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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates 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

REFERENCE: AL Cultural rights (2009) Education (1998-11) Minorities (2005-4) Water (2008-1)
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Excellency,

We have the honour to address you in our capacities as Independent Expert in the field of cultural rights, Independent Expert on minority issues, Special Rapporteur on the human right to safe drinking water and sanitation and the Special Rapporteur on the right to education pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 10/23, 16/6, 16/2 and 8/4.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning:

According to information received:

The **Bedouin of the West Bank** were allegedly displaced from their tribal lands in the Negev desert in 1948 when the State of Israel was established. Today there are reportedly 40,000 Bedouin in the West Bank, living there as a minority group which is allegedly continuously exposed to the threat of forced displacement and discrimination. The Bedouin traditional livelihood is pastoralism. Today there are approximately 5000 Bedouin families living in the West Bank. 2000 of these are living in United Nations refugee camps and Palestinian villages, and 3000 live in an area called 'Area C' where they are struggling to maintain their traditional lifestyle.

The Bedouin live in an area of the occupied West Bank trapped between the policies of the Government of Israel and the Palestinian Authority. Their situation has significantly hampered their ability to exercise a broad range of rights. They allegedly face discrimination and are prevented from enjoying the minimum requirements of a dignified life. Community representatives report that the Bedouin are no longer allowed to visit their relatives in the Negev. As a result of the Oslo agreement between the government of Israel and the Palestinians during the 1990's, Area C makes up approximately 60%

of the West Bank and is under the full military and administrative control of Israel (while Area A and B are respectively fully and partially controlled by the Palestinian Authority). All residents of Area C are subject to regulations imposed by the Israeli authorities and are isolated from the majority of the Palestinian population. According to the information received, Israel controls the land and natural resources in Area C. The rangeland and water that the Bedouin depend on for their livestock has now become fragmented by the establishment of closed military areas, Israeli settlements, nature reserves, check points and the West Bank Barrier. Reportedly, 70% of Area C is now forbidden to the Bedouin and their access to natural resources has been crippled.

Reportedly, a permit system controls the movement of people, vehicles and livestock while another permit system controls the ability of the Bedouin to build even the simplest of structures. Without a permit the Bedouin cannot build a house, or any structure. The permit system is expensive, lengthy and usually inconclusive so the Bedouin rarely get permits. Without a permit in Area C, homes, schools or health centres can be demolished. Due to building restrictions the majority of Bedouin living there live in sub-standard shelter, constructed from corrugated iron, wood and scrap material. Many communities still live in tents, and others live in caves. The same restriction forbids any permanent infrastructure so the majority of the Bedouin live without basic sanitation with no water, toilet facilities or electricity. There are reportedly over 3000 structures that currently have pending demolition orders in Area C, including schools and health facilities. Homes and animal shelters are allegedly demolished by the Israel Defense Forces (IDF) on a regular basis whilst Israeli settlements continue to expand in the same areas. Bedouin report violence and harassment against them by Israeli settlers which allegedly goes unpunished.

Allegedly, since 2000 when the second *Intifada* started the Bedouin have lost access to East Jerusalem. The closure system and its associated permit regime cut them off economically, socially and religiously from the life they had known until then. Until 2000 the majority of Bedouin men reportedly had a strong and continuous second income from accessing work in Israel. The impact has been both economically and psychologically disruptive. The Bedouin are forced to rely on income from herding. However, restrictions and the constant threat of displacement have rendered seasonal migration impossible for the Bedouin, and they are now witnessing the collapse of their traditional livelihood. The second *Intifada* has reportedly had a significant impact on market prices resulting in meat and milk products becoming extremely expensive due to increased production costs, for which the Bedouin are blamed. This has resulted in increasing social isolation and marginalisation. Many have entered into debt and have no access to credit or micro-finance enterprises. They are dependent on humanitarian assistance. But humanitarian actors are also restricted by Area C regulations.

While long-term solutions are sought to allow the Bedouin to access alternative labour markets, they claim that loss of livelihood means they can no longer afford to pay for the school bus to transport their children to schools, or to access other basic services. School attendance is sporadic and sub-standard shelters make studying at home extremely difficult for Bedouin children. The entrance marks required for higher education in Palestine are very high and the Bedouin cannot compete with the highest achievers from cities who do not face the same challenges on a daily basis. Scholarship systems do exist, but city children reportedly win them because they are results based and take no account for the conditions that the Bedouin live in. These constraints are compounded by the historical discrimination that the Bedouin reportedly face from the Palestinians in the labour market because they are both 'Bedouin' and 'refugees'. Access to health services is also reportedly very scant. Mobile health services in Area C are limited and do not address secondary health for which the Bedouin have to travel to urban centres. Without health insurance these services are expensive and Bedouin cannot afford the cost of transport to seek a consultation, or pay for treatment.

Bedouin are only semi-nomadic, and have a strong concept of home and connection to land. Now that seasonal migration is no longer possible they need to settle in order to build their futures, but they do not own the land where they live and because it is part of Area C the Israeli Government has declared it 'State Land' fully under their control. According to the information provided, verbal offers have been made to re-locate the Bedouin in 'purpose-built' villages. However the locations suggested are reportedly isolated and have no access to natural resources or basic services.

Caught between the Palestinian Authority and the Israeli military authorities the Bedouin are not formally recognised by either side as a minority group. They lack a representative body and are therefore never consulted by either side. Since 1948, Bedouin tribes and clans have been forcibly splintered into smaller social units, often across countries, and the traditional leadership system began to dilute. In the West Bank the Bedouin are no longer able to live in clan areas spread across a clearly recognised tribal territory. They have to share land and resources with other clans, with other tribes and with local Palestinian herders with resulting social problems emerging from this close proximity. In 1993, the Palestinian Authority initiated a new leadership system in rural areas however the leaders were not appointed according to Bedouin traditional elective system causing further splits in social groups. With no clear leadership system, no representative voice and increasing social fragmentation and internal friction, the Bedouin traditional livelihoods and cultures are increasingly under threat.

While we do not wish to prejudge the accuracy of these allