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Contemporary state discourse and historical pastoral spatiality: contradictions in the land conflict between the Israeli Bedouin and the State

Avinoam Meir

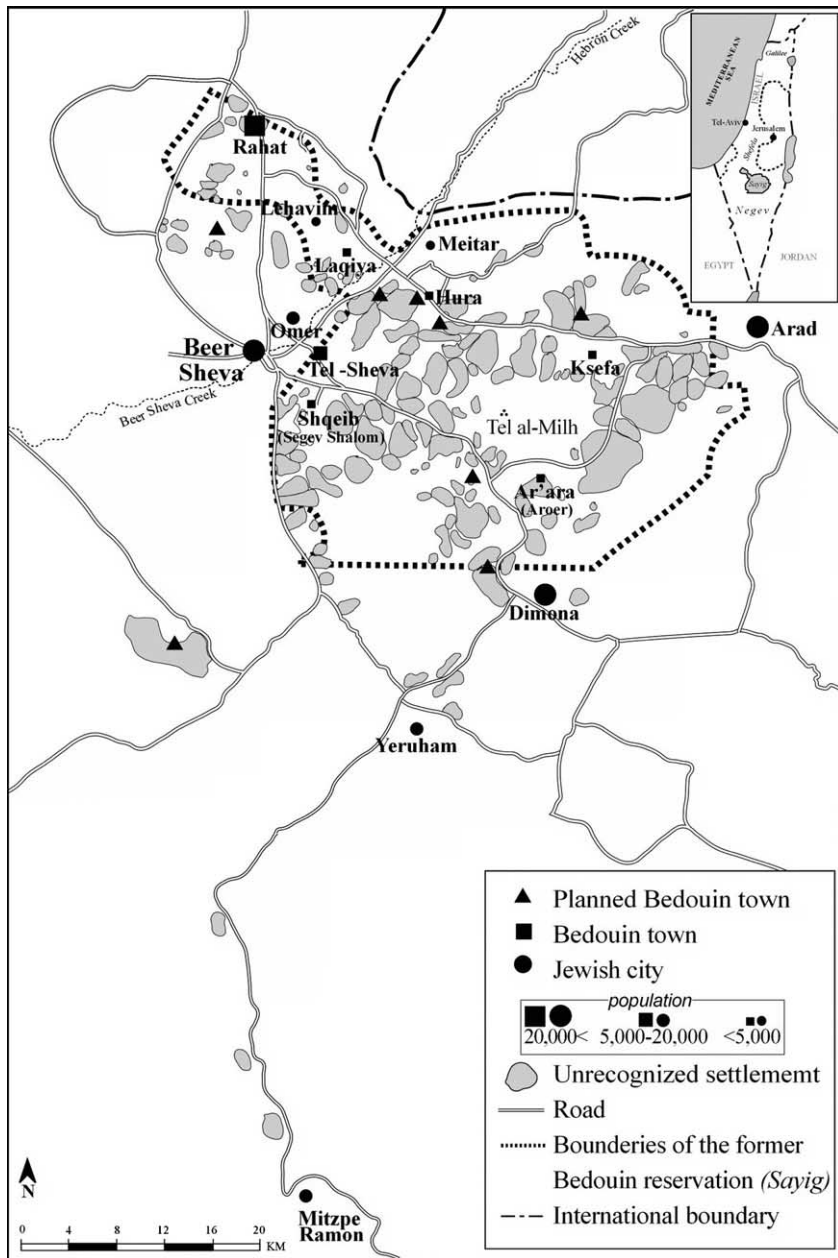
Abstract

Israeli State discourse of Bedouin land, as State-land, manifested in court litigations, planning practices and development policies, is anchored in the *mawat* category of the 1858 Othman Land Law. It is refuted when confronted with Bedouin spatiality in the nineteenth century in terms of farming, settlements and land ownership. This alternative discourse may serve the Bedouin as a tool for struggle in the land conflict. It carries a potential for reducing the tension between them and the State.

Keywords: Bedouin; land-ownership conflict; State discourse; mawat land; Othman Empire; Bedouin spatiality.

The land conflict between the Bedouin in the Negev and the State of Israel revolves around ~800,000 dunams in the 'Bedouin dispersion'. This area surrounds the seven State-planned Bedouin towns (population ~90,000), and is dotted with several dozen unrecognized Bedouin villages (population ~80,000) (Figure 1). The State refuses to recognize these villages and their land claims formally on the ground that the land is State-owned. In order to realize this ownership the State has been trying to evacuate these villages, and until recently the official policy called for relocating their inhabitants into the seven recognized towns. The Bedouin obstinately refuse to yield these lands, arguing for centuries long historical rights. Although a land entitlement process was initiated in the early 1970s, it has since entered a

Figure 1. Bedouin in the northern Negev, 2007



deep freeze, with only minor exceptions (see Marx 1990; Kressel, Ben-David and Abu-Rabia 1991a, 1991b).

