

## **Spatial Justice for Ayn Hawd**

Thoughts on an Alternative Master Plan for a Palestinian Village<sup>1</sup>

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Planning does not exist outside of social relations; rather, it is integrally involved in their construction. Moreover, the relevance of planning consists in its social linkage and its effect on the production of space and everyday life. Planning, for example, becomes crucial for the territorial distribution of space, its legal constructions and modes of use. The debate over and analysis of the social conditions of planning are necessary components of a critical planning practice and a premise for the search for methods of alternative action.

Space is always political, never neutral. Space is produced by its specific use and experience as well as by its design and organization. Space is shaped by the various claims of different actors and at the same time allows for these claims to be uncovered. Space is branded by strategies of power. It creates areas for the reproduction and maintenance of power while serving to make its contradictions visible. Thus, space is not only a bare instrument of power: it is both subject and place of conflicts. Spatial relations are under a continual process of redefinition and it is within this process that critical planning and spatial action must be implemented.

### **Israeli Planning Practice**

The linkage between political interests, the strategic control of space and the corresponding planning practice is obvious in Israel: an ongoing battle concerning the country's borders and the distribution of territory takes place. The so-called security wall and the settlements in the Occupied Territories are only the most manifest examples of this battle. The nationalization of land property – more than 90% of the territory is in the possession of the state of Israel – ensures governmental power over space. Thus, it is guaranteed that mainly national institutions are vested with the ability to decide on its use and allocation.

This leads to a state-run discriminatory planning praxis in which, for example, only people with Jewish nationality<sup>2</sup> are fully allowed and encouraged to set up new villages, whereas the Palestinian minority, who remained on Israeli territory after the war of 1948, does not possess this right of free choice of their place of residence. Their precarious status is mirrored in the so-called unrecognized villages. About 100,000 people live in these villages throughout the country, which are declared illegal by the state of Israel.<sup>3</sup> As these villages are not acknowledged by any governmental bodies, they have no official representatives and do not receive any support from the state. Not only are legal recognition, autonomy and basic services such as electricity, water and roads refused to them, but there is also a constant threat of house demolition as a consequence of their officially illegal status.

### **Ayn Hawd – Disfranchisement and the Fight for Recognition**

Ayn Hawd, located in the Carmel Mountains near Haifa, is one of these unrecognized villages. During the 1948 war, military forces expelled the approximately 650 – 950 inhabitants of the 900 year-old Palestinian village, Ayn Hawd, and confiscated their land. Many former inhabitants ended up in refugee camps outside Israeli territory. However, the family of Abu Hilmi, which owned farmland outside the village, had the opportunity to resettle in a barn in the fruit orchard nearby, with the hope to be able to return soon. As this turned out to be impossible, the shelter – thought to be an interim solution – later on became the start of the new village.

After the war, the military eviction was followed by the legal deprivation of rights, which legalized precisely the status quo the war had established. While the once-Palestinian village Ayn Hawd, renamed as the Israeli Ein Hod, became an artist colony in 1953 and immediately received all public services, the Israeli government, to this day, has refused the provision of these services to the inhabitants of the displaced Ayn Hawd.

In 1950, the “Law of Absentee Property” retroactively legalized the 1948 eviction of Ayn Hawd's inhabitants and confiscation of the village land. According to this law, the property of expelled persons and refugees who were absent from their land for a certain period of time became the “legal” possession of the state of Israel. Thus, the internal refugees, declared as “present absentees” – a

status equivalent to the loss of civil rights – were prevented from returning to their former villages.

The legal status of the Abu Hilmi family from the displaced Ayn Hawd was completely precarious. They had lost their right to their former home and all their property and the Israeli government did not acknowledge the legality of their new residence, too. They were not allowed to return to their former village, and were also rejected for internationally accepted refugee status. Thus, they were ineligible for the international aid conceded to refugees who cross recognized borders.

The Israeli government utilized the existing “British Mandate Land Ordinance”<sup>4</sup> and established the “Law of the State's Property” in 1951 to further facilitate the dispossession of Palestinian land and its transfer to Israeli state property. The “British Mandate Land Ordinance” allowed the government to confiscate private land for minimal compensation, while the “Law of the State's Property” gave the legal ground to transfer former properties belonging to the British Mandatory Administration to the Israeli state.

