

# **Yawm Al-Ard, A struggle for land**

Developments in Israeli Land policy and the Palestinian minority,  
1948-2011



Line Khateeb

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Department of Culture Studies and Oriental Languages  
University of Oslo

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## **Abstract**

In the Norwegian discourse regarding Palestine and Israel the main focus is often on the Israeli occupation of the West Bank and Gaza and the search for a solution. Speaking of a two state-solution and a lasting peace, the Palestinian minority living inside Israel is often left out of the equation. Land is an important issue when it comes to the occupied Palestine, and although less communicated, it is a major challenge for the Palestinians living inside Israel. This paper deals with the Palestinian minority living inside Israel, their experienced loss of land and governmental control on land that remains in Palestinian custody. In this perspective I look at the position of the Palestinians inside Israel with regard to their democratic rights as a non-Jewish minority in a Jewish state.

I look at the historical background for the current situation to see which implications the unsettled question of land has on the relationship between the Palestinian minority and the state. How the Palestinians have been able to influence their situation and decisions regarding land expropriations and limitations on land-use, both through democratic institutions like the parliament and civic-society organizations. I look at the different laws and state policy regarding land to provide give a broader understanding of the legislation towards the Palestinian minority in general and their position in Israel. This also leads to the discussion as to which extent the Israeli declaration from 1948, saying Israel is a state for *all* its inhabitants irrespective of religion or ethnicity at the same time as it is Jewish, is compatible. There has largely been a continuity regarding the land policy of the state, while the Palestinian political organisation has gone through significant changes. Resisting state policies through political participation has revealed how universal democratic values and the peculiarity of the state being Jewish constitute a contradiction that challenges the democratic vision of Israel.



## **Acknowledgements**

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Last, but not least I want to thank my family, especially Trygve and my children Amina, Selma and Jakob. I hope we will continue to harvest our olives in Deir-Hanna and share the joys and worries of our family and the people in the Galilee.

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## 1. Introduction

Before the establishment of Israel, Zionist pioneers claimed that: “Palestine was a land without a people for a people without a land”. Land is an important issue when it comes to the occupied Palestine, and although less communicated, it is a major challenge for the Palestinians living inside Israel. This paper deals with the Palestinian minority living inside Israel, their experienced loss of land and governmental control on land that remains in Palestinian custody. In this perspective I look at the position of the Palestinians inside Israel with regard to their democratic rights as a non-Jewish minority in a Jewish state. Before 1948 Palestinians owned between 4.2 and 5.8 million dunams of the land in the area that became Israel.<sup>1</sup> While property that belonged to the Palestinians who became refugees was transferred to the custodian of the state, it is estimated that the Palestinians who remained lost 40-60% of their land.<sup>2</sup> Today the Israeli state owns 93% of the land. Palestinians own 3-3.5% but they experience strict limitations on how to use their land. These limitations become especially salient when it comes to housing, gaining permission for a development plan or allocating land to build a home. The young generation of Palestinians in Israel experience a severe need for housing and they perceive the issue as a challenge to Israeli practices of democracy.

In this thesis state policy regarding Palestinian and Jewish ownership and access to land is used as a basis to approach the question of whether the declaration of Israel from 1948 saying it is a state for all its citizens is compatible with the state at the same time being Jewish. My argument is that it is not.

### 1.1 The Palestinian minority

After the establishment of the Israeli state, and the uprooting of some 850 000 Palestinians, the 150 000-160 000 Palestinians who remained within the borders of the new state became Israeli citizens<sup>3</sup>. Today they constitute almost 20% of the total

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<sup>1</sup> Abu-Hussein, Hussein and McKay, Fiona, *Access denied: Palestinian lands rights in Israel*, London, Zed Books, 2003:135

<sup>2</sup> Yiftachel, Oren, *Ethnocracy: Land and Identity Politics in Israel/Palestine*, Philadelphia University of Pennsylvania Press, 2006:137

<sup>3</sup> Lustick, Ian, *Arabs in the Jewish State: Israel's Control of a National Minority*, Austin: University of Texas Press, 1980



population, numbering 1,535 million.<sup>4</sup> They can be considered a non-assimilating community, as defined by the Israeli ethno-geographer Oren Yiftachel and they reside in three main regional concentrations, of which Galilee is the largest, as well in several mixed cities.<sup>5</sup> They normally use the term Palestinians, Palestinian-Israeli, Arabs of 48 or Arab-Israeli to describe themselves. The most common and official Israeli term to describe this group is *Israeli Arabs*, denouncing their Palestinian nationality. It is also normal to refer to ethnic groups according to their religion. Israeli Jews most often identify themselves as *Jewish* instead of using the general term Israeli. I refer to all the Palestinians who resided in Palestine before the establishment of Israel in 1948 as *the Palestinian minority in Israel*, or *the Palestinians*. Much of the literature dealing with this issue refers to the Palestinian minority in Israel as *Arabs* and I will occasionally also use this term. The paper only deals with Palestinians inside Israel and does not refer to Palestinians in the occupied areas or in the Diaspora. Because of the limited space to cover land policy in this paper I primarily discuss the situation of the Palestinians in the Galilee, North in Israel. Meanwhile there is a large Palestinian Bedouin population residing in Naqab (the Negev desert) south in Israel. They live in several unrecognised villages, are dispossessed of their land and forcibly moved into townships that resemble the reservations made for the indigenous American Indians in the US. I do not have the possibility to touch upon this issue in a limited paper as this, although the matter is related to the question of land, democracy and minority rights, with similarities to the case in the Galilee.

## **1.2 Israeli Democracy and the Palestinian minority**

Israel does not have a written constitution, but the Israeli judiciary has developed a set of Basics Laws and a system of judicial protection of civil rights, to be protected by the Supreme Court. Still one may say that the declaration of independence from the 14th of May 1948, constitutes the nation's credo. According to this declaration the Israeli state; "*will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion,*

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<sup>4</sup> Israeli Central Bureau of Statistics, *The Arab population in Israel 2008*, Statis-lite 102, 2008, [www.cbs.gov.il](http://www.cbs.gov.il)

<sup>5</sup> Yiftachel, Oren, *The political Geography of Ethnic Protest: Nationalism, deprivation and Regionalism among Arabs in Israel*, Transactions of the Institute of British Geographers, New Series, Vol 22, No.1, (1997):91-110

*race or sex (...)*<sup>6</sup> The Declaration of Independence also makes it clear that: “*the establishment of a Jewish State in Eretz-Israel, to be known as the state of Israel*” is a state for the Jewish people. The Law of Return passed by the Knesset in 1950, and the Citizenship Law of 1952 grants any Jew the right to immediate citizenship upon arrival in Israel.<sup>7</sup> Israel is a Jewish state, but also democratic. Does that mean it is a state primarily for its Jewish majority?

As mentioned above, the Palestinian minority has reached almost 20% of the population in Israel. 44 % of the Palestinians lives in the Northern district and constitute 53% of the total population there<sup>8</sup>. As a non-Jewish minority in a state that defines itself both as democratic and Jewish, the Palestinians face difficulties in several arenas of life. My main focus is on the issue of land, which in turn affects both the social and economic situation. After the Israeli-Arab war in June 1949, Israel controlled about 20.6 million dunams of the land, approximately 77% of the territory of Mandatory Palestine.<sup>9</sup> The number of Palestinian inhabitants under Israeli control decreased from about one million to roughly 160 000. The Jewish population at that time was about 600 000.<sup>10</sup> Territorial control was essential for the new state, and expropriation of land became an official and institutionalized practice. First the government had to get de facto control of the land areas and gradually they also established a framework to legally take over the status as owners of the land. The right to own land, and not least access to land has led to many instances of disagreement between the Palestinian minority and the state. Massive expropriations of land in the 1950's and 60's, while the Palestinians were under a military rule, led to protests against these policies by the Palestinians themselves and from Israeli Jewish intellectuals and “leftist” politicians. A continuation of land expropriation, although at a lesser, but still significant rate continued after the abolishment of the military rule in 1966. The Palestinian protests culminated in the Land Day, March 1976, a national, general strike and large demonstrations. They were met by Israeli police forces, leaving six Palestinians killed and hundreds wounded. Expropriation of land was reduced through the 70's and 80's, when there was a shift of

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<sup>6</sup> “*Proclamation of Independence*”, May 14, 1948, [http://www.knesset.gov.il/docs/eng/megilat\\_eng.htm](http://www.knesset.gov.il/docs/eng/megilat_eng.htm)

<sup>7</sup> *The Law of Return 5710 (1950)*\*.<http://www.knesset.gov.il/laws/special/eng/return.htm>

<sup>8</sup> Israeli Central Bureau of Statistics (CBS); *The Arab population in Israel, 2008*

<sup>9</sup> One dunam equals 0,247 acres, one thousand dunams equals one square kilometer

<sup>10</sup> Holzman-Gazit, Yifat., *Land Expropriation in Israel: Law Culture and Society*, Hampshire: Ashgate Publishing Limited, 2007:103

focus on controlling the use of land. Today young Palestinians in Israel experience great difficulties in getting allocated land to build a future home in addition to experiencing discriminating policies in several arenas in the society. In October 2000 the Palestinians in Israel experienced another episode with similarities to the events in 1976. When they took to the streets, in their own communities, to demonstrate in support of the Palestinian Intifada in the West Bank and Gaza, they were met by heavily armed forces and 13 Palestinian citizens of Israel were killed. None of the policemen responsible for the killings have stood trial.

In this master thesis I look at the historical background for the current situation to see which implications the unsettled question of land has on the relationship between the Palestinian minority and the state. I will analyze how the Palestinians have been able to influence their situation and decisions regarding land expropriations and limitations on land-use, both through democratic institutions like the parliament and civic-society organizations. The laws used to transform land belonging to Palestinians into state owned land are primarily the Land Acquisition Law (Validation of Acts and Compensation)- 1953 and the Absentees Property Law- 1950, under which all of the property possessed or used by the Palestinian refugees was transformed to Israeli state Land.<sup>11</sup> Looking at the different laws and state policy regarding land can hopefully give a broader understanding of the legislation towards the Palestinian minority in general and their position in Israel. The main questions I will discuss are:

1. How government policy regarding land has changed from 1948 until today, and how the Palestinian community have developed and organized themselves to counter these policies.
2. This also leads to the discussion as to which extent the declaration from 1948, saying Israel is a state for *all* its inhabitants irrespective of religion or ethnicity at the same time as it is Jewish, is compatible.

My thesis is that there has largely been a continuity regarding the land policy of the state, while the Palestinian political organisation has gone through significant changes. Resisting state policies through political participation has revealed how universal democratic values and the peculiarity of the state being Jewish constitute a

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<sup>11</sup> Lustick, *Arabs in the Jewish state*, 1980

contradiction that challenges the democratic vision of Israel.

### **1.3. Segmentation and control policy**

Different minorities in Israel are defined by religion or nationality, and given different status within the Israeli society. This kind of segmentation of the population can be argued to be part of the Israeli segmentation policy. By giving different status and rights to each religious or ethnic group the government has used a divide and rule strategy towards the Palestinian citizens to prevent the arising of a strong, united minority.<sup>12</sup> While the Palestinians in Israel are given individual rights on a number of areas such as the right to vote and stand in elections, and a certain recognition as a group (separate schools and limited recognition of the Arabic language) the government will not grant them a collective status as a national minority, with the legal implications and protection that would be given to them according to international law.<sup>13</sup>

When it comes to the policy of governmental laws, being Israeli has implied exclusion in several arenas for the Palestinian minority. After the rise of the second intifada in 2000 there has been a change in the domestic politics in Israel and the exclusion of the Palestinians has become more explicit. A series of new laws have been proposed, and some passed, that are clearly aimed at the Palestinian minority. Looking at the development of the laws and policies used to expropriate or control land and limit Palestinian settlement, I will examine the trend in Israeli policy towards the Palestinian minority, their rights as citizens and landowners. Using three villages in the Galilee, namely Deir-Hanna, Arrabe and Sakhnin as a case, I look at the history of land loss and political mobilization in the villages as well as in the Palestinian minority at large. I will also consider the development of public policy in Galilee, from the years when Israel emerged, during the military administration, until the present day.

### **1.4 On the topic**

There are several reasons why I chose to write about this topic. In the Norwegian discourse regarding Palestine and Israel, the main focus is often on the Israeli occupation of the West Bank and Gaza and the search for a solution to this conflict that has been going on for 63 years. While the roots of the conflict date further back and have

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<sup>12</sup> Ibid

<sup>13</sup> Abu Hussein and McKay, *Access Denied*, 2003

to be seen in relation to the emergence of Zionism and Palestinian nationality at the same time as the British Mandate of Palestine promised both the Palestinians independence and the Zionists the establishment of a Jewish homeland in Palestine, according to the Balfour declaration. Speaking of a two state-solution and a lasting peace, the Palestinian minority living inside Israel is often left out of the equation. As my father's family live in the village of Deir-Hanna in the Galilee, I have spent many holidays and longer periods in this part of Israel. Hence my interest in the subject is also personal, as I have become acquainted with both the joys and the challenges of the Palestinians living in the Galilee through my upbringing. I am aware of the biased position this puts me in, at the same time as it has given me a unique access to the people affected by the policies I discuss and who have experienced the history I intend to analyse. I rest upon thorough research conducted by both Palestinian and Jewish Israeli academics as well as public figures from official Israeli institutions. The conclusions I draw represent my own views only and not necessarily the views of those I quote or on whom parts of my analysis rest.

I have divided the thesis of this paper into two main questions. The first concern the development of Israeli government policy regarding land from 1948 until today, and how the Palestinian community have organized themselves in response to these policies. The Palestinian communities in Israel face different challenges according to where they live. I focus on Galilee in the Northern region of Israel, and especially on three villages, Deir-Hanna, Arrabe and Sakhnin. The majority of the Palestinians in Israel live in the Galilee and are in that sense representative. The inhabitants are mostly Muslim with a Christian minority, which is similar for the Palestinian minority as a whole (82% Muslim and 9% Christian). Israeli policy has led to a segmentation of the Palestinian/Arab population in Israel, giving different treatment and privileges to the different religious or ethnic groups, hence my study does not cover all the members of the Palestinian minority. As pointed out in the introduction I do not speak of the Bedouin population in the south who face difficulties due to discrimination regarding land. This issue deserves a study of its own. The Druze community (9% of the Arab population) is not represented in my research, although mentioned in regards to the segmentation policy, and also affected by discrimination. Although my study is based on cases regarding the right to land and settlement in the Galilee I hope to provide a broader understanding of the

governmental policy and legislation towards the Palestinian citizens of Israel in more general terms as well.

The second question in my research is related to the Israeli definition of the state as “Jewish and democratic”, where I question the precarious position that the Palestinian, non-Jewish minority came to occupy. I argue that the questions are interrelated. The Jewish character of Israel is based on Zionist history and ideology, with the aim of establishing a Jewish state in Palestine. In turn this affects governmental policy regarding both land and the Palestinian minority. I will deliberate more on the interrelation between Israel as a Jewish and democratic state and the disadvantages of the Palestinian minority in Israel with regard to land and equal rights in the last chapter. Due to limited space I do not deal directly with the history of Zionism prior to the establishment of Israel other than when it is mentioned in the literature I refer to.

### **1.5 Methodology**

Since I started to work on this project I have made several trips to the Galilee combined with visiting my family during (two) periods of maternity leave. My background as part Palestinian, speaking Arabic with some fluency and with knowledge of the local community, has given me access to sources and data in informal as well as more formal conversations and interviews. Wellington states that in “*social and educational research the researcher himself, or herself, is the one key instrument. This is not only the case in terms of researcher “influence” on the research but in the strengths, skills and experiences the researcher brings to the research exercise*”.<sup>14</sup> My experiences and background has given me an advantage when it comes to finding available sources and my local knowledge. At the same time my “influence” on the research can be perceived as a biased when my background is clearly linked to the issue I research. But knowledge in social science is, as Haraway has outlined, situated knowledge.<sup>15</sup> Several scholars have questioned objective or “true” research. In his renowned book *Orientalism* Edward Said critique the determination that knowledge can be non-political or impartial. He state that “*no one has ever devised a method for detaching the scholar from the circumstances of life, from the fact of his involvement (conscious or unconscious) with a class, a set of*

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<sup>14</sup> Wellington, 2000, in Stephens, *Qualitative research in International settings: A practical guide*, London:Routledge, 2009:83

<sup>15</sup> Ibid

*beliefs, a social position or from the mere activity of being a member of society.*"<sup>16</sup> He continues: *"there is no such thing as knowledge that is less, rather than more, partial than the individual...who produces it."*<sup>17</sup> While Jim Thomas write on the view that research ought to be emancipatory, that *"All knowledge ultimately reflects a set of norms and values about what is worth examining and how. Sometimes values are implicit in the questions we ask, in the operational definitions we use, or in how we conceptualize an act."* Further he continues *"The penetration of values is unavoidable, and the solution is not to try to expunge them from research, but rather to identify them and assess their impact."*<sup>18</sup> Introducing my background and situating my relations to the field of this research I hope I have made clear any assets or bias that may represent. As Said, I will site Gramsci who said: *"The starting-point of critical elaboration is the consciousness of what one really is, and is "knowing thyself" as a product of the historical processes to date, which has deposited in you an infinity of traces, without leaving an inventory. Therefore it is imperative at the outset to compile such an inventory."*<sup>19</sup>

I will now continue to look at how the data for this thesis was gathered. According to Bassegy, in Stephens, there are three major methods of collecting research data: *"asking questions (and listening intently to the answers), observing events (and noting carefully what happens), and reading documents."*<sup>20</sup> In this thesis I base my opinions upon written sources, hence reading documents, while I use observation and interviews to gain information to validate the information in the written sources. The questions I intend to explore are the development of political awareness amongst the Palestinian minority in Israel and their attitude towards government policy, especially with regards to land.<sup>21</sup> The selection of informants, represent a clear bias in favour of established personalities in the public Palestinian-Israeli discourse. When I made this selection I wanted to see how Palestinian organisation has developed and hence I chose persons who have been active in "organizing" the Palestinian community in Israel. At the same time, that they are public persons already presenting their opinions in the Palestinian/Israeli discourse

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<sup>16</sup> Said, W. Edward, *Orientalism*, London, Penguin Books (1991), 1978:10

<sup>17</sup> Ibid

<sup>18</sup> Thomas, Jim, *Doing Critical ethnography*, Newbury Park, Sage Publications, 1993:21

<sup>19</sup> Gramsci in Said, *Orientalism*, 1978:25

<sup>20</sup> Bassegy, 1991 in Stephens, *Qualitative research in International settings: A practical guide*, 2009:85

<sup>21</sup> May, Tim, *Social Research: Issues, Methods and Process*. Buckingham: Open University Press. 1993

has allowed me to use their full names and reveal personal information.<sup>22</sup> The interviews were conducted both in Arabic and in English. My spoken Arabic is good although somehow limited when it comes to advanced, academic phrases, in this case the conversation switched to English. I can read some Arabic, but it is not an efficient method for me to obtain information, hence I have mainly used sources written in English.

I did not conduct interviews with Israeli representatives for the state, although I tried to get in touch with the Israeli Lands Administration to arrange a meeting, but did not succeed. The Jewish-Israeli view is represented by references to Israeli laws, data from the Israeli Central bureau of Statistics, polls and statements made by Israeli officials or research institutions and available documents in English. I do not read or speak Hebrew, hence my access to information is limited to the available information in English. In some cases, official Israeli websites provides a limited scope of information in English and have links to Hebrew pages presenting the details. When this occurred I received assistance to translate this information from my multi-lingual family, speaking Arabic, Hebrew and English. However, the extensive literature, books and articles written by Israeli/Jewish academics is mostly published in English.

### **1.6. Interviews**

I have used semi-structured interviews and participant observation, a method widely used for gathering qualitative data for the purpose of understanding a social phenomenon.<sup>23</sup> In this case the social phenomena is the development of the political awareness amongst the Palestinian minority. I combined conducting participant observation in Deir-Hanna with semi-structured interviews with people I requested interviews with, who are all engaged in the situation of the Palestinians in Israel. I conducted one interview with each of these Palestinian Israelis, Muslim, Christian and Druze, who are somehow actors in the ongoing struggle to secure the Palestinians equal rights in Israel. Lawrence Stenhouse distinguishes data from evidence by describing the former *“as information whose reliability and status is defined by the process of data gathering, and the latter- evidence- as information whose reliability and status is left*

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<sup>22</sup> Thagaard, *Systematikk og innlevelse: En innføring i kvalitativ metode*, Bergen, Fagbokforlaget, 2009

<sup>23</sup> Thagaard, *Systematikk og innlevelse: En innføring i kvalitativ metode*, 2009



*problematic and has to be established by critical comparison and scrutiny*".<sup>24</sup> In this sense the interviews is not used to attain evidence, but rather as an useful approach to gain knowledge of how individuals perceive and reflect upon their own situation.<sup>25</sup>

I made one in depth interview, with the mayor of Deir-Hanna, Raja Khateeb, the spring 2011. He served as mayor in the period 1.1. 1979- 1998, and was re-elected as mayor in January 2008, a position he still held at the time of the interview. During his first period as mayor he negotiated with the government in order to get back the land in Area Nine and land put under the jurisdiction of Misgav Regional County in 1982. I consider his first hand experience with the negotiations and dealing with official representatives, useful in order to learn more about how these meetings proceeded and were perceived by Palestinian heads of Local Authorities. The negotiations took place almost thirty years ago and I have to expect that his accounts are not fully complete and accurate, as they have been recounted several times. Stephens refer to this biographical narrative as "Life history", a qualitative research method, which focuses on "*The individual, the personal nature of the research process, a practical orientation and on emphasis on subjectivity.*"<sup>26</sup> Second, "*it is a mix of "life story" as told by the individual to the researcher, and what Ivor Goodson calls "genealogies" of context, which in turn becomes a "life history.*"<sup>27</sup> One of the aims of carrying out life history research is to present a view of larger macro-issues through the lens of individual life experience. According to Stephens, Life history and biography have been used for example in an understanding of individual-collective praxis and socio-historical change and can be useful when it comes to understanding the experience of how broad macro issues affect the individual on the ground.<sup>28</sup> In this understanding, the information obtained can be useful in order to understand how government relations has been perceived by Palestinian heads of local authorities. Challenges to these methods are those often addressed by qualitative research, is the information valid and can it be used to address a general understanding? As the land question is highly political when it comes to Israel and Palestine and the mayor of Deir-Hanna represents a part in the ongoing struggle for land in the Galilee, the

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<sup>24</sup> Stephens, *Qualitative research in International setting*, 2009:81

<sup>25</sup> Thagaard, Tove, *Systematikk og innlevelse: En innføring i kvalitativ metode*, 2009:12

<sup>26</sup> Stephens, *Qualitative research in International settings*, 2009:87

<sup>27</sup> Ibid

<sup>28</sup> Stephens, *Qualitative research in International settings*,2009:88

validity can be questioned. Meanwhile Said argues that “*the general liberal discourse that “true” knowledge is fundamentally non-political (and conversely that overtly political knowledge is not “true” knowledge) obscures the highly if obscurely organized political circumstances obtaining when knowledge is produced.*”<sup>29</sup> Raja Khateeb is considered a man of credibility in the village of Deir-Hanna and I do believe his sentiments are representative of a broader understanding among the Palestinian minority in the Galilee.