This land conflict has been studied from various directions. Viewed from the local to the global: Ben-David (1996) looked upon it as a

local conflict; Marx examined it from the perspectives of mediating anthropology (1990) and internal Bedouin economy (2000); Meir (1997, 1999) has framed it within the general political conflict between pastoralists and the modern State; Kedar (2001) analyses it from a legal point of Palestinian Arab land holdings in Israel; Yiftachel (2002, 2006) frames it within the perspective of the Israeli ethnocratic State policies related to the Israeli-Arab Palestinian conflict; Nevo (2003) looks at it from the moral angle of ethnic and cultural discrimination; and Kedar (2004) links it to international law and the rights of indigenous peoples to their territorial resources.

Many of these studies highlight the discourse of hegemonic power by the Israeli government. Embodied in claiming State ownership for lands claimed by the Bedouin, and regardless of its possible motives – political, ethnic or religious (see Yiftachel 2006; Falah 1983), this discourse relies on the legal tool of historical legislation. The process of land legislation in Israel has been studied extensively, with direct and indirect implications for the Bedouin (see, e.g., Kedar 1998, 2001; Yiftachel 2006). Yet, this geo-legal literature, as well as other Bedouin research (e.g. Marx 1974; Shmueli 1980; Ben-David 1982; Falah 1983; Abu-Rabiah 1994; Meir 1997; Kressel 2003), did not attempt to challenge historically this discourse of Bedouin land as State-land.

Our major argument is that there is an extremely wide gap between contemporary State discourse on Bedouin land and Bedouin life in the nineteenth century where some of the legal roots of this conflict may be found. Our purpose is thus twofold. First, we aim at presenting contemporary State discourse of Bedouin land in legal, planning and development practices. Second, we attempt a portrayal of Bedouin spatiality during the nineteenth century, and particularly after the Othman Land Law of 1858 was enacted. Following this, State discourse will be posited against this spatiality, highlighting their contradictions and implications for understanding Bedouin land ownership in the nineteenth century. Such understanding can become a useful tool in the contemporary Bedouin struggle for land ownership.

Bedouin land State discourse

By declaring Bedouin land as State-land the State has been relying primarily on the Mandatory-based Land Law which in its turn adopted the 1858 Othman Land Law. This law, and particularly its *mawat* land article, has become highly instrumental in the discourse of Bedouin land as State-land. In principle, *mawat* land in the original Othman law should be transferred to State ownership (see Dukhan 1925; Ben-Shemesh 1953; Stein 1984). Under the functional criteria, the particular *mawat* parcel is a deserted fallow land unused or not

possessed or registered in the Estate Registry by a person or group nor designated by the authorities for public needs (such as roads, market-places, common pastures, etc.) and is therefore dead (*mawat*, Turkish). It must be located beyond the range of a cry from the edge of a town or village or alternatively beyond 1.5 miles or half-an-hour walking distance away from it. The area falling under these definitions, including pastures, mountain peaks, infertile rocky sandy and bush lands is *mawat*.

The law refers to enlivening *mawat* land, namely transforming it into active farming. During the Othman period a person could enliven *mawat* land, and thus gain *ex post facto* ownership by paying its worth to the government. In 1921 the British Mandate government substituted for this practice a stricter one which required an enlivening permit from the government (Stein 1984).

The problematic of Bedouin land ownership arose already before 1948. In 1921 the British Mandate government practically recognized Bedouin land ownership *de facto* by allowing registration of what could otherwise have been regarded as *mawat*. It also registered Bedouin land sales to Jews and taxed Bedouin land (Stein 1984; Ben-David 1996). As illustrated below, despite these administrative measures, the Othman Land Law has become a formal legal infrastructure by the State of Israel in many of its court deliberations, planning practices and development policies.

Court deliberations

Court deliberations have taken place in cases of Bedouin law suits against the State either for trespassing or for ruling ownership and in cases of counter-claims submitted by the State. State discourse has assumed three tactics. One of them was based exclusively on the argument that all Bedouin claims should be rejected because, as *mawat*, their land is State-land unless there is a deed. Courts have been accepting this discourse and ruling on the basis of this law. A typical example was the 1984 ruling of Justice Khalima (Al Huwashlah vs. The State of Israel, Civil Appeal, 218/84) which has become a major legal lighthouse.

