



Summary of the Bill to Regulate Bedouin Settlement in the Negev, 5773-2013
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Introduction: About this document

This paper presents the principles behind the Bill to Regulate Bedouin Settlement in the Negev, 5773-2013, which the government is currently seeking to pass. The Bill is very broad and consists of many details which are difficult to thoroughly understand.

We believe that the Bill is unconstitutional and problematic for many reasons: Because it is a unilateral land arrangement based on mistaken premises; because of the Bill and its regulation's subversion of human rights and property rights, including arrangements that should be considered collective punishments; the Bill involves the destruction of homes and entire communities that will irreversibly damage the community's lifestyle. We believe that the Bill will deepen the rift and distrust between the Bedouin community and the State, instead of promoting a historic, fair, and constitutional settlement, which would bring to a resolution the severe discrimination and neglect from which Bedouin citizens have suffered for years.

This document will, in a very concise manner, help to shed light on the details of the government's Bill. The document also specifies the premises of the Bill. Note that these premises are unacceptable to us, but are presented as part of this summary because they are essential to understanding the entire Bill as formulated by the government.

Premises of the Bill (which express the government's basic principles)

- The current legal situation does not allow for acceptance of Bedouin claims of ownership, and therefore special regulations are required to resolve the situation.
- The proposed arrangement includes granting land and monetary compensation in response to land ownership claims filed by some of the Bedouins.
- Bedouin settlement in the Negev is illegal.
- The Negev cannot be developed without a solution to the ownership issues, including the creation of permanent settlements.

- A solution to the ownership issue is bound to and conditional upon the planning issue (Section 146 of the Goldberg Report).
- Special legislation is required to settle the claims – there are approximately 2,900 claim memoranda registered with the regulation officials relating to 12,000 claimants.
- The law provides incentive for early registration and the incentives decrease the later one takes part in the procedure. Also, the Bill enables increased enforcement (home demolitions).

The structure of the Bill

The Bill is structured into ten sections, divided as follows:

- Section 1 – Goals and definitions
- Section 2 – The Authority for the Regulation of Bedouin Settlement in the Negev
- Section 3 – The Compensation Committee
- Section 4 – Eligibility for compensation and definition of claimant
- Section 5 – Approval of claims
- Section 6 – Compensation
- Section 7 – Eligibility of a resident who is not claiming ownership
- Section 8 – Conclusion of regulatory procedures and other provisions
- Section 9 – Enforcement and penalties
- Section 10 – Miscellaneous provisions

Territorial Scope of the Regulation: All Israeli territory south of latitude 610,000 of the Israel Transverse Mercator

Section 1 – Definitions

- Declared Regulation Area: This is the region that the Prime Minister declared as such. Regulation will be carried out gradually.
- References to Various Legislation: Land laws, expropriation laws, the Planning and Building Law and the Succession Law.
- Claimed Plot: A plot of land for which one or more claim memoranda were submitted to a regulation officer by one or more claimants of original ownership.
- An Existing Settlement: Recognized settlements (localities). This definition is important because the location of the land – either within a settlement or outside it – influences the value of compensation.
- Residential Plot and Developed Residential Plot: This definition applies to recipients of the various compensations: Eligible Authorizing Claimants (see below), residents who are not claiming ownership, and claimants who are entitled to limited compensation (up to 20 dunam) who choose to exchange their compensation.
- Substitute Land: Land transferred to the possession of the ownership claimant for the residential or agricultural purposes with an agreement signed between him/her and the Israel Land Authority, due to vacation of the land claimed by him/her in the claim memo, according to the Land Ordinance, will be considered land possessed by the ownership claimant.

- Authorizing Claimant: Ownership claimant who agrees to settle his/her claim according to the compensation regime determined by law.

Section 2 – The Authority for the Regulation of Bedouin Settlement in the Negev

- The Bill provides the Authority with a special status – a body within the Prime Minister’s Office, with an independent status in terms of budget and management, legal consultation, etc.
- Its powers: Handling settlement regulation procedures, handling matters of infrastructure in settlements intended for regulation, guiding planning procedures for the settlements.
- It has no power which may detract from the powers of any other State Authority.
- The Authority is authorized to represent the government in transactions made according to the State Property Law, except for land transactions – this power remains with the Israel Land Authority.
- Annual Report – The Authority’s director will submit a report to the Prime Minister annually on the authority's activities and work plan.