### **1.7 The historical scope of the thesis**

I have divided the period of my research into three phases starting from 1948-66, 1966-82 and the last period from 1982- 2011. The scope in time is rather wide, a factor that will not allow me to go into details of the historical development in these periods. My intention is to give an overview of the development and look at the consequences for today. In this historical narrative I will single out events that had a significant impact on the landscape in the Galilee and have since been defined milestones in the evolution of the Palestinian identity. I especially look at how governmental policies have been implemented and contributed to shape the Galilee. I compare the methods of expropriations, curtailing access to land, recognition of zoning maps and building licenses for the Palestinians within the periods mentioned where I hope to analyze them vis-à-vis the responses developed in emerging Palestinian organisation and their mobilization practices. A discussion of the Palestinian political mobilisation and organisation will cover the Palestinian minority overall and not only the Palestinians who lives in Galilee, as the local movements have developed together with the national movement.

In chapter two I look at the land loss in Deir-Hanna, Arrabe and Sakhnin in the periods from 1948-1966 and from 1966-1982. The first period is defined by the establishment of Israel when the Palestinians where placed under military administration that lasted until 1966. This is when Israel expropriated most of the land and is well documented by both Israeli and Palestinian sources. To describe the development in this period I look at the laws implemented and the official reasons given to implement them, as well as a

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<sup>29</sup> Said, *Orientalism*, 1978:10

Palestinian analysis of how these laws affected them. I look at cases of expropriation in the three villages I have chosen and use these examples to explain the laws in more general terms. The second period between 1966-82 is important to the inhabitants in the villages in my case. In this period the Israeli army closed off an area containing Palestinian owned land as a military area. This led to the first Land Day, the 30<sup>th</sup> of March, 1976, that took place in Sakhnin. The impact this incident had on the Palestinian minority was not limited only to the Palestinians in the Galilee, it was a national concern serving to unite all the Palestinians in Israel.

Chapter three covers the third time period starting in 1982 as this is the year Misgav regional County was established affecting the municipal borders of Deir-Hanna, Arrabe and Sakhnin, as well as other neighbouring villages. The time-span from 1982 to 2011 is also defined by the gradual shift in Israeli policy regarding land expropriations and the more strident demands from the Palestinian minority to recognise their rights. In this period the government focus shifted from expropriation of land to control of the use of land, although expropriations still took place. The process of “Judaization of Galilee” continued, but the methods changed. I rely on literature dealing with this issue in particular, as well as literature on land law and policy in Israel in general. I have also used the interview with Raja Khateeb in addition to conversations and interviews made with inhabitants in Deir-Hanna and the NGO Adalah.

In chapter four I sum up the legal framework used by Israel in order to expropriate or control Palestinian land as well as a summary of how the Palestinian minority has developed their organisation. Regarding Israeli policy I look at the Israeli Basic laws in addition to literature written by both Israeli and Palestinian experts on land law. I also met and discussed the topic with one of the authors I refer to, Hussein Abu-Hussein. Looking at parliamentary participation, civil society and local authorities I base my analysis on relevant literature written by both Jewish and Palestinian Israelis as well as my own impressions through my annual visits and endless discussions with friends and family in Deir-Hanna and the region. I attended a conference at the University of Tel-Aviv, regarding the Palestinian minority, in 2009. Palestinian and Jewish Members of the Knesset (MKs), government officials and academics were present and the discussion was valuable in order to understand how different parties involved, Jewish vs.

Palestinian Israelis, perceive the problem.

## **2. Yawm al-ard- a struggle for land**

In this thesis I look at the development of the Israeli policy for land expropriations and limitations of land use with regard to the Palestinian population. Have the policies become stricter or more liberal during the years? Have the reasons for expropriating land changed? And, has the impact from the Palestinian population objecting to these policies altered the situation in a noticeable way? To answer these questions I look at the history of Israel and its Palestinian minority with special regards to land and use the villages Deir-Hanna and Arrabe and the city Sakhnin as a case. I look at the development of land and planning policies in three periods, divided as follows:

1. The subject this chapter is the land loss of Deir-Hanna, Arrabe and Sakhnin in the years during and following the Nakba, from 1948-1966 and in the period 1966-1982. I will compare the methods of expropriation, the Area Nine/Land Day, and how the Palestinians related to the loss of land.
2. Chapter three will cover the continuation of the Judaization process in the Galilee during the 1980's with the establishment of Misgav Jurisdictional County and forward, to 2011. I look at the change in methods of expropriation, limitations on the use of land and problems in regards to housing.
3. In the fourth chapter I will further analyse how the Palestinian minority has been able to affect their situation and work within the framework set by Israel, being a democracy and a Jewish state.

### **2.1.**

During the years following the establishment of Israel the new state took control over waste areas of lands and the Palestinian population living on it. According to Oren Yiftachel "Israel controlled an area covering approximately 20.6 million dunams of land, or 78 per cent of British Mandate Palestine after the war in 1948.<sup>30</sup> It is estimated that before 1948, Palestinians owned between 4.2 and 5.8 million dunams of land within the borders that became Israel, roughly 25%.<sup>31</sup> Only 3-3,5% of the land in Israel remains in Palestinian custody today.

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<sup>30</sup> Yiftachel, *Ethnocracy*, 2006:137

<sup>31</sup> Ibid

After the Armistice agreement in 1949 Israel had incorporated most of the Galilee, an area that according to the United Nations-partition plan of 1947 (Resolution 181) was meant to be part of a Palestinian state. About 750 000 Palestinians fled or were driven out of the land in the years before and after the Israeli war of independence, known as the Palestinian Nakba (the Catastrophe) <sup>32</sup>. More than 500 Palestinian villages were destroyed and land from 700 000-840 000 Palestinians was seized.<sup>33</sup> While about 85% of the entire Palestinian population was exiled, some 150 000-160 000 remained on their land or became internal refugees within the borders of Israel according to the 1949 Armistice Agreement.<sup>34</sup> The Palestinian population living here now became part of the Jewish state. They were placed under a military Administration set to govern the Palestinians and to prevent Palestinian refugees from returning from exile. During this period the Palestinians were not able to organise an efficient national leadership or movement. When the military administration was abolished in 1966 the Palestinians started to organise themselves politically and one can see the development of a more strident national movement in the second period, from 1966-1982, manifested through the organising of the Land Day in 1976.

At the same time as most of the Palestinian population became refugees Jews from Europe and the Middle East emigrated to or sought refuge in Israel. With this influx Israel was secured a demographic majority of Jews. Introducing the program of his government to the first Knesset in March 1949, President David Ben-Gurion stated; "*The establishment of the State of Israel was merely the first stage in the fulfilment of our historic vision. The ingathering of the exiles is a prerequisite to a full realization.*"<sup>35</sup> Settling Jewish immigrants was important to the new state. The strategy was to establish control by settling their Jewish population on Palestinian land in areas mainly inhabited by Palestinians, or along the borders in order to "secure" the land. I argue that the reasons given to expropriate land changed from being based on security in the first period of 1948-1966, to an outspoken need for land to establish Jewish settlements in the period from 1966-1982.

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<sup>32</sup> Pappé, Ilan *The ethnic Cleansing of Palestine*, Oxford:Oneworld Publications Limited, 2006

<sup>33</sup> Abu Hussein and Mc Kay, *Access Denied*, 2003: 66

<sup>34</sup> Yiftachel, *Ethnocracy*, 2006

<sup>35</sup> Lustick, *Arabs in the Jewish state*, 1980:6

## 2.2. Israeli Land Acquisition and Palestinian loss of land, 1948-1966

In 1950 the Israeli government organized a system of military administration to deal with the Palestinian minority. The police were in charge of those living in the city, while military governors were in charge of the Palestinians living elsewhere.<sup>36</sup> The military governors were appointed directly by the defence minister, to rule the Palestinians by Emergency regulations, 1945, article 125. Judicial powers were entrusted to military courts appointed by the army chief of staff. The military administration implemented severe restrictions with regard to the freedom of movement, freedom of organisation and of speech for the Palestinians. The villagers were forced to apply for permits to travel outside the village border preventing them from farming their land, meeting with people of their neighbour villages and from organising politically. Ian Lustick, author of *Arabs in the Jewish State*, writes; “Officially, travel restrictions were implemented for “security reasons”, but as time went on and travel restrictions remained in force, it became clear to many, including several leading military figures, that the maintenance of the restrictions derived from political and economic as well as security considerations.”<sup>37</sup> For “security reasons” the military government could impose heavy restrictions on the random Palestinian farmer. Being the ones granting permits for travel, work and construction the military Administration could control almost all aspects of life. The Administration served both the aim of securing the Jewish population and securing state control over Palestinian land. By limiting the space of future development for Palestinian villages, the Israeli state constructed another measure of control.

In addition to the Emergency regulations the Israeli parliament, the Knesset, enacted several laws used as a legal framework to expropriate land after the establishment of Israel. Under *The Absentees Property Law- 1950*, about 40% of the land belonging to Palestinian residents of Israel was lost and transferred to the State.<sup>38</sup> This was mainly land and property belonging to the Palestinians who became refugees. The purpose of the law was to define the legal status of the property of Palestinian refugees living outside Israel, transferring it to a “custodian” of absentee property on the assumption that he would protect the rights of the absentee owners until the case was settled. The

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<sup>36</sup> Jiryis, *The Arabs in Israel*, London, Monthly Review Press, 1976

<sup>37</sup> Lustick, *Arabs in the Jewish State*, 1980:125

<sup>38</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003:136

legislation incorporated not only Palestinians driven out of the area during the war or who happened to be outside the area when war broke out, but also those who fled and still remained within Israeli territory, or returned to it and became Israeli citizens defined as an absentee. An absentee was any person who from the date of 29<sup>th</sup> of November 1947 was:

“A legal owner of any property situated in the area of Israel or enjoyed or held it, whether for himself or through another, and who, at any time during the said period: i) was a national or citizen of Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or ii) was in one of those countries or in any part of Palestine outside of Israel, or iii) was a Palestinian citizen and left his ordinary place of residence in Palestine a) for a place outside Palestine before 1st September, 1948; or b) for a place in Palestine held at the time by forces which sought to prevent the establishment of the state of Israel or which fought against it after its establishment.”<sup>39</sup>

The absentee property law was severely criticized and opposed by various groups, both Arab and Jewish. It gave the custodian extensive powers without sufficient supervision, being controlled only by the Knesset finance committee whose sessions were not public. According to Jiryis the criticism became especially intense when it was discovered that the custodian was renting much of the land to kibbutzim, companies and individuals with connections in the government, giving them unfair access to rich profits.

Further, under Emergency (Security Zone) Regulations, 5709-1949, the Military Governor could close up large areas as closed or military zones. Whole villages were declared “closed” and Ghabisiya, north in the Galilee, is one example. According to Jiryis: “At the beginning of February 1950, the inhabitants of the village were ordered to leave by the military governor of Galilee, and the village was declared a closed area.”<sup>40</sup> The villagers attempted to be given the right to return to their village through the court, but they were repeatedly denied. Also by using Emergency Article 125 a farmer could without warning find his or her land suddenly be declared a military area. Hindering the farmers from reaching their land and cultivating it, land in closed zones could be defined as “waste land” and put under the ownership of the Ministry of Agriculture, using the Emergency regulation (Cultivation of Waste Lands) Ordinance, 5709-1949. By the use of

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<sup>39</sup> Ibid: 70

<sup>40</sup> Jiryes, “*The Land Question*” MERIP Reports, No. 47 (May, 1976):5-20+ 24-26. Middle East Research and Information Project. <http://www.jstor.org/stable/30113821976:9>



this law the Ministry of Agriculture could “assume control of land in order to ensure its cultivation” and hand over the land to kibbutzim and Jewish settlements.<sup>41</sup>

In 1953, land under the jurisdiction of the Ministry of Agriculture was transferred to the ownership of the Development Authority. According to the historian Hannah Nakkarah, “both the measures of closing areas and taking over lands were preludes to confiscation and requisition under the *Land Acquisition (Validation of Acts and Compensation) Law, 1953.*”<sup>42</sup> The Acquisition Law transferred all land expropriated, by use of the Absentees Law and the different emergency Laws, to the state. Proposing this bill to the Knesset, the minister of Finance stated that its purpose was:

To legalize certain actions taken during the war and after it...When the government began to take over absentees property for security reasons or for necessary development projects, other expanses of land were seized for same purpose, essentially in agricultural areas where the right of ownership were not sufficiently clearly defined. There are reasons connected with the national security and necessary projects that make it impossible to return these lands to their owners.<sup>43</sup>

Evidently the confiscation of land was not only for security reasons but also a mean to secure land for Jewish settlements. It was estimated that the Palestinians in Israel had lost about two thirds of their agricultural land largely as a result of the Absentee Property Law together with other means of expropriation by the 1960’s.<sup>44</sup> Shimon Peres, then director general for the Ministry of Defence, in 1962 made a remark illustrating the change in reasoning for expropriations, from security to need for land. “By making use of Article 125, on which the Military Government is to a great extent based, we can directly continue the struggle for Jewish settlement and Jewish immigration.” While Ben-Gurion in 1950 addressed the needs to settle civilian and armed Jews along the borders and strategic areas to *secure* the state, Peres now argued for using the emergency laws to safeguard land for Jewish settlements. As the reasons given to gain more land had changed, the methods to achieve it persisted.

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<sup>41</sup> Ibid

<sup>42</sup> Nakkara, Hanna Dib, *Israeli Land Seizure under Various Defense and Emergency Regulations*, Journal of Palestine Studies, Vol. 14, No. 2, Special Issue: The Palestinians in Israel and the Occupied Territories (Winter, 1985), pp. 13-34

<sup>43</sup> Jiryis, *The Land Question in Israel*, 1976:96

<sup>44</sup> Peretz, Don & Doron, Gideon, *The Government and Politics of Israel*, Westview Press, Colorado, 1997:57

Through the Acquisition law 1.2-1.3 million dunams of land were transferred from the ownership of the Palestinian population to the State of Israel.<sup>45</sup> These lands were confiscated from a total of 349 towns and villages, in addition to the “built-up-areas” of about 68 villages, whose precise area was not included in the expropriation rules.<sup>46</sup> The opposition to the Acquisition Law was strong, both inside and outside the Knesset. Some of its Jewish members compared the Law to the laws resulting in the confiscation of Jewish property in Spain during the Middle Ages.<sup>47</sup> But they did not succeed to gain enough support against the government. Another law proposed in 1960, recommending the concentration of all agricultural land, gave the ministry of agriculture power to declare “a land concentration area” confiscating or swopping what was not state land, adjacent to the area. This bill would have paved the way for further expropriations of Palestinian land and met large protests. The organisation of Arab Farmers, connected to the Communist party and the Popular Front, organised meetings and strikes in several villages. The wave of protests led to the omission of the bill from the Knesset agenda.<sup>48</sup> This was a great achievement for the Palestinians and a proof of their ability to gain support when they managed to organise themselves despite of the military Administration.

### **2.2.1.Land Loss in Deir-Hanna, Arrabe and Sakhnin**

”When they came (the Jews) we were afraid and we did not dare to fight. We held out white sheets and they left us alone.”

Amina 95, from Deir-Hanna

Deir-Hanna is situated in the area proposed a Palestinian state in the UN division plan of 1947. At that time its inhabitants numbered about 750. They were mostly farmers and agriculture was their main source of income. As the old lady Amina Salem recounts they were not organised to resist the Zionists, but waved with white sheets to avoid the possibility of bloodshed. They had heard about the massacres committed to people in other villages and were afraid of the Zionist entities.<sup>49</sup> Whereas almost all the inhabitants of Deir-Hanna stayed on their land after the war, the total Palestinian

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<sup>45</sup> Adalah: *Interactive map and Database* <http://www.adalah.org/features/land/flash/>

<sup>46</sup> Ibid

<sup>47</sup> Jiryis, *The Land Question* 1976

<sup>48</sup> Ibid:11

<sup>49</sup> Pappé, *The Ethnic Cleansing of Palestine*, 2006

population in Galilee was reduced by 56% during 1948.<sup>50</sup> Families from the surrounding villages that were destroyed sought refuge and settled in Deir-Hanna. Land left behind by the refugees was first expropriated without any change of the formal ownership. Later, by enacting the Acquisition Law, the transfer of ownership to the state and its official bodies was completed.<sup>51</sup>

According to a study by Cano 4.6 million dunams (almost  $\frac{1}{4}$  of Israel's total) had been claimed by the state as land "abandoned" by external and internal refugees under the Absentees Property Law.<sup>52</sup> Ian Lustick estimates that approximately 81,000 of Israel's 160,000 Palestinians were in the category of internal refugees, or present absentees, in 1949<sup>53</sup>. In Deir-Hanna, Arrabe and Sakhnin several refuge families came from different villages north in Palestine. One of these families is *dar el Sabtawi* in Deir-Hanna. Their name is derived from the village they were forced to leave during the Nakba, Kufr Al-Sabt. Most of their family members fled north to Syria and are today refugees there, but the Sabtawi family resides in Deir-Hanna. They visit their land annually and sit under their almond trees until "*the Israelis come and drive us away*"<sup>54</sup> The land of Kufr Sabt has not been built upon or used by the Israelis, still the owners are not allowed to go back. UN resolution 194, from 1948 gave the Palestinian refugees a right to return and to be compensated for loss or damage of their property. The resolution does not apply to the internally displaced Palestinians. Some of them stayed with relatives in neighbouring villages or were given a plot of land by their new neighbours in the village where they had sought refuge. As the case of Kufr Sabt, several villages left during the war of 1947-48 are not inhabited today. The refugees still have documents of ownership, but are not allowed to return to live there or to cultivate the land.

It is hard to find reliable official government figures for the total amount of land belonging to Palestinians in Israel that has been expropriated by the different laws enacted by the state of Israel. The Legal Centre for Arab Minority Rights in Israel, Adalah

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<sup>50</sup> Jiriyes, *The Arabs in Israel*, 1976

<sup>51</sup> Ibid:80

<sup>52</sup> Cano in Abu Hussein and Mc Key, *Access Denied*, 2003:135

<sup>53</sup> Lustick, *Arabs in the Jewish state*, 1980

<sup>54</sup> Intervju med Zahra Sabtawi familien i Deir-Hanna, 2009

presents a record of Land area in 1945. <sup>55</sup>They estimate the land area of Sakhnin, the biggest of the three villages in this case study, to 70 192 dunams before the expropriation and reduced to 30 000 after. Arrabe is given a total of 30 966 dunams before 1948 and had 11,350 after the expropriations. In Deir-Hanna about 40% of its land was made State Land and put under control of the Development Authority. The areas of the village in 1945 was 15 358 dunams, while after the expropriation the land remaining numbered 9500 dunams. These figures are also close to the ones given by Jiryies and by The National Committee for defence of Arab Lands in the book *Kitab al-Aswad*. Besides the Absentees law and the Acquisition Law the Prescription Law, 1958 was an important tool for the Israeli government to obtain control over Palestinian land.

### **2.2.2. Survey of land**

While Palestine was part of the British Mandate a process of surveying land and registering rights was started, but in 1948 only  $\frac{1}{4}$  of Israel's total 20 million dunams had been surveyed. Although Israel had seized most of the fertile farmland, Palestinian villagers could develop less fertile, but still cultivable land such as hilly or rocky land. According to Ottoman and Mandate laws still in effect, a farmer had the right to ask for the land they were farming to be registered in their names in the event of a survey. Fearing that Palestinian farmers would claim ownership to this land the Israeli government amended the laws regarding prescription. According to Jiryies "*the government was searching for new categories of land to redeem. It realized that most of the land the Arabs had been cultivating for subsistence farming lay in areas that had not been surveyed, where the rights to land had not been permanently defined.*"<sup>56</sup>Previously anyone who could prove they had been farming a plot of land for the last ten years could ask to have it registered in their name. The Prescription Law amended the prescribed period to fifteen years and twenty years for those who started cultivating a piece of land after March 1, 1943, making it harder for the Palestinians to claim ownership.