In a second tactic in 2004 State discourse combined legal and historical tools (Jamaa vs. The State of Israel, Civil Appeal, 3314/04). In addition to the Al-Huwashla precedence it argued for lack of historical evidence that land in the northern Negev was farmed by the Bedouin under non-*mawat* practices during the second half of the nineteenth century. It also argued that all Bedouin were nomadic pastoralists with no fixed homes, territories or settlements that would contradict the criteria of the law regarding distances to cultivated lands.

In a third tactic in 2005 (Al Makhdi vs. The State of Israel, Civil Appeal, 4037/05) the State gave up legal *mawat*-based arguments and relied exclusively on the above historical evidence. In the latter two cases, the historical evidence regarding the Negev Bedouin was drawn exclusively from *Memoirs* of the Survey of Palestine conducted by the Palestine Exploration Fund [PEF] during the 1870s (Conder 1878; PEF 1880; Conder and Kitchener 1883) and from the journals of European travellers in the Negev during the nineteenth century (among others, Van de Velde 1854; Robinson 1856 [1841]; Palmer 1871; Musil 1907; Baldensperger 1982 [1913]; Gren 1982 [1869]; Tristram 2000 [1981]).

Planning practices

Planning practices towards the Bedouin have been studied extensively too, portraying various motivations and agendas by the State (Falah 1983; Fenster 1996, 1998; Ben-David 2004; Yiftachel 2006). The case of the unrecognized Bedouin settlements is highly illustrative of State discourse. In 1997 the Bedouin established an NGO, the Regional Council of the Arab Bedouin Unrecognized Villages in the Negev [RCABUV], aimed at combating the State policy of relocating them into the recognized Bedouin towns and thus gaining control over their land.

In 1999 RCABUV submitted a 'counter-plan' for these villages as an alternative to the official plan (Meir 2003, 2005). State discourse, as this plan described it, presents western modernization, achievable only through an urban mode of living, as the only option for the Bedouin. Therefore inhabitants of the unrecognized villages should be relocated to the recognized towns. This process, according to the State, should be planned exclusively along traditional tribal lines as the only socio-political and economic units capable of containing such a major change. The rationale for this notion is that the Bedouin never had formal/official fixed places/settlements carrying names or possessed any personal-individual territory except tribal territories with tribal names.

Regional development policies

The numerous development policy statements concerning the Negev have been reviewed extensively (see, e.g., Efrat 2003; Swirski and Hasson 2005; Swirski 2007). The most recent one, *Negev 2015: A National Strategic Plan for Developing the Negev* (2005) contains two symptomatic issues of State discourse regarding Bedouin land. The first, an indirect one, refers to the extremely high natural rate of Bedouin population increase (4–5 per cent annually), presented as a

'development block' in allocating sufficient resources over the long term and in the Bedouin's capacity to escape under-development. Under-development is thus perceived by the State as dependent upon demography.

Yet, we submit that this equation may be reversed: demography may be dependent upon under-development as high fertility increase rates may be an outcome of an ill-developed economy or of deprivation caused by denied access to expropriated resources. Among the Bedouin this reflects partly the collapse of their grazing economy by losing control over their territories to the State. In common with many pastoralist societies worldwide, this undermined the delicate ecological-demographic balance they maintained with their territory (Swidler 1972; Meir 1986). In compensation, and in conjunction with several other determinants (eligibility for National Social Security benefits, the general Jewish-Arab conflict and inter-tribal politics), they increased their fertility rates to expand their human resources (see also Marx 2000).

More directly, *Negev 2015* suggests a 'land-bypass development' principle whereby development within Bedouin society should proceed without settling land ownership. The underlying assumption is that development momentum and benefits will eventually dim away the conflict and that, in fact, land ownership is a matter for the courthouse. However, we submit that at stake are internal socio-political relations between elite land claimant/owners and other landless Bedouin (see Ben-David and Gonen 2001). The State has been making development benefits to the unrecognized settlements conditional on yielding land rights, while the landless in the same territories may enjoy the same benefits cost-free. The State thus neglects the potential danger of the 'land-bypass development' strategy undermining this historically very delicate internal socio-political balance that has already been cracked due to the earlier urbanization project.

In summary, these fields manifest State discourse of Bedouin land as State-land by virtue of being *mawat* since 1858. Accordingly, as nomadic pastoralists Bedouin land claimants were never engaged in farming and settlements in practices and forms that would refute the criteria of the *mawat* land. We now turn to examine the degree to which this State discourse reflects Bedouin spatiality at the birth of this Land Law.