In 1965, the notion of “unrecognized” villages came up with the “Building and Construction Law,” which provided the official basis for the state's urban and regional planning. Under the law, Israeli planning councils issued the first district outline plans and identified existing and projected built-up areas. Only 123 major Palestinian villages were included in those new zoning maps, while the maps ignored the existence of smaller rural Palestinian villages.<sup>5</sup> The excluded localities were classified as “agricultural areas”. This classification bars the inhabitants of these localities from building residences or other structures. Moreover, already existing buildings are automatically declared illegal and the municipality is prohibited from connecting water, electricity or telephone networks to those structures. The term “unrecognized village” was officially applied by the “Markowitz Commission Report”<sup>6</sup> in 1986. The commission identified and listed unlicensed Palestinian dwellings all over Israel as primary targets for demolition and confiscation. While the 1965 “Building and Construction Law” laid the legal ground, the “Markowitz Commission Report” gave the instructions for its implementation. It suggested dividing Palestinian houses into three categories: houses recommended for immediate demolition, unlicensed or “gray” houses and houses that should be incorporated into the juridical area of adjacent localities. However, the government never applied the latter category. In general the buildings in unrecognized villages immediately fell into the category of the “gray” houses – a category that is constantly expanded and now comprises several thousand buildings. Those “gray” houses are not entitled to any services and all carry a demolition order, which can be enforced at any time. As result, since the implementation of the “Markowitz Commission Report,” the “unlicensed buildings” and their inhabitants have been permanently exposed to the danger of house demolition.

These circumstances clearly have an effect on the daily life of Ayn Hawd's inhabitants. Apart from the permanent threat of house destruction that comes along with the disavowal of the village, the inhabitants cannot continue their former way of life. The displaced Ayn Hawd used to be a self-sufficient agricultural village. In 1959, the Israeli courts confiscated 83 dunam of the new Ayn Hand's land claiming it belonged to the Israel Land Administration. It was not until the mid-1960s that the ruling was implemented and the entire village was fenced in by the Israeli authorities. Around the same time, the government also started to redesign the landscape. It promoted the planting of fast growing cypresses on the terraced fields and, as a consequence, caused the death of existing olive and fruit trees.<sup>7</sup> Together with the “Black Goat Law” of the early 1970s, which banned black goats and other livestock that were only raised by Palestinians from the area (under the pretense that they ruin the forest), these official acts put an end to the self-sufficiency of the Ayn Hawd inhabitants. As a result, many have to work outside in the new Ein Hod as gardeners, builders or handymen.

Due to the above-mentioned laws, there has been no possibility for legal building in the displaced Ayn Hawd up to now. The village is an indicator of the strategies behind the permanent legal reinterpretation of land by the Israeli authorities. In the 1950s, they declared the village as Israeli state property in accordance with the “Law of the State's Property.” Since then, the Ayn Hawd area has been classified in many different ways: agricultural land, part of the surrounding Carmel national park, and partly as military area. Those definitions constantly change, but still the land has never been declared a building area.

In the late 1980s, resistance emerged with the establishment of Palestinian organizations like the “Association of Forty”<sup>8</sup> and the “Committee for the Defense of the Rights of the Displaced in Israel”. The Association of Forty, founded in Ayn Hawd in 1988 in recognition of the 40th centenary of the “Nakba,” the “catastrophe” of the Palestinians and their eviction during the 1948 war, went public with

the case of the unrecognized villages. In 1987, for example, it organized a demonstration in the Mount Carmel region demanding basic services for the village. Although this event was followed two weeks later by the destruction of seven houses in Ayn Hawd by the authorities (which was as far as we know the only case of house demolition in this village), in the long run the activities of the "Association of Forty" put pressure on the government to eventually acknowledge at least some of the unrecognized villages, including Ayn Hawd, in the beginning of the 1990s. However, the full legal recognition that eventually leads to the legalization of existing houses, the possibility of obtaining new building licenses, and the supply of public services only can be achieved by the ratification of an official master plan.<sup>9</sup> Thus, governmental planners started to develop various master plans for the village.

The first plan granted the village an area of 500 dunam; but, over time, they withdrew the plan and replaced it with a new smaller one that reduced the allocated land to 160 dunam.<sup>10</sup> In 1996, one month before the authorization of the plan, the assassination of Prime Minister Rabin and the following change of the political climate led to a halt in the process of recognition until the end of the 1990s. At that time, the government developed a final plan proposal that reduced the community's allocated land to the petty amount of 80 dunam, classifying only 35 dunam as building land. The highly discriminatory content of this plan is obvious, as the allocated area did not even include the existing houses, not to mention any public or future building areas. However, in order to put an end to the threat of house demolition, the village committee finally accepted this proposal in 2004. Still, the existence of the master plan does not automatically make the existing houses legal. Each house has to be legalized by the "District Committee for Planning and Building" in Haifa. Thus, the people of Ayn Hawd now pursue a double tactic: they have started to produce maps of the existing houses in order to get them licensed while simultaneously fighting and lobbying for a better masterplan and full autonomy, an effort pushed forward by the village major Muhammad Abu al-Hayja. It is within this context that the competition for an alternative master plan and our proposal has to be seen.