The process of surveying, or settlement of title, started in 1955 and by 1971 almost 10 million dunams had been surveyed, including most of the land in Galilee. During this process many farmers lost the entitlement of land they had been working and which they considered to be theirs. During the mandate era rural, public land belonging to the

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<sup>55</sup> Adalah, *Interactive map and Database*, <http://www.adalah.org/features/land/flash/>

<sup>56</sup> Jiryies, *The Land Question in Israel*, 1976:112

village was often registered in the name of the High Commissioner, as most villages had no local council to represent them. Israel declared such land state forestland, which cannot be used or disposed by anyone. By 1965 some thirty thousand dunams, of the land belonging to Sakhnin, was declared state forestland. Deir-Hanna, situated at a small hilltop in a mountainous area, had much of its land classified as hilly or rocky and hence its villagers lost it to the state. People complained about the expropriations vociferously, but without great results. By 1960-65 about 8000 cases relating to the land survey were brought before the courts.<sup>57</sup> Jeremy Forman, geographer at the University of Haifa, look at the counterclaims by Palestinian landowners and how the Haifa District Court dealt with these cases. According to Forman the survey process in the Galilee was applied to more than 700 000 dunams within 35 populated Palestinian villages. 400 000 dunams of these were claimed by the state and almost 60% of this was counterclaimed by Palestinians. During a four year period, 1959-1963, the state of Israel won 77.3% of all settlement disputes to which it was party. The state withdrew claims in 9% of the cases, leaving them with a loss-rate of only 12%.<sup>58</sup> Most of the disputes were between private Palestinian claimants and the state. Most of the claimants had few resources, no lawyer or organisation to represent them, and they were not familiar with the Israeli judicial and did not speak Hebrew. In his study Forman gives an example from Deir-Hanna in 1960. The dispute he refers to is one of a large number of cases regarding a 17-dunam strip of land. In a letter to Haifa deputy district attorney, a senior Department of State Property official explained the deterring effect of the states claims: *"the residents were hesitant about getting into a dispute with the state. A number of them withdrew their claims, and by the time the public investigation of claims began in the block, 6165 dunams of the strip had been registered in the name of the state of Israel."*<sup>59</sup> Thus the villagers of Deir-Hanna did at first try to use the Court to reclaim their land. Because they were afraid of the possible consequences, still being ruled by the military Administration, many of the claimants dropped their claims. For those who upheld their case they had to prepare it individually, without any council. The state used the same information and argumentation in the court when it came to all the claimants, using what Forman refers to as the "repeat player". In other words, poor Palestinians stood little chance up against

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<sup>57</sup> Jiryes, *The Land Question in Israel*, 1976

<sup>58</sup> Forman, *Law and the historical geography of the Galilee: Israel's litigatory advantages during the special operation of land settlement*. Journal of Historical Geography 32. 2006. [www.elsevier.com/locate/jhg](http://www.elsevier.com/locate/jhg)

<sup>59</sup> Ibid:12

the state in the court. The villagers also had a legitimate fear that claiming back their land in the court would influence the attitude of the local military Governor towards them. In Deir-Hanna the land classified as hilly was expropriated because it was not seen as suitable land for farming or housing, although it was adjacent to the village and could be used for grazing or possibly building. Today the same land is allocated for housing by the Israeli Lands Administration (ILA) and is leased out by the state to the inhabitants of Deir-Hanna at high market prices, for a period of 99 years.

The case of the three villages shows that they all lost control over large areas during the Military Administration. The expropriations also served to limit future development and possibility for Palestinian villages to expand. This issue raise great concerns for Palestinians in Israel today. As mentioned above they depend on the state to allocate land intended for building so that the villagers can lease it for a period of 99 years. Such allocations are given a price by a state-authorized valuer. Although both Deir-Hanna and Arrabe are categorized as villages the land is priced the same as in a city. Great demand together with lack of land makes people bid for the plots available, driving the prices up. Young people find it difficult to buy land or obtain a building permit to build a future home.

### **2.3. "Judaizing" the Galilee**

Falah refer to the process of Judaization as a part of the Israeli struggle for land. The aim is to achieve a demographic balance in favour of the Jewish population by establishing new Jewish settlements at the same time as physically controlling the expansion of Palestinian villages. Through so-called "regional planning" different Israeli governments have used the argument of "Judaization of Galilee" to maintain sovereignty over the area at the same time preventing the creation of a Palestinian "core area". Falah divides the process of Judaization into three different stages. The first phase is discussed in this chapter, with the de-Arabization of the area during 1948, reducing the population by about 56%, while the second stage is related to the establishment of settlements penetrating into the core Palestinians in Galilee. The third stage is referred to in the third chapter, dealing with active intervention of the government, hindering Palestinian

development.<sup>60</sup> After the establishment of Israel the most important areas concerning the security were the western Galilee, large portions of the northern Negev, a corridor to Jerusalem, and the “Little Triangle” (a narrow strip of land ceded to Israel under the terms of the armistice with Jordan.) Mainly Palestinians lived in these areas and Ben-Gurion stressed the need to establish substantial numbers of Jewish settlements in these areas. *“Our territorial conquests and redemptions will not be assured if we do not succeed in erecting a great and closely linked chain of settlements, especially settlements of soldiers, on the borders in the Naqab, on the coast, in Jerusalem corridor, around Safad, and in all other areas of strategic importance.”*<sup>61</sup>

As the Galilee was proposed by the UN to be part of a Palestinian state in 1947, the area was considered to be one of “strategic importance”. During the first years after the establishment Israeli leaders feared that the Palestinians in this area would demand independence or to be annexed as part of Lebanon. In 1945, the population of the District of Acre, in western Galilee, stood at approximately 68,330 people, composed of 65,380 Arabs and 2,950 Jews. The district's total land area at the time was 799,663 dunams, of which 697,751 dunams were under Arab ownership, and 24,997 under Jewish ownership. About 45% of the Palestinian minority lived in the Galilee in 1953.<sup>62</sup> If one looks at a smaller part of Galilee they constituted a larger majority. According to Forman as many as 93% of the population in Central Galilee were Palestinians in 1955.<sup>63</sup> In order to change the demography the government started the process of “Judaizing” the Galilee. The process to transfer land from Palestinian to Israeli ownership was perceived as a necessary security measure. In addition to the built-up areas of 12 villages, 149,976.9 dunams of land in the district were confiscated under the Israeli Acquisition Law.<sup>64</sup> All the land belonging to the Palestinian refugees was transferred to the custody of the state. According to the lawyers Abu-Hussein and McKay *“This process of dispossession has taken place in clear violation of UN-resolutions based on international law, and of international human rights and other international law*

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<sup>60</sup> Falah, Ghazi, *Israeli "Judaization" Policy in Galilee*, Journal of Palestine Studies, Vol. 20, No. 4 (Summer, 1991): 69-85

<sup>61</sup> Jiryies, *The Arabs in Israel*, 1976:41

<sup>62</sup> Jiryies, *The Arabs in Israel*, 1976:106

<sup>63</sup> Forman, Geremy, *Law and the historical geography of the Galilee*, 2006

<sup>64</sup> Adalah, *Interactive map and Database on the history of the State of Israel's Expropriation of Land from the Palestinian People*, <http://www.adalah.org/features/land/flash/>

*standards that protect property rights. More recently, Israeli law itself has entrenched the right to private property in a Basic Law enacted in 1992.”*<sup>65</sup>

The “Judaization” process started with establishing 117 new Jewish settlements and lookout posts (mitzpim), increasing the Jewish population by about 35 percent, and establishing “facts on the ground”.<sup>66</sup> An almost unanimous opposition by the Palestinians regarding this land-policy made the Jewish opposition start to fear for the negative effect this would have on the relations with the Palestinians in Israel. Sabri Jiryis refers to a shift in governmental policy towards the Palestinian minority, beginning mid- 1959.<sup>67</sup> In order to win friendship of the Arabs and maintain peace the government saw the need to ease the security and military restrictions, as well as changes in the land policy. In 1959 Ben-Gurion made an announcement of a modification in the government’s attitude towards the Arabs. Briefly, the government had decided to stop what it termed;

“the illegal seizure of public and absentee land (by Jewish settlers). At the same time, the use of uncultivated land and the reclamation of rocky ground would be encouraged in order to create a reserve of land for the development of Galilee by additional agricultural settlements into which new immigrants would be absorbed. The new settlements in Galilee would be important from the point of view of security also.”<sup>68</sup>

What Ben-Gurion announced as a modification was not perceived as such from the Palestinians. By establishing more settlements “developing” the Galilee the government continued the Judaization process. Hence, expropriations continued in the second period between 1966-82, although not as extensive as then in the period 1948-1966. An important change in the second period though came in regard to the military administration.

#### **2.4. Yawm al-Ard- Land Acquisition and Palestinian resistance, 1966-1982**

” Not only did they want to empty our pockets, they also wanted to empty our stomach”.  
Raja Khateeb, Mayor of Deir-Hanna.<sup>69</sup>

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<sup>65</sup> Ibid: 66

<sup>66</sup> Falah, Ghazi, *Israeli "Judaization" Policy in Galilee*, 1991

<sup>67</sup> Jiryis, Sabri *"The Land Question in Israel"*, MERIP Reports, No. 47 (May, 1976):5-20+ 24-26.  
<http://www.jstor.org/stable/3011382>

<sup>68</sup> Ibid:12

<sup>69</sup> Interview with Raja Khateeb, May 2011



In 1966 the military administration was abolished contributing to ease the travel restrictions as well as making it easier for the Palestinians to meet and organise. But governmental land policy pertained. In 1976 the Minister of Defence announced the closing off of a large area of land, 86 850 dunams, as a military firing area, named Area Nine.<sup>70</sup> Much of this land was planted with olive trees and other farm lands, of which approximately 15 000 dunmas was owned by the villagers of Sakhnin, Arrabe and Deir-Hanna. Area nine also contained land belonging to local Bedouin tribes in addition to State land. The mayor of Deir-Hanna at that time, Mohammed Nimer Hussein, recounts in *Al Kitab al Aswad, (The Black Book, recounts of the Land Day, 1976)* that “*the 13.02.1976 the Local Council received a letter announcing that Area nine from now on was to be considered a closed area, and any entrance was to be considered a violation of the law regarding a closed area.*”<sup>71</sup> Without prior notice the local councils of Deir-Hanna, Arrabe and Sakhnin had to deal with a decision imposed on them, which would have an immense impact on the lives of their inhabitants. They had several meetings discussing the theft of land, and later met with the advisor of the Ministry of Defence, Ashar Ben Natan, where they expressed their opposition to the decision and the that one would need a permit to enter privately owned land. The Local Councils of the three villages sent a letter to then Minister of Defence, Shimon Peres, asking for the local landowners to have access to their land, and to be able to conduct their work as entitled to.<sup>72</sup> Another appeal was published in English by a leading Hebrew newspaper: “*We call upon persons of conscience, and those in Israel who possess a feeling of human justice to act with us to foil the danger hanging over us, to prevent the injustice, to revoke the decree closing Area 9 and to foil the danger of our lands being expropriated- so that we are permitted to live on our lands and make our livelihood from them.*”<sup>73</sup>

Raja Khateeb, was Mayor of Deir-Hanna first from January 1979– 1998 and elected again from January 2008 for a four-year period. In an interview regarding Area nine he recounts;

“There was a general understanding during the mid 1970s that the confiscation of land was putting so much pressure on the Palestinian population that it would take away

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<sup>70</sup> Ibid

<sup>71</sup> The National Committee for defence of land for Arabs in Irsael ( Al lajna al-qotoriya li def` an al Ard Al arabiya fi Israil) ,*Al Kitab Al-Aswad, an yawm al ard 30 Idar 1976, 1976:31*

<sup>72</sup> Ibid

<sup>73</sup> Ibid/ Lustick, Arabs in the Jewish state,1980:14

their grounds for making a living. Not only did they want to empty our pockets, they also wanted to empty our stomach. So there was an understanding that we had to get together to defend our land. “

The order to close Area Nine was perceived as a step in the process of Judaization of Galilee and expropriation of Palestinian land. After loud protests, both publically and directly to the Ministry of Interior, Area nine was suggested adjusted and split into three zones. According to Raja Khateeb, this move was only cosmetic, intending to give an impression that there was an ease of the expropriation.

“With a gradual access to the land they (the Israeli government) thought they could make it more acceptable for the Palestinians. Saying we only take some of the area permanently and you will still have access to some of it. But people were afraid that the permissions given to access area A would depend on how they behaved, that it would be conditioned and not secure. Area B could only be accessed limited seasons of the year, and area C was totally lost. People saw it as a loss of almost all of this land and decided to get together and organised for the general strike.”<sup>74</sup>

The three zones consisted of;

- Area A; where one could enter if carrying a permit granted for a limited period of time. (23 000 dunams)
- Area B; permission granted for certain seasons of the year, for example in times of pruning or harvest. (About 57 000 dunams)
- Area C; military area, totally closed. (6850 dunams)

Several meetings between the mayors in the area and a meeting in the National Committee of Arab Local Councils (the National Committee), were summoned. The National Committee was formed as an ad hoc group for Palestinian Mayors in 1974. Its declared objective was to work on the local level to equalize governmental allocations to local authorities, on the background of the discriminatory policies regarding allocations to Jewish vs. Palestinian localities. Operating within the Ministry of Interiors framework, attached to then Advisor on Arab Affairs, Shmuel Toledano, they were not considered to deal with national issues. After some discussions within the committee they decided to join the Land day in March 1976. Together with Rakah, the Communist party, and the National Committee for the defence of Arab Lands (The Lands Committee), they announced a general strike on 30<sup>th</sup> of March, named the Land Day, *Yawm al Ard*. Demonstrations were announced in the villages affected by the

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<sup>74</sup> Interview Raja Khateeb, May 2011

expropriations, both in the Galilee and in the Triangle.<sup>75</sup> The decision was not easy to make. Never before had the Palestinian Minority in Israel acted together and protested against the state like this. There had been unrest and several protests in the Knesset, in the newspapers and to the regional governors. But the dissatisfaction of the Palestinian minority had not erupted to the surface in this manner before. The former expropriations of Palestinian land for the creation of the Jewish urban centres of Karmiel and Maalot, and now the expropriation of land for Area nine, made the Palestinians decide they had to stand up in order to defend their land.

About 20-25 % of the Palestinian workforce took part in the general strike the 30<sup>th</sup> of March, the largest action organised by the Palestinians in Israel since its establishment. A curfew was imposed on the three villages, Arrabe, Deir-Hanna and Sakhnin. The demonstrators were met with heavy sanctions and use of excessive force. Six Palestinians were killed, and hundreds were wounded and arrested. People lost their jobs, or were banned for a period after the strike. The official Israeli reaction clearly illustrated the inequality for the Palestinian citizens and their position as a minority in a Jewish state. But the mayors did not give up the fight for Area Nine. After the killings and brutal repression by the Israeli army, the Communist Party refrained from calling another general strike in 1977, but a commemorative rally held in Sakhnin on March 1978 drew large masses of Palestinians, variously reported at five to twenty thousand people.<sup>76</sup> In the following years Land day has been commemorated annually, by turn in Arrabe, Deir-Hanna and Sakhnin, in addition to other Palestinian communities. But what impact did the Land Day general strike have on the conditions of the Palestinian minority in the short term? According to Lustick the regime did devote more attention to the internal Palestinian problem than at any time since the early 1960's, but it failed to make any major changes in policy. Remarks from Prime Minister Yitzhak Rabin and editorials in Israeli newspapers all stated that Israel was to remain a Jewish-Zionist state.<sup>77</sup> The land expropriated by the state remained in state hands, but the contested villages did not give up their struggle.

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<sup>75</sup> Ibid

<sup>76</sup> Lustick, *Arabs in the Jewish state*, 1980:333

<sup>77</sup> Ibid

### 2.4.1 Negotiating for Area Nine

Raja Khateeb (RK) became Mayor of Deir-Hanna in 1979, representing one of the biggest families, or *hamulas*, in the village, the Khateeb family. As mayor he took part in the negotiations to regain the land expropriated. His recounts of the negotiations are based on his own memory of the conversations and meetings that took place. They represent his own perception and in that sense may be perceived as biased. As explained in the introduction I have chosen to use this material as a presentation of how this case is portrayed in the Palestinian memory and has contributed to the identity of the Palestinians in the three villages. Hence, it is important to the shaping of the Land Day as a milestone in the Palestinian narrative.

Area nine remained a closed military area until 1986, and the changes came about in 1985. That year Ezer Weizmann, nephew of Chaim Weizmann, and later President of Israel, was appointed Minister of Arab Affairs. According to Raja Khateeb Weizmann met with the mayors in the area and said “ I want to solve all the problems with the Arabs during my period”. When RK answered “We only want you to solve one problem, that is Area Nine.” Raja Khateeb tells that Weizmann answered he wanted to see the area and RK agreed to take him there. Weizmann drove with RK who showed him the area. According to Raja Khateeb the result of this first encounter was that Weizmann organized a meeting in Jerusalem with the mayors of the three villages. RK recounts; “We came there and in his office sat 12 persons and Weizmann who said we want to solve the issue of Area nine. “ RK says that a representative from the Ministry of Defence also attended and before the discussion had started he said; “You, the Arabs are destroying the military compound and making problems.” When RK answered, “It is not true what you are saying.” RK recounts that he had been in Area nine only a week before the meeting with a Belgian diplomat and the military compound looked totally intact, not a single building was harmed. The mood in the meeting became heated and it was difficult to continue. Although several of the participants did not have their say, the meeting was concluded. But Weizmann invited the mayors for yet another meeting.

The next meeting was on 25.03 1985, with Avraham Tamir, a close associate of Ezer Weizmann and director of the National Security Unit, a unit established when Weizmann was Minister of Defence. A week prior to this meeting Raja Khateeb says he went to the

hospital with his daughter. While waiting for the consultation he was approached by a religious Jewish man. The man asked, where he came from, and RK answered, “Deir-Hanna, an area you probably don’t know.” The man said; “why should I not know this area? I know it like I know the palm of my hand.” RK asked him how come? And he said; “ I am responsible for Area nine, and I give the permits for every soldier who wants to enter this are”. He then asked; “how are you and the land?” And RK told him; “we will keep on fighting for our land and ask for our rights.” When the man answered “this land is for the one who shows most patience/strength, *somoud*. The land will either go to you or to the settlements.” RK asked him why and the man said; “we, the army have decided to get out of the area because there has been established more settlements in the area and it (the military firing area) could impose danger to people and we want to get out from this area.” According to Raja Khateeb he gained this information during a random conversation in the waiting hall at a hospital. I have not found other sources to confirm this information and I have to rely on the statement given by Raja Khateeb.

After the event in the hospital, the meeting with Tamir, sent by Ezar Weizman, took place where he said, “Area nine is a closed area for military training. And those who enter will be punished. The army needs a minimum area to do their training, but I will put pressure on them to only use a small area and I will do what I can to make it easier for you to solve this. But, this land belongs to the army.” RK answered, “the army doesn’t need this land and they have decided to get out from this area.” According to Raja Khateeb, Tamir answered, “I have been sent by Ezar Weizman and I can not cross him. Soon the army will go into this area and uproot all the olive trees that are there. The army wants this land, and if they came to uproot the olives, you are not allowed to resist this decision.” After this meeting the negotiations were carried on through correspondence and in the end Weizman knew “that we were awake and aware about this issue.”<sup>78</sup> After years of negotiations the order to close Area Nine was eventually lifted in 1986 and its owners were again given access to it. The negotiations took place through meetings and correspondence. In addition popular protests as commemorating Land Day and other demonstrations was meant to add pressure on the government. The relationship between government figures and the local Palestinian leaders can be defined by a lack of trust and an uneven balance of power. Raja Khateeb tells that when

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<sup>78</sup>Raja Khateeb, interview, May, 2011

the first amendment was proposed by the government to adjust the access to Area nine people were afraid it would not be carried out. The meetings Khateeb refer to seem to be rather tense and the Palestinians are mostly met with a harsh tone, reflecting the relations of power. When it was announced that the military area was lifted it was perceived as an important victory for the Palestinian mayors as well as the landowners. It proved that their steadfastness did eventually give them back their land and that they could exert pressure on the state. As Raja Khateeb said; “when we stand together, we are able to have an impact.” Whether the state gave up the area due to the increased presence of Jewish settlements in the area and the possible danger it could impose on Jewish civilians, or because of the pressure from the Palestinians, mobilising through Land day commemorations and raising the issue publicly, is hard to tell. It might have been a combination of the two. The use of the Land Day as a symbol to mobilize political demonstrations continued until the present day. In 2011, Ameer Makhoul, Head of Ittijah, the network for Palestinian non-governmental organizations (NGOs) in Israel, imprisoned after accusations for “engaging with enemy states”, in a written statement encouraged all Palestinians to unite and use Land day to defend the rights of the people in the Naqab. He wrote; “Al-Araqib (a village in the Naqab, repeatedly threatened by demolition) is an integral part of the nation at a key moment when national duty and the spirit of defiance and steadfastness call upon the people to resist, bearing in mind the initial battle for land and home, on 30 March 1976: Land Day.”<sup>79</sup>

## **2.5 Conclusion**

In the period from 1948-1966, governmental land policy can be defined by the extensive land expropriations and the Palestinian loss of land. Different emergency laws as well as newly amended laws were used to confiscate Palestinian land and the official reasons were based on “securing strategic areas.” The military Administration responsible for governing the Palestinian minority did not encourage inclusion of the Palestinians. While the Palestinians were given Israeli citizenship they were also considered a potential threat to the security. Although they could take part in elections to the Knesset and were formally equal citizens in a democratic state, they experienced discrimination in almost all arenas, in addition to the different processes of land acquisition. Palestinian leaders did voice objection to the land policies through the Knesset, but their impact was

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<sup>79</sup> Makhoul, Ameer, *The struggle for al-Araqib is the struggle for Palestine, 2011*  
<http://electronicintifada.net/content/struggle-al-araqib-struggle-palestine/9257>

limited. Palestinian landowners applied the Court in response to the surveying process and the closing of areas like in the case of the village Ghabisiya. Only a small amount of the cases ruled in favour of the Palestinian landowners and the judicial was used as part of the state apparatus to secure land rather than protecting individual rights. According to Lustick half of the Palestinians who remained within Israel during this first period were internal refugees, leaving them landless.

During the period 1948-1966 the government slightly improved the treatment of the Palestinians. After the abolishment of the military administration in 1966 the possibility to travel and organise freely improved significantly, but discriminatory policies continued. As non-Jews the Palestinians were discriminated against in a state designated for the Jewish population and as a minority they suffered from having less influence on the democratic processes. Land expropriations continued, but to a less extensively degree. In the period from 1966 the reasons for expropriation changed from security to the need of land to settle the Jewish population. With the "Judaization of Galilee", the government aimed to control Palestinian land and prevent the development of their communities. The first Land Day in 1976 marked a clear shift in the process of political awareness and organisation within the Palestinian community. The National Committee organised on a national level and took part in the protests against the government land policy. Contesting Israeli control politics has shown that the Palestinian minority have to be taken into account and that they will not accept all means of state power. The Palestinians were able to affect Israeli policy and their own situation to a certain extent through negotiations with the state, and popular resistance. In the Galilee they regained control of some of their land in the second period, but lost six people along the way, making Land Day an annual event for mobilization and commemoration.

### 3. Misgav Regional Jurisdiction- Land expropriations in the 1980's

This chapter deals with the period between 1982 and 2011. I argue that throughout the different periods there is a clear continuity in Israeli land policy, that although there is a shift in the methods of conducting these policies, the aim to "secure" state interests and establish Jewish settlements in the Galilee continued. During the 1960's and 70's the focus had primarily been on methods of expropriation, through the 1980's there was gradually a legal shift from expropriation of ownership to land-use limitations.<sup>80</sup> This was achieved mainly through planning and zoning laws and by strict containment of Arab municipal boundaries.<sup>81</sup> Nevertheless expropriations did occur also in the 1980's.