Bedouin spatiality in the nineteenth century

Numerous recent studies concerning the Negev Bedouin in the nineteenth century and pastoral nomads and semi-nomads elsewhere facilitate a reconstruction of the particularities of Bedouin spatiality at

that time. This reconstruction will refer to the three issues that are central to State discourse: land cultivation, settlements and land ownership.

Land cultivation

We tackle this issue first in a conceptual manner, followed by a factual discussion. Conceptually, it is accepted that the Negev Bedouin pastoral nomads began shifting to more intensive engagement with farming primarily in the second half of the nineteenth century (Ben-David 1982). However, this shift did not involve exclusive novel know-how and practices alien to them. In reality it was based upon an ancient legacy. Evidence suggests (Grossman 1994) that significant land cultivation was already taking place in the northern Negev in the late eighteenth century. This is also elaborated quite extensively by Barslevski (1946).

Moreover, it turns out that these groups have always lived in close symbiosis with their economic environment to ensure diversification of sources of living (Salzman and Fabietti 1996). This historical generalization is supported conceptually by Marx (2005), who suggests that pastoral nomads have in fact been a specialized sector of the urban culture, preferring to grow grains in dry farming more than hitherto appreciated. In fact, he submits that most of the time it was farming that constituted the basis of their economy rather than being its supplement. Studies on pastoral nomadic peoples in general (e.g. Behnke and Scoones 1993; Scoones 1994) and the Negev Bedouin in particular (Bailey 1976; Orev 1976; Meir and Tzoar 1996) also reveal the extensive environmental knowledge these peoples obtained from previous local cultures or accumulated independently. This knowledge facilitated quite efficient flexible and sustainable water and soil resource utilization.

The possible implications are that, for many of the Negev Bedouin, by the mid-nineteenth century agriculture was not an innovation, either as a cultural-technological trend or as a supplementary resource. However, they adopted unique practices to cope with extreme ecological circumstances and considerable scarcity of resources in the semi-arid environment (see Grossman 1994). These circumstances included land and water resources, that is, the extent of topographically cultivable land and suitable soils as well as the amount of annual precipitation and its degree of certainty.

These uncertain conditions are similar to those of many past and present nomadic pastoralists elsewhere (Behnke and Scoones 1993). The strategy adopted by the Bedouin for coping with these constraints was patchy dry farming. This kind of farming could take place in the small planes and *wadis* (small valleys) of sufficient size and soil

quality dispersed extensively throughout the north-western, central and eastern Negev. Droughts too, occurring in this region on five- to seven-year cycles and often in consecutive years, naturally added their temporal dimension to the spatially discontinuous nature of dry farming. This temporally and spatially discontinuous land cultivation was common in this region and deeply rooted in the semi-nomadic culture of Bedouin society (Ben-David and Orion 1990).

The uniqueness of this extensive cultivation is that it requires no permanent attendance by the peasant. The behavioural codes of Bedouin society, rooted in its traditional law (see Stewart 2003), guaranteed protection of these cultivated patches and their crops during pastoral migrations. The extensive patchy farming practice mirrors the extensive patchy nomadic pastoralism which is conducted in a similar spatially and temporally discontinuous manner. Constrained by the same conditions of uncertainty, it involved extensive cyclical migration with the flocks among areal units within tribal territory or even into other tribal territories, subject to inter-tribal or inter-family agreements. Tribal territory also provided additional sources of income, such as trade in local and regional resources (e.g. salt), caravaning, territorial through-fares, smuggling and so on (see Marx 1974).

From a factual perspective, considerable evidence suggests that during the British Mandate over Palestine (1921–48) agriculture was quite an established and familiar venture among the Bedouin. According to Porat (1996), the total area cultivated by them ranged between 600,000 dunams in drought years to 2,000,000–2,500,000 dunams in rainy years. An earlier study has estimated this area, at 2,100,000–3,500,000 out of the total Negev area of 12 million dunams, regarding it as quite large (Elath 1958). Under contemporary climatic conditions and farming and water technologies, most cultivable land was concentrated in the northern Negev.

These data are highly significant. Reaching this extent of cultivated land required a prolonged process that must have begun much earlier. While Ben-David (1991) hypothesizes that the Land Law legislation of 1858 triggered an acceleration of Bedouin shift to agriculture, another study of the Al-Azazmeh tribes and their shift to farming in the mid-nineteenth century (Ben-David and Orion 1990) is highly telling. These tribes arrived in the Negev early in the century, and consolidated their territory in the central Negev Highlands towards mid-century (Bar-Zvi and Ben-David 1978). Their uniqueness lies in their arriving latest at the Negev, and therefore being considered the most nomadic, poor and marginal of Bedouin tribes (Barslevski 1946). The ecological conditions (soils and precipitation) of their territory have been the poorest too. Yet, Ben-David and Orion (1990) demonstrate how, quite early and despite these constraints, they began adopting land cultivation.