### **Our Perspective: A Fair Distribution of Space**

We regard our proposal for the development of an alternative master plan as a political tool for the achievement of spatial justice. According to this perspective, the analysis and visualization of the existing political-spatial conditions and conflicts are the basis of our work. The investigation of the policy of the distribution of space with regard to the Israeli village Ein Hod and the nearby kibbutz Nir Ezion, as well as the analysis of the various master plans for Ayn Hawd, serve as the starting points for developing alternative suggestions and perspectives: How much communal, agricultural or building space is granted to the different villages? What are the conditions that led to the different official planning proposals? Is there a strategy behind those plans? Which alternative position is worthwhile to us? What rationale is necessary for its implementation?

### **Planning as a Field of Conflict**

The analysis of the different master plans reveals the political implications of planning and shows it as a field of conflict and negotiation. For example, looking closer at the amount of common land that is conceded to Ayn Hawd by the different proposals, it is striking that each new plan allocates less municipal area to the village. The 1992 draft granted Ayn Hawd a common land of 500 dunam. Yet, by the end of the 1990s the government only offered 160 dunam, and the current master plan cuts down the area to 80 dunam. Likewise, a comparison of the new master plan's area with the average area per inhabitant in the municipalities of the Carmel region shows that the authorities have granted disproportionately less land to the inhabitants of Ayn Hawd. Statistically, an area of approximately 6 dunam is allocated per person in the Carmel region as a whole. In comparison, the inhabitants of Ein Hod and Nir Etzion average 2.6 dunam per person, whereas the inhabitants of Ayn Hawd have only 0.36 dunam per person at their disposal, according to the latest state's master plan.

While the municipality of the artist colony Ein Hod – like all "official" villages in the country – is provided with an area for future development, the official master plan for Ayn Hawd freezes any demographic, economic or tourism development by not allocating future land. The plan covers only 35 dunam for existing and future building lots and defines land that is already covered with houses as future building area. In addition, 13 dunam of the municipal area is not under the control of the inhabitants, but the military. By conceding a construction area that hardly covers the current needs and freezing the status quo by not offering any opportunities for future development, the plan exposes a highly discriminatory planning practice.

Besides this, a new scenario arises in the event that the Israeli government officially recognizes Ayn Hawd as a village. A second master plan already exists for the surrounding region that defines the

area around the village (today a national park) as a future Israeli building area. As a result, future housing developments would effectively enclose the village and prevent the spatial development and expansion of Ayn Hawd.

### **A Future Village for 1000 Inhabitants**

Both the starting point and goal of our proposal for an alternative master plan was the notion that equal rights and spatial possibilities should exist for all citizens without any discriminatory planning practices. Bearing in mind that the Israeli-Palestinian conflict is largely a conflict over the distribution of land, we defined spatial justice as follows: each village should at least have the same amount of municipal land per person at its disposal regardless of its inhabitants' nationality. We then used this definition of spatial justice as the structuring principle for the master plan's development. The same amount of municipal area granted to the Israeli villages and kibbutz near Ayn Hawd (2.6 dunam / person) should also be granted to this Palestinian village. This simple calculation, based on Ayn Hawd's current population of around 300 inhabitants, results in the striking conclusion that almost 800 dunam have to be placed at the disposal of the future development of Ayn Hawd.

This amount of land is not exorbitantly large. Considering the demographic development of the Palestinian population (and the number of inhabitants of the historical Ayn Hawd), the village likely will increase to 1,000 inhabitants in the next 30-50 years. Accordingly, a sustainable planning must provide an apt amount of space for the community. Today, the village already needs additional building lots for housing, as well as space for public utilities and infrastructure. Given these circumstances, our calculation for land distribution can serve as a tool in the fight for recognition by offering a possible argument for receiving an appropriate amount of community land.

### **Structural Proposals and New Public Facilities**

For us the notion of spatial justice and the calculation of the corresponding size of the municipal land were the most important points of our proposal and gave it its structural basis. We did not feel the need for concrete architectural proposals (people are building on their own in Ayn Hawd); instead, we tried to give more structural suggestions towards the organization and zoning of a future village, bearing in mind that it will grow quickly. The proposal aims to accept and integrate the existing buildings and facilities into the long-range planning process and to guarantee a development strategy that can be adapted gradually to the needs. Moreover, possibilities should be improved for better self-sufficiency, as well as for economic and tourism development. We suggest a new housing area of 350 dunam with lots of an average size of 0.50 dunam. In addition, a larger school, kindergarten, and area for further public facilities should be developed. The water supply and wastewater disposal, the connection to the public road system, the supply of electricity and telecommunication must also be ensured.

A designated space in the center of the future village should be declared for public and economic purposes. The future, gradually expandable school and sports field will be located in this area along with the projected cultural center. The cultural center, including the town hall, post office and a small local administration with an exhibition on Ayn Hawd's history, will be of particular importance as an initial collective sign of the autonomy and self-government of the village. The building is located in a central square, which will also be the future site for markets and events, as well as a bus stop.

