animals on "State Lands."
3. Right acquired over time; as many of the Bedouin communities have resided in the same location for tens of years.
4. Occupying Powers shall not give deportation or demolition orders without providing alternative housing arrangements or compensation.



In cases where Bedouin communities are situated on private property owned by other Palestinians (residing in proximity to the Bedouin communities or outside of the oPt); all claims except for that of "State property" may be applied in their defense.

In 2010, JLAC undertook 99 cases of forced displacement involving Bedouin families/communities. Approximately 95% of the Bedouin cases adopted by JLAC yielded positive results (i.e. freezing of demolition/eviction orders in the interim until final rulings are made). Inevitably, the Civil Administration may choose to activate frozen demolition/eviction orders and reopen their files in court. Consequently, the only closed-ended solution for the Palestinian Bedouins (and all Palestinian communities threatened with displacement) is a political solution ending the occupation and rendering Palestinians full sovereignty over their territory and, in extension, the simple right of building upon their own land.

a. Bedouin Communities Serviced

The following serves to summarize the cases undertaken by JLAC in 2010, involving assaults by the Civil Administration against Palestinian Bedouin communities in the oPt;

1. Nwe'meh Community near the city of Jericho:

Situation: The community is comprised of tens of families whom had been displaced from Ein Gedi when it was occupied in 1948. The community initially resettled in different regions within the West Bank, later settling (at different intervals) near the village of Deir Dibwan. In 1984, the Israeli army issued a declaration stating that the area that the community resided on in Deir Dibwan was to be a closed military zone. The community was displaced, once again, this time to the village of Rammoon. In 1998, in order to gain access to basic services denied in Rammoon (i.e. water, electricity, main roads), the community relocated to the Nwe'meh area near the city of Jericho. The Nwe'meh area is disputed territory, in which the PA claims it falls within "Area A" and the Israeli Authorities argue that it is "Area C" and classified as "state lands" under Israeli jurisdiction. As a result, both the PA and ICA have issued stop-work/demolition orders to the community (targeting many of their homes and livestock facilities). In November and December of 2010 alone, 17 stop-work orders were issued by the ICA to the community.

Intervention: JLAC has on several occasions provided legal aid to the Nwe'meh community, taking its cases before the Israeli High Court and obtaining injunctions on their behalf. In regards to the 17 newly adopted cases, JLAC has obtained preliminary injunctions and will continue to provide the beneficiaries with legal follow-up.

On April 5, 2011, at 9:30 p.m., two Israeli army vehicles entered Nwe'meh and demolished 4 barracks that Bedouins were living in, despite an injunction issued by the High Court to prevent demolition. JLAC submitted a complaint to the Israeli police and wrote to the ICA about the incident. The ICA responded that this was an independent act carried out by the Israeli soldiers (no demolition orders were given), but that the ICA would look into the matter. Although the demolition was not authorized, the Bedouin families affected still cannot rebuild their homes because they still do not possess a building permit. International law reinforces Israel's duty to investigate wrongdoings by its soldiers, however those Israeli soldiers who commit crimes in the oPt continue to enjoy effective impunity. The fear that results from such a reality is that the ICA will continue to turn a blind eye to the independent actions of Israeli soldiers while simultaneously paying lip service to look into the matter; leaving those dispossessed Bedouin families without shelter or security.

2. Bedouin communities extending from the intersection of Route No. 60 with Route No. 1 of the Khan Al-Ahmar area, through the intersection of the Dead Sea before the city of Jericho:

Situation: This stretch is home to approximately 1,645 individuals, 454 structures, and a small school. Proceedings against the communities commenced in 2009, with a decision to demolish the school and a collective decision to demolish the houses/facilities of the surrounding communities (i.e. Jahalin community). More orders were issued in mid-2010, with notifications delivered to all the communities by late September. More recently, the expansion of Route No. 1 means that Bedouin communities on both sides of the street will soon be banned from its use (as no entrance points have been created in the street to the sites of the communities); eventually resulting in an additional barrier to their presence in the land.