It is therefore quite plausible that land cultivation among more northerly tribes in the Negev in the middle of the nineteenth century was considerably more widespread. Concepts of processes of spatial diffusion of cultural traits, such as farming practices and technologies, confirm this kind of mature circumstance of a particular phenomenon: it becomes established first, forming a source for its future spread into neighbouring society (Brown 1981). That is, despite unfavourable ecological conditions, the neighbouring Al-Azazmeh tribes might have taken the risk of integrating cultivation into their livestock economy only after realizing its success among the northerly tribes.

Land cultivation at the time of the Othman Land Law was thus already familiar among Negev Bedouin. While having a patchy and spatially and temporally irregular nature, it still must be viewed from the proper perspective: this kind of practice produced cereal crops (primarily barley) that became later partly commercial and a source for export to the European beer industry (Ben-David 1991). Due to ecological circumstances this practice was neither an exception nor an agricultural anomaly in its nature, but rather the common reality in the northern Negev.

Settlements

This issue is also examined conceptually and empirically. Two issues are at stake here: the question of settlement and the criterion of distance of cultivated land.

Regarding 'settlement', a working definition is proposed here as an alternative to the conventional ones, for example, in the *Oxford English Dictionary* or *The Dictionary of Human Geography* (Johnston *et al.* 2001). It caters to cases other than formal settlements, and builds upon the concepts of recent humanistic studies of place (e.g. McDowell 1997). Accordingly, a settlement can exist in a place that may not be formally or otherwise bounded. People may live there together, or alternatively it may contain only certain non-residential activities. It need not necessarily be a town or village but also any other form of spatial organization or use of space. And, finally, it may possibly also be a site of informal organization, given only that there are social relations among its inhabitants combined with the meaning of this place for them along with their group memory and collective identity. We submit that a pastoral group, practising its unique nomadic life within a portion of space and meeting these social conditions, can also be regarded as a settlement.

This notion relates also to land cultivation practised by these peoples and centred around their settlements but on different spatial scales. This is related to the second issue, that of distance from a settlement. Land cultivation in semi-arid regions is very extensive due

primarily to the considerable uncertainty about availability of land and water, generating low population density. Consequently, given the low technological level of pastoral culture in the semi-arid Negev, distances separating places, camping sites or settlements from their farming lands may have been great.

We now look more factually at Bedouin settlements as reflected in modern research. In its most elementary meaning, Bar-Zvi and Ben-David (1978) demonstrate how already in the nineteenth-century Bedouin were developing alternative sites for winter and summer abode within their territories, located relative to seasonal grazing needs into different environments around which grazing activities revolved. That is, these sites were recognized as permanent bases. They reflected orderly patterns of grazing migration and camping, with grazing zones and ranges. These were highly constrained by the boundaries of tribal territories or by inter-group treaties and agreements that began to shape up from the mid-nineteenth century (see Stewart 1986). Any deviation for the purposes of using grazing and water resources required prior negotiation and mutual agreement through socio-political mechanisms. This introduces the issue of Bedouin homes. Even if Bedouin in these camps dwelt in movable tents, these still constituted a home for them in all possible respects (Havakuk 1986).

Both elements, namely land as personal or group territory and the tent as home, have been central to Bedouin culture in which grazing was conducted even in a completely nomadic practice, let alone in a semi-nomadic one. Thus, while these settlements did not have an official municipal nature with a boundary, a particular group of people lived there on a seasonal basis and they became familiar and publicly accepted by tribal and extra-tribal kin. Furthermore, even if these were not permanent settlements with solid home structures and a regular internal settlement pattern, they still contained social and economic activities. Finally, while these places were not towns or villages but rather sites of informal organization they still combined social relations, with the meaning, memory, imagination and collective identity they have developed and still maintain for their inhabitants, such as in the case of holy graves (see, e.g., Bar-Zvi, Abu-Rabiah and Kressel 1998).

As with land cultivation, it is plausible that these places were not the exception but rather a normal pattern among mid-nineteenth century Bedouin. It is noteworthy that the RCABUV recently argued that the names of the unrecognized settlements preceded the State of Israel and that in the 1970s even the State itself used some of these names for land entitlement (Meir 2003). Interestingly, none of the numerous studies on the Bedouin has paid any attention to the question of the historical places and their names except for clan and tribal territories.

A partial and preliminary investigation into some of these place names carried out by the present author reveals their authenticity.

