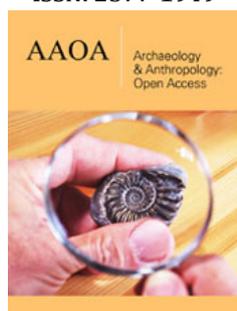


## Politics and the Army in the Evacuation of Jewish Graves in the Gaza Strip - 2005

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### Abstract

On October 26, 2004 the Knesset, Israel's Parliament, approved the disengagement plan, a unilateral plan to evacuate all the Jewish communities in the Jewish settlement bloc in the Gaza Strip (popularly known as Gush K) and four communities in northern Samaria, on the West Bank. In 2005 the State of Israel embarked on a national mission to find suitable solutions for the evacuees who were forced to leave their homes and communities. The implementation began on August 15, 2005, when over 8,000 people were evacuated in only eight days. Since then, many and varied government-bureaucratic organizations have been working to carry out the abovementioned "national mission," but according to the State Comptroller's report, they have been working too slowly. The report also noted that the Jewish residents of Gaza Strip experienced "expulsion." [1]. At the time of this writing, only about 22 percent of the evacuees are living in their new homes, and 33 percent have yet to begin construction [2].

To date there has been no in-depth examination of the specific issue of how the bureaucracy handled the traumatic evacuation of the Gaza Strip cemetery. Even the State Commission of Inquiry into the Handling by the Authorized Authorities of the Evacuees from Gush K and Northern Samaria (hereonin: The Commission of Inquiry) did not discuss the issue. In this article we will examine whether the Israeli authorities attempted to demonstrate flexibility during the evacuation of the graves and following the disengagement, and whether the solutions considered the needs and demands of the families of the deceased [3]. We will compare the term "national mission" as it was used by government leaders to expedite the bureaucratic treatment of the Gush K residents, with the actual situation on the ground. We found that in evacuating the graves the Israeli bureaucracy failed to demonstrate the necessary sensitivity and flexibility [4-8].

### Short Communication

#### Lack of responsiveness in transferring the gaza strip cemetery

One example of the failure to properly address the needs of the evacuees was the evacuation of the graves and the treatment of the families of the deceased. The law itself allowed the state to relocate the cemetery and commemorate the deceased as it saw fit. Paragraph 144 in the Disengagement Implementation Law says that "The Defense Ministry, in coordination, insofar as possible, with those involved, will work to transfer monuments and to reinstall them suitably" [9] (emphasis ours - Taub/Sasson).

Despite the recommendations to cooperate with the settlers, we find that in evacuating the graves and commemorating the deceased the government authorities did not demonstrate responsiveness and cooperation. Moreover, the abovementioned coordination was not necessarily bilateral. There was only an obligation to report on activities, without offering alternatives. On the question of commemoration as well, the authorities do not mention the families of the deceased as interested parties. This leads us to conclude that the attempts by government authorities to improve the level of awareness, with the slogan "A solution for every settler," and simultaneously to expedite bureaucratic solutions by establishing the disengagement administration, known by its Hebrew acronym Sela, and a committee to eliminate bureaucratic "red tape" did not improving responsiveness, but resembled the inflexible "bureaucratization" approach. The term "urgent national mission" used by the Commission of Inquiry was apparently meant to downplay the inflexibility of the Israeli government following the disengagement. The State Commission of Inquiry devoted only a few pages in the massive report of its conclusions to the relocation of the Gaza Strip graves. At the same time, its penetrating words leave no doubt as to the challenge facing those implementing a mission of this kind: "There is no question that the job of evacuating the

cemetery should have been done with utmost sensitivity. If there was a need for sensitivity in handling the settlers being evacuated from their homes, in the case of the deceased being evacuated from their graves, and their grieving family members, who are experiencing a double tragedy - how much more so" [10] (emphasis ours-Taub/Sasson). The tragedy of settlers evacuated from their homes, their communities, and their jobs, who at the same time must deal with the evacuation of family graves, is unbearable. The families were also under a religious obligation to observe the very restrictive Jewish laws of mourning, for a second time.

