



Mission permanente d'Israël  
auprès de l'Office des Nations Unies  
et des Organisations Internationales à Genève

משלחת ישראל  
ליד משרד האומות המאוחדות  
והארגונים הבינלאומיים בג'נבה

OHCHR REGISTRY

31 OCT 2011

Recipients ..... SPD .....  
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Jane Connors  
Chief  
Special Procedures Branch  
OHCHR  
Palais des Nations  
CH-1211 GENEVE 10

Geneva, 26 October 2011

**Re: Communication from special procedures allegation letter AL Cultural Rights (2009)  
Education (1998-11) Minorities (2005-4) Water (2008-1) ISR 4/2001**

Dear Madam,

In reference to your communication 26 May 2011, regarding the **special procedures urgent appeal** sent by the Independent Expert in the field of cultural rights; the Independent Expert on minority issues; the Special Rapporteur on the human right to safe drinking water and sanitation; and the Special Rapporteur on the right to education, I have enclosed the following information as provided by the relevant authorities in Israel.

Yours sincerely,

Walid Abu-Haya  
Counselor



We write in response to the joint letter dated 26 May 2011, sent on behalf of the Independent Expert in the field of cultural rights; the Independent Expert on minority issues; the Special Rapporteur on the human right to safe drinking water and sanitation; and the Special Rapporteur on the right to education

According to the Israeli legal system, international conventions do not apply directly, but through national legislation. These conventions are implemented through a wide range of legal instruments, such as basic laws, laws, orders and regulations, municipal bylaws, and court rulings.

The applicability of the Conventions to the West Bank has been the subject of considerable debate in recent years.

Critical to assessing and interpreting Israel's obligations pursuant to the Convention, is the changing reality and the dramatic developments on the ground in past years. It is against this background that Israel is called-on to consider the relationship between different legal spheres, primarily the Law of Armed Conflict and Warfare and Human Rights Law. This relationship remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between Human Rights Law and the Law of Armed Conflict, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, nevertheless remain distinct and apply in different circumstances.

Furthermore, Israel has never made a specific declaration in which it reserved the right to extend the applicability of the Conventions to which it is a party, with respect to the West Bank. Clearly, in line with basic principles of interpretation of treaty law, and in the absence of such a voluntarily-made declaration, the Conventions, which are territorially bound, do not apply, nor were they ever intended to apply, to areas outside its national territory. Nevertheless, you may find value in Israel's perspective on the issues raised in your letter. There is no distinction between Bedouin and other residents in the West Bank who are listed in the Palestinian population registry. As a rule, residents of the area do not have an automatic right to enter the State of Israel. A Palestinian resident who wishes to enter Israel for the purpose of family visits may submit a request to the Palestinian liaison authority near his place of residence. That request will be examined in keeping with accepted criteria and regulations. Permits are generally accepted for individuals with a first degree family member who has a status in Israel, a valid magnetic ID card, and no security or other limitations.

In addition we wish to state that most of the claims made in this regard refer to the responsibilities passed to the Palestinian Authority in the interim agreements. Furthermore, a large part of the claims in this regard are generalized and do not rely on specific facts or findings: the experts settle for drawing attention to the various instructions in the aforementioned documents in a manner that does not enable an additional reply.

On matters connected to education and health services and economic, social and cultural matters for the Bedouin population in the area, here too there is no distinction between Bedouin and other residents. In accordance with the Interim Agreement on the West Bank

and the Gaza Strip (1995) between Israel and the Palestinians, the civil authority pertaining to education and health in Area C was transferred to the Palestinian Authority. Therefore, such services for a majority of the Palestinians, including Bedouins, are facilitated by the Palestinian Authority.

Movements of Palestinians, including Bedouins, between Areas A, B and C in the West Bank are not limited. In recent months, the absolute majority of crossing points and checkpoints were removed. Therefore, Palestinian movement in the urban and rural areas is, for the most part, uncontrolled and accessible to all residents in the West Bank.