One reason for the continued expropriation and land-use limitations was the "problem of demography". The high concentration of Palestinians in the Galilee concerned the government and again Judaization of the Galilee was brought up, now renamed "Developing the Galilee"<sup>82</sup>. In 1977 the Ministry of Housing proposed a new "accelerated urban strategy" through the establishment of Jewish rural settlements in the Galilee.<sup>83</sup> A Jewish settlement programme was implemented in the late 1970's and early 1980's, creating 62 new small Jewish settlements (known as mitzpim), and enlarging the Jewish towns already existing. In addition road networks and industrial zones were established to serve the new settlements. Programmes for financial benefits, available for Jews only, were made to encourage increased Jewish settlement in the Galilee. The trend to support development in prioritized areas has been one of the methods of the government to offer preferential treatment to the Jewish majority. There is seldom found any Palestinian communities on these lists. In the cases there are, these are mostly Druze or Bedouin communities, contributing to the segmentation of the Palestinian community.

The Palestinians objected to the establishment of Misgav through public protests and demonstrations. NGOs dealing with legal and planning affairs also contributed to strengthen the Palestinian organisations. In addition, use of the judicial system as an

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<sup>80</sup> Yiftachel, *Ethnocracy*, 2006

<sup>81</sup> Ibid

<sup>82</sup> Jiryies, *The Land Question in Israel*, 1976

<sup>83</sup> Falah, *Israeli "Judaization" Policy in Galilee*, 1991



arena to achieve legal rights pertained. By appealing to the Supreme Court the Palestinians are in some cases ensured their civil rights. But preferential treatment of its Jewish inhabitants is part of the Israeli ideology and might limit the influence of the judiciary. The Supreme Court ruling in the Qaadan case, which I will discuss in this chapter, were by many labelled as a landmark case, indicating a change within the Israeli judiciary. Ten years later one can question if such a development actually has taken place.

### **3.1 Misgav Regional County**

In October 1982 Misgav Regional County was established. The government wanted to create a regional network and provide services for the 21 Jewish settlements in the Segev bloc, and the four settlements of the Tefen bloc. It placed all the land of the Palestinians in the region under the formal Jurisdiction of Misgav, controlling the natural resources and development matters pertaining to agriculture and grazing.<sup>84</sup> This included the land of Deir-Hanna, Arrabe and Sakhnin, which lost jurisdiction over both private and public land adjacent to their municipal borders. Expropriations also continued in this period, although at a smaller rate than in the previous. Professor Barukh Kipnis of Haifa University claim that 60 000 dunams were added to the state lands in the Galilee during the period 1978 to 1987.<sup>85</sup>

Raja Khateeb, then Mayor of Deir-Hanna says in an interview; *“Misgav was established as part of the plan to Judaize the Galilee. Misgav was the regional county for 32 settlements spread out like islands in the Galilee and was given the jurisdiction of all the surrounding areas and land.”* The Regional County got Jurisdiction over 182, 000 dunams. Of them Deir-Hanna used to have jurisdiction of 4000 dunams, Arrabe 6000 dunams and Sakhnin 9000 dunams. 22 Palestinian villages came under the Jurisdiction of Misgav, along with their public land. <sup>86</sup>As a direct consequence of the new regional borders, these villages were limited in planning how to use their land, either for cultivation, housing or development. Private owners could still use the land for agricultural needs, but they had lost the opportunity to plan for alternative use of the land or further development. The newly established Regional County was not expected to take into concern the

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<sup>84</sup> Ibid

<sup>85</sup> Abu-Hussein and McKay, *Access denied*, 2003:136

<sup>86</sup> Raja Khateeb, Interview, May 2011

Palestinians needs, and the redrawing of borders was seen as another means of maintaining control over the Palestinian population in the Galilee. Abu-Hussein and Mc Kay also draw this conclusion, stating; *“the drawing of boundaries of the planning bodies was done in order to maintain a central government control and to carve out as much land as possible for Jewish development.”*<sup>87</sup>

The placing of 180 000 dunams under the Jurisdiction of some 2000 Jewish settlers (about 90 dunams per person) generated a lot of protest from the Arab villages with a total population of 129,872 per 1983. Half of the land placed under the regional Councils jurisdiction constitutes agricultural land belonging to the neighbouring Palestinian villages. While the land inside the village itself was subject to the jurisdiction of the Central Galilee Planning and Building Commission, the agricultural land now became subject to the planning authorisation of Misgav. This includes the fertile lands of the Battouf valley, belonging to inhabitants of Arrabe and Sakhnin, in addition to other Palestinian villages, which have economic and cultural significance. The purpose of establishing such a regional centre was seen as another tool for limiting the Palestinian development in the area. As Raja Khateeb says; *“If a Palestinian has land to build on she knows that her children can build and live on that land, and that they are secured a future. When the state expropriates this land, people no longer have land to build on, there is less likely that they will have as many children because it will be difficult to provide them housing.”*<sup>88</sup> Control of land has an impact on the Palestinian society when it comes to developing their villages, but it also makes their future uncertain with regard to where to live. When the village cannot expand further, one needs to ask where the villagers should go?

### **3.1.1 Palestinian organisation against Misgav**

The establishment of Misgav made the Palestinians in the region organise themselves in order to defend their land once more. The Palestinian heads of local authorities within Misgav Regional County met and established a working group. Raja Khateeb was chosen to head the group and he made a portfolio for the land belonging to the different villages, putting forth a claim that their public land ought to be under their own jurisdiction, and not the jurisdiction of Misgav. People in the villages started to organise demonstrations,

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<sup>87</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003:222

<sup>88</sup> Raja Khateeb, Interview May 2011

strikes and so on and in the end they had a meeting with the Committee of Domestic affairs in the Knesset. Raja Khateeb was appointed spokesman for eleven heads of local authorities. According to Raja Khateeb, Benny Shalita, member of the committee of Internal Affairs, and head of *lajnat al mohama*, the committee of lawyers, attended the meeting. He started by saying: *“you, the Arabs, are asking too much and you are not right.”* To which Khateeb answered: *“we only want the same as you have. In Misgav Regional County every Jewish inhabitant has at least 10 dunams of land. We only have one dunam per inhabitant. We do not want any more than what you have.”*

Raja Khateeb recounts that also attending the meeting was Israel Koenig, the Northern District (Galilee) Commissioner of the ministry of Interior. Koenig is known for a secret report, known as the Koenig report, where he lays a proposal for government strategy towards the Palestinian minority. When leaked to the press, the report was criticized among both Jewish and Palestinian MKs, journalists and intellectuals, and it was the subject of a heated public debate due to the harsh and racist language used to describe the Palestinian minority. Koenig stayed at his post as District Commissioner and was responsible for the area when Misgav was established. Raja Khateeb tells that the mayors put forth a demand saying the land belonging to the Palestinian villages in Misgav regional country ought to be redistributed to the jurisdiction of the Palestinian villages. According to Raja Khateeb Koenig said at the meeting *“ok, the land belonging to the Arabs should be under their own jurisdiction.”*<sup>89</sup> But the statement was not given in written, and there was not taken a detailed decision on the amount of dunams that ought to be returned to each village.

As a result of the meeting Koenig invited all the mayors, one by one, to make agreements concerning their municipal borders. Approaching the local heads of authority individually strengthened the position of the district governor as opposed to negotiating with a committee representing all the communities. Raja Khateeb recounts; *“When it was my turn, I went to see him. He had prepared a proposal of jurisdiction including only some of the land belonging to Deir-Hanna, differing from the actual municipal borders”*. According to Khateeb Koenig said: *“ Here you go, this is yours to have”*. To which Khateeb answered; *“this is not what we agreed upon, I want all of the land*

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<sup>89</sup> Ibid

*belonging to Deir-Hanna under the Jurisdiction of our municipality.*” So Koenig made another proposal extending the area of jurisdiction, but Khateeb refused it and repeated that he wanted all of the land belonging to Deir-Hanna. Koenig extended the proposal yet again, and Khateeb again said; *“I want all of the land belonging to Deir-Hanna”*. Koenig answered; *“ You know I can not give you the jurisdiction of all the land belonging to Deir-Hanna.”* And Khateeb answered; *“ You will not give it to me, but I will still ask for the jurisdiction of all the land belonging to Deir-Hanna”*. I can only rely on the statements of Raja Khateeb as to whether the conversation actually proceeded like this. But it seems that he did succeed in the negotiations to a greater extent than the other Palestinian mayors. The result was that the Local council of Deir-Hanna went from having jurisdiction over 4000 dunams, after the establishment of Misgav, to 8900 dunams. Sakhnin, which has a much larger population, only retained 9700 dunams, and Arrabe 8350.<sup>90</sup> As mentioned above, of the land Arrabe and Sakhnin lost jurisdiction over, large tracts were situated in the Battouf valley, but also land surrounding their villages was lost. The different results of the individual negotiations can be seen as a sign of weakness in the Palestinian sector. In the absence of development plans that answers to the Palestinians needs, disfavoured municipal borders and planning authority there is a tendency, especially among the traditional leaders, to rely on negotiations rather than formal, legal and planning systems. The case of Deir-Hanna shows that some of the negotiations have been successful, whereas Sakhnin has suffered from the decreased influence over the land belonging to the city. Abu-Hussein and Mc Kay state that the methods of individual negotiations; *“... has led to a divided approach with less ability to influence the system as whole effectively.”*<sup>91</sup> The authorities have also been encouraging these direct negotiations, well aware of their advantages. According to Raja Khateeb, Koenig gives one statement at the meeting with the Palestinian mayors, but he leaves the important details and actual decision to individual negotiations. Dealing with important aspects of planning and jurisdiction of land has proven to be difficult for the Palestinians, even within the legal framework, but one can anticipate that it serves the states interest to keep the negotiations informal rather than using the legal framework provided by the planning system.

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<sup>90</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003:217

<sup>91</sup> *Ibid*

One organisation that could have served the function as a representative body for the Palestinian minority in Israel is the National Committee for Arab Local Councils (The National Committee), established in 1974. In 1982 the Follow-up committee was set up as an umbrella organisation of the National Committee, consisting of Arab Knesset members, members of the Histadrut executive Committee, representatives of the Islamic movement in addition to other Palestinian organisations listed by Ghanem.<sup>92</sup> The broad representation of the follow-up committee led to it being considered as the most representative organisation of the Arabs in Israel, responsible for the conduct of their affairs in Israel. The prestige of the committee peaked in the mid-1980's but started to decline in the early 1990's. Ghanem explains this due to personal disagreements and inefficient organisation, not offering alternative ways to deal with the difficulties that confronted the Israeli Arabs.<sup>93</sup> . But when it comes to handling planning policies, development at organisational level has improved the recent years. In 2000 The Arab Center for Alternative Planning (ACAP), a NGO located in Eilaboun next to Deir-Hanna, was established. ACAP works to represent the needs and interests of Arab citizens of Israel on issues of planning, land, housing, and development. In 2004 they were recognized by the Ministry of the Interior as a public organization with the legal right to intervene in official planning procedures, and file objections to national, district and local plans as an independent legal entity.<sup>94</sup> This is a major step forward when it comes to the possibility for the Palestinians to influence governmental decision-making bodies.

### **3.2 Control of Land use**

While prioritizing the Galilee as a development area and establishing new Jewish settlements in the region the government failed to give permission for development to the Palestinian communities. Through what Falah refers to as non-action, the Ministry of Interior, by *not* approving zoning plans or "master plans" for Palestinian villages, could effectively control the expansion of the Palestinian communities. Without an approved Master plan the authorities can also refuse to allocate a budget for infrastructure. In 1980 only two of 23 villages examined in the Central Galilee had approved Master plans. In 2001, Sakhnin with more than 23 000 residents had only got approved a Master plan

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<sup>92</sup> Ghanem, As'ad, *The Palestinian-Arab Minority in Israel, 1948-2000*, Albany:State University of New York Press, 2001:152

<sup>93</sup> Ibid

<sup>94</sup> The Arab Center for Alternative Planning, *About ACAP*, <http://www.acap.org/194916/About%2DACAP%2D1>

for 4400 dunams out of 9700 dunams under their jurisdiction. As for Deir-Hanna with 7300 residents, they had a Master plan for 1160 dunams out of 8900 under their jurisdiction and Arrabe with 17 300 residents had 3800 dunams out of 8350, included in a master plan area.<sup>95</sup>

Sakhnin is one of eight Palestinian communities within Israel that has been granted a city status. It was upgraded to a city in 1995, which is preferable because of possible additional funding and resources from the state. Surrounded on its western side by a military area, used for the storage of weapons, on its northern side by an industrial area, and on its eastern side by mountains and forestland, only the eastern side is left open, bordering the neighbouring village of Arrabe. Sakhnin has experienced great difficulty finding land for development due to the established industrial area, belonging to Misgav and the Military base, established in 1999 within Misgav regional council, but on the very border of Sakhnin and right next to a high school. Its municipal borders are narrowly defined and they are not represented in the planning commission for the city. Development has proven to be difficult, a problem that is especially evident when it comes to housing, but also in other social and public areas.

With regard to the social sphere Sakhnin has a football team, which are represented in the Israeli national league. The city applied for land to build a football stadium, but was first denied on the grounds that the land was needed for the expansion of a nearby Jewish community. Following the demonstrations in October 2000, where Palestinians in Israel took to the streets in support of the second Palestinian intifada and 13 Palestinian demonstrators were killed by Israeli police, there was a heated debate within Israel on the issue of the Palestinian minority. Three young boys from Sakhnin and Arrabe were killed and it made a strong impression on the people in the villages. Meanwhile the application to build a stadium had been forwarded to Misgav regional Council where the head of the Council in a letter to Minister of Interior said he was suspending all discussions concerning allocation of land for neighbouring Arab localities, since he had *“no intention of holding discussions under pressure, terrorism and*

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<sup>95</sup> Sikkuy-Misgav, *Equality and Integration of the Arab Citizens in the Misgav Region: A report from Sikkuy Misgav*, 2001, <http://www.sikkuy.org.il/english/papers/Misgav2001eng.htm>

*threats*".<sup>96</sup> The debate that arose in Israel after the killings in October 2000 brought about the demand from the Palestinian minority to be recognised as a national minority and to be granted equal rights. From an Israeli point of view the demonstrations that supported the Palestinians living under occupation were perceived as a sign of radicalization within the Palestinian minority and a lack of loyalty to the Israeli state. The statement made by the head of Misgav council can be seen as part of the scepticism towards the Palestinians that evolved after the events of October 2000. While the case that none of the policemen responsible for the killings was charged served to strengthen the feeling among the Palestinians that they were not counted as equal citizens. With this in mind the victory of the Sakhnin football team, who won the national cup in Israel in 2004, was celebrated as more than just an athletic achievement. It also served as a symbol of the Palestinians steadfastness, *sumoud*, and it was celebrated by most Palestinians in Israel as part of their struggle to be recognised as a national minority. In the neighbouring villages people watched the game outdoor, on big screens, and were celebrating the victory truly as a national achievement. Finally Sakhnin was given the permit to build a stadium and in 2006 opened their Doha stadium, built with support from Qatar National Olympic Committee after a request by the Palestinian member of Knesset, Ahmed Tibi.

All kinds of development, either for accommodation, industry or recreation, have to be approved by the Jewish municipal council neighbouring Sakhnin. When the relations between the Palestinians and the government are tense this is also reflected in processes concerning municipal development. In a way one can say that the Palestinians are punished when they advocate their nationality as Palestinians and demand equality on the basis of being a national minority. This is evident in public debates as well as in the Knesset and it may also affect decision-making bodies as seen with Misgav Jurisdiction County.

### **3.2.1.Planning policies**

If a local community has available land, either belonging to the local municipality or private owners, the jurisdiction is crucial when it comes to planning and development. Municipal and Planning authorities are two most important local government authorities regarding access to land. Both authorities regulate the use of land within

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<sup>96</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003: 250

their jurisdiction, and in most Jewish municipal councils or local authorities the two planning authorities overlap. When it comes to the Palestinian communities on the other hand, this is not the case. Sakhnin, a city with roughly 23 000 residents and jurisdiction over 9700 dunams of land, has a master plan only for 4 400 dunams. Normally local commissions are established to represent the community regarding planning for land use with a commissioner representing the local authority. When it comes to Sakhnin, and the surrounding Palestinian villages, the commission is appointed by the Ministry of Interior and is not a local resident. Privately owned land outside the city borders comes under the authority of Misgav Regional commission. The possibility to influence their decisions has proven to be very difficult. Only after the regional commission has set out a master plan for a Palestinian city or village is the local authority asked to accept the plan. The local municipality is left with little choice but to agree. Non-acceptance of a master plan could lead to demolitions of homes built without a permit.<sup>97</sup>

### **3.2.2. Housing**

”The last few years there has not been as many weddings as normal because the younger generation can not get hold of land to build on”

Nuhad, 31, from Deir-Hanna.

The statement is made by a young lawyer living in Deir-Hanna, but he express a sentiment I have met repeatedly while speaking to Palestinians in the Galilee. Waiting for land approved for building may take years and some build houses without permission and are innovative when it comes to getting connected to electricity or sewage. Others demolish their village houses and replace them with multi-storeyed apartment houses for several members of the family. Since 1948 not a single city or village has been built for the Palestinian minority and only 0,25 percent of allocated state land has been distributed to Palestinian localities.<sup>98</sup> This makes the pressure on land extremely high. Deir-Hanna has only twice since 1948 been assigned plots of land for housing. A study conducted by ACAP “*shows that during 2005-2010, the Arab citizens in Israel were in need of 67,000 housing units to meet their accommodation needs, as opposed to 262,000 housing units in the Jewish community. In this period of time, the Israel Land Administration provided only 21% of this need to the Arab community as opposed to*

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<sup>97</sup> Sikkuy-Misgav, *Equality and Integration of the Arab Citizens in the Misgav Region*, 2001

<sup>98</sup> Yiftachel, *Ethnocracy*, 2006:143



59% of the same need to the Jewish citizens.”<sup>99</sup>The same study reveals that among the units provided to Arab citizens, 35% was allocated to Arabs serving in the army or the security forces. Only members of the Druze community and some of the Bedouins enrol in the Israeli army, hence the percentage of land allocated to Arab members of the security forces is far higher than the percentage they represent in the Arab community. Either way, only 10% of the land allocated by the ILA for housing in 2010 was allocated to the Arab community, while they constituted about 19 % of the population.<sup>100</sup> During the land surveys in the 1950’s and 60’s, land adjacent to the villages that was formerly considered as part of their jurisdiction, was made state land. The same was the case with land classified as “hilly” or unsuitable for housing or grazing. The Israeli Land Administration (ILA) now administers this land, and is responsible to allocate plots of land to the Palestinian communities.

In the Markovitz Report of 1986, made by the Markovitz Committee, appointed by the government to study “illegal construction in the Arab sector”, one of the recommendations is to channel future construction in Palestinian villages by increasing the housing density within the boundaries of the Master plans, by encouraging the Palestinians to build multi-storeyed instead of the traditional morphology of the Palestinian villages that has been expanding horizontally.<sup>101</sup> This policy serves to hinder the communities from growing together and is supposed to discourage continuity between the Palestinian municipalities. It is also implemented as a demand when the ILA allocates new land for housing today. Raja Khateeb tells that he has recently been negotiating a new area for housing in Deir-Hanna where the government sets criteria that each unit must have at least four storeys.<sup>102</sup> According to Khateeb he managed to decrease the demand to three storeys per unit, but it is not necessarily a desire among all the inhabitants to build multi-storeyed and live several families in the same building. Meanwhile the neighbouring Jewish settlements consist of one-unit houses and are not put under the same restrictions.

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<sup>99</sup> ACAP, *Not enough land to meet the needs of Arab Community*, <http://www.acap.org/194916/Needs%2Dof%2DArab%2DCommunity>

<sup>100</sup> Ibid

<sup>101</sup> Falah, *Israeli "Judaization" Policy in Galilee*, 1991

<sup>102</sup> Interview, Raja Khateeb, May 2011

Another result of the planning policy is the different standards in Palestinian communities as opposed to Jewish communities. A study of the housing density reveals great discrepancy between Palestinian and Jewish citizens. Figures from 2009 shows that while the average density for a Jewish family is 0.84 persons per room, the average for a Palestinian family is 1.48 persons per room.<sup>103</sup> In addition the Palestinian population is very young. The median age is 20 so there is reason to assume that the need for housing, and to allocate land for building will increase in the years to come.<sup>104</sup>

### **3.2.3. House demolitions**

In November 2009 I was travelling to Um Al-Fahm in the Triangle to meet lawyer Hussein Abu-Hussein, an expert on land law in Israel. On my way I passed the village of Musmus where I witnessed a large number of armed policemen, riot police and police vehicles along the road. Later that day I learned that there had been a house demolition and the police were preparing for protests. Until 1996 Musmus was not represented by a Local council and had no influence whatsoever on a master plan for the village. In 1996 the Local Council Ma'ale Iron was established as an answer to the lack of municipal organization for five small Arab villages with 10,000 inhabitants in Wadi Ara. Even though granted a local council, the trend seems to be to "place little more than the actual built-up area of the village under the jurisdiction of the council, and not the surrounding area."<sup>105</sup> The areas of jurisdiction for Palestinian local councils often exclude large areas of land belonging to the residents and formerly recognized as part of the community. As with Deir-Hanna and Sakhnin the land outside their jurisdiction becomes available for the Regional Council who can plan the usage of this land without the influence of its owners. Some build without permits in areas adjacent to built-up areas anticipating that the area soon will be part of a master plan. In 2009, 165 buildings owned by Arab citizens were demolished, the majority of these were in unrecognized villages in the Naqab, where authorities demolished 134 houses.<sup>106</sup> 18 houses were demolished in the North and center of the country. Among these are the one I saw in Musmus and one in Arrabe. The last time Arrabe got approved a master plan was in 1987, the population of

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<sup>103</sup> Israeli CBS, "*The Arab population in Israel 2008*", 2008

<sup>104</sup> Ibid

<sup>105</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003

<sup>106</sup> ACAP, *165 buildings Owned by Arabs were demolished in 2009*, <http://www.acap.org/194916/165%2DBuildings%2DOwned%2Dby%2DArabs%2DWere%2DDemolished%2Din%2D2009>

the village has increased significantly during those 24 years. In the north I assume the number of houses built without a permit is far higher than those being demolished. The government are aware of it taking place, but at the same time responsible for the lack of alternatives. Demolitions are much more frequent in the unrecognized villages of Naqab where the government actually wants to transfer the Bedouins. I consider the demolitions in the North of being examples to remind people of the government authority, but I do not expect the number of demolitions to increase. As many young Palestinians are facing the need for available land, the hilltops surrounding them are built up with Jewish settlements where they are not allowed to live. The government interest is both to limit the expansion of Palestinian communities, but they also need to maintain sustainable relations to the Arabs.

