

Bedouin Land fight: Claim for Native Title threatens Jewish State

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Nuri al Uqbi's small cinderblock home in a ramshackle neighbourhood of Hura, a Bedouin town in Israel's Negev desert, hardly looks like the epicentre of a legal struggle that some observers say threatens Israel's Jewish character.

Inside, the 68-year-old Bedouin activist has stacks of bulging folders of tattered and browning documents, many older than the state of Israel itself, that he hopes will overturn decades of harsh government policy towards the Negev's 180,000 Bedouin.

For the past few months, Mr al Uqbi has been in court pursuing a case that has pitted his own expert witnesses against those of the state.

Mr al Uqbi claims the right to return to a patch of 82 hectares in the Negev, close to the regional capital, Beersheva, that he says has belonged to his family for generations. But as both the government and the judge in the case, Sarah Dovrat, seem to appreciate, much more is at stake.

Should Mr al Uqbi win his case, tens of thousands of Bedouin, who long ago had their properties confiscated, could be entitled to repossess their agricultural lands or seek enormous sums in compensation.

Theoretically, it might also open the door to claims by millions of Palestinian refugees scattered across the Middle East.

The Negev, constituting nearly two-thirds of Israel's territory, has been almost entirely nationalised by the state, with the land held in trust for world Jewry. But the Bedouin have outstanding legal claims on nearly 80,000 hectares of ancestral property.

Tom Segev, an Israeli historian, observed that the historical documents presented by Mr al Uqbi "raise a fundamental question: Who does this country belong to?"

The lawyers and witnesses in the case, Mr Segev added, were not just "arguing over a plot of land. They are arguing over the justness of Zionism".

Such high stakes may explain why over the past few weeks, as Ms Dovrat has been considering her verdict, the authorities have sped up plans to plant over Mr al Uqbi's land a "peace forest", paid for by an international Zionist charity called the Jewish National Fund (JNF).

Until now the main obstacle in their way has been a small village, Al Araqib, re-established a

decade ago by several Bedouin families who, rather than pursue Mr al Uqbi's legal route, have simply reoccupied the land.

Last week, about 300 Bedouin were again evicted when the police destroyed the village's 40 homes for the fourth time in less than a month.

Mr al Uqbi, a father of eight, said that five years ago – after years of challenging the land confiscation with protests and appeals to the authorities – he launched the lengthy legal process that has finally reached the Beersheva court.

“I realised that the authorities were simply waiting for me to die. When all the old people are gone, who will be left to come and testify?”

Mr al Uqbi said his father, Sheikh Suleiman al Uqbi, and the other villagers were “tricked” by the authorities in 1951. They were told that they would have to relocate “temporarily” while military exercises were carried out in the area.

Mr al-Uqbi, who was nine at the time, remembers the tribe being forcibly moved to a new site, next to Hura, where they have lived ever since, although their neighbourhood has never been recognised by the state.

All these years later, Mr al Uqbi's home, like his neighbours', is still illegal, and they are all denied water, electricity and other services.

The only option they had been offered to make their lives legal again, Mr al Uqbi said, was to move to one of seven government “townships” set up in the 1970s. All are sunk at the very bottom of Israel's social and economic tables.

The families have refused, protesting that they would also have to renounce both their claim to their ancestral lands and a pastoral and agricultural way of life known by the Bedouin for centuries. The Uqbi tribe's fate is far from unique. Tens of thousands of other Bedouin were also moved by the army and have been faced with a similar, stark choice.

Today, 90,000 Bedouin, or half the Negev's Bedouin population, live in unrecognised communities, according to a human rights group.

Mr al Uqbi's court case has set two noted Israeli geography professors in sharp opposition.

The state's position is represented by Ruth Kark, of Hebrew University in Jerusalem, who claims that the Negev Bedouin were nomads with no ties to the land. Instead, she argues, most of the Negev was considered “mawat”, or dead, and its ownership passed to Israel in 1948 as the new sovereign ruler.

On these grounds, the state has long classified the Bedouin as “trespassers” and “invaders”.

But Mr al Uqbi's expert, Oren Yiftachel, of Ben Gurion University in Beersheva, has countered that there was a well-established system of Bedouin land ownership and crop cultivation in the Negev long before Israel's creation.

He says Bedouin deeds – though never formally recorded – were recognised by the Ottomans, the British and even early Zionist organisations such as the JNF, which bought

land from the Bedouin.

A 1921 document from the public records office in London unearthed by Mr Yiftachel shows that Winston Churchill, the colonies minister, signed an agreement with Bedouin in the Beersheva area that exempted them from registering their lands and set up a special tribal court to settle land disputes.

Mr al Uqbi has kept a large store of documents passed on to him, showing that his father cultivated crops on the land and paid regular tithes on the profits to the Ottoman and British authorities.

He also has a copy of the treaty signed in 1948 between 16 Bedouin tribes, including the Uqbi, and the new Israeli army, pledging loyalty in return for a guarantee that they could continue living on their lands.

Mr Yiftachel said the legal battles of the Bedouin should be compared to those waged by other indigenous peoples in countries such as Australia, Canada, South Africa, India and Brazil. "Like them, they are fighting for recognition of 'native title'," he said.

Jonathan Cook is a writer and journalist based in Nazareth, Israel. His latest books are "Israel and the Clash of Civilisations: Iraq, Iran and the Plan to Remake the Middle East" (Pluto Press) and "Disappearing Palestine: Israel's Experiments in Human Despair" (Zed Books). His website is www.jkcook.net.

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