Intervention: Initially the cases were undertaken by a private attorney; with JLAC since providing further legal aid and (more recently) conducting a legal survey in their regard. JLAC has taken its adopted cases before the Israeli High Court as to obtain an interim ruling to freeze the stop-work/demolition orders. The Center is awaiting the decision of the court regarding the community's cases.

3. Bedouin communities located along bypass Road No. 60 and bypass Road Alon (which connect the Israeli settlements East of Ramallah, so-called "Trans-Samaria"):

Situation: More than 30 demolition orders have been issued in the area (along both sides of the road) involving 5 communities, their tents, livestock facilities, and water storage tanks. It can be safely said that all groups and individuals in the area have been threatened with displacement. As most of the facilities of the communities in question are situated upon land zoned as "State Property" (as per military orders issued by occupation forces), and to a lesser extent upon private property, they are unable to attain permits to legally reside on the land. Such is the case since proof of property ownership/rental is a prerequisite to apply and secure a license for placing anything prominent above the ground.

Intervention: JLAC intervened by adopting the majority of the cases involved and raising them before the Israeli High Court. In so doing, it succeeded in freezing the demolition and relocation orders until a final ruling is reached. Such was the case of the Ka'abneh community near Ein Samia, the largest Bedouin cluster in the area. Other cases involved JLAC attaining time extensions for the files in question as to provide beneficiaries with the needed time in relocating to adjacent locations without being subjected to the destruction of their property and the trauma resulting from such an ordeal.

4. Al Ka'abneh Community along the Al Mu'arajat Road:

Situation: This community has not received notifications of stop-work/ demolition for its houses/facilities on account of an agreement with the Civil Administration, relocating them to this site following a prior displacement. However, the community was issued demolition orders in regards to their school, health facility, and mosque.

Intervention: JLAC went on to adopt the cases of the public facilities and to obtain precautionary orders (temporary injunctions) against their demolition. The cases continue to be followed-up by the Center.

5. Al Ka'abneh Community in Ain Al'oja:

Situation: Demolition/stop-work orders were issued to the community's mosque and a number of its other public facilities.

Intervention: JLAC adopted the cases and raised petitions to the Israeli Supreme Court in their regard. The court has yet to rule in this matter.

6. Rashaydeh Community near the village of Fasayel-Jericho:

Situation: A number of the community's tents and facilities received stop-work/demolition orders in 2009, with more following in 2010. In total, 25 families have fallen under threat of evacuation during this short period.

Intervention: JLAC raised five collective cases (each such case involves files for more than one family, structure, or construction) in the Israeli High Court and obtained temporary injunctions in their regard. JLAC succeeded in obtaining an order preventing the demolition of the Bedouin School in Fasayel al-Fawqa.

On March 9, 2011, a hearing was held in the High Court on nine files from al-Fasayel. The Court held in favor of the ICA demolition orders and gave the families a one-month eviction notice. The eviction notice contained two options: (1) to move to Fasayel Tahta, which is in Area B; (2) to move to Fasayel al-Fawqa.

The first option involves "Area B," which the High Court does not even have jurisdiction over. The Court's responsibility is to resolve issues arising in "Area C;" it does not have the authority to suggest moving people to "Area B." Additionally, the proposed location is on privately owned land. Forcing the Bedouins to relocate to such lands would only serve to cause internal disputes between Palestinians.

The Jewish settlement Tomer is located near the land that the families currently reside on. It is evident that the options provided by the High Court are a way of implementing Israel's expansionist policies at the expense of the Palestinians. Rather



than expanding existing master plans, or protecting the rights of the Bedouins as an indigenous population, Israel is seeking to evict them from the land in order to make way for Jewish settlement expansion.