Our alternative analysis of Bedouin settlements is thus significant. It implies that many such Bedouin settlements could have been dispersed throughout the northern Negev, their number reflecting at least the number of tribes and sub-tribes. During the British Mandate there were 70–100 tribal units, split into sub-tribes (Al Aref 1937; Hillelson 1937; Barslevski 1946). This suggests that spatial presence of these tribal places, even if fewer during the nineteenth century, must have been quite notable. It is therefore plausible that there could possibly have been *at least* several dozen such settlements even if the population size of each was small. It is also reasonable to submit that their number and density were greater in the more fertile western part of the northern Negev.

Land ownership

Several recent studies have dealt with the degree of efficient Othman imperial control in the Negev. It transpires that, at least until the mid-nineteenth century, and despite a considerable Bedouin presence, the Empire expressed little interest there (Grossman 2005), and did not regard an efficient system of local government there as a pressing need. Therefore the extent of governmental involvement in the economic affairs of the Bedouin and their real estate derivatives was only minimal (see also Bailey 1980). Imperial interest there began to grow only in the face of increased geo-political tension following the digging of the Suez Canal by the British Empire (Stewart 1986; Kressel 1993). The system of local governance, with several small rural government posts and the district town of Beer-Sheva, emerged only during the last quarter of the nineteenth century and the early twentieth century.

In contrast, during the nineteenth century the Bedouin gradually developed an informal regional system of quasi-governance intended to handle their internal affairs without external intervention. It included inter-clan and inter-tribal arrangements regarding control, ownership and management of territorial and ecological resources. Despite tribal conflicts and wars that at times prevented its successful realization, this system became a fundamental condition for internal socio-political stability (see Marx 1973, 1978).

This issue is related to the unique territorial pattern of attaching little value to territory in terms of formal private ownership, this being quite a common structural principle among pastoralists (Perevolotzki 1987; Casimir and Rao 1992). However, under certain circumstances a process of territorialization commences whereby groups or individuals prefer to shift to a system of delimiting their place or space, entailing subsequent private land ownership (see, e.g., Sack 1986).

It turns out that during their sedentarization and shift away from the dominance of pastoralism in their economy, Negev Bedouin indeed began territorialization (Meir 1996) and land privatization (Ben-David and Orion 1990) close to the mid-nineteenth century. This was preceded by developing principles and rules in Sinai and the Negev for defining tribal or clan territories, including inter-tribal and inter-clan boundary agreements (Stewart 1986). These boundaries were adopted by Othman authorities in the 1890s and early 1910s for purposes of establishing control in the Negev (Al-Aref 1937).

Evidence for these processes is abundant. During the early 1940s Barslevski (1946) noticed the extensive phenomenon of permanent control of pieces of land by individual Bedouin. Elath (1958) employed ownership terminology when noting that the 1931 Census of Palestine counted close to 8,000 Bedouin landowners and an additional ~2,000 tenants. Given a 1931 Bedouin population size of ~50,000 (Government of Palestine 1931) and an estimated 8,000 households, we deduce that at least half of the households enjoyed the status of landowner. These data conform to assessments for earlier years suggested by Grossman (2004).

A particularly informative description is offered by Kressel, Ben-David and Abu-Rabia (1991a,b). This comprehensive study exposes in detail the process of land privatization and ownership and the formation of procedures for establishing this informal system among the Bedouin. They begin with dividing tribal grazing territory into individually sown fields within wadis as well as privatizing wells and boreholes. They proceed to the progress of this division from premium land in valley beds to upstream inferior land. This is followed by analysing the evolution of procedures for demarcating land parcels transferred from tribal to individual possession, quoting examples from the Negev Highlands from which one can learn about more northerly areas in the Negev. They conclude by discussing the development of land transactions, mortgaging, leasing, inheritance and so forth. This is coupled with a description of the internal tribal system of agreements, negotiations and arbitrations to facilitate all these, including oral principles of internal regulation, laws, by-laws and rules, all of which have become a deeply established tradition within Bedouin society.

Kressel notes that the early buds of these processes emerged already in the first half of the nineteenth century (Kressel, Ben-David and Abu-Rabia 1991a, 1991b). Thus, in contrast to the very weak Othman governance in the Negev by mid-nineteenth century, Bedouin informal 'governance' there was beginning to shape up, enabling them to initiate the 'informal' land ownership system even earlier than the 1858 Land Law.

State discourse vs. Bedouin spatiality

Two major issues stand up when contemporary State discourse confronts nineteenth-century Bedouin spatiality. They refer to the sources of information used by the State in defending this discourse and to the contradictions between the 1858 Land Law and Bedouin spatiality that could have yielded a contemporary legally different land ownership scene.