Section 3 – The Compensation Committee

- The Compensation Committee is an administrative body designed to assess technical conditions of eligibility for compensation or other rights according to the Bill, and to determine their rate accordingly.
- The Prime Minister will establish the Compensation Committee. Each committee will be headed by a jurist qualified to serve as a district judge, and will include representatives of the relevant government bodies and a representative of the Bedouin population. An advisory committee, which will be headed by a retired Supreme Court Justice, will assist the Minister of Justice in selecting the appropriate jurists to serve as Chairmen of the Compensation Committee.
- The Committee’s Powers: To determine who are the Authorizing Claimants, in relation to the plot claimed, and the share of the claimants in relation to the same claimed plot; to determine the area of the plot claimed, its location and borders; to determine the general allocated area of the claimed plot, and the specific allocated area for each authorizing claimant; to determine the characteristics of the claimed land, the compensation owed to the authorizing claimant, and the location of land to be given to Authorizing Claimants as land compensation (on the recommendation of the Authority).
- The Prime Minister may determine, for any Compensation Committee, the area or issues it will address. The committee will have a consultant.
- Decisions will be announced to the public.
- The term of office for members of the Compensation Committee will be five years, with an option to extend for five additional years, in accordance with future developments in the implementation of the regulation process.

Section 4 – Eligibility for compensation and definition of a claimant

- Material Eligibility – An authorizing claimant who has agreed to enter the legally mandated compensation regime by filing a notice of claim approval, in the legally mandated manner and time, will be considered by the Compensation Committee to be an authorizing claimant and will be eligible to receive land compensation, monetary compensation, or a combination of the two from the state.
- The criteria which determine the rate of compensation: the question of possession of the land, the location of the land within an existing settlement or outside of one, and the authorization rate of the claimed plot.
- The outcome – Registration of legally recognized land ownership rights, at the rate and in the manner to be determined by the Compensation Committee.
- Original ownership claimant – The original group of ownership claimants who filed claim memoranda with the regulation official during the determining period: From May 2, 1971 until October 24, 1979, with respect to land which was not regulated at the time that the memo was submitted.
- Two exceptions:
 1. Those for whom the regulation official approved the receipt of their claim memoranda and included it in the claims file, even though the land was regulated at the time of the claim's submission.
 2. Those whose ownership claim was recognized and handled by the regulation official like a claim memorandum during the determining period, even though it was filed prior to the determining period.
- Ownership claimant - Ownership claimant or subrogate for original ownership claimant – Those to whom the rights of the original ownership claimant were transferred, by law or by agreement. It is proposed that the definition of subrogate will include legal heirs.

Section 5 – Approval of Claims

- Within 60 days of declaration of a declared settlement zone, the regulation official will publish a "**Notice of Claims.**" The database that the regulation official publishes shall include:
 1. Details regarding the original claimants or their subrogates.
 2. Details regarding the land claimed by them and their relative portion of it.
 3. A sketch of the declared area including notation of the claimed plots.
 4. Notation of cases in which there are contradictory claim memoranda.
- Each claimant included in the Notice of Claim must notify the regulation official within 9 months if he or she would like to settle his/her claim in accordance with legal compensation rules, or to resolve his/her claim in a court of law in accordance with the Land Ordinance.
- An ownership claimant who does not file a notice of authorization of claim within 9 months may file after 9 months, and no later than two and a half years from the date of publication of the notice by the regulation official, but his or her rights will be affected:
 1. He or she will not be eligible to file comments on the Notice of Claim.
 2. He or she will be entitled to a smaller compensation than that of a claimant who filed on time.

Comments on the "Notice of Claims" by the regulation official

- The law allows a mechanism of **objecting to findings by the regulation official** in the notice of claims, which must be made within 9 months from the date of publication of the notice – the same period in which claimants must submit their choice as to the course of action by which they desire to settle their claims.
- These objections are restricted solely to claims to a right that is derived from the original ownership claimant's right. The state may also file its objections.
- The law authorizes the regulation official, in accordance with his/her powers, to make corrections and changes to the notice following the comments filed, as long as there is no dispute regarding them. (With the exception of a dispute that arises from the state's claim to its residual right to land, pursuant to article 22 of the Land Ordinance). The updated notice of claims will be published for the public.

Claimants who have chosen to settle their claims in accordance with the Land Ordinance (viz. in a court of law):

In such situations, the request for a resolution of the claim will be transferred to the court within 120 days from the final day in which notices may be filed.

Determination of Claimants and Authorizing Claimants

- The authority to determine who the Authorizing Claimants are in a declared regulation area, as well as each claimant's portion, belongs to the Compensation Committee, after the regulation official has transferred to the committee the updated notice of claims for the same region. In the case of a dispute for which the regulation official has not made a determination, then the Compensation Committee will decide, and in complex cases the decision will be transferred to the court. It is emphasized that in determining who qualifies as a claimant, the Compensation Committee makes no decision regarding land rights, but only decides with regard to preference between various claimants. There is nothing in the transfer of decisions on comments to a court of law to inhibit the Compensation Committee from making decisions regarding other parts of the same claimed plot.
- One who is harmed by the decision is eligible to file an administrative petition. The petition will not inhibit settlement procedures.
- **Allocated Area:** The Compensation Committee will determine the allocated area for every claimed plot. This consists of demarcating and notating on the sketch of the same part of the claimed plot regarding which notices of approval of claim were filed. This is in order to create a distinction between sections for which a settlement process is being conducted, in accordance with the proposed law, and the remainder of the claimed plot. After the allocated area has been determined, no other individual who is not an Authorizing Claimant may claim a right to the land that is part of the same demarcated allocated area. The finding of the committee is also valid in proceedings that are conducted in a court of law, in accordance with the Land Ordinance, by claimants who have not authorized their claim, and the discussion on these proceedings is limited to the remainder of the allocated area.
- **The right to be heard** will be given to each ownership claimant regarding the same claimed plot, whether s/he has filed a notice of authorization of claim, or whether s/he has failed to do so.

