

PLANNING RIGHTS IN ARAB COMMUNITIES IN ISRAEL: AN OVERVIEW

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Planning rights an inseparable part of civil rights

Planning in Israel is not unconnected with the larger political, national, and economic context, and not infrequently appears to reflect biased priorities on the part of decision-makers. The result is a sense of ongoing discrimination among large segments of the population attributable to, among other things, discriminatory planning. In this light, the advocacy organization Bimkom: Planners for Planning Rights decided to examine the status of planning rights with respect to two relatively disenfranchised populations in Israel: Arab communities, and (Jewish) development towns.¹ The object is to assess the degree to which this sense of discrimination is borne out by the data.

The term “planning rights” connotes equality in the allocation of land and in how it may be used; the allocation of government resources required to actualize this; and a planning process that has transparency and that involves residents in shaping planning policy and processes. The Bimkom report now in preparation will delineate planning and legal standards by which to assess actualization of these rights and will present various other aspects of the issues involved, not only on the individual level but also on a collective basis (the rights of communities, neighborhoods, towns and population groups). Arab towns and Jewish development towns will be assessed using a variety of standards in comparison with other Jewish towns in the same vicinity. Given the scope of the objective, this first report will not include mixed cities or so-called “unrecognized” villages and towns (not built pursuant to an officially sanctioned master plan). These will be examined in future reports.

This article will address planning rights of Arab communities only. At the same time, it should be emphasized that development towns also suffer planning discrimination, if not in the blatant manner meted out to the Arab population. In general, we can say that in Arab communities, discrimination plays a role in all components of the planning process, while in the development towns, only some components are involved.

In the next few pages, we will present an overview of the implementation of planning rights in Arab communities, based on the following parameters:

1. The situation on the ground: Municipal boundaries; state-owned vs. privately-owned land; population density; urban infrastructure; public housing; and the status of public buildings.
2. Plans: the extent to which plans address all the needs of a community, present and future; buildings built without permits — how many, and why; the degree to which the plan includes sufficient areas allocated for industrial and commercial uses, sport, leisure, and public buildings.
3. Representation: existence of a local planning committee; representation of the community on the regional planning commission; degree of involvement of residents in the planning that affects their communities.

Physical space, density, and the opportunity to grow

The State of Israel has about 1,200 communities - towns, villages, and cities. Of these, in the Arab sector, 76 have local authorities (each of which comprises the local government entity for several small villages combined) and 32 have local councils or municipalities, for a total of 108 local governance entities. Even if we add the 8 mixed (Arab-Jewish) cities, recognized Arab localities are still only 9 percent of all Israeli localities, while the Arab population is 18.9 percent of the general population. Moreover, the municipal land areas of Arab communities include only 2.5 percent of the state's land. After the war of 1948, the large and medium-sized Arab cities in Israel disappeared; essentially, the community fabric of Arab life in Israel was destroyed. Since the founding of the State, about 1,000 Jewish communities have been established, but not a single Arab community, except for those designed to concentrate the Bedouin into selected enclaves in the north and south of the country. This gap, in and of itself, is injurious to the planning rights of the Arab minority in Israel.

Land in the rural areas of Israel is controlled by 53 regional councils, with some 10 percent of the nation's population residing in these jurisdictions. And yet, in administrative terms, the regional councils control about 90 percent of the state's land area and benefit from property-related taxes accordingly. Not a single one of these regional councils is Arab. In the Arab "regional councils" that do exist, the component communities do not have territorial contiguity; the spaces between them belong to a neighboring Jewish regional council. (e.g., the Nof Hagalil Regional Council; the land between its constituent communities belongs to the Jezreel Valley Regional Council.)

There is a similar injury to Arab citizens' planning rights in terms of municipal boundaries. Numerous requests to enlarge municipal boundaries have been submitted by Arab communities, but only a few have had any response, and even in those cases, the additional territory allocated has been very limited. Nearby Jewish towns, on the other hand, that have requested expanded municipal boundaries have usually been allocated generous additional areas. Many suits have been brought to the High Court of Justice on this subject. A clear cut example of this policy is Kafr Kasem, adjacent to Rosh Ha'ayin.