### **3.3. Mitzpim-continued Judaization**

I argue that the *non-acceptance* of building permission and slow process of approving master plans is related to the aim of Judaizing the Galilee. As part of this aim the concept of *mitzpim* was introduced by a Jewish Agency plan of 1978 and was according to Abu-Hussein and McKay implemented in breach of the statutory planning procedures, exploiting an apparent loophole in the law.<sup>107</sup> The Settlement department of the Jewish Agency had proposed a rural settlement strategy for penetration into the inner core of Galilee. With the creation of the *mitzpim*, small "lookout settlements" or "lookout posts", located on the hilltops, the government could claim lands in the immediate area for future development of the settlement. Hence securing land for future Jewish settlement and working to change the dominant Arab demography in the region. However the intended aim to alter the demography by recruiting Jews to live in the lookout settlements did not succeed. A study conducted by Kipnis comments that; "*In all the target years the Arab population was larger than expected and the Jewish population was less than anticipated. The targeted population for these settlements had been 6000, but by the year 1984 the total had not even reached 2500.*"<sup>108</sup> The demographic situation in Galilee today is more or less the same. At the end of 2009 the Palestinian population in Israel numbered 1.535 million, about 20 % of the total population. 44% resides in the Northern District, and constitute 53% of the population in that region. According to the Israeli Central Bureau of Statistics the Palestinians are expected to number 2.362 million

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<sup>107</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003:204

<sup>108</sup> Falah, *Israeli "Judaization" Policy in Galilee*, 1991:78

by 2030, thus increasing to 24% of the population.<sup>109</sup> The Palestinian dominance in Galilee is far larger than the 53% if you look at a smaller area, as Palestinian and Jewish communities are mainly segregated. Out of 129 localities in the central Galilee, Palestinian inhabitants comprise almost the entire population.

In order to change this development the Government has implemented several benefit programmes for people settling in the Galilee. According to a national plan, Galilee and Naqab are part of the “National Priority A areas” together with the settlements in the occupied West Bank and the Golan Heights. With the heading “*Making Aliyah*” the governmental website of the Ministry for the development of Negev and the Galilee connects the settlement process in the Galilee to the Zionist vision of “redeeming the land” and attracting Jewish immigrants to Israel. The language used intends to appeal to this Zionist ideal. It states: “*The Galilee actively seeks new immigrants (olim). Depending on whether new olim are single, or married with children, the State of Israel offers a number of different options aimed at making the aliyah process as smooth as possible.*” In March 2011 Israel Land Administration (ILA) decided to renew the discounts of ground allocations for residents in Galilee and north (decision 897) “to encourage the settlement in these areas”. In order to increase the Jewish population the leasing fees of the ILA are reduced significantly. According to the new decisions “*places in which the land leasing fees paid today to the administration are 91% of the ground's value, will be paid only 51% of its value starting from May 2010. Places in which leasing fees are 51% of the ground's value, only 31% will be paid. These discounts will be given on condition that the discount won't be more than 50 thousand ILS.*” Grants are also given to people who want to build or buy a flat or a house to settle in the region in addition to reduction in the income tax.<sup>110</sup> On the list of localities in Central Galilee granted the “priority A” status is Misgav Jurisdictional County with its attached mitzpim. Except from two Bedouin communities none Arab localities are on the list.

Despite governmental encouragement the *mitzpim* in the Galilee have far from reached the number of residents they are planned for. One example is Hararit and Yahad within

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<sup>109</sup> Israeli CBS, *The Arab Population in Israel*, 2008

<sup>110</sup> Galilee Development Authority, *Bonuses and grants*, <http://www.galil.gov.il/en/default.asp?p=1631&s=1098>

Misgav. These settlements are located at the mountain called *Haswa* among the local Palestinians. Many of the residents in Deir-Hanna and Arrabe have land planted with olives, figs and apricots there and Hararit is built partly on land expropriated from the inhabitants of Deir-Hanna. But if a person in Deir-Hanna wants to apply for a building permit on the land she owns next to Hararit it would most likely be impossible to obtain. Bearing in mind the need for a new development plan with additional building plots in Deir-Hanna it is interesting to read the information about Hararit on their official website. Hararit describes itself as “a community village” in the central Galilee. *“With us, you can release yourself from stress and troubles and connect with the clear mountain air, an amazing vista and a unique way of life. The Hararit village is situated on the Yodfat ridge and the view from our homes is truly magnificent. Residents of Hararit are engaged in the life-practice and philosophy of transcendental meditation.”*<sup>111</sup> Further one can read that the village has 47 families with 30 children up to the age of 18 years. The number of families envisaged in the final planning phase is 422 including the nearby Kibbutz Yahad, which has 25 families. Together the communities have 72 families, but the approved development plan allows for 442 families. The possibility for these settlements to expand is striking compared to their neighboring Palestinian villages where young people tend to put off marriage because they don’t have land to build on. There is no mention of Palestinians or a joint Palestinian/Jewish community in the vision for Misgav. Recruitment to these communities is not aimed at their Palestinian neighbors.

In 2006, *Yedioth Aharonoth*, a leading Israeli daily, reported from a conference on Galilee where the increasing Palestinian population was a theme of great concern. According to the newspaper many Palestinians have moved into the development towns, established in the Galilee primarily for Jews, such as Nazareth Illit and Karmiel. In the conference it was mentioned that Karmiel now has 8-10% non-Jewish population and Nazareth Illit has 15%. When then Minister for the Development of the Naqab and Galilee, Jacob Edery, was asked to comment on the issue, he told the journalist from *Yedioth Aharanot*; *“I can't say I agree with the data, but nevertheless we have to do everything we can to*

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<sup>111</sup> Misgav regional Council, 2011, <http://www.misgav.org.il/e/>

*boost Jewish population in the Galilee*"<sup>112</sup>“Boosting” the Jewish population in the Galilee indicates a continuation of the Israeli policy in this region, restricting development and expansion of the Palestinian communities. The residents of Deir-Hanna are waiting eagerly for permission to build houses on their land, even if it has to be three storey-buildings. But if the government continues to prevent the villages from expanding young couples will have to seek other alternatives.

### **3.3.1 Admission Committees**

The last decade more Palestinians have considered buying a home in a Jewish development town or settlement as a possible solution to the lack of housing. The first case of this kind to reach the Israeli Supreme Court was the Qaadan case, considered a landmark ruling in the history of the Palestinian minority against Israeli land policy. The Qaadan-family are Palestinian Israelis from the Triangle and the father Adel Qaadan attempted to lease a plot of land in a Jewish Agency settlement, Katzir, built on “state land”. He was rejected because he was not Jewish. Qaadan appealed the decision and in March 2000 the Supreme Court made a ruling saying “*the state is prohibited from allocating “state land” based on national affiliation or use “national institutions” such as the Jewish Agency to discriminate on its behalf.*”<sup>113</sup> The Court upheld Qaadan’s right to lease state land, but did not say how this was to happen and despite the Court ruling in their favor, they were not offered a plot of land in Katzir. The historical Supreme Court decision, saying Israeli Land policy is discriminatory, was by many perceived as a shift in Israeli policy. In the aftermath, seeing the ruling not being fulfilled, it barely serves to symbolize the existing inequalities within Israeli society. A similar case regarding a couple from Sakhnin, but with a different outcome, started in 2006. The young couple Ahmed and Fatina Zubeidat then applied to build a house in Rakefet. For a resident of Sakhnin it takes only a couple of minutes to get to the community town Rakefet, in Misgav. In order to settle in Rakefet they had to apply to the local admission committee in Misgav. The committee consist of members in the local the community in addition to a representative from the Jewish Agency. It is the same procedure in 695 Jewish agricultural and community towns, which together account for 68.5% of all towns in Israel

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<sup>112</sup>Ynet news, *Jewish population in Galilee declining*, <http://www.ynetnews.com/articles/0.7340.L-3481768.00.html>, 5.juni 2011

<sup>113</sup> Jamal, Amal, *The counter-hegemonic role of sivil society: Palestiiian-Arab NGO’s in Israel*, *Citizenship Studies*, 12:3, 283-306, Routledge, 2008

and around 85% of all villages.<sup>114</sup> The application was rejected as the couple were considered "socially unsuitable" to live in Rakefet. Fatina was told that she was "too individualistic," while Ahmed was said to "lack personal sophistication."<sup>115</sup> The legal NGO Adalah filed a petition on their behalf to the Supreme Court in September 2007. In October 2007, the court issued an injunction ordering Rakefet to set aside a plot of land for the Zubeidat family, while the final decision on the petition was pending. The petition remained pending until September 2011 when the Supreme Court of Israel accepted the petition on behalf of the couple against the community town of Rakefet and the Israel Land Authority (ILA). The Court ordered the town to award a plot of land to the Zubeidats for building a house in Rakefet within 90 days.<sup>116</sup>

The case of the Zubeidat couple is an important sign of progress for Palestinians civil rights in Israel. But Local Community towns strengthened their position in regard to the use of admission committees when the "Admission Committees Law" was passed in the Knesset March 2011. The law grants legal legitimacy for about 700 local communities in the Galilee and the Naqab to form Admission Committees which can decide whom they find eligible to live in these communities. On the board of the committees are two representatives of the community town, one representative from the movement of which the community town is affiliated or an additional inhabitant of the community town, a representative of the Jewish Agency for Israel or the World Zionist Organization; and a representative of the regional council under whose jurisdiction the community town is located. As the law states in chapter 6C (A); *"An admissions committee is entitled to refuse to accept a candidate for a community town based on one or more of these considerations..."* Whereas condition number (5) is; *"The candidates lack of compatibility with the social-cultural fabric of the community town, when there is reason to assume that this would harm this fabric;"* The next condition, nr 6 (C) says that; *"The admissions committee will not refuse to accept a candidate for reasons of race, religion, gender, nationality, disability, personal status, age, parenthood, sexual orientation, country of origin, political-party opinion or affiliation."*<sup>117</sup> The Zubeidats from Sakhnin were first

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<sup>114</sup> Adalah- Israeli Supreme Court Hears Adalah's Petition Demanding Cancellation of "Admission Committees", [http://www.adalah.org/eng/pressreleases/pr.php?file=03\\_02\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=03_02_11)

<sup>115</sup> New Israel Fund, <http://www.nif.org>

<sup>116</sup> Adalah, [http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=14_09_11)

<sup>117</sup>(Israel) Book of Laws 5760, p. 190; 5771, p. 665. Translation to english by Adalah

refused to live in Rakefet because they were not found “socially suitable”. In the Qaadan case the family were refused because they were not Jews. Gerald M. Steinberg, Director of the Program on Conflict Resolution in the Political Studies Department at Bar-Ilan University, Ramat Gan, argues that the Qaadan case can be perceived as “positive discrimination” in order to protect Jewish settlements and that *“the accomplishment of Zionist goals requires some restrictions on equality.”*<sup>118</sup>

With the 2011 Admission Committee law there is a note stating the committees will not refuse a candidate because of race, religion or nationality. But there is reason to believe that a Palestinian would not be accepted because they do not fit into the “social- cultural fabric”. The wording of the law tends to conceal the grounds for discrimination, especially as many of the local communities brand themselves as towns with a “Zionist vision”. Adalah filed a petition on behalf of civil society organizations, Palestinians, Mizrahi Jews and Homosexuals, representing groups whose exclusion from community towns is justified under the law. The petition says that; *“the law allows admission committees to reject any person on the basis of his or her national belonging, sexual preference, and even on health grounds. It would also allow an admission committee to reject an Arab applicant because his or her culture different from that of the majority of persons living in a community town.”*<sup>119</sup> The Admission Committee law is protecting the right of the mitzpim to bar out people they don’t want from living in their community. Reflecting on the urban development plan initiated in 1977 we can recall that the mitzpim were built in order to break up the continuity of the Palestinian communities in the Galilee, and hence strengthen the Jewish presence in the region.

The different treatment of a Palestinian community opposed to a Jewish community in Galilee shows a huge discrepancy in the possibility to get approved a development plan, building permits and infrastructure. In addition one finds discrimination on an individual level when it comes to the Admission Committees. According to Adalah;

“The Admission Committees Law violates Israeli domestic law and international law, which prohibit discrimination against any person who does not belong to the dominant group in society. By legitimizing the exclusion of entire groups on the basis that he or

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<sup>118</sup> Steinberg, M. Gerald, *“The poor in your own city shall have precedence: A neo-zionist critiques of the Katzir-Qaadan decision”*, 2001, <http://www.jcpa.org/jl/vp445.htm>

<sup>119</sup> Adalah Petitions Supreme Court to Demand Cancellation of New “Admission Committee Law”, 31 March 2011



she is not suited to the “social/cultural fabric” of a community town. Specifically, the law is contrary to the Israeli Basic Law: Human Dignity and Freedom and violates basic constitutional rights, as well as the rights to privacy and to freedom to choose one’s place of residence without arbitrary restriction.”<sup>120</sup>

In order to keep Jewish community towns in the Galilee separate from their Palestinian neighbors the Knesset approves laws allowing for discrimination, even in conflict with Israeli Basic Law. Not only the Palestinian minority is affected. Other Israeli minorities suffer from the lack of proper housing as well. But when you look at the severe need for housing in the Galilee, combined with the lack of permissions to build and the refusal to settle in a nearby Jewish community, one could say that the Admission Committees are targeted against the Palestinian minority. Similarly the priorities and benefits given to Jewish communities in the region, leaving out the Palestinian citizens, serves as another tool to discriminate against the Palestinians in the Galilee.

### **3.3.2 The Qaadan case- a shift in policy?**

Right after the Qaadan case there was a wave of optimism or even a small hope for change in the system. The democratic nature of the Jewish state was tested. When the Qaadan family was denied the right to settle in Katzir because they were not Jewish, it seemed evident that this kind of discrimination could not be accepted when it came to settling Israeli citizens on State Land. After five years of hearings and delays the Supreme Court held that “*the state is prohibited from using “national institutions” to perform acts of discrimination based on national belonging on its behalf.*”<sup>121</sup> The Katzir Cooperative Association is a community established by Jewish Agency, on state Land, but built only for Jews. The ruling could have made it more difficult for other communities of this kind to be established on the same criteria, but it only dealt with the claim as an individual case of discrimination and did not treat the case as a hearing of the collective rights of the Palestinian minority. The ruling stated this was a special case and would have limited effect on future cases, as “*the judicial principle on which the court ruling is established is non-discrimination rather than the general value of equality among all citizens irrespective of their national, cultural or religious identity.*”<sup>122</sup> Neither did it question the role or the legitimacy of the quasi-national organisations such as the Jewish Agency or JNF

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<sup>120</sup> Adalah Petitions Supreme Court to Demand Cancellation of New "Admission Committee Law", 31 March 2011

<sup>121</sup> Adalah’s Review, Volume 2, Fall 2000, Land:3

<sup>122</sup> ibid:52

who are often left with the task of establishing new communities, built and reserved for the Jewish population only. Considering the Admission Committee Law of 2011 the communities can not argue for the rejection of an application on grounds of national belonging, but instead on grounds of “social-cultural fabric.” They can then maintain the practice of barring Palestinians or other minorities, but without explicitly saying it is because of their nationality or religion. The optimism that occurred after the ruling in the Qaadan case has ceased as the case is locked up in the judicial system, with the petition pending after more than ten years. But the Supreme Court ruling in favour of the Zubeidat family in Rakefet shows that the judicial system of Israel to some extent can serve as a corrective to discriminatory policies suggested by the legislative.

### **3.4 Conclusion**

The Palestinians in the Galilee experience increasing difficulties in getting allocations for need for land upon which to build and live. Considered as a potential threat by the Israeli society after October 2000 and discarded as good, lawful citizens, they turn to the Israeli judicial system to obtain their rights as equal citizens. When the city of Sakhnin applied for a permission to build a Football Stadium, following the demonstrations in October 2000, the head of the Misgav Regional Council said he was suspending all discussions concerning allocation of land since he had “no intention of holding discussions under pressure, terrorism and threats”.<sup>123</sup>The atmosphere in the Israeli public ten years later is still tensed, something that might effect the relationship between the Palestinians and governmental institutions. A number of discriminatory laws aimed against the Palestinian minority have been suggested in the Knesset and several were passed.

While Jews are encouraged to settle in the Galilee, given substantial economic benefits, their Palestinian neighbors are striving with tight municipal borders and budgets. This will eventually lead to more pressure on the government to allocate land for the Palestinian communities to expand. The question is whether such permissions will be granted unconditionally and independent of the increased awareness within the Palestinian minority about their national identity. A continued planning policy favoring Jewish settlement in Galilee at the same time as it prevents development of the Palestinian communities can only be perceived as a contradiction of universal rights.

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<sup>123</sup> Abu-Hussein and Mc Kay, *Access Denied*, 2003: 250

With the Admission Committee law of 2011, 700 communities in the Galilee and Naqab can turn down a Palestinian applicant because he or she does not match the “social-cultural fabric” of the community. As seen with both the Qaadan case and the Zubeidats, the Supreme Court serves as an arena for the Palestinians in their struggle for equal rights. In the absence of a constitution the Supreme Court is the only judicial protection for civil rights. Still all laws passed in the Knesset have to be recognized by the judiciary. In the case of the Admission Committees Law, passed in March 2011, Legal rights organizations fear that this law will allow for continued discrimination, although it says it shall not refuse a candidate for reasons of race, religion or nationality. Appeals to the Supreme Court have in some cases served as tool to protect the Palestinians from discrimination, but as long as the legislative apparatus continue to promote discriminatory laws and governmental policy is clearly giving preferential treatment to the Jewish population, the Palestinians will not be equals within the present Israeli frame.

#### 4. Democracy, land and the Palestinian minority

**Basic Law: Israel Lands (of 1960)**

<i>Prohibition of transfer of ownership</i>	1. The ownership of Israel lands, being the lands in Israel of the State, the Development Authority or the Keren Kayemet Le-Israël, shall not be transferred either by sale or in any other manner.
<i>Permission by Law</i>	2. Section 1 shall not apply to classes of lands and classes of transactions determined for that purpose by Law.
<i>Definition</i>	3. In this Law, "lands" means land, houses, buildings and anything permanently fixed to land.

DAVID BEN-GURION Prime Minister

YITZCHAK BEN-ZVI President of the State

The above is taken from the Israeli Basic Law: Israel Lands and is the equivalent of a constitutional law regarding land. Israel is often labelled by Israeli spokespersons as “the only democracy in the Middle East” and it is important for Israel to be perceived as a democracy in the western tradition. In the previous chapters I portrayed the discriminatory treatment the Palestinian minority experience when it comes to allocation of land. I argue that this treatment is based on the priorities made by the state to settle more Jews in areas dominated by Palestinians in order to control the land and secure the state as Jewish. Despite discriminatory policies the state of Israel holds several important democratic elements. Listed by Oren Yiftachel Israel has; “*periodic (though not inclusive) free elections, nonviolent government changes, a relatively free media, and an independent judiciary.*”<sup>124</sup> The different minorities can run for election, enjoys freedom of speech and civil rights in most arenas, but they also experience discrimination on several fields. There are debates amongst Israeli, and other, academics as to how to classify Israeli democracy, when the state maintains it is being both Jewish and democratic. As Sammy Smooha puts it; “*Israel defines itself as a state of and for Jews, that is, the homeland of the Jews only...The state extends preferential treatment to Jews who wish to preserve the embedded Jewishness and Zionism of the state*”<sup>125</sup> On the other hand Smooha argues that a balance exists between universal democratic rights, which are extended to all Israeli citizens, and collective norms, which grant priority to Israels

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<sup>124</sup> Yiftachel, *Ethnocracy*, 2006:92

<sup>125</sup> Smooha in Yiftachel, *Ethnocracy*,2006

Jewish citizens.<sup>126</sup> No doubt Zionist ideology shapes the policy in Israel, but where does this leave the Palestinian, non-Jewish minority? How are they affected by the “Jewishness” of the state? Is it accurate to say Israel is as an open ethnocracy as defined by Yiftachel?<sup>127</sup> Looking at the expropriation of land and the uneven allocation of resources regarding the Palestinian population, there is clear evidence of a discriminatory policy. I would say that the general understanding in Israel is that the Palestinian minority are given equal rights as they are represented in the Knesset and can voice their disagreement and opposition freely. Yet many agree that they are subject to some discrimination. In my view, many Israelis fail to see that the Jewish character of the state, with all its implications, is in itself discriminatory. In addition few Israelis are aware of, or recognise, the unjust treatment of the Palestinians when it comes to land, in addition to their marginalised positions both socially and economically.

Founders of both Palestinian and Israeli/Jewish national identity address their deep roots and belonging to the land as proof that it is rightfully theirs. Palestinian folklore and poetry often evokes references to harvesting the family crops, the shape of the olive tree, the scent of Jasmine, and the Lemon tree in the courtroom or the backyard. Israeli references relate to the biblical Promised Land and images narrated by the Zionist Labour movement of “the new Jew”, ploughing the land and gaining strength while building their own future. Two people claim the rights of the same land. Two nations claim two competing narratives. One could say the winner is the one who succeeds to implement their perception as the dominating understanding. At the same time the nation who has the power to implement their own version of reality on the ground, tends to win territory and control the resources. In this chapter I look at how the Palestinian minority have been able to influence their own situation regarding land ownership and planning policy by exerting pressure through popular mobilization, direct negotiations and political participation. Are they disqualified for governmental assistance because they do not lobby their need strongly enough or is it due to their ethnicity?