Sources of information

As shown above, the journals of western travellers have become an almost exclusive source of information for State discourse. These sources referred to Bedouin life and the nature of their land cultivation and settlements. The authenticity of these sources is unquestionable, as the travellers reliably reported the evidence they witnessed. However, by asking how realistic they were one must question the acceptability of these observations. We submit that these observations and reports might not have reflected objectively the contemporary regional reality of the Bedouin but rather the way it was filtered through the observer's cultural perceptions. Consequently, one cannot rule out the possibility that the evidence witnessed and recorded has reflected what their eyes were accustomed to experience in their homelands, and therefore what they expected to find, rather than the existing reality.

In line with this we submit further that the root of the problem is the particular *practice* of Bedouin land cultivation to which external observers, as well as the Othman authorities, were exposed. Many of these observers might have searched for formal and ordered settlements in the Negev with permanent populations, surrounded by closely adjacent cultivated land. These would meet the terms of temporal and spatial continuity of farming practices with considerable environmental certainty of soil fertility and precipitation familiar from their homeland European rural landscapes. When these were not observed, they regarded all other forms of land occupation and land use as anomalous and deviant from the 'normal' forms and therefore insignificant and negligible.

Two examples illustrate this point. Palmer refers extensively to patchy farming, encampments, and even to the fact that 'camels and sheep are ... the Badawi's only means of subsistence. ... The effect of this is that the soil he owns deteriorates' (1871, pp. 238–42). A second example is the early twentieth-century Jarvisian stereotype (e.g. Jarvis n.d.) portraying the Bedouin as responsible for extreme desertification. Typical of other contemporary sources, this kind of stereotype could easily entail the conclusion that the Negev Bedouin's land cultivation

was negligible or that there were no settlements whatsoever in this region.

Furthermore, such conclusions were typical of observations during short visits and mostly along travel routes only, a customary practice of nineteenth century geographical research. In contrast, modern research on the Negev Bedouin, used here to reconstruct their nineteenth-century spatiality, has involved a different methodology. It included intimate contacts with the Bedouin since the 1960s through prolonged fieldwork by local Bedouin and non-Bedouin ethnographers, anthropologists and human geographers. These studies were often carried through participatory research, reconstructing histories from oral sources, cross-checking this evidence by thorough investigations into recently opened local and foreign archives. The reality they portray is diametrically different from that observed in the mid-nineteenth century which popularized itself into a State discourse. The contradictions are highlighted below because central to present State discourse is its classification of Bedouin land as *mawat* reliant on the 1858 Othman Land Law.

Contradictions and implications

The contradictions are embedded in the issues analysed above: land cultivation, its distances from a settlement and its possession. More importantly, however, they carry implications for Othman's original classification of Bedouin land as *mawat* and for understanding its historical circumstances.

First, the unique temporally and spatially discontinuous nature of Bedouin land cultivation, practised by discontinuous attendance, contradicted the continuous, visible and permanent practice with full-time farmer attendance in settled farming environments elsewhere in the Empire. By treating as *mawat* land held and cultivated by the Bedouin, the Othman government denied a practice deeply rooted in their semi-nomadic culture.

Second, we have refuted the nineteenth-century stereotype of uncoordinated, unordered and chaotic grazing migration and camping by a pastoral nomadic group. It was also shown that the portion of space within which a pastoral nomadic group practices its unique nomadic economic life can be regarded as a settlement. This interpretation is contrary to that of the Othman government which employed the term 'settlement' in its most conventional sense and ignored this unique Bedouin 'settlement-ness'. Accordingly, it was suggested above that contrary to nineteenth-century sources, which portrayed a settlement vacuum in this region, a very different settlement scene could have been derived.

This introduces the criterion of minimal distance from a settlement for classifying a parcel of land as *mawat*. We submit that in reality the terms of this criterion in the Othman law were considerably different in desert regions from those in the densely populated rural areas where it originated. As shown above, its operational terms (crying or walking range or 1.5 miles), did not stand the practical test of Bedouin spatiality in grazing and farming.

Highlighting these contradictions is significantly suggestive to the very classification of Bedouin land as *mawat* by the Othman authorities. If they were to have acknowledged these Bedouin farming practices and settlements, the Othmans would have discovered quite a dense system of such small Bedouin geographical entities. Thus, the very same measure of a threshold distance of cultivated land from the closest settlement, required for defining land as *mawat*, would have excluded many Bedouin areas from this category. The reason is that these areas could have been located closer to a nearby settlement and thus within the range required for legally determining land ownership by the local people.