The cultural center can be built incrementally as finances and needs allow. It consists of three parts: a two-storied part, a single-storied centerpiece and a multifunctional assembly hall. It will contain the town hall with offices for the mayor and the local administration, space for a documentary exhibition on the history of Ayn Hawd with an archive, a library, and a cafe. There will also be rooms that serve as a medical center. This first part of the cultural center should later be extended by a multifunctional assembly hall providing space for cultural events such as a theater or cinema, temporary exhibitions, and ceremonies like weddings or other celebrations. It may also serve for larger assemblies or be used by the adjacent school as a sports hall.

We understand our proposed plan as a tool in the process of achieving full spatial and legal equalization and justice for the people of Ayn Hawd. The recognition of the village, however, must be followed by its self-government and political representation.

### **On-site Workshop and Perspective**

In the summer of 2005, a workshop with three winning teams<sup>11</sup> of the planning competition took place in Ayn Hawd. During the workshop, local planners, the mayor, and inhabitants of Ayn Hawd provided

further background information on the village. Together, we developed a planning scheme that was adapted to the place and the needs of the residents of Ayn Hawd. The process of recognition, however, is not without controversy among the inhabitants. Some are skeptical about the possible changes that come with recognition: more publicity and a possible loss of privacy, the payment of taxes and the need to apply for building licenses. Still, the majority is in favor for fighting for legalization. Regardless, the recognition of the new alternative masterplan will be a long process of negotiations between the residents of Ayn Hawd and the Israeli authorities. F.A.S.T., the organizers of the competition, are still involved in and supporting this process.

<sup>1</sup> This work was initially produced in conjunction with the international architecture and planning ideas competition for an alternative master plan for the Palestinian village Ayn Hawd in Israel. The competition was organized by the Dutch-based foundation F.A.S.T. (Foundation for Achieving Seamless Territory) led by the Israeli architect Malkit Shoshan. It was followed by an on-site participatory workshop with local experts, the inhabitants and the three invited teams who developed one proposal together, which was further elaborated and might be proposed to the local municipality. See: [www.seamless-israel.org](http://www.seamless-israel.org)

<sup>2</sup> In Israel there is a distinction between “citizenship” and “nationality.” Citizenship may be held by Arab Palestinians as well as by Jews; while, nationality, which bestows significantly greater rights than citizenship, may be claimed by Jewish people only.

<sup>3</sup> It is important to note that all unrecognized villages are located inside Israel’s national borders of 1948, (not to be confused with the territories of the West Bank occupied by Israel in 1967) and that their inhabitants are Israeli citizens. The villages in the North are mainly (almost 85%) built of concrete or stone, whereas the Negev villages’ homes in the South are generally far less substantial structures, including tents (25%) and shanties (50%). For further information and maps see: Applied Research Institute Jerusalem (ARIJ): “A Geopolitical Atlas of Palestine;” Dr. Salman Abu Sitta: “The Atlas of Palestine 1948,” Palestine Land Society 2004

<sup>4</sup> The Acquisition of Land for Public Purposes, 1943

<sup>5</sup> Although the authorities claimed that size was the criteria not to include the rural villages in the zoning maps, stating that they were too small to be recognized as independent villages and thus disallowed, there are a large number of official Jewish villages that are smaller than the unrecognized Palestinian ones both in size and population.

<sup>6</sup> The official name of the report is “Report of the Interministerial Commission concerning Illegal Construction in the Arab Sector”, Jerusalem, 1986

<sup>7</sup> For further reading on landscape and power see the work of Meron Benvenisti, for specific information on the unrecognized villages see i.e. Journal of Palestine Studies, XXXI, No.1 (Autumn 2001), pp.20-31

<sup>8</sup> The “Association of Forty” was established in 1988 in Ayn Hawd by the local committee of the village, inhabitants of other unrecognized villages, and Palestinian and Jewish volunteers from all over the country. The Association represents the residents of the unrecognized villages and their issues and promotes support locally and internationally. Its goals are to obtain official recognition for the unrecognized villages, to improve living conditions, and to claim full rights and equality for the Palestinian citizens of the state of Israel. See: [www.assoc40.org](http://www.assoc40.org)

<sup>9</sup> However, according to the “Association of Forty” there are around 100 Jewish villages that are not officially recognized, but received full public services immediately after their establishment

<sup>10</sup> 1 dunam is around 1.000 square meters

<sup>11</sup> The teams and projects were “An Existence of Exile” by Dalia Nachman-Farchi / Hezi Nachman-Farchi (Israel); “Confluence” by The AAA Team (France); “Spatial Justice” by Sabine Horlitz / Oliver Clemens (Germany)