Actions taken by the Israeli authorities in the area regarding procedures of enforcement and supervision are carried out according to the Hague Regulations of 1907 Concerning the Laws and Customs of War on Land (hereforth the "Hague Regulations") and a variety of obligations imposed in accordance with the law of belligerent occupation. Article 43 of the Hague Regulations requires that the military administration in the area "restore, and ensure, as far as possible, public order and safety". A military authority needs to fulfill this obligation while respecting the laws in force in the area, unless absolutely prevented from doing so.

The implementation and enforcement of the laws of planning and construction in the area are not limited only to matters of security and the military. Rather, the military commander also has the obligation to ensure all levels of civilian life in the area.

The Demolition Orders against illegal construction in the area are issued in accordance with the Jordanian Planning Law No. 79 of 1966, which was in force when Israel's Military Administration was established. Consequently, when implementing the instructions of the local law, by issuing demolition orders against structures which were built illegally, Israel's military authorities are functioning in accordance with their obligations under international law.

Enforcement activities carried out by the military authorities in the West Bank, including the enforcement of laws regarding planning and construction, are intended to maintain public order and security in the area. Acceding to the private interests of each individual, without availing powers of planning and their corresponding obligations, would lead to chaos, be an abdication of responsibility for ensuring public order and would severely harm residents of the area.

In this regard, the Jordanian Laws of Planning were amended when necessitated by order of the military commander in the West Bank. Such amendments were intended primarily to adapt the body of laws and its instructions to the changing social needs of the civilian population. The obligation imposed on the military commander by Article 43 requires that he remains attentive to the needs of the community, take steps to benefit it, and ensure an acceptable quality of civilian life in the area. For example, this was the case with regards to a change to article 43a of the Cities, Villages and Buildings Planning Law Number 79- 1966. It was amended to facilitate the issuing of building permits for plans which were deposited and approved before the entrance of the IDF forces to the area, but had not been carried out yet.

Since 1967 scores of changes have been made to the mandatory master plans which cover the West Bank, changes which are intended to adapt those master plans to the modern needs of the population in the area. Thus, during the 1990s, hundreds of new plans were prepared for

entire villages to adapt to changes on the ground and among the population, including planning to deal with forecasts of population growth.

A supervising unit within the Civil Administration enforces the law in both in the Jewish and Palestinian sectors. Decisions of the Civil Administration, regarding such matters are subject to judicial review by Israel's Supreme Court. Access to the court is available to residents of the area who believe that their rights have been infringed upon.

The mandatory plans which apply to most of the areas in which Bedouins reside and tend to their animals have been reviewed and found valid several times by Israel's Supreme Court. In many decisions the Supreme Court approved demolition orders issued for illegal structures; ruled that such structures are incompatible with regional master plans.

In 1998 a unique project to benefit the Bedouin sector has been built – the Jahalin project. The Jahalin project is a neighborhood in the Palestinian town of Al Azariah, east of Jerusalem. Currently ecological planning and demographic considerations are being examined to reach a final determination on this explanation. The decision to expand the neighborhood was delayed until recently due to ecological reasons (the neighborhood is geographically close to a trash disposal site and the question was whether the construction of the neighborhood should be advanced due to this proximity, from a planning standpoint).

Other sites are also being considered for new neighborhoods adjacent to existing urban settings. At the same time, different ethnic concerns between Palestinian and Bedouin communities must also be factored.

Finally, the Civil Administration recently began a broad planning project to facilitate planning arrangements for existing Bedouin communities to planning and construction of water, sewage, and electricity infrastructure and the practical developing of new neighborhoods and communities. A public tender was issued with the goal of hiring the planning services of an external planning office and the results of the tender were recently received. It is expected that the tender will be awarded in the coming months. Once the operator begins activities, it is expected that further improvements taking specific needs of the Bedouin communities in the West Bank will be carried out.