This brings us to the issue of the Bedouin internal land-ownership system, which was also ignored by the Othman government and subsequent governments as well. A particular aspect of present Bedouin claims for land ownership is worth noting here. In rejecting these claims the Israeli State often refers to the failure of many Bedouin to produce ownership documents. Furthermore the State often resorts to Bedouin failure in 1921 to appear before a special Land Court established by the British Mandatory authorities in Beer Sheva for registering land ownership (Stein 1984).

This act indeed failed, but for reasons that were mostly external to the land law. First, common to many pastoral groups elsewhere (see Meir 1997), contact with the authorities constituted an unwanted act. Al Aref (1937) suggests the Bedouin's fear of taxation as an example. Kressel, Ben-David and Abu-Rabia (1991a, 1991b) and Elath (1958) add that tribal sheikhs played a major role in threatening those tribesmen who wished to register their lands. In the wake of increasing external demand for these lands they wished to gain control of them before they were privatized. There is evidence that some Bedouin had already managed to register their land earlier in the Gaza District Othman offices (Shiloni 2005). Given this, in the absence of this obstacle of tribal hegemony, possibly many more Bedouin would have registered their land and gained official ownership.

The very circumstances of promulgating the Land Law may now be put in perspective. It is commonly accepted that the law, enacted throughout the Othman Empire and referring to Bedouin tribes elsewhere as well, reflected the general governmental goal of encouraging farming development for purposes of taxation (see, e.g., Bar 1960,

1972). Thus, gaining control of as much land as possible was an Othman interest. However, we may also suggest that the local growth of Bedouin agriculture in the Negev constituted some threat to Othman geo-political interests. This hypothesis may be supported by the circumstances of the construction of the Suez Canal (whose feasibility studies had begun already in the late 1840s). This mega-project reflected the growing influence of European superpowers in the Near East, threatening Othman hegemony. Economic growth of the Bedouin, whose centrifugal tendencies away from governmental control have been similar to those of pastoral-nomads elsewhere (Tapper 1991; Khazanov 1994), could have become a barrier to effective Othman sovereignty in the Negev. This assessment is supported by further governmental action taken in this region. Gazit (2000, 2005) suggests that the Othman government initiated ten permanent settlements for the Bedouin in the western Negev in the decades immediately following the promulgation of the law and in the very same region it ignored earlier.

These circumstances of the Othman enacting of the Land Law underlie its coercive imposition on the Bedouin while denying their unique spatiality and interests. In fact, the Othman Empire imposed upon the Bedouin cultural-legal rules suitable to a settled rural agricultural society. In contrast, our alternative analysis reveals that the real scene of Bedouin land ownership was entirely different from that derived by the conventional definitions of the Othman Land Law. This analysis reveals that farming land as well as grazing land existed at sufficient extent and quality desired by the Bedouin for making quite a reasonable living, for wishing to stay on it and for desiring to own it, as much as the Othman government wished.

Conclusions: tooling for conflict resolution

This article examined manifestations of the discourse on Bedouin land adopted by the State of Israel rooted primarily in the 1858 Othman Land Law which classified Bedouin lands as *mawat*. It then analysed nineteenth-century Bedouin spatiality based on modern scientific sources. Finally, both scenes were confronted in order to understand how realistic the discourse of the State has been.

This analysis has two merits. The first relates to the introduction of scientific apparatus into the State apparatus. As shown elsewhere (Meir 2007) the Israeli government has consistently rejected various findings of scientific research related to the issue at stake. Such failure is perhaps reflective of the more fundamental political and ethnocentric motivations that underlie State discourse rather than simply of a State greed. It was, however, demonstrated here how scientific research refutes the status of *mawat* imposed by the Othman government on

Bedouin land, thus also refuting the very foundations of State discourse, which is based on questionable sources. Such analysis could have been adopted by the State in order to mitigate its land conflict with the Bedouin.

Second, this article presents a basis for a counter-discourse that can become a valuable historical tool in the contemporary Bedouin struggle for recognition of both their land ownership and their unrecognized settlements. Such a struggle has taken various legal directions, being more successful in the planning arena than in court appeals. The Othman Land Law will continue to serve as a shield against Bedouin lawsuits. Given, however, that the State has downgraded this line of defence, the counter-discourse may contribute to a 'softer' and historically just State interpretation of Bedouin historical spatiality in its present development policies.

This prognosis carries great potential for reducing the heightened tension between the Bedouin and the State over land ownership. It may also contribute to reducing internal tensions within Bedouin society. It may serve the State of Israel as a bridge for renewed Bedouin confidence, a true strategic goal rather than possessing Bedouin land.

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