In the 1950s, 2,600 dunams (a dunam is roughly a quarter of an acre) of land belonging to Kafr Kasem were transferred to the jurisdiction of Rosh Ha'ayin. A small part of this land (200 dunams, i.e., less than 10 percent) was returned to the village in 1993, but the remaining land that was supposed to be returned, as announced publicly, has still not been transferred.

Another example of the gap between Arab and Jewish towns with respect to municipal land areas is the neighboring pair Omer and Tel Sheva, both satellites of Be'er-Sheva. Omer has 6,000 residents and 17,000 dunams of land (2.8 dunams per capita); Tel Sheva has 10,000 residents and 4,000 dunams of land (0.4 dunams per capita). In the year 2,000, an area of 7,000 dunams was annexed to Omer; this area has 5,000 Bedouin residents belonging to the Tarabin A-Sana tribe (which has meanwhile received an alternative site for its community, solely so that it won't become part of the Omer municipality) and to the Umm Betin and Abu Atrash tribes. The area also contains Tel Be'er-Sheva and the Tel Sheva cemetery. Tel Sheva has been accorded no territorial expansion, much less the kind that could yield substantial property tax income.

Nor will the municipal area of the Arab towns grow as a result of the move currently underway to merge some of their jurisdictions. This dramatic step, which could have redressed some of the existing discrimination, instead looks as if it will make the status quo permanent from a planning standpoint. Most of the towns involved have no territorial contiguity and the proposed merger will not include the territory between them. Any potential advantage of increased size is thus unlikely - whether from an economic efficiency perspective (the unification could be an impetus to strengthen the new, combined local authority), or from the standpoint of improved public services - since the geographic separation will require functionally separate service systems.

The restricted municipal areas for Arab towns lead to tremendous crowding, creating a situation in which the traditional "Arab village" is no longer possible. A report from the Jerusalem Institute published recently shows that, while population density in Jewish villages is 1.3 persons per dunam, the density in Arab villages is 4.7 persons per dunam - nearly four times greater.

These gaps are clearly visible, to anyone who cares to look, in many other neighboring Arab and Jewish communities, such as Fureidis / Zichron Ya'acov; Jisr a-Zarqa / Ma'agan Michael; or Sakhnin and Arrabe compared with the nearby Misgav communities.

The right of choice

Beyond all of that, the current planning policy prevents the establishment of diverse models of Arab communities. Hence the Arab citizen is denied the right and the ability to choose between different lifestyles in different kinds of communities. (For example, Arabs have no access to "Build your own home" projects, a special kind of urban construction program; nor do they have access to rural agricultural modes like moshavim and kibbutzim.) The Arab citizen has only one option: To live in a uniformly suburban area, imprisoned as it were between the city and the village, in a manner neither clearly urban nor clearly rural. The only Arab city with more than 50,000 residents is Nazareth (where the density is 2.5 times that of Upper Nazareth, the Jewish neighbor); Israel has 17 Jewish cities of similar population size.

In the mixed (Jewish-Arab) cities in Israel, the Arab residents do not enjoy appropriate levels of public services, and planning is not conducted with their needs in mind. Take, for example, the Arab neighborhood of Pardes Snir in the city of Lod, built on land that is still zoned for agriculture, while the adjacent Jewish neighborhood of Ganei Aviv was built on agricultural land rezoned as residential in an accelerated process and with encouragement from the authorities. The residents of Pardes Snir build on their private property, without building permits, since the lack of proper planning for the neighborhood as a whole makes permits unobtainable. The authorities treat this phenomenon as illegal construction, and fight it with the full force of their legal power. Meanwhile, commercial construction by Jewish residents using agricultural land in moshavim (semi-collective villages) is treated very tolerantly. The absence of planning creates a de facto norm of building without a permit, without payment of municipal fees and without benefit of proper infrastructure. This harms both the city and the Arab neighborhoods.

