

OPEN SPACE - PERSPECTIVES

On Law, Planning, and the Shaping of Space

RAEF ZREIK¹

Adalah Center, Shfa'amer, Israel

Arab al-Nai'm is a village of some 600 residents in the heart of Israel's northern Galilee region. It is one of scores of Arab villages declared by the Israeli government as 'unrecognized', mainly in the Galilee and the southern Negev region. Unrecognized localities are absent in maps and in regional plans. Without such plans all building in these localities are deemed 'illegal'. During the last three years over 200 buildings were demolished by the state in these localities. On the basis of its planning and land regulations, the state claims that these villages should abandon their current locations and migrate to a small number of newer Arab towns planned by the state.

This account, while focussing on a localized conflict, highlights the universal issue of minorities whose ways of life, places and hence cultural existence, are under threat. The modern state, with its legal and modernizing apparatuses, has generally been able to coerce such minorities into submission, particularly when it came to forcefully implementing land, planning and development policies. In the case of Arab al-Nai'm, however, the situation is yet undecided.

The following lines may lack some elements of excitement or drama.

I am not about to present an event, but a situation. A situation which repeats itself regularly, and disperses its misery in more than one given place and time. This situation persists up until the moment it threatens to camouflage its extraordinary nature, and persuades people to treat it as a natural phenomenon. It becomes a routine, just like the sunrise, the afternoon breeze, or the ocean waves.

It is not easy to identify the heroes in this situation, and it is difficult to pinpoint the villains.

¹ The paper was originally delivered at Memorial association in Caen in France in May 1998. The use of the male forms is born of the lingual structure of the original Semitic languages and reflects no gender bias.

It is not easy to identify the scene or the tools of the crime. They are scattered everywhere and nowhere, hazily coloring the soil and the air.

The sole purpose of the 'victims' of this situation is to prove their existence and their victimization. At first they wish to prove their innocence, and not even demand their evaporating rights. They cry out simply to show that others have invaded their lives, and it is not they who have transgressed into forbidden space.

Arab al-Nai'm -- Scenes

The trail leading to the village Arab al-Nai'm fools the traveler. The many road signs lead you, by necessity, to two new Jewish settlements: Yuvalim and Eshkhar. These two settlements, only a few years old, were built on land expropriated from its Arab owners. There is no sign showing the way to Arab al-Nai'm.

At any rate, the village does not appear on the maps. Maps, in general, are supposed to represent on paper the true shapes and patterns of space. But in our case the map's representation is ahead of concrete reality, attempting to dictate and alter the evolution of space. Reality is meant to adapt to the map, and not vice versa. Rather than drawing Arab al-Nai'm in the maps as a reflection of reality, there is a campaign to evict the village from the map as a harbinger of its (hopeful) disappearance from real space.

Likewise the road signs. As long as Israel is unsuccessful in erasing Arab al-Nai'm from real space, at least it attempts to hide its existence from innocent passers-by. And thus it openly declares its absence from the local geography.

The beautiful, paved road takes you up to the entrance of the Jewish settlement Eshkhar. A right hand turn -- you are in Eshkhar; a left hand turn and you are approaching Arab al-Nai'm. The paved asphalt road turns into a rocky path. The body now has to adjust to the bumping and rocking of the vehicle felt by the driver as well. Arab al-Nai'm is only a few minutes away from Eshkhar -- the time it takes to smoke a cigarette. Two worlds, hundreds of years apart.

There is no water, no telephone and no electricity are in Arab al-Nai'm. I will reiterate so it is clear and so there will be no mistakes: no water; no telephone; no electricity.

A national water pipe passes near the village. In a gesture of good-will the village was allowed to use a small pipe, channelled off the main line. Thus the villagers can fill their vessels and return home. This water is used for all household needs - for drinking, washing, showering. This water is not treated; it is standing, stagnant, water.

In such conditions you have count every drop of water. One must calculate and plan ahead to exploit every drop. Have any of you ever invested thought in the daily use of water? Water for drinking, water for cooking, water for brushing your teeth, water for washing floors, water for washing clothes, water for prayer, water for washing corpses before burial, water for washing a newborn child ... water, water, water.

Given its absence, water becomes the central and permanent topic of conversation. Gone from real-life, but ever-present in words. There is not a day that goes by without talk of water. Who will bring the water tomorrow? Is there enough water for washing?

As in London, when people talk about the weather, and in Paris about the latest fashion, so the people of Arab al-Nai'm talk about water. Water dictates the daily mood; even the housewives plan their day according to the water barometer.

Since the flow of water in the make-shift water pipe often stops suddenly, without any warning, Arab al-Nai'm residents are forced to accumulate large quantities of water. But the storage of these quantities, without sterilization, is a sure recipe for constant ailment. The medical history of the village, indeed, attests to the occasional outbreak of hepatitis.