Section 6 – Compensation

- The Compensation Committee will determine the approval of the claimed plot: The total area of all of the Authorizing Claimants to the claimed plot who filed a notice of approval of claim by the set date.
- One of the criteria for receiving maximum compensation for a claimed plot is that letters of authorization of claim regarding at least half of the claimed plot be filed by the date set for approval. Should the amount of plot authorized be less than half, the claimants will be eligible to receive secondary, reduced compensation.
- Determination of compensation is dependent upon the characteristics of the claimed land, according to the following parameters:
 1. **The question of possession of the land:** Possession through tillage or residence immediately prior to the filing of a claim memorandum. The question of possession will be examined through aerial photographs taken by the state, along with the opinion of the counsel to the committee.
 2. An additional condition is a negative condition - **absence of state possession** (JNF, the Development Authority) during the period in which the claim is filed, as well as throughout the three years preceding the commencement of this law.
 3. **Land Gradient** – Affects the value of the land, according to which monetary compensation will be awarded. This will be determined by the Compensation Committee, according to the surveyor's report.
 4. **Location of the land within an existing settlement**, including whether it is land intended for construction.
- Ownership claimants who have their claim approved between 2 and 21 months after the effective date for authorization will be eligible for **secondary compensation, which is reduced compensation.**
- Ownership claimants who have their claim approved more than 21 months after the effective date of authorization will no longer be eligible for compensation according to this law. However, there is nothing in this to prevent them from resolving their claim in accordance with the Land Ordinance. (Subject to changes that will take place in the regulatory process).
- **Land expropriated prior to commencement of the law** that is in possession of an ownership claimant: Regular compensation rates, as listed in clause 47 of the law, will apply to all of the possessed land or part of it. Monetary compensation alone will apply to expropriated land that is not in possession of the claimant.

Compensation Rates (Clause 47):

- **The rate of compensation for an Authorizing Claimant where the authorization rate of a claimed plot is 50% or more:** If the land is possessed by the claimant s/he will be eligible for compensation as follows:

- a. Compensation in the form of land whose area is 50% of the authorized area;
- b. In addition, monetary compensation totaling the value of the remainder of the area (half of the entire area) according to the following calculation:

<u>Type of Land</u>	<u>Value of One Dunam (NIS)</u>
Level land whose slope is less than 6%	5,000
Land that is not level, with a gradient between 6% and 13%	4,000
Land that is not level, with a gradient of 13% or more	2,000
Land within an existing settlement	10,000

Rationale: The value of a dunam is higher when the gradient is lower because it is more suitable for cultivation and other uses. Regarding land within a settlement, there is an interest in clearing land within an existing settlement for settlement purposes.

Eligibility and conditions for receiving compensation:

- The conditions which an Authorizing Claimant must meet prior to receiving compensation (including secondary compensation) or other right (allocation of a residential plot or financial assistance):
 1. Evacuation of the specific allocated land or the substitute land.
 2. If he or she resides in an area that is not designated as residential according to a plan, s/he must transfer his/her place of residence to an area that is designated as residential.
 3. Removal of any structure or object from the land if s/he is eligible for land compensation.
 4. Signing an agreement in writing that the compensation that s/he will receive comprises an exhaustion of his/her ownership claims, including transfer of possession to another.

Transfer of residence to land that is designated for residence is an essential condition for receiving compensation, according to the law.

How will land be awarded? The Bill does not determine where, specifically, land will be awarded, for those who choose to enter the arrangement. It states only generally that land will be awarded in the 'Siyag region'¹ (the fourth amendment to the law). The Bill does determine a list of additional conditions that must be met regarding awarded land:

- Zoning in accordance with the regional master plan applicable to the area - Regional Master Plan 23/14/4.
- Area zoned as combined rural and agricultural landscape.
- Area zoned as desert landscape.

¹ The Siyag (fence) Region is located in the northeastern part of the Negev – between the city of Be'er Sheva and the towns of Arad, Dimona and Yerucham.

- Provided that it is not zoned as a nature reserve, national park or forest.
- Land for agricultural use that is located within the territory of an existing settlement.
- Authorizing Claimants who are eligible for land compensation may convert this to monetary compensation. This shall be governed by regulations that will be determined by the prime minister.

Section 7 - Eligibility of a resident who is not an ownership claimant: This allows monetary assistance for the purpose of transfer of residence. This is in accordance with Israel Lands Council policy.

Section 9 - Enforcement and penalties: The law allows the Israel Lands Authority to carry out eviction and removal orders.