The nine families involved in this particular case are left with no form of protection because they have chosen to remain on their land and resist the demolition order. On June 13, 2011, 20 structures were demolished, displacing 9 families. There is no legal recourse left for these families because the High Court issued a final decision on the matter. The High Court's decision is legally significant because it may influence a similar outcome for the remaining petitions.

On March 27, 2011, a hearing was held in the High Court on two additional files. The Court was going to issue a similar decision to that issued for the files discussed above until our JLAC attorney objected on the grounds that the two options provided are not viable options. On July 14, 2011, the High Court made a final decision issuing a final order for demolition, but froze the execution of such order until November 15, 2011. The reason behind the delay is for the ICA to provide more clear details regarding its master plan for Fasayel Foqha.

2010 ICA Map of Fasayel Bedouin Communities Facing Demolition





JLAC is working on case numbers: 28-43, 45, 67-68, 104-105, 123-125, 160-161

7. Al-Malihah Community West of the city of Jericho: JLAC legally intervened on the community's behalf in early 2008, by adopting demolition cases involving 25 families. JLAC succeeded in attaining a decision to freeze the demolitions and has since been following-up the cases.

Bedouin Communities Serviced by JLAC



 Bedouin Communities Serviced

VI. Recommendations

If not addressed immediately, the dismal state of affairs suffered by the Bedouin community, and the limited legal interventions that can be undertaken on their behalf, will likely result in a humanitarian tragedy. At least 500 families and whole indigenous communities are at risk of forced displacement, or even worse, ethnic cleansing.

A tremendous amount of legal, political and humanitarian support is needed to combat Israel's targeting of the Bedouin communities. The aid needed cannot be limited to distribution of tents or emergency aid, as Bedouin communities have special living conditions and have specific needs to maintain their culture and livelihood, such as the ability to raise livestock in order to produce dairy, meat and so on.

And so we recommend the following parties to:

International Community:

- Pressure on Israel, as an occupying power, to stop its human rights violations against Palestinians in the oPt immediately; first and foremost, the crime of demolishing Palestinian homes. Israel must compensate Palestinians financially and morally for what they have suffered as a result of the demolition of their homes.
- Form a committee to investigate the facts and the effects of executing Israel's home demolition policy against the Palestinians in the oPt; confront this discriminatory policy; and protect the Palestinians according to international laws and conventions.
- Compel Israel, as the occupying power, to fulfill its obligations and responsibilities according to international laws, treaties, and conventions, particularly, the Fourth Geneva Convention, and to stop its policy of demolition of Palestinians' homes and properties.

Palestinian Authority:

- Help Palestinians affected by the Israeli home demolition policy, by all available means, whether at the political, social, economic or media level, to alleviate their suffering, and strengthen their steadfastness on their land in the face of Israel's racist policies aimed at forcibly displacing Palestinians from their land.
- Cooperate and network with all stakeholders, whether local or international NGOs or UN Agencies, who work in the human rights sector in the oPt, to protect and assist victims of human rights violations by all available means.

- Special care for the human needs of Bedouins to help them face harsh Israeli policies, such as:
 - o Transportation for students.
 - o Mobile health clinics.
 - o Subsidies for fodder.

Local and International NGOs and UN agencies:

- Serious and ongoing demand for Israel, as the occupying power, to stop its home demolition policy against Palestinians in the oPt immediately, including “Area C.”
- Demand that Israel, as the occupying power, respect and apply the Fourth Geneva Convention to the oPt and respect the criteria set forth in the international human rights conventions and the provisions and rules of international humanitarian law, which provides protection for the Palestinians in the oPt.
- Urge the international community and the contracting states in the Fourth Geneva Convention to fulfill their responsibilities and obligations, and to stop all forms of human rights violations, including Israel’s home demolition and displacement policy against Palestinians.
- Monitor and document all human rights violations against Palestinians, which include cases of forced displacement resulting from the application of Israel’s home demolition policy against Palestinians in the oPt, prepare studies, and implement different projects to protect and assist victims of human rights violations.
- Carry out quality and sequential advocacy and lobbying campaigns to advocate for victims of human rights violations in the oPt, especially the victims of home demolition policies and forced displacement.
- Help improve the problem of fragmented representation within the Bedouin communities by directly discussing matters affecting them in a participatory way that gives the communities a voice and lets them express their concerns.