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<sup>126</sup> Ibid:98

<sup>127</sup> Ibid

#### 4.1 Israel Lands

The Israeli state owns about 93% of the land, which is managed by the Israel Lands Administration (ILA). According to their own website; *“that is, either property of the state, the Jewish National Fund (JNF) or the Development Authority. The Israel Land Administration (ILA) is the government agency responsible for managing this land, which comprises 4,820,500 acres (19,508,000 dunams). “Ownership” of real estate in Israel usually means leasing rights from the ILA for 49 or 98 years.”*<sup>128</sup>

The Israel Land Council determines the policy of the ILA. Twelve of the members represent government ministries and 10 represent the Jewish National Fund (JNF), in Hebrew the *Keren Kayemet Le-Israel*. None of the governmental representatives are Arab. The Council is responsible for all the State Lands, and although the JNF owns only 13% of the State land they have a major impact on administration and lease of land. The Basic Law: Israel Lands, states that state ownership should not be transferred to individuals by any means. According to Abu-Hussein and McKay *“the law contains no objectives as to how it should operate, no criteria to govern the lease of land or its transfer without consideration.”*<sup>129</sup> The absence of a defined object and authority of the ILA leaves it up to the government to prioritize how the land is to be distributed and the leasing of state property is most often awarded to Jewish citizens. The interest to control land is connected both to Zionist ideology and the historic context of Israel, “securing the state”. During the mandate era and the days of the establishment of Israel, expropriation or “redeeming the land” has not only been a mean of managing resources, but also a mean of obtaining the goal of a Jewish state. As the state is in possession of 93% of the land in Israel they control most of the resources and in turn also have a major impact on the economic and social development of the Palestinian minority. The bill “Jewish National Fund Land” passed in 2007 specifies that lands of the JNF should be allocated exclusively to Jewish people. The majority of the land under control of the JNF was transferred to it by the state and originally belonged to Palestinian refugees or internally displaced persons.<sup>130</sup> As discussed previously much of the state land that is now being leased to Palestinians was expropriated by the state during the 1950’s and 60’s.

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<sup>128</sup> Israel Land Administration,  
[http://www.mmi.gov.il/envelope/indexeng.asp?page=/static/eng/f\\_general.html](http://www.mmi.gov.il/envelope/indexeng.asp?page=/static/eng/f_general.html)

<sup>129</sup> Abu-Hussein and McKay, *Access Denied*, 2003:27

<sup>130</sup> Jamal, *The counter-hegemonic role of sivil society*, 2008

Whereas the Palestinians previously experienced land expropriations, they now experience that the state control their remaining resources by *not* giving them building permits or approving the development plans for local authorities or municipalities. Due to the organisation of planning authorities the Palestinians are often left out of the discussions regarding development of their own municipalities, as they are not represented on the boards of the planning commissions.

#### **4.1.1. Legal Framework for use of land**

To answer how the Palestinians can alter the policies regarding land I will take a brief look at the various laws used to make private land owned by Palestinians into Israel Lands. I will not refer to them all in detail as some of the laws have been discussed in the previous chapters. According to the legal scholar Yifat Holzman-Gazit the roots of the Israeli tenure system date back to the rule of the Ottoman Empire.<sup>131</sup> A tenure system based on the institution of state-owned land was established during the Ottoman rule, and most of the cultivated land area was considered to be under the ownership of the state. Its holders were regarded as tenants. The Ottoman category of state-owned land remained the same during the British Mandate era and is valid in Israel today. Holzman-Gazit explains that the only lawful basis for exercising the power of expropriation under Israeli law is an express authorization conferred by the legislature. The two laws most often used to practise land expropriation in Israel are the *Land (Acquisition for Public Purpose) Ordinance of 1943* (hereinafter the Land Ordinance) and the *Planning and Building Law of 1965* (hereinafter the Planning Law).<sup>132</sup> I will also discuss briefly the *Basic Law: Human Dignity and Freedom*, of 1992.

The Land Ordinance law was introduced during the British Mandate and became part of Israeli law when the state proclaimed its independence in 1948. The law has survived without any amendments made to it, and comes under the Ministry of Finance.<sup>133</sup> An important distinction between the Planning Law and the Land Ordinance is the authority to who the expropriation powers are conferred. The Land Ordinance confers the Ministry of Finance, suggesting that the authorization should be used for projects suggested by central Government. The Planning Law authorizes local planning

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<sup>131</sup> Yiftachel, *Ethnocracy*, 2006

<sup>132</sup> Holzman Gazit, Yafit, *Land Expropriation in Israel, Law Culture and Society*, Ashgate, 2007:11

<sup>133</sup> Ibid

commissions, which are the major decision-making bodies for day-to-day planning. The Planning law authorizes expropriation only if the land has been designated for public use in an approved local planning scheme, while the Land Ordinance on the other hand does not require a connection between the act of expropriation and the planning process. It allows the taking of land for public use irrespective of whether the designation has been approved by planning authorities.<sup>134</sup> As mentioned earlier no Palestinians are represented in the central government and seldom on the local planning commissions.

As an example, the expropriations for both Upper Nazareth and Karmiel were carried out under the Land Ordinance. According to Lustick; *"In 1956, 1200 dunams of the best land in Nazareth were expropriated "in the public interest". The "public purpose" for which the land had been expropriated was designated as the construction of housing and privately owned factories for the nucleus of a new Jewish township, Upper Nazareth.*"<sup>135</sup> As governmental policy saw that "public interest" was to challenge the Palestinian dominance in the Galilee they expropriated Palestinian land to build Jewish townships. Karmiel built in 1962, on 5100 dunams, expropriated from the inhabitants of Deir-el Assad, Nahaf and Binah, also illustrates how the government saw the need to continue the process of "Judaizing the Galilee" as a "public purpose". The lands taken included quarries and orchards from which many of the Palestinian villagers made a living. In 1965 the Water Authority had decided to construct a water carrier across the Battouf plain, the most fertile plain belonging to farmers in Arrabe and Sakhnin. According to Lustick the authority had confronted the problem of crossing cultivated land earlier. When Jewish farmers cultivated the land in question the carrier was either put underground or bypassed the most fertile areas. In the case of Battouf, the Water Authority built the carrier above land, bisecting the plain. Although the carrier itself is only four meters wide, the strip of land confiscated was ninety-three meters wide. In all, 3000 dunams were expropriated. The water carrier lies across the Battouf plain like an open scar reminding the landowners that the Israeli "public interest" not necessarily coincides with the interest of the Palestinian Israeli public. To the Palestinians the Land Ordinance law was perceived as a tool to expropriate their land and was not seen as

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<sup>134</sup> Ibid:12

<sup>135</sup> Lustick, *Arabs in the Jewish State*, 1980:177



beneficial to them as part of the public. In the 1960's they were still not very well organised and had little influence on the government policy.

Regarding the Planning law, many of the sources I have spoken to and secondary sources referring to the subject of planning, mention that the Israeli bureaucracy in this field makes it difficult to obtain a permit to build or use one's land. Holtzman-Gazit explains this process by the fact that Israel has a relatively centralized land-use planning system that establishes a multi-layered approval process. The structure of centralized supervision over local-level planning decisions, combined with the right of the public to complain in cases of new planning schemes, makes for an extremely slow approval process. This applies to all Israeli citizens, irrespective of ethnicity. But, the Ministry of Finance may also bypass the lengthy bureaucratic process of planning and expropriate land without considerations of the multi-layered approval process. Hence the state is in power to speed up processes of large-scale residential development when they find it politically motivating to do so. No such residential development plans are applied to the Palestinians in the Galilee, not a single new Arab community has been established since 1948 and Deir-Hanna, Arrabe and Sakhnin all have master plans that are out of date and which cover only a small part of the total area under their jurisdiction.

The legal framework for the Planning law does not contain discriminatory policies. But if you analyse the organisation of Regional councils, you find that the Palestinian communities in Galilee are encircled by land under the Jurisdiction of a Jewish regional council. With the jurisdictional authority this council can ignore or choose to impose whatever requirements it finds necessary. Even though the law itself is not discriminatory, one finds that the implementation of the law and planning of regional authority contain a discriminatory pattern. The Palestinians are left out of the planning process and have little opportunity to influence the development process concerning their local community. To explain this process I refer to the Misgav branch of Sikkuy, The Association for the Advancement of Civic Equality in Israel. The Planning Law is sited below:

“Planning and Building Commissions operate in the framework of the Planning Authority, which is part of the Interior Ministry. Planning operates in four strata: (1) a national council for planning and building; (2) six district commissions; (3) appeals committees operating in the districts; and (4) about 130 local planning and building

commissions, congruent with local municipal or regional governance authorities. The district commissions and the national council generally are the forum for discussions of master plans, which define land use on various levels of detail intended to articulate the needs of residents. Members at the two highest levels – the national council and the district commissions – are named by the government (openings are not posted) and are not answerable to the local community. Accountability to the community is supposed to be manifest via the local commissions, composed of members of the local council and other representatives of the municipal authority.”<sup>136</sup>

Accordingly, the local commission regularly includes public representatives from the community and its chair is someone from the local council and accountable to it, typically head of the council. Most of the Arab localities fall under regional commissions and the Ministry of Interior names the chairperson. It is not a local resident, and most often not an Arab. For example, in the regional commission that Sakhnin is associated with, neither the chair of the commission nor the commission’s engineer are residents of the city. As a result the local or regional commission that is meant to reflect the needs and interests of the community actually functions as an external committee, whereas a representative negotiating the interests of the local community is not represented. According to the population Sakhnin deserve their own local commission, but as part of the regional commission of Misgav they have little, if any, influence at the planning process at all. The same counts for other Arab localities within the jurisdiction of Misgav. In principle, it should not be a problem for a local community to be represented by a regional planning body, or for a Palestinian Israeli to be represented by a Jewish Israeli. If only they had been consulted and represented in the planning process. Taking into consideration the history of control politics the Palestinian minority has experienced, the Planning and Building commissions are perceived as a tool to control or limit their development. The local Misgav branch of Sikkuy, concludes that *“Israel’s land use policy, since the founding of the state, has striven to delimit Arab communities and prevent their expansion. This policy is intended to prevent the Arab communities and their residents from “gaining control of state lands,” which until 1948 were a natural part of “village lands”*.<sup>137</sup>

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<sup>136</sup> Sikkuy Misgav, *Equality and Integration of the Arab Citizens in the Misgav Region*, 2001  
<http://www.sikkuy.org.il/english/papers/Misgav2001eng.htm#Areasofjurisdiction>

<sup>137</sup> Ibid

Another aspect of planning procedures is the time it takes to get an approval for a development plan. Lawyer Hussein Abu-Hussein claims that with regard to Palestinian citizens applying for a building permit, or zoning maps, the approval procedures are prolonged and made more difficult than those regarding Jewish citizens. According to him the implementation of the law is used as a means of discrimination. All citizens have to go through the same system of applications in order to get approval for a master plan. But there is a discrepancy in how long time it takes before the approval process is done. The anthropologist David A. Wesley, argues that in cases concerning an outline plan approval process for Arab and Jewish settlements, the process for approval could take more than twenty years for an Arab settlement while it could take up to seven years for a Jewish settlement. He writes: *"The result of this practice was more or less that the outline plans prepared for the Arab localities were generally outmoded before they were approved, overtaken by events on the ground."*<sup>138</sup> He bases his statements on comparative studies made in the 1980's, by amongst other Oren Yiftachel. From my conversations with people in the villages in Galilee I know that the approval process for an outline plan is still very long. I have not succeeded to find a satisfactory explanation to why the approval process is so long, something that leaves the Palestinians believe it is an instrument for preventing the development of their communities.

As to whether there has been any changes in the governmental policy regarding land Israel enacted two new Basic Laws in 1992. The one, *Basic Law: Human Dignity and Freedom*, raised that status of private property rights to a "constitutionally" protected right. The law states that ownership of private property is a fundamental right.<sup>139</sup> The law can be seen as an improvement when it comes to protecting individual rights to private property. At the same time the law underlines the character of the state to be "Jewish and democratic".<sup>140</sup> Abu-Hussein and Mc Kay refer to three cases where the new Basic Law is used in court to regain land expropriated under the Land ordinance Law, where the state had not made use of the land. In the two cases related to Arab landowners, the High Court rejected their petitions. The third petition brought by a Jewish citizen, gained support by the Court recognizing the constitutionally protected

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<sup>138</sup> Wesley A., David, *State Practices and Zionist Images, Shaping Economic Development in Arab Towns in Israel*, Berghan Book, New York/Oxford, 2006:35

<sup>139</sup> Holzman-Gazit, *Land Expropriation in Israel*, 2007

<sup>140</sup> Yiftachel, *Ethnocracy*, 2006

right to private property. Abu-Hussein and Mc Kay claims this example shows “*on the one hand the national and political pressure on the Court and its refusal so far to offer protection for Palestinian landowners from abuse of the Public Purpose Ordinance, and on the other, the potential offered by the entrenchment of the right to property as a fundamental constitutional right*”.<sup>141</sup> Although new Basic Laws are made to protect the “Freedom and Liberty” of Israeli citizens, examples like the one presented fail to show that the law is implemented for all its citizens, and is only valid when it comes to the Jewish inhabitants of Israel. Again the Jewish character of Israel questions the ability, or the will of the state to provide equal rights for all its citizens.

#### **4.2 Mobilising against loss of land**

A result of former expropriation and difficulties obtaining a zoning map is that the inhabitants of the Palestinian villages in the Galilee have less land under their jurisdiction and less space in which to develop and improve their living. A necessary question is how do they respond to the different policies controlling their access to, and use of land, and what are their means of influence? Looking at the survey process in the Galilee in 1955, 400 000 dunams were claimed by the state and almost 60% of this was counterclaimed by Palestinians.<sup>142</sup> The Prescription Law, passed by the Knesset, was amended so that the occupiers of unsettled land had to demonstrate unchallenged possession, not for ten years as had been the rule, but for twenty-five. Many of the records proving landownership were lost in the wartime conditions of 1947-49.<sup>143</sup> During a four year period, 1959-1963, the state won 77.3% of all settlement disputes to which it was party.<sup>144</sup> Palestinian landowners did actually object to Israeli power, but they did not stand much chance. With the lack of resources and knowledge of Hebrew it was difficult to win in the court established by the state they were fighting against. The government challenged every claim to land ownership and became a “*major landholder in every village ...endowed with thousands of separate plots, some of them tiny, with which it can do very little.*”<sup>145</sup> In this case the Palestinians tried to take their cases to the court, but the state had amended the laws so that the landowners found it very difficult to

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<sup>141</sup> Abu-Hussein and McKay, *Access Denied*, 2003:91

<sup>142</sup> Forman, *Law and the historical geography of the Galilee*, 2006

<sup>143</sup> Lustick, *Arabs in the Jewish State*, 1980

<sup>144</sup> Forman, *Law and the historical geography of the Galilee*. 2006

<sup>145</sup> Oded in Lustick, *Arabs in the Jewish State*, 1980:176

prove their possession of the land. Both the lawmakers and the court served the aim of the state and did not offer protection to the rights of the Palestinian citizens. The possibility to influence these cases was limited and people also feared reprisals from the military government still in function.

After the abolition of the military Administration the government proceeded with land expropriations in Galilee. Establishing a military camp, closing off Area nine with 86 850 thousand dunams, included thousands of dunams belonging to Palestinian landowners. The following protests in Deir-Hanna, Arrabe and Sakhnin, culminated in the Land day, 1976. The shift in approach from the Palestinian landowners, objecting to the expropriations, indicates a change within the Palestinian community. The state could not control the population by fear of the military Administration and an increased level of organisation amongst the Palestinians reflected an increased self-confidence. The methods used to organise and put forth claims to their land had changed. Instead of going to court as individuals, appealing to the judicial system, the villagers united and organised political pressure to influence their situation. Uniting most Palestinians in the Galilee and the Triangle, together with the Communist party, the National Committee and the NGO the Land Committee, to a joint protest and general strike on Land day, they exercised a new approach and strength that the Israeli authorities were not prepared to meet. Six people were killed and hundreds wounded that day. Land day has become an annual day of commemoration and mobilization against discriminatory policy and land acquisition, both inside Israel and later also in the occupied Palestinian territories. This time the Palestinians were fighting in an arena where a court appeal could not rule them out. After the Land day, the mayors and the peoples committees in Deir-Hanna, Arrabe and Sakhnin kept asking for meetings, protesting and exerting pressure, in order to get back the land claimed as a closed military area. They acted both in the formal political arena like the parliament, but also exercised pressure through NGOs and representatives of Local authorities. In the end they succeeded in regaining their land.

When Misgav was established as a Regional County in 1982, getting Jurisdiction over large tracts of Palestinian owned land there was another wave of protests and negotiations. Big rallies was organised on the commemoration of the Land Day against what the Palestinians saw as another territorial move against them. Heads of the local

authorities, representing landowners and the communities, negotiated on their behalf. In addition NGOs and national bodies, like the National Committee, were involved in the process. The result of the protests was not that the area as a whole was given up, as occurred with Area nine. Much bigger areas were in question and when it came to negotiating a solution the Northern district Commissioner, Israel Koenig, had individual negotiations with each of the mayors, putting them in a weak spot, and giving them very different outcomes. As a result large amounts of land belonging to Palestinian landowners is contained within the jurisdiction of Misgav. According to Wesley the estimated amount is 35 000-50 000 dunams according to representatives from Misgav, while Palestinian landowners claim that 100 000 thousand dunams of their land lie within the borders of Misgav.<sup>146</sup>The different outcome can be explained as to the reason for establishing a regional county in the first place. A general understanding amongst the Palestinian landowners, and Israeli geographers working on land and planning policies, is that the Regional County was established to hinder continuity between the Palestinian communities and prevent them from expanding and thus gaining more control of the land. It was not necessarily a lack of ability to organise themselves that prevented the Palestinians to gain more control of their land, but the fact that government interests do not coincide with the interests of the Palestinian landowners.

#### **4.2.1 Patterns of participation**

There is a clear development in the level of organisation amongst the Palestinians in Israel. They are much more strident when it comes to advocating their cause, both in the Knesset and in civil society organisations. In the last two decades there has been an increase in the establishment of Arab NGOs.<sup>147</sup> Next to Deir-Hanna, in the village Eilaboun, the Arab Centre for Alternative Planning (ACAP) is located. ACAP is monitoring Israeli Planning policies and give advice to Arab municipalities or local authorities in cases related to land and planning. November 2010 they invited the mayor of Shafaamer, Mr. Nahed Kahezem, the head of Deir Hanna Local Council, Mr. Raja Khateeb, the chief engineer of Kokab Abu El Heja Local Council, Mr. Ali Saleh and the chief engineer of Arrabe Local Council, Mr. Said Nassar, to a meeting called for by Mr. Majed Abu Yunes and a group of land owners in Sakhnin. Also attending the meeting were the local members of Knesset MK Muhammad Barakeh and MK. Dr. Hanna Swaid,

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<sup>146</sup> Wesley, *State Practices and Zionist Images, Shaping Economic Development in Arab Towns in Israel*, 2006:122

<sup>147</sup> Jamal, *The counter-hegemonic role of sivil society*, 2008

both representing the communist party Hadash. The meeting was to inform about several forest establishment plans that had recently been announced, affecting the area. The total size of the targeted land is approximately 33,000 dunams. An urban-planner presented a thorough description of the forest establishment plans in the North. She asserted *"it was imperative for the Arab local authorities and citizens to be on the alert and monitor these developments and submit their objections within the permitted period of time allotted for this purpose, in order to avoid further indirect confiscation of Arab land."*<sup>148</sup>

The initiative from ACAP illustrates the impact of the Arab NGOs that I will discuss further underneath. The NGOs form a new aspect of the Palestinian civil society, contributing against what they perceive as discriminatory policies, expropriating Arab land. The NGOs provide local authorities as well as Palestinian parliamentarians with facts and information strengthening their ground to object to governmental plans. Besides from alerting the relevant local authorities, ACAP provide them with information and details pertinent to these plans, and are ready to accompany the local authorities professionally to counteract the plans.

#### **4.2.2 Political organisation**

The Palestinians in Israel have in the last decades developed a collective political agenda based on anchoring their status as a national homeland minority. While the claims of Palestinian representatives in the early days of Israel were more in the direction of obtaining equality within the frame of the Jewish state, they today challenge the idea that Israel can be both democratic and Jewish. Palestinian Israeli political scientist, Amal Jamal affiliated to Tel- Aviv University, describes the Palestinian minority as *"an indigenous people that became a national homeland minority in a state that was established against its will and interests"*<sup>149</sup>. Democratic citizenship is defined as full and equal membership of a political community, and entails a combination of legal, political, economic, and cultural rights and capabilities. This also extends to the collective rights of national, ethnic and religious minorities.<sup>150</sup> Thus the experience of the Palestinian

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<sup>148</sup> ACAP, <http://ac-ap.org/english/index.asp?i=614>

<sup>149</sup> Jamal, Amal, *The Contradictions of State-Minority Relations in Israel: The search for Clarifications*, Constellations Volume 16, No 3, 2009, pp. 493-508

<sup>150</sup> Yiftachel, *Ethnocracy*, 2009

minority is that they are not recognised as a national minority, are marginalised in the political processes and has not seen their citizenship develop into significant social integration or political empowerment. With the killings of 13 Palestinian Israelis during the protests in support of the second intifada, October 2000, the political awareness of the Palestinians has been strengthened while relations to the government is more tense.