### **The military rabbinate and the IDF casualty's department: the funeral and treatment of the families on the day of burial**

Despite the need for responsiveness, the government authorities tried to apply psychological pressure to the settlers by evacuating the graves first, prior to the evacuation of the residents. This move was opposed by some rabbis, since according to Jewish law, when there is no danger to a cemetery it cannot be evacuated [11,12] While rejecting the plan for evacuating the graves, the families also used various methods to fight against the relocation. At first, they refused to discuss the subject with the defense establishment and to meet with the prime minister [13,14] But some of the families conducted quiet talks with Sela - which were publicly denied [15]. The families turned to attorney Mordechai M to write a letter to the prime minister and to the defense minister [16]. They claimed that evacuating the graves is illegal, immoral, and contrary to specific laws as well as to the Torah commandments. They also noted that the rulings of the High Court of Justice forbid the opening of graves without the consent of the relatives of the deceased, since it is liable to cause them irreversible emotional and physical harm. The families tried to convince the nation via the media and spoke of the evacuation of the graves as part of the humiliating attitude of the upcoming disengagement. They demanded that the government first wait for the government decision regarding their new place of residence, because if the disengagement were to be implemented, it would be hard to expect them to make decisions under emotional and existential pressure.

At the same time a petition was filed with the High Court by some of the families of the deceased, with a demand to prevent the evacuation of the graves without the consent of the families. The government promised that the graves would not be evacuated until the decision of the court, which accepted the viewpoint of the families and harshly criticized the government's handling of the issue. The High Court ruled that a special committee be appointed, not from Sela [17]. The petitioners demanded, among other things, that the cemetery be relocated only in cooperation with them and with their consent, and in any case not before the decision regarding their permanent home [18].

The petition was canceled on August 29, 2005, about a week after the conclusion of the evacuation of the residents, as the result of detailed agreements between the sides regarding the manner of evacuating and relocating the graves. It was agreed that since no

civil organization would take responsibility for the evacuation, it would be done by the military burial unit (the Military Rabbinate), under the supervision of the Gush Katif burial society; the funerals would be held with the help of the IDF; the families would be taken care of by the IDF Casualties division, but only "until the conclusion of the day of reburial" [19]. But despite the agreements there were differences of opinion accompanied by accusations against the military burial unit and the Casualties Division. The main reason for the families' anger was the disrespectful evacuation of the graves, in their opinion. They claimed that contrary to the agreement not to photograph the evacuation there were shocked to discover on the website rotter.net many photos from the operation. To add insult to injury, in some of the photo's soldiers were seen smiling [20].

The evacuation of the graves by the army revealed complex dilemmas for the soldiers and the families: The black-garbed soldiers (the disengagement uniform) did not accede to the requests of the evacuees, for a last prayer alongside the grave, for example: a military chaplain who was responsible to move the grave of a soldier whom he had brought to burial the first time; evacuation of graves by the same unit in which a member of bereaved family was serving, and more. In the wake of the manner of the evacuation of the graves the families once again petitioned the High Court, which handed down an unprecedented ruling to compensate the families for the defective handling of the grave evacuation. This is in effect the only judicial ruling imposing a fine on the state the way the evacuation was carried out, and because of the distress caused to the settlers by the way the task was implemented rather than due to damage to property. The court rulings mention the lack of responsiveness of the army and the government towards the settlers. Words in this spirit were also written in the Commission of Inquiry report that harshly attacked the publication of photographs from the evacuation of the graves on the Internet and the absence of effective handling by the IDF Casualty Division, which severed contact with the families at the height of their suffering, immediately after the burial [21].

### **The ministry of defense and commemoration of the deceased**

Commemoration of the deceased is another area where there was a lack of responsiveness, and coordination with the families is absent even in the law, as mentioned above [9]. One major issue is the inscriptions on the tombstones of three IDF soldiers who were buried in the Gush Katif cemetery. When they were brought for reburial the families requested the addition of the words: "Brought for reburial on the 25th of Av 5765, after being uprooted from the sands of Gush Katif." According to High Court of Justice precedents, the families of soldiers who were killed are permitted to add a personal inscription to the uniform military tombstones. Par. 5 of the Military Cemeteries Law (1950, amended on May 10, 1996) permits a personal inscription on condition that it does not contain "expressions that are insulting to, among other things, the values of the State of Israel, state security, the dignity and feelings of others, good taste, or expressions of a political nature."