Local planning commissions, representation, and planning rights in practice

Representation on planning commissions is tremendously important, because that is what confers the ability to influence planning policy and land use policy in a community and in the nation. In this respect, too, Arab communities suffer blatant discrimination.

Although Arab localities are 40 percent of all local authorities, only in 6 percent (four cities) is there a local planning commission. Compare this with Jewish localities, 55 percent of which have local planning commissions. The importance of a local planning commission is implicit in, among other things, its ability to initiate a plan for a community and to issue building permits, an authority which gives the local authority a certain degree of planning autonomy. In the present circumstances, most Arab towns, except for relatively large ones, and even those designated formally as cities, are not authorized to, and cannot, initiate a plan or issue building permits. These places are dependent on decisions made by planning commissions on which, in the main, they have no representation.

When an Arab community does have representation, it's very partial. Umm al-Fahm, for instance, with 38,000 residents, has no local planning commission, while Rosh Ha'ayin, with the same size population, and Kiryat Tivon, only about a third the size of Umm al-Fahm, do have their own planning commissions. The representation of Arab communities on regional planning and building commissions and on the relevant national committees and agencies is negligible - and this is frequently the subject of suits brought before the High Court. In the absence of fair representation, the involvement and influence of Arabs in Israel on the decision-making regarding these issues is almost nonexistent, rendering their official status as citizens next to worthless.

The move to merge local authorities, mentioned earlier, is perceived as part of a continuing trend of discrimination in the realm of representation for the Arab population, which not only reduces the scope of its representation, but also does not expand municipal boundaries and doesn't provide any sort of response to the planning and economic needs of the Arab local authorities.

Socio-economic characteristics

The Bimkom report on planning rights surveys the socio-economic status of the Arab local authorities, with respect to characteristics like sources of income, level of motorization, employment and unemployment data, level of basic and higher education, and data on the scope of economically disadvantaged population groups, as ranked from 1 (the most disadvantaged) to 10 (the least) on a national socio-economic cluster scale. All the Arab localities and Bedouin communities in the Negev are concentrated in the lowest cluster (1). Nazareth, the largest Arab city, is in the third cluster. The only Arab town in the sixth cluster is Ma'iliya. In general, most of the Arab localities are in the lowest clusters in terms of socio-economic status in Israel. The severity of this finding is especially conspicuous when compared with Jewish towns. Most of the Jewish towns are in the 5 highest clusters, and only one Jewish town is in the lowest cluster.

The data from the report, some of it previewed in this article, reflects a planning policy designed to limit and to obstruct; this is the reigning policy in the Israeli establishment as far as Arab communities are concerned. As may be gathered from published remarks by decision-makers, Arab citizens in Israel are perceived as a “demographic problem,” and their towns are “creeping out of control” and into the national space. Against this background, “national campaigns” are launched, like the notorious “Judaization of the Galilee” begun in the 1980s. Recently, after government decisions that bypass planning, a policy of individual farmsteads and new Jewish communities has been promulgated for the Negev. This trend is completely at odds with the planning policy recommended by qualified professionals in the field as codified in the existing regional and national master plans.

The harm to Arab citizens’ planning rights, like the low budgets allocated to them by the state and the terrible economic distress of Arab citizens, all create very strong feelings of alienation and frustration. Land, and questions about control of land, are undoubtedly the foundation of the conflict between Jews and Arabs. The prospects for reconciliation between Jews and Arabs and for the civic status of Arabs to reach the point where they are, and feel themselves to be, full and equal citizens of Israel, depends on a resolution of their land and planning problems along lines of complete civic equality. These problems cannot be resolved on the basis of discrimination and spatial, ethnic, or national segregation. Equal status in civil affairs and in planning for Arab citizens in Israel is a necessity - not only for the sake of justice in a civic and moral sense, but also as the only road offering any prospect of living in peace in this land, as good neighbors and civic partners.

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1. “Development town,” a literal translation from the Hebrew, is the term used in Israel to designate planned Jewish towns created by the state, mainly in the 1950s-1970s, to serve state ends, primarily population dispersion to the periphery, absorption of immigrants, and establishment of a Jewish demographic presence in selected areas. - Translator’s note.