The change in political awareness and organisation amongst the Palestinians has been remarkable, but their influence on Israeli policies might not be that evident. In 1948 the Palestinians were given Israeli citizenship at the same time as put under a military administration for 18 years. There were attempts to establish an Arab national organization within Israel at that time.<sup>151</sup> One of them, Al-Ard, was banned while the other organisations were effectively hindered from gaining any influence by the Israeli government and did not succeed in forming a national leadership within Israel the first decades. Political activity was limited and manifested itself mainly in activity by the Israeli Communist Party. Mapam (the United Workers Party) was the first Zionist party that opened its ranks to Palestinian members in 1954, but they already had Palestinian representatives on their Knesset list in 1951. The ruling labour Party, Mapai, did not accept Palestinian members until 1973.<sup>152</sup> According to Ghanem "*the authorities preferred to deal with the Arabs as ethnic groups or families and clans.*" After the establishment of the state, the first advisor to the prime minister on Arab Affairs, Yehoshua Palmon, suggested, "*the Palestinian minority be viewed as religious communities and dealt with through the ministry of religions*".<sup>153</sup>

The creation of a strong national leadership was difficult for several reasons. Not only was the majority of the Palestinian population forced to flee during the war of 1947-48, but also those who remained were under strict restrictions when it came to travelling and organising between Palestinian villages and towns in Israel. The change in policy towards the Palestinians came gradually. The first phase, defined by Jiryis as "the velvet glove" from 1959-1966, with some ease in the travel restrictions and more attention to

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<sup>151</sup> Ghanem, As'ad, *The Palestinian-Arab Minority in Israel, 1948-2000*, Albany:State University of New York Press, 2001:19

<sup>152</sup> *ibid*:40

<sup>153</sup> *Ibid*: 20



the status of the Palestinian minority.<sup>154</sup>The second phase started with the abolishment of the military administration in 1966, which contributed towards improving the level of organised activities. During the military era leaders of local authorities, or those represented in relations with the government, were largely family notables or *hamulas*, defined by Lustick as “*a patrilineal kinship association whose members are theoretically descendents of one ancestor*”.<sup>155</sup>The system with hamulas lead to a fragmented local community, and was easy for the Israeli government to exploit in “divide and rule” politics, favouring the local leaders loyal to the state. With a higher level of education and development of the Arab community in the 1970’s, the hamulas got less influence on national politics. Together with a higher level of political awareness in the 70’s came increased self-confidence manifested through a readiness to develop patterns of thought and action unacceptable to the Israeli authorities and Jewish majority.<sup>156</sup> Ghanem lists the reasons for this increased self-confidence as follows:

1. The demographic growth of Arabs in Israel and the changes in the size of population and physical structure of the village, including the development of Arab settlements.
2. The balance of forces in the Israeli political system between left and right. In the mid-seventies the balance of the two main blocs, led by the Labor and Likud, began to emerge. They now needed the support of the Arab votes to win power. In 1977 the Labor party for the first time lost power and Likud, with its allies on the right, came to power.
3. The growing strength of the PLO and their rise in prestige contributed to the self-confidence of all segments of the Palestinian people, also those living inside Israel. This development also strengthened the internal solidarity of the Arabs in Israel and their willingness to confront the authorities.
4. Modernization and improved education led to an improved social and economic status. There was a development of political and social organisations, and an upward trend in the number of those with a university education.
5. The situation faced by the Arabs in Israel when they became a minority led to a gradual politicization and rise in political awareness of the need of substantive action to improve their conditions.<sup>157</sup>

Both Yiftachel and Jamal point to how discriminatory policies have contributed to shape Palestinian political organisation and can be considered a reason for their political mobilisation. The military administration was an efficient tool to control the

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<sup>154</sup> Jiryies, 1976

<sup>155</sup> Lustick, 1980:117

<sup>156</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001

<sup>157</sup> Ibid:24-25

Palestinians, but was not compatible with the democratic values advocated by Israel. When the war was over the Palestinians ought to be integrated into the Israeli society. Still attempts to control the Palestinians by limiting their grounds of development, confiscating their land and building Jewish settlements in areas dominated by the Palestinians continued. The outspoken aim “to deal with the demographic balance” in the Galilee caused protests. The Palestinians still form a majority in the Galilee and the policies installed have served as a mobilizing and uniting factor in the Palestinian struggle.

#### **4.2.3. Mobilising political activity**

Yiftachel made a survey of Arab protest in the Galilee based on data collected in the period 1975-91. This leaves out the important period after the killings of 13 Palestinians in October 2000, but is useful with regard to the cases relating to loss of land in the Galilee previous to 2000.

According to his study three causes underlay most Arab protests in the Galilee.

1. National issues like demonstrations in support of the Palestinians outside Israel.
2. Socio-economic and bureaucratic deprivation.
3. Regional land, territorial and building issues.

The three areas of main concern are interrelated and often overlap. If a community don't get approval for a development plan they are unable to build industry that could serve to strengthen their community economically. Several key bodies have led the political campaigns in the Galilee, including the National Committee of the Heads of Arab Local Councils (The National Committee) and the National Committee for the defence of Arab Lands (the Lands Committee) which began operating in the mid 1970's and were central in organising the first Land day in 1976. Later came the Following Committee, closely associated with the National Committee, the Druze Committee and the Association of 40 in addition to several Islamic movements.

Ghanem points to the first Land Day to show how political mobilization connected to land and planning issues overlaps with the national. After Land Day the National Committee sent an official memorandum to then-prime minister Yitzhak Rabin. In the memorandum they insisted on the right of the Arab minority in Israel to be recognised as a national minority and as part of the Palestinian people. The committee also

demanded the return of the lands expropriated by the state.<sup>158</sup> This marks a shift in the policies of the Committee which now began to involve itself in issues related to all Arabs in Israel, included those not represented by a local authority, acting as a national body. Prior to Land day the National Committee had mostly been concerned with local budget allocations, health and education, issues Yiftachel categorises as socio-economic and bureaucratic.<sup>159</sup> However, after Land Day they showed a greater concern to national issues as well. The increased political awareness of the Palestinians in this period, after the land day in 1976 was important for their ability to influence Israeli politics.

The shift is also commented upon by the Northern District Commissioner, Israel Koenig in his memorandum on how to handle the Arabs in Israel, known as the Koenig Report. He commented on how *"The persuasion campaign about the necessity of the strike was begun by "official" factors, local council chairmen and public figures who are usually described as moderate and cooperative with the Israeli establishment."* Koenig seems to complain that Palestinian leaders who were previously obedient to the Israeli government, now voiced their disagreement. He dismisses their opinions as extreme and vociferous, without considering the reason for the protests. Further he went on *"It must be assumed that these circles went into action after having lived under the impression that high-ranking elements were backing them and that "interference" by the Arab populace would persuade the government to withdraw the expropriation. In this activity they competed with each other in extremist expressions, assuming that the achievement would be attributed to the loudest."*<sup>160</sup> Koenig was criticized for the racist language of the report, which caused wide-ranging indignation by Palestinians. Officially it was said that the report only reflected his personal opinion, but Koenig continued in his position as the Northern District Commander until the 1980's. According to Ahmed Sa'di at the Ben-Gurion University the section in the report on leadership *"includes tactics that should be pursued to create a new brand of leadership, a leadership of collaborators who are fundamentally different from both the "dignitaries" on the one hand and the Communists and the nationalists on the other. Yet, according to the Koenig suggestions the State policy should be geared towards the containment and the*

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<sup>158</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001:152

<sup>159</sup> Yiftachel, *Ethnocracy*, 2006

<sup>160</sup> Koenig, Israel in *Journal of Palestine Studies* Vol. 6, No. 1, Autumn, 1976

*marginalization of the minority.*"<sup>161</sup> Whether the government listened to the advice of Koenig or not, his own views on the Palestinian minority were clear and he was allowed to continue as a government official in the district with the largest Palestinian population in Israel. Sa'di comments further on the report saying: "*Moreover, in contrast to the official discourse, the Palestinians are treated in the Report, not as citizens in a democratic State, but rather as a hostile population engaged in subversion.*"<sup>162</sup> When the report, stamped as secret, was leaked to the Hebrew press in the autumn of 1976, it stirred a lot of debate and protest. To the Palestinians it also served as a sign of how they were perceived by Israeli officials. The opinions of Koenig did not contribute to create a more "obedient" Palestinian leadership, but rather strengthened the sense of a Palestinian identity as opposed to an Arab-Israeli identity. The Koenig report revealed no change in Israeli policy, whereas Palestinian organisation had developed to oppose this utterly.

#### **4.2.4 Palestinian streams**

While Yiftachel pointed to cases that draw political mobilization, Ghanem looks at the political streams amongst the Palestinians in Israel. He has divided them into four groups. The first is the Israeli-Arab stream who accepts the status of Arabs as a minority and does not demand recognition for the Palestinians as a national minority. This stream has changed since the 70's and moved closer to the other Arab streams and consensus. The second is the Communist stream that has been represented by Arabs affiliated to the Communist Party. They reject the Jewish character of the state and support converting it into a secular democratic state with an identity as "Palestinians Israelis" or "Israeli Palestinians". Thirdly are the Nationals. This stream emphasizes the Palestinian and Arab elements in the identity of the Arabs in Israel and demands autonomy for the Palestinians as the foundation of a bi-national state.<sup>163</sup> Finally are the Islamists who base themselves on the values and principles of Islam, and highlight the Islamic-religious component of the identity of the Arabs of Israel. There is limited space to go into the different Palestinian political fractions in this paper as I focus mainly on Galilee and political organisation related to land and democratic rights on a more macro level. But a brief look at the development of the Democratic Arab Party can be useful in order to

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<sup>161</sup> Sa'di, Ahmed, *The Koenig Report and Israeli policy towards the Palestinian minority, 1965-1976: Old wine in new bottles*, Arab Studies Quarterly 51, Volume 25; Issue 3; Bell & Howell Information and Learning Company, 2003

<sup>162</sup> Ibid

<sup>163</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001

understand the development of the Palestinian “political mind” and their ability to influence Israeli politics.

Increased political awareness together with a higher level of organisation shows that the Palestinians were more active and ready to make demands from the government, using legal and political demands roughly from the 1980's and onwards. Still many of the Palestinian Members of Knesset (MKs) were associated with Zionist parties and were careful to make demands that could be perceived as threatening to the Israeli consensus. In 1988, shortly after the outbreak of the first intifada, Labor MK Abdulwahab Darawshe announced, in a rally protesting government policy in the West Bank and Gaza Strip, that he was resigning from Labor and its Knesset fraction. Later that year the Democratic Arab Party (DAP), *al hizb al-Dimuqrati al -Arabi* was founded. The DAP represents what Ghanem defines as the Israeli-Arab stream. Their platform called for equality for the Arabs and for the establishment of a Palestinian state alongside Israel in order to solve the Palestinian problem.<sup>164</sup> This was the first time a solely Arab party was represented in the Knesset. In the 1996 election they formed the United Arab List (UAL), with the “southern wing” of the Islamic movement and the Democratic Front for Peace and equality (DFPE) associated with the communist party, winning about 31 percent of the valid Arab ballots and five mandates. (In comparison there is a total of eleven Palestinian MKs in the 18<sup>th</sup> Knesset of 2011. Two Arab lists are represented by seven MKs, three Arabs represent the communist party Hadash, and one Arab MK is member of a Jewish Labour party, Ha'avoda.) After the election in 1996 the Democratic Arab Party joined part of the United Arab List, running together with the Islamic movement as Raam Taal. Ghanem explains the success of the DAP, or the Israeli-Arab stream, with their focus on the concerns of daily life like the long-term discrimination in the Arab sector in education, health care and municipal development. They stressed the need for equality in order to achieve a good functioning democracy, but without attacking the Jewish-Zionist character of the state as a reason for discriminatory policies. This differentiates the Arab-Israeli stream from the other streams that posits a direct link between Zionism and discrimination against the Palestinian minority. The Arab-Israeli stream did move closer to the other streams during the 1980's. Firstly with the official support from the DAP for the campaigns led by the National Committee, against land

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<sup>164</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001:42

expropriation and for equal budgets. Later, with the more strident demands for equality combined with a demand to be recognised as “national minority” who belong to the Palestinian people.

Traditionally the Communist party, Rakah or Hadash, had been the strongest representative for the Palestinians in Israel. Forming a coalition with representatives of university graduates and public bodies, but also local authority chairmen and members elected on clan and local basis, they established the Democratic Front for Peace and equality (DPFE). When other political streams within the Palestinian community, during the 1980's and 90's, adopted more of the policies the communist stream had fought for, highlighting equality and peace and supporting the Palestinian struggle, the communists lost their position to other parties such as the DAP. The dissolution of the communist bloc in the late 1980's was also a reason for the decline in status of the DFPE and Hadash. The Communists were always in strong opposition to land expropriation and the Land Committee was established at the initiative of Hadash. They played an important role in the struggle for Area nine and had a key role in developing the consciousness and position amongst Palestinians in Israel. As their positions became more widely held, and adopted by other streams, the communist party became weaker and lost its wide public support. Overall the connection between the struggle for municipal and civic goals developed into a struggle for national goals, demanding the right to land and to be recognised as a national minority. This change, or radicalisation, seen in the DAP can also be found amongst the Palestinian minority as a whole, an increased political awareness in accordance with a more conscious attitude towards their national identity. Meanwhile a common understanding within both the Israeli-Arab and the communist stream is that they have to cooperate with the Jewish majority to promote understanding and in turn realise the achieved changes. The central argument is that Palestinian and Jewish citizens have the same interests and should cooperate in order to attain their shared goals, of a more democratic Israel.<sup>165</sup>

#### **4.2.5. Methods of struggle**

Deprivation of land and the uneven allocation of resources had been one of the main issues triggering political organisation amongst the Palestinian minority in Israel. As

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<sup>165</sup> Ibid

shown in the cases regarding the land surveys in the 1950's and 60's the Palestinian landowners tried to bring their cases to the Israeli court individually. At the same time Palestinians represented in the Knesset voiced their objection to the discriminatory policies and parliamentary struggle has been an important part of the strategy for all the Palestinian political streams represented in the Knesset. Their influence in the parliament though has been limited. Illustrating Arab marginalization in the democratic arenas, Yiftachel points to several areas of importance. When it comes to power sharing an Arab party was never member of a ruling coalition in Israel, only two Arabs served as government minister and only one Arab was appointed a Supreme Court Judge.<sup>166</sup> Amal Jamal explains the weak influence of Palestinian parties due to their late entrance into the political arena. The United Arab List and the National Democratic assembly did not enter the Knesset before 1996. Their late access has led to an exclusion from main junctures of power in the Israeli political system and only to a minor influence on the political system. Despite their lack of influence on processes that have direct implications for the Arab population "this reality has not lead Arab citizens to abandon the Israeli democracy."<sup>167</sup> Although a marginal influence the Palestinians still tend to believe that democratization of Israel is the only means for them to obtain equal rights. But they have sought other means than only the formal political system to promote their interests.

As Israeli government continued the policy of expropriating Palestinian land in the 1960's and 70's the Palestinians increased their struggle in organisations outside the parliament. National bodies like the National Committee of Arab Local Authorities (the National Committee) and the NGO the Committee for the defence of Arab Lands (Lands Committee) contributed to strengthen their position and make their voices heard. The Mayors in Deir-Hanna, Arrabe and Sakhnin got together to face the expropriations with Area nine, and the communist party gathered the forces by establishing the Lands Committee. With the mobilization for the Land Day, implementing a national strike they managed to elevate their case to a national cause, defending the rights of the Palestinian minority all over Israel. When Misgav was established as a regional Council in 1982 the Palestinians also tried to negotiate with the government through meetings as local

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<sup>166</sup> Yiftachel, *Ethnocracy*, 2009

<sup>167</sup> Jamal, *The counter-hegemonic role of sivil society* 2008:292

representatives consisting of the mayors in the local authorities affected, while the National Committee and the Lands Committee, in addition to other Palestinian organisations and bodies, supported the local communities. Thus not only local representatives advocated the case, but all those representing the Palestinian minority participated.

From mid 1970's, NGOs like the Lands Committee was established in order to lobby against the Israeli policy of land confiscations. The Arab Student Union was formed as well as the Union for Arab High School Students. Jamal describes these NGOs as "hyper political", established to represent the basic rights for the Arab community in Israel.<sup>168</sup> At that time there was no Arab party represented in the Knesset, except from the Jewish-Arab Communist Party, Rakah or Hadash. The Arab Student Unions experienced heavy governmental pressure against them. Lustick write; "*Middle of-the -night raids, searches, and interrogations have formed part of an overall effort to intimidate Arab students and encourage them to dissolve their organisations or leave university.*"<sup>169</sup> For example later MK Azmi Bishara, then secretary of the Haifa University Arab Student committee, was arrested for his activity in 1977. The policy of intimidation towards Arab politicians or public persons did not stop in the 1970's. Adalah, has been involved in several cases regarding attacks on Palestinian MKs.<sup>170</sup> In 2001 Azmi Bishara, then a Member of Knesset, was accused of "supporting a terrorist organization" under the Prevention of Terrorism Ordinance (1948), for speeches made in Umm al-Fahem in June 2000 and in Kerdaha, Syria in June 2001. In 2002, the Knesset passed an amendment to the Law of Immunity, according to which MKs cannot claim immunity for statements made in support of armed struggle by "terrorist organizations" or "enemy states." The speeches held by Bishara stated the claims his party the National democratic Assembly, *Balad*, advocated in the Knesset. Balad question the Jewish character of Israel and links it to the discrimination of the Palestinian minority. After the accusations against him Bishara left Israel and did not return although Adalah managed to lift the charges against him. In 2006, the Supreme Court of Israel, accepted a petition submitted by Adalah, ruling illegal the Israeli Knesset's 2001 vote to strip Member of Knesset (MK) Dr. Azmi Bishara of his

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<sup>168</sup> Ibid

<sup>169</sup> Lustick, *Arabs in the Jewish State*, 1980:144

<sup>170</sup> Adalah, *Special report: The State of Israel v. MK Dr. Azmi Bishara*, <http://www.adalah.org/eng/bishara.php>



parliamentary immunity and dismissed all criminal charges against him. Adalah General Director Attorney Hassan Jabareen stated that, *"the Supreme Court's decision is the culmination of a legal struggle against the authorities' attempts, mainly by the former Attorney General and the General Security Services (GSS), to violate the fundamental right of political representation. This legal triumph, however, is only another step for the Arab minority in its quest to achieve a liberated, dignified and equal existence in the country."*<sup>171</sup> Bishara withdrew from the Knesset in 2007, but denied all allegations made against him. The case was perceived as an attack on the freedom of speech of Palestinian MKs and a proof of the limitations of the fundamental rights for the Arab minority. While a majority of the Knesset attempted to stamp Bishara as a spy engaged with enemy states, the Supreme Court found the allegations unconstitutional and lifted the charges against him. The dichotomy between the legislative and the judicial system of Israel reveals a discrepancy in government policy and universal, democratic values as well as individual rights.

The case above also indicates the importance of Arab NGOs like Adalah, presenting a new model of political activity. According to Jamal the number of Arab NGOs began to rise steadily from the early 1980's and they number about 1500 today. In the 1990's a new wave of NGOs began to operate *"reflecting the oppositional consciousness in areas as land and urban planning, housing, health services, educational, infrastructure, legal rights and services, media and communication, and human rights monitoring."*<sup>172</sup> According to Jamal the activities of the NGOs have challenged the state policies and led to important changes in some fields.<sup>173</sup> They also served as an important political arena for those who felt limited in the established parties and organisations concerned about adjusting to the Israeli consensus. The NGOs present an autonomic arena where people can act more independently. In addition to advocacy, a more common method of resisting discriminatory policy is appealing to the legal system. Razin and Hasan points to how Arabs in municipal boundary conflicts have used the intervention of Supreme Court to change procedures. In this case legal rights NGOs like Adalah and the Arab Centre for Alternative Planning (ACAP), dealing with housing and planning policies, have had an

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<sup>171</sup> Ibid

<sup>172</sup> Jamal, *The counter-hegemonic role of sivil society*,2008

<sup>173</sup> Ibid

important impact. Although the actual gains in terms of land annexed to Arab local authorities have been modest, the public awareness of the acute needs of Arab localities has in some few cases led to the transfer of land from Jewish urban local authorities to Arab ones<sup>174</sup> The Qaadan case, discussed in the previous chapter, serves as an example of where the Israeli Supreme Court has to balance principles of equality and the Jewish nature of the state. In its judgement the Supreme Court acknowledge that ILA, as a state body, had acted unlawfully in allocating land to a body (the JNF) that discriminated on grounds of religion or nationality. This case for the first time led to a public statement that the JNF policy is discriminatory. But the Court upheld the legitimacy for JNF to establish communities exclusively for Jews, and the ruling in the Qaadan case was regarded as an individual case only. In this regard the victory in the Supreme Court was limited and has not proven to have had the impact many lawyers and activists first hoped for.

### **4.3 Israel after October 2000**

The events in 2000 marked a clear shift in Israeli policy towards the Palestinian minority and not least it marked a further shift in their own political awareness. The public sentiment in Israel was one that regarded the Palestinian demonstrations as a sign of less loyalty to the state. The Palestinian minority were also portrayed as a threat to the security and a potential fifth column in the early years of the state. Government spokesmen described the “non-Jewish” population as *“...a national minority living in a country at war with its own people (...) under such conditions Arab Israelis cannot be expected and should not be required to act as fully loyal and trustworthy citizens.”*<sup>175</sup> The perception of the Palestinian minority as non-trustworthy has become stronger after October 2000. It is visible in the amount of discriminatory legislation proposed and enacted aimed at the Palestinian minority. It may also become evident looking at official administration. Eran Hazin and Ann Hazan writes in an article on municipal boundary conflicts that the October events *“could have reintroduced perceptions and policies of the past, in which expansion of Arab localities was largely asserted by central government agencies according to strategic-security considerations, such as security risks associated*

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<sup>174</sup> Razin and Hazan, *Municipal Boundary Conflicts between Jewish and Arab Local Authorities in Israel: Geography of Administration or Geopolitics?* Geografiska Annaler. Series B. Human Geopgraphy. Vol 86(No 2):79-94. 2004. <http://www.jstor.org/stable/3554293> (06.05.2011)

<sup>175</sup> Lustick, *Arabs in the Jewish State*, 1980:147

*with the expansion of Arab settlements towards major roads and intersections.*" The case when Sakhnin applied for permission to build a football stadium also reflects how the political climate can effect planning procedures.

In the wake of the October events and the following debates came the publication of four different documents in 2006-2007, published by Palestinian organisations, academics, activists and intellectuals. Their proclaimed aim was to improve the Israeli democracy, expressing their future vision for Israel and the place of the Palestinians in it.<sup>176</sup> The documents clearly challenge the Jewish character of the state and the authors were met with harsh critiques and condemnations. According to Jamal: "*Whereas these documents were introduced in order to exert pressure on the state and invite its leadership into a dialogue over state-minority relations, the Jewish majority conceived them as yet another indicator of the radicalization of the Arab minority.*"<sup>177</sup> This analysis points to a challenge for the Israeli state, as well as for the Palestinian minority. In an interview with Amal Jamal in the autumn of 2009 I asked whether he saw any connection between the increased political awareness among the Palestinian in Israel and the proposed laws aimed towards them. He answered that there is a clear connection between the two. As Palestinian intellectuals and politicians have been reframing their struggle for equality in Israel, pushing forth their demand to be recognised as an indigenous national minority, together with a broader popular consciousness in the wake of October 2000, the Israeli response is more public policies trying to control, or openly deprive the Palestinian minority of full citizenship rights.