Water, water. This tasteless transparent liquid, which controls everything. In its absence, life becomes hell. People wonder and ask themselves: is this the same liquid which covers 72 percent of the earth's surface, filling oceans and rivers? Is this the same liquid which floods us in winter, sending us to seek cover while it stings our faces? Is this the same liquid which covered the world during the big flood, leaving no survivors but Noah and his family? Is this the same liquid with which the village's Jewish neighbors in Ashkhar wash their cars? How generous is nature, and how cruel are people.

In Arab al-Nai'm people do not build houses of stone and concrete, in fear of demolition by the state. Only 'temporary' asbestos homes are built. Once upon a time there were normal homes in the village, made of stone. But the state demolished these some 30 years ago. Yes, an entire village was razed by the state, in hope that its residents would leave and emigrate, but the plan was not successful. However, even asbestos homes suffice in angering state authorities. The state does not want them there, it wants them to leave. It does not even recognise their existence from the onset.

Muhamed, whose family grew and expanded, dared to add a 'room' to his 'house'. He could no longer endure living with five children and his wife in one room. He mustered the courage and committed the biggest crime of all, he added a small room to the house standing on the land previously owned by his father and grandfather.

The state sued Muhamed in court, accusing him of building without a license. The court ruled that he must demolish the 'building'.

"How can I get a license? Is there a procedure by which I can get a license?"

"No, there is no such procedure. We do not recognize the village at all. This place is not designated for residential use according to the approved plan. There is no outline plan for the village, [and without such a plan one cannot obtain a building license]."

"Who is responsible for the lack of an outline plan for the village?"

"We are"

"If so, how can I get a building license when there is no procedure through which I can obtain such a license?"

It is hard to understand the state's position when it claims the area "is not designated for residential use according to the plans". To what plan does it refer?

Arab al-Nai'm existed prior to the establishment of the state of Israel, before it had planning and building committees, before it had any plans at all. And what kind of 'planning' is it that does not take into account the existence of people who have been living on their lands, homes and fields for tens and hundreds years? Did the race of time and history begin only from the day the state was established? Are place and space akin to a 'black hole' until the beginning of Jewish settlement? Or is it planning premised on the assumption that the land was in a state of chaos, without owners, awaiting redemption for 2000 years? And what about us? Are we part of the history and place, or perhaps our presence was a mere mistake, or an historical rape of the virgin land?

Bringing Muhamed to criminal court reverses most of the conventional concepts. Muhamed, born in Arab al-Nai'm, was destined to become a criminal. But in general, crime is a state of transgression, contravening the 'normal' rules of the game; a disruption of the general world order and regulation. Usually, a person is given the option to obey or breach the law; to become a docile citizen or an intentional criminal. The existing possibility of this choice provides the logical basis of criminal law. There is no responsibility as long as there is no alternative choice. Without liberty there is no responsibility.

In Muhamed's case the situation is reversed. Muhamed is devoid of liberty. He had no alternatives. He did not choose to build his home without a permit, as there is no procedure which would enable him to build legally. Hence Muhamed's crime is not building without license, but merely building a home.

Muhamed is seeking legal ways to extract himself from this predicament, but for him, all possibilities are blocked. The legal discourse is blind. Muhamed does not succeed in telling his story within the existing legal language. At face value, legal language appears absolutely non-discriminatory. The law does not discriminate against Muhamed in particular, it directs the demolition of all buildings constructed without permit, not specifically Muhamed's home. In the law there is no discrimination between Jews and Arabs. In this way, legal procedures progress smoothly.

The accused has the right to be represented, and review the investigative material gathered by the police. The trial is public and Muhamed possesses all the rights granted to an accused person in an enlightened democratic-liberal society. He endeavours to tell his story in legal language, but remains speechless. The justice in his story already begins to evaporate on the way to

court. The great historical question diminishes and disappears. It retreats in the face of endless barrage of technical legal questions: Do you have a license? Is the area zoned for residential use? Did you fulfil all the requirements to obtain a building license?

The great question is divided and converted into small, tedious questions which become meaningless and far removed from the essence of the time and the place. And every time Muhamed tries to open his mouth and suggest that he is not being asked the right questions valid to his case, he is silenced. "You will only answer the questions presented, the ones that we have decided are relevant".

Muhamed wonders how the justice machine works in such a way. How is it that his trial began and ended and the most vital question, relating to the justification of his position was not asked. Why isn't anybody asking it? It is as if the whole procedure does not include or relate to him.

He is present at the trial, but at the same time absent. He is present as an accused and absent as a human-being whose time diverges from the time of the persecuting state.