Based on that law, the Ministry of Defense claimed that any mention of "Gush Katif" on the tombstone is political, and therefore not permissible. This reply was contrary to the previous agreement between the families and the Chief Military Chaplain, Rabbi Israel Weiss, and the head of the Commemoration Unit, Mr. Yaakov G. The request of attorney Mintzer, the families' representative to the Ministry of Defense, was not answered, and some of them were forced to conduct a memorial service next to a tombstone with an incomplete inscription. Only in January 2005 did the Ministry of Defense accede to the families' request to add the inscription. The settlers in the settlement of Nitzan, which absorbed some of the Gaza Strip evacuees, were promised that a purification room for the bodies, which is required by Jewish law, and a place for delivering eulogies would be built there. The promise was not kept because the government and the former Sela administration claimed that since only two graves had been moved to Nitzan, there was no justification for developing a cemetery there. The Ministry of Defense demonstrated a lack of responsiveness and a failure to accord top priority to helping the Gaza Strip evacuees.

Based on the testimony of the families, they regard the deceased as heroes, or as having died a heroic death. The families consider the commemoration an act that will preserve the memory of the deceased in accordance with their identity, their values, and their deeds. The families commemorated their loved ones in the Gaza Strip in the spirit of the legend of bravery and heroism. The Hilbergs, parents of Yohanan who was killed while in the Israel Navy in 1997, built a clubhouse for teenagers in their place of residence, Moshav NH in the Gaza Strip. The library there in his name contained mainly books about hiking in the Land of Israel, since Yohanan loved to hike. Years after his grave was relocated no clubhouse has yet been built in his memory. The parents of Itai Y, who died of cancer, also built a library in his memory in the clubhouse of the Bnei A youth movement in the Gaza Strip. They were also unable to rebuild it on a new site. Eli L, whose son Israel was killed in an encounter with terrorists, volunteers, as did Eli, for the Magen DA emergency medical services in the southern town of Netivot, where they built a memorial room in his son's memory [22]. Miri and Moshe G commemorate their son Elkana, who was killed in pursuit of terrorists, by holding discussions and giving lectures in educational institutions all over Israel. These are all examples of private activities, but it should be noted that the State Commission of Inquiry imposes a moral obligation on the government to commemorate the deceased [23].

### Summary

In this article we have tried to analyze the issue of the evacuation of the Gaza Strip cemetery as part of the disengagement plan, from a period before the disengagement began until about five years later. During those years there were ups and downs in relations between the settlers and the authorities. On the one hand the authorities continually maintained that they were doing everything possible to take care of the evacuees, and on the other the evacuees claimed that nobody was listening to them and that the solutions offered were irrelevant or unfeasible due to bureaucratic barriers. We have tried to distinguish between two different perceptions

of the disengagement as a national mission: According to one, an efficient implementation of the disengagement, as seen by the government authorities, is measured in fulfillment of the task, while the other, represented by the State Commission of Inquiry, emphasizes the efficient care of the settlers. An analysis of the decisions of the army and the Sela administration reveals that despite the need for cooperation with the evacuees the authorities were more interested in implementing the disengagement, and care of the families of the deceased and evacuation of the cemetery in general was not a high priority. Therefore, the decisions of the authorities were characterized by a lack of responsiveness, and the government attitude towards the families of the deceased was an example of inflexible bureaucracy. Our conclusion is that in the evacuation of settlements there is a need for flexible models of public administration, which includes, before the start of the evacuation, parameters regarding the scope and quality of public services offered to the evacuees and the degree to which they meet reasonable economic criteria of efficiency. There is a need for the utmost sensitivity, which cannot be taken for granted in military and bureaucratic organizations of an authoritarian nature, whose suitability for a mission of this type is doubtful.

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