Considering the development the last decades, it seems that the rising number of Arab NGOs and their significant lobbying and advocacy efforts, has resulted in the Israeli state taking measures that strengthen its ethnic and nationalising policies. According to Adalah:

"2011 marked a further escalation in the legislation and enactment of discriminatory and anti-democratic laws by the Israeli Knesset. Between January and April 2011, several laws have been enacted that threaten the rights and harm the legitimate interests of Arab citizens of Israel, on the basis of national belonging. The laws concern a broad range of rights, including land rights, citizenship rights, the right to political

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<sup>176</sup> Waxman, Dov and Peleg, Ilan "*Neither Ethnocracy nor bi-nationalism: In search of the middle ground*" Israel Studies Forum, Volume 23, Issue 2, Winter 2008: 55-73

<sup>177</sup> Jamal, *Arabs in the Jewish State*, 2008

participation, the rights to freedom of expression and association, and the rights to a fair trial and freedom from torture and ill-treatment.”<sup>178</sup>

Loyalty to the state has been introduced as a demand through various bills proposed in the Knesset. A proposed amendment to the Citizenship Law requires all non-Jews seeking citizenship via the naturalization process to declare an oath of loyalty to Israel as a “Jewish and democratic state”. The law is argued by among others Adalah, to be marginalizing the status of Arab citizens of Israel, by deeming Israel a state for Jews only. The Knesset also introduced a fundamental change to Israeli citizenship laws in July 2003 (confirmed as constitutional by the Supreme Court in 2006) abolishing the right of Arab citizens of Israel to family unification if married to Palestinians from occupied Palestinian territories.<sup>179</sup> The Law is justified by the state claiming that since late 2000, “there has been a growing involvement in assistance to terrorist organisations on the part of Palestinians originally from the West Bank and Gaza Strip who have Israeli identity cards obtained through means of family unification with Israeli citizens or residents” (Residents of East-Jerusalem carry an Israeli identity card, but do not have full Israeli citizenship). Adalah argues that it thereby makes a direct link between security threats and family unification between Palestinians from both sides of the Green line.<sup>180</sup>

To secure land for Jewish citizens the indigenous people of the country are continually deprived of their right to live from and on their land. Adalah lists five laws enacted the last years, that affect the Palestinian citizens of Israel, or Palestinian refugees, when it comes to land rights. These are:

1. The Israel Land Administration (ILA) Law (2009)
2. Amendment (2010) to The Land (Acquisition for Public Purposes) Ordinance (1943)
3. Amendment (2010) to the Negev Development Authority Law (1991): Individual settlements
4. The Admissions Committees Law (2011)
5. The Israel Lands Law (Amendment No. 3) (2011) <sup>181</sup>

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<sup>178</sup> Adalah, *New Discriminatory Laws and Bills in Israel*, 2011, [http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf)

<sup>179</sup> Jamal, *The counter-hegemonic role of civil society*, 2008

<sup>180</sup> Adalah, *THE RIGHTS OF PALESTINIAN ARAB CITIZENS OF ISRAEL*, October 2010 <http://www.adalah.org/newsletter/ara/oct10/Adalah%20CESCR%20Report%20October%202010.pdf>

<sup>181</sup> Adalah, *New Discriminatory Laws and Bills in Israel*, 2011, [http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf)

By using the law to protect Jewish interests in the State, the Palestinians are and have been deprived of their rights. Although the legal framework is supposed to serve a democratic set of values, it serves foremost the Jewish population in Israel and not the Palestinian minority.

#### **4.3.1 Israeli Democracy and the Palestinian minority**

Kymlicka describe freedom and equality of its individual citizens as the most basic commitment of a democracy. He ask “*Why should the members of certain groups have rights regarding land, language and representation, etc. that the members of other groups do not have?*”<sup>182</sup> Kymlicka argue that the minority ought to be granted certain group-differentiated rights when it comes to representation and decisions that are of particular importance to their culture, such as issues of resource development, education or language. When the Palestinian leaders ask to be recognised as a national minority they ask to be granted some of these group-differentiated rights in order to be protected from the majority rule. The Palestinians in Israel today are given some group-differentiated rights when it comes to for example language, but it is not so when it comes to representation or allocation of land. An annual poll made by the Israeli Democracy Institute, the Israeli Democracy Index, evaluates Israeli democracy according to several international standards. Posing the question “who is an Israeli” the result in 2011 shows that only two thirds of the Jewish public consider the Arab population to be Israeli. Similarly one third (67.9%) of the Jewish public does not support full equal rights under law for Arab citizens. At the same time, according to the survey, a small plurality (51.5%) of the Jewish public do not feel that the Arabs in Israel are discriminated against, while 77.6% of the Arab public, feel that they suffer from discrimination. <sup>183</sup>The report sums up saying “according to its scores this year, for most indicators, Israel ranks at or near the center of the scale, standing out positively for its position on the political participation scale and negatively for electoral procedures and pluralism, civil liberties, freedom of religion and especially religious tensions and

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<sup>182</sup> Kymlicka, Will, *Multicultural Citizenship: A liberal theory of minority rights*, Oxford, Clarendon Press, 1995: 34

<sup>183</sup>The Israel Democracy Institute, *The Israeli democracy Index 2011*, <http://www.idi.org.il/sites/english/events/ThePresidentsConference/Documents/Democracy%20Index%202011.pdf>

ethnic/nationality/language tensions.<sup>184</sup> The low scores on ethnic tensions should lead to a discussion on the future relationship of the Israeli public and the Palestinian minority. Oren Yiftachel, who argues that Israel is more of an ethnocracy than a democracy write that *“Israel has neither managed to create a firm sense of “Israeliness” nor a genuine Israeli (as distinct from Jewish) polity. This presents severe obstacles for the development of civil society and hence democracy.”*<sup>185</sup> The question of equality and identity is important looking at the future of Israel and its inhabitants. The demand put forth by Palestinian Israeli leaders to be recognised as a national minority implicitly leads to the solution of changing Israel from an ethnic to a bi-national state. According to Ghanem a bi-national regime is *“ a democracy based on group arrangements that give the groups equal status, in addition to the equality extended to all citizens by virtue of their equal citizenship in the shared state.”*<sup>186</sup> In such a scenario the group preferences given to the Jewish citizens would have to be altered and group-differentiated rights based on minority representation and protection would be given to the Palestinians. The practical implications of this solution are many and would most properly be discarded by a majority of the Israeli Jewish population.

#### **4.4 Conclusion**

In this chapter I have looked at how the Palestinian minority have organised themselves to influence the various laws regarding land ownership and planning policy. I argue that the laws used by the state to expropriate land have been difficult for the Palestinians to oppose. The Ordinance law, expropriating land for public purpose tends to harm more than it serves the Palestinian public. The cases in question shows that Israeli governments have considered depriving Palestinians of their land to be a “Public purpose” when the aim was to settle Jewish immigrants. Without doubt these cases show a clear preferential treatment of the Jewish citizens at the expense of the Palestinians. Enactment of the Basic Law in 1992, protecting the right to private property could have been a sign of a more liberal and equal legislation. The same law underlines Israel as a Jewish state, strengthening its definition as both democratic and ethnic.

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<sup>184</sup> ibid

<sup>185</sup> Yiftachel, *Ethnocracy*, 2006:85

<sup>186</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001:200

My findings indicate that the Palestinians have developed stronger and more advanced organisations to protect their fundamental rights. Both in the Parliament and in civil-society the Palestinian leaders are applying pressure through popular mobilization and political participation. There has been an increase in the amount of NGOs who lobby the needs of the minority, both in social as well as political fields. In addition there is an extensive use of the Israeli judicial system, in terms of appeals to the Supreme Court, both in cases of discrimination in allocation of land and planning policies, as well as discriminatory laws proposed in the Knesset. In some cases the Supreme Court has ruled to alter discriminatory policy that contradicts individual rights. But the Supreme Court also recognises the Jewish character of the state as its fundament and protects the right of Jewish institutions to give preferential treatment to the Jewish population, although these institutions are closely related to the state. The Palestinians are not represented in planning bodies making decisions regarding the development of their communities. In this regard the Palestinians do not have the possibility to change or alter public policy, even though it leaves them disqualified for public allocations and recognition.

## **5. Conclusion- Jewish and democratic?**

The history of Israeli land policy and Palestinian resistance can be separated into three phases from 1948-1966, 1966-1982 and 1982-2011. The first phase is defined by the expropriation of land following the Nakba and the military administration. Control of land was explained as necessary in order “to secure” the state. In the second phase, from 1966-1982, land expropriations were continued to secure Jewish settlements, especially in areas densely populated by the Palestinian minority. At the same time the military administration was abolished and the Palestinian political organisation improved. Land Day in 1976 marked a shift in the Palestinian population, making demands towards the government to stop the expropriations and to be accepted as equal citizens. The last period, from 1982-2011 shows a continuation in government policy, still controlling Palestinian land, but a difference in the methods of control. The Palestinians strengthened their political participation with the entrance of Arab parties in the Knesset and an increase of Palestinian NGOs. After October 2000 the political climate hardened. Thus a significant improvement on the level of organisation the possibility for the Palestinians to affect Israeli policy seems to be limited by the definition of Israel as a Jewish state and the preferential treatment given to the Jewish majority.

### **5.1 Israeli land acquisition and Palestinian resistance, 1948-66**

Military emergency laws, the Absentees Law, the Acquisition Law and the Prescription Law for the survey of land, had the largest impact on Palestinian landowners in this period. The majority of the inhabitants in the villages I describe remained on their land and did not become refugees. Hence the Absentee Property Law, under which 40% of the land belonging to Palestinian refugees was lost and transferred to the state, did not affect the inhabitants in these villages to a large extent. But the three villages all have residents who came to seek refuge from places nearby, labelled as “present absentees”, or internal refugees. They are not allowed to go back to their land, even though it is not used by the Israeli government and was only supposed to be in their custody as a temporary measure. In this period the people in the Galilee were placed under a military administration, set to control the Palestinian population. The military administration prevented the Palestinians to organise themselves due to travel restrictions and was an important tool for expropriations of land owned by the Palestinians. People were also



afraid to object the military governor, in case it would lead to a withdrawal of travel- or working permits. Both physical control and the use of punitive measures served as tools to control the Palestinian population in the Galilee and to gain control over their resources.

During the surveying process, started in 1955, land that was not registered to a private owner became state land. Palestinian landowners went to court trying to reclaim the land they considered as private property. The option of using the legal system of the state was the first institutional arena where the Palestinians could challenge the democratic values of the Israeli state. Yet, appeals to the Supreme Court had a limited outcome. The laws regarding Land Prescription were amended to suit the need of the state and hence served to legitimate expropriation of Arab-owned land. The Knesset issued laws that suited the government need for land, to settle Jewish immigrants and to control areas densely settled by Palestinians, or areas along the borders. The Land Ordinance law, allowing for expropriation by the state in the interest of the public, or for “public purpose” was also used to expropriate land from the inhabitants in the Galilee.<sup>187</sup> While placed under military administration and ruled by martial law the Palestinians were given the right to vote and participate in Knesset elections. Their influence on the government though was marginal. According to Jamal “...Arab political participation was empty of any meaning, the state emphasized the fact that Arab citizens were given the right to vote and form parties as a decisive proof of its respects of liberal equality.”<sup>188</sup> Objections to the land policies and the military administration gained some support amongst Jewish liberal figures in the Israeli political, legal and judicial system. But the support was not sufficient enough to stop expropriation of Arab owned land.

### **5.1.1 Land policies and Palestinian organisation, 1966-1982**

The military administration was abolished in 1966 and marked a shift in governmental policy towards the Palestinians, granting them more freedom and civil equality. Still the “Judaization” process in the Galilee continued. The policies aimed to break up the continuity of the Palestinian settlements in the Galilee and to alter the demographic balance. By building Jewish settlements in the area and increase the number of Jewish

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<sup>187</sup> Lustick, *Arabs in the Jewish State*, 1980:177

<sup>188</sup> Jamal, *The Contradictions of State-Minority Relations in Israel*, 2009:496

residents in the region the government hoped to control the Palestinian minority, but the recruitment did not reach its goals.<sup>189</sup> In 1976 the Minister of Defence declared the closing of a military area, named Area nine and the decision brought about loud protests. The governmental policy using law to control Palestinian resources was not foreign, but the response to it indicated a change within the Palestinian minority. During the 1970's the Palestinian minority increased their self-esteem and improved their organisational structures. Both a higher level of education and international recognition of the PLO in the UN, served to strengthen the Palestinian minority. The development of NGOs and national bodies representing the Palestinian was a challenge to the state. The Land Day in March 1976 served to unite the Arab minority. Their national identity developed more from that of an "Arab-Israeli" into a "Palestinian-Arab"<sup>190</sup>

### **5.1.2. Land policy and the Palestinian minority 1982-2011**

The establishment of Misgav symbolised a continuation in the policy of controlling Palestinian land. The Arab villages in my research were all encircled with land put under the jurisdiction of Misgav. Land that used to be within the jurisdiction of the Arab Local community now became part of the Jewish regional County. Israeli Land policy shifted from expropriation of land to control the use of land, hindering the expansion of the Palestinian communities.<sup>191</sup> The heads of the local authorities affected by the new borders of jurisdiction gathered and had meetings with the government to object the changes. There were big demonstrations in the villages and both the National Committee and the Lands Committee took part in the protests. The Heads of the Local Authorities had individual meetings with the District Governor where they negotiated the new areas of jurisdiction. The meetings gave very different outcome for each village and the result can be seen as a weakness in the way the Palestinians organised themselves, leaving the negotiations to individual meetings and not to a representative body negotiating on common grounds.

Recent cases regarding land policy in the Galilee are related to the acute need for housing. A recent study shows that during 2005-2010, the Arab citizens in Israel were in

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<sup>189</sup> Falah, *Israeli "Judaization" Policy in Galilee*, 1991

<sup>190</sup> Ghanem, *The Palestinian-Arab Minority in Israel, 1948-2000*, 2001

<sup>191</sup> Falah, *Israeli "Judaization" Policy in Galilee*, 1991:78

need of 67,000 housing units to meet their accommodation needs.<sup>192</sup> In my interview with the Mayor of Deir-Hanna he says that it is 20 years since the last time the village was allocated land to build on. The lack of approved master plans and allocation of land is the main reason for the severe need of housing. In cases like this Palestinians again use the Israeli court as a tool in their struggle for equality. According to Jamal *“the Israeli Supreme Court has delivered several landmark rulings that protect basic individual liberal rights with clear collective implications for the Arab minority.”*<sup>193</sup> The Qaadan case is considered such a landmark ruling in the history of the Palestinian minority against Israeli land policy. In 2000 Supreme Court ruled *“the state is prohibited from allocating “state land” based on national affiliation or use “national institutions” such as the Jewish Agency to discriminate on its behalf”*<sup>194</sup>. The verdict was unique because the judicial system openly challenged the Zionist paradigm and policy approved by the legislative system. At the same time, head of the Supreme Court, Aharon Barak explicitly acknowledged the legitimacy of exclusive settlements for Jews under specific conditions. The effect of the ruling, which is based on individual equality instead of dealing with the collective rights of the Arab citizens, is not as forceful as many first anticipated. But, it created a heated debate in Israel that led to question the compatibility of the combination of Israel as Jewish and democratic. A more recent example illustrating the contradictions between the legislative and the judiciary is “the Admission Committees Law”. The law was passed in the Knesset 2011 giving local Admission committees the right to exclude applicants who don’t fit the “social-cultural fabric” of the community town. As the need for housing is growing there has been an increase of Arab inhabitants in Jewish development towns like Karmiel and Nazareth Illit. These towns were, like the *mitzpim* in the Galilee, built to increase the Jewish population in the region and challenge the demographic majority of Palestinians in the Northern district. A couple from Sakhnin, applied in 2006 to live in a Jewish mitzpim within Misgav, but were denied on the grounds that they were considered “socially unsuitable” to live in the community. In September 2011 the Supreme Court ordered the mitzpim to award them a plot of land. In the Qaadan case the judge did not oblige the settlement Katzir to provide Qaadan with land, the ruling only confirmed that the policy was discriminatory.

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<sup>192</sup> ACAP, *Not enough land to meet the needs of Arab Community*, <http://www.acap.org/194916/Needs%2Dof%2DArab%2DCommunity>

<sup>193</sup> Jamal, *The Contradictions of State-Minority Relations in Israel*, 2009

<sup>194</sup> *ibid*

In that manner the order in the case of the Zubeidats has much stronger practical implications than the Qaadan case which is still pending.

Meanwhile the Admission Committees are used as a tool to discriminate against the Palestinian minority, and other minorities in Israeli society. Governmental interest of “Judaizing the Galilee” allows local committees to decide whom they find eligible to live in their communities. The government also encourages Jewish settlement in the Galilee by giving the settlers several economic benefits as the ILA reducing the leasing fee for the land, granting establishing funds and lowering the income tax. These policies may be seen as contradicting the liberal, democratic values of the Israeli state at the same time as they protect the Zionist idea of “redeeming the land” by establishing Jewish settlements in areas dominated by Arabs. In the end the main challenge seems to be whether the democratic and Jewish nature of Israel is perceived as complementary rather than contradictory.

## **5.2 Participation in response to discrimination**

The Palestinians in Israel have always used political participation as a means to promote their interest. In this study there are three arenas of participation I consider most important for the Palestinian minority. Participating in formal institutions as the parliament and the judiciary, civil society organisations and demonstrations, and negotiations led by local authorities. When it comes to political participation the first solely Arab party to participate in the Knesset was the Democratic Arab Party (DAP) in 1988. In 1996 other lists also participated, but the political influence in the parliament has been limited. Palestinian members of Knesset do voice the needs of the Palestinian minority and have the last decades been more strident in demanding recognition as a national minority. But they are not represented in government or in important committees, dealing with cases of special interest to the Palestinian community. Together with civil organisations the leadership of the Palestinian minority published four documents in 2006-2007, giving their future vision of Israel and the place of the Palestinians in it. The proclaimed aim was to challenge the Jewish public to look at alternatives to democratize Israel and two of the documents offered elements for an alternative Israeli constitution. The authors met harsh critique from the Israeli public and were strongly condemned. It seems that the more clear the Palestinians become with regards to their national identity and the more organised they become in claiming

their rights as a national minority, the response from the Jewish majority is to avoid this demand and strengthen the Jewish character of the State. One could also say it is the other way around. The more strident Israel defines itself as a state for Jews, the more alienated becomes the Palestinian minority.

An increase in the number of NGOs and their contribution to the public debate has given more attention to the issues concerning the Palestinian minority. When a governmental plan to establish a forest on lands belonging to, amongst others, Deir-Hanna, Arrabe and Sakhnin was known in 2010, ACAP summoned representatives of the local communities affected by this plan to a meeting where they provided information about the forest establishment plan and offered their assistance to object them. ACAP labelled the plan as an “attack on Arab land” and encouraged landowners and local authorities to be aware in order to “avoid indirect confiscation of what is left of Arab land.”<sup>195</sup> Taking into consideration the experienced land loss of the Palestinians in this region it is not difficult to understand their position. The case also shows that Israeli land policy is still perceived as a threat against Palestinian landowners who fear further expropriations of their land.

Gradually since the Land Day, and especially after October 2000, the demand to be recognised as a national minority has become stronger. The demand indicates rights protecting the Palestinian minority as a collective group, or group-differentiated rights, in accordance with international law on homeland minorities. Both in the parliament, in cases brought to the Supreme Court and in civil society, the Jewish character of the state and Zionist policy is challenged as an obstacle to reach full democratization of Israel. I would say that Local authorities negotiating municipal borders and budget allocations have also moved in this direction, claiming that they are granted less resources than Jewish communities due to their ethnicity. Commemoration of Land Day and the October events serve to strengthen the Palestinian community in the Galilee and has had both an awakening and an educating affect. The incidents commemorated reinforce the importance of land and awareness of the Palestinian-Israeli identity. While the expropriations in the 1950’s and 60’s consisted of rather waste areas the amendments

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<sup>195</sup> ACAP, *A consultation meeting at ACAP about the recent forest establishment plan*, <http://www.acap.org/194916/A%2DConsultation%2DMeeting%2Dat%2DACAP%2Dabout%2Dthe%2DRecent%2DForest%2DEstablishment%2DPlans>

of the municipal borders with the establishment of Misgav were severe in regards to the limits put on Arab local communities to expand and develop. There has been a shift in Israeli land policy from expropriations to control of land by limiting the use of it. The effect has in both cases been the lack of development of Palestinian communities.

### **5.3 A struggle for land and equal rights**

Looking at the development of government policy regarding control of land and development of the Palestinian communities, a continued process of Judaization of Palestinian land has been implemented by the Israeli governments throughout the years. Jewish settlements in the Galilee are given financial benefits and are classified as “national priority A areas” together with settlements in the West Bank and the Golan Heights. The Palestinians living in these areas see the development of their communities neglected by the state and even today face the possibility of land expropriations. The last decade there has also been a more outspoken and harsh public debate aimed at the Palestinian minority. A number of discriminatory laws have been suggested in the Knesset and several passed. Where the legislative system make policies that primarily protects the Jewish majority the judiciary has served as an arena where the Palestinians can seek correction, trying to obtain equality. This has only partially succeeded and the cases won have often had a limited affect on the collective rights of the Arabs in Israel.

Regarding the Palestinian minority in Israel they have gone through a significant development in regards to forming political parties and civil society organisations independent of the Israeli state as well as the traditional clan based organisation. Their political mobilisation has at large been shaped by the discriminatory policies used to control them. But their possibility to affect their status in Israel is limited by the majority rule, without any group rights where they are secured a certain representation on issues regarding the Palestinian minority.

The common identity as Palestinians has been given a new dimension after the killings in October 2000 and is commemorated on each Land Day in Deir-Hanna, Arrabe and Sakhnin, in addition to the other Palestinian communities within Israel. As long as acceptance of the Jewish character of Israel is set as a pretext to join the democracy, a feeling of alienation amongst the Palestinian minority will grow. A continued policy where the Palestinians are not recognised as equal citizens and suffer further loss of

land is not sustainable. Israel has to recognize that they have a Palestinian minority who are increasingly well educated and organised. A full recognition of their homeland minority rights would not only serve to develop the Palestinian minority, but is also essential to the Israeli democracy. The declaration from 1948, saying Israel is a state for *all* its inhabitants irrespective of religion or ethnicity has to be fulfilled and the Jewish character of the state must be altered in order to safeguard the democratic essence of Israel.

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