During the legal discussion he is not able to find the opening which would enable him to air his historical version. It is difficult for Muhamed to define a moral problem in the wording of the law. The law, it appears, does not discriminate and it retains its internal purity and morality. The text is blind. At best, it is apathetic to the existence of Muhamed and his story. It assumes his absence as a point of departure. At its worst, the law endeavors to oppress Muhamed and make him transparent.

The discrimination is ever-present in the statute writers' consciousness, but it disappears between the lines. It resurfaces time and again in the daily and practical implementation. The tragedy is not present in the text, but rather in the blind encounter between the legal text and Muhamed's essence of life and his personal and national history.

The judge has no time to deal with historical questions. He does not perceive his role as the maker of historical justice. At best, and rarely, he shows empathy to Muhamed. But like other judges, he is a professional. He must show constraint and never follow his emotions. A professional judge decides by the book.

True, Muhamed was destined from birth to be a criminal. His criminality is a natural phenomenon. He has no way of proving his innocence except by dying or leaving his village. Or perhaps, if God would bestow him with some of his divine qualities, then Muhamed could build his home in mid-air, somewhere between heaven and earth.

But as the first and last options are not viable, Muhamed is left with the second -- leaving the village. *And this, in a nutshell, is the whole doctrine.*

Planning and Spatial Engineering

Arab al-Nai'm is just an example for scores of Palestinian-Arab villages inside Israel. They are inside the country, but outside of the state. They are here, but not now. They are now, but not here. Something to be gotten rid of. It may be possible, at best, to bear their existence and presence, but these are problematic and unwanted. Israel's planning and building policies are premised on these assumptions, especially when relating to areas populated by Arabs.

In this vein the planners of the Northern (Galilee) District determine that one of the main 'problems' to be dealt with is the Arab majority in the region, and the territorial continuity of Arab localities.

The first and main goal of the plan is not, for instance, to improve the quality of life, or to build an infrastructure for regional tourism, or to turn the area into an industrial development. Neither this, nor that. The first goal of the plan is to achieve a 'demographic balance' which would ensure a Jewish majority in the Galilee. The Galilee is perceived as an external territory which must be conquered time and again, from day to day. The plan relates to the Arabs as a situation to be remedied, as foreigners, as a threat. And the art of designing the space geared to absorb Jews and house them in new settlements which are placed here and there. The Jews settle, the Arabs sit. The first are mobile in space, the latter are stuck in place.

And the Arab village is forever a lone island in vacuous space. The Jewish settlement is always part of a regional network, with its accepted names: "The Valley Settlements", "The Mitzpim", or the "Negev Kibbutzim".

These Jewish settlements are linked by a multiplicity of connection-points. They broadcast to one another, and thus paint the space in their own colours. They will always be the evidence of their existence.

The empty space, even when it is unsettled, is saturated with Jewish history and presence. The Arab village has no proof of its existence until you enter its bounds. It has no gravity. It does not create any magnetic field in its regional surrounds.

The only place where the Arab village surfaces in the planning discourse is as an 'obstacle' to the implementation of planning policies. It is present only as an object. And not just any object, but negative and threatening. The Arab citizen of Israel has no presence except for his threatening qualities.

And just like the horror characters in a Hitchcock movie, the image appears, executes its subversive intents, leaving fear and anxiety, and then disappears. We will never know from where it came or to where it disappears. We will never know the nature of its hopes and dreams. So is the Arab in the Galilee. It is part of the 'problem' of this space and time. Hence areas with an Arab majority are described in the same style as mountainous, rugged and uncultivable areas. The Arab is part of the problem of the planned space. Planning is not aimed at solving his problems. He is the problem. The Planners plan *him*, not *for him*.

According to this logic, successful planning is that which reduces Arab presence in the public regional space, and diminishes the Arabs' presence in 'their' enclaves. In other words, it clears the public regional space from their presence. Part of this policy is implemented in what is known as 'unrecognized villages', like Arab al-Nai'm. In this case the policy aims to make people miserable to the point of leaving the village and relocating to a neighbouring 'recognized' locality.

But even in the neighbouring 'recognized' locality, there is not much joy. There the state limits the municipal and building areas until building densities reach unbearable levels. There is a striking absence of public open spaces: parks, town square, playing fields, boardwalk, or even pedestrian pavement.

As such, the Palestinian-Arab is surrounded in space, and the only homeland left is his home. The 'private sphere'. He may search for a homeland or a community of belonging, somewhere in the regional space, but finds nothing. This constrained space produces handicapped spatial consciousness. The state persists in its attempts to strangle him as part of the Arab collective. At best it accepts him in the margins, on the edges of its urban space.

This is planning. This is Law. The attempt to shape the geography of the place so as to marginalize the Palestinian, as groundwork for his exit from time and history, as preparation for the evaporation of his story. First physical and circumstantial evidence is hidden, then the memory of witnesses is confused, hoping they will forget the past and surrender their future.