Conclusion

In December 2010, the United Nations Relief and Works Agency for Palestine Refugees (“UNRWA”) declared Bedouins to be an “endangered” ethnic group.¹⁵ Bedouin traditions and way of life make it difficult for them to be confined to a particular area or expanse of land. While Israel’s violations of its responsibilities as an occupying power have been comprehensively discussed and frequently criticized by the international community, their direct targeting of Bedouin communities has not gotten the attention it deserves. Israel uses the law as a tool to carry out its destructive policies with impunity by creating new laws that ultimately allow it to control and expropriate more land, dispossess the indigenous Bedouin communities, and Judaize the area.

Palestinian Bedouins are part of the fabric of Palestinian life and society. Israel is particularly threatened by the Bedouin presence because of their intrinsic physical and economic tie to the land. As indigenous peoples, Bedouin rights are protected under numerous international human rights and humanitarian provisions and they cannot be forced by Israel to integrate or urbanize. James Anaya, Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, expressed the importance of allowing indigenous peoples to develop in a way that protects their heritage and distinct culture:

“While indigenous peoples have the right to develop in common with the broader communities and societies in which they live, they have particular concerns that must at all times be taken into account with regard to development initiatives that affect them. These concerns stem from the extreme disadvantages that indigenous peoples typically have faced across a range of social and economic indicators, the dispossession of lands and natural resources, their historical exclusion from State decision making, and their aspirations to maintain and transmit to future generations their distinct identities and cultures.”¹⁶



15 *Oasis in the Sand*, This Week in Palestine, Issue No. 154, February 2011.

<<http://www.thisweekinpalestine.com/details.php?id=3332&ed=191&edid=191>> Viewed on 24/3/2011.

16 James Anaya, Ninth Session of the UN Permanent Forum on Indigenous Issues, 22 April 2010. <<http://unsr.jamesanaya.org/statements/statement-of-special-rapporteur-to-the-un-permanent-forum-on-indigenous-issues-2010>> Viewed on 24/3/2011.

The record of Israeli policies and actions undertaken against Bedouin communities in “Area C” are crimes punishable by international law. The UNDRIP asserts the right of indigenous peoples to have access to fair procedures for the resolution of conflicts with States or other parties, as well as remedies for all infringements of their individual and collective rights.¹⁷ Israeli policies are also a grave breach of the Fourth Geneva Convention, to which legislation should be enacted by the High Contracting Parties to provide effective penal sanctions against Israel.¹⁸ A grave breach relates to any act committed against the persons or property protected by the Convention, including willfully causing great suffering to health, unlawful transfer or confinement, and extensive destruction and appropriation of property.¹⁹ Indigenous peoples like the Bedouins have long suffered from historic injustices through the colonization and dispossession of their lands and means of livelihood. As the situation of the Palestinian Bedouin communities continues to deteriorate, the international community must hold Israel accountable for its manifest transgressions of international law that steadily etch away and destroy the rich and distinct Bedouin culture, traditions, and lifestyle.

17 UNDRIP, Article 40.

18 Fourth Geneva Convention, Article 146.

19 *Ibid.*, Article 147.

How to Contact Us

Ramallah Office

Millenium Building, 6th Floor

Al Irsal Street

Tel: +970 2 2987981

Fax: +970 2 2987982

Jerusalem Office

Kamal Building, 1st floor

14 Ibn Batoota Street

Jerusalem

Tel: +972 2 6272982

Fax: +972 2 6264770

Salfeet Office

Salfeet, 17 Street

Tel: +970 9 2517101

Fax: +970 9 2511701

www.mosaada.org

www.facebook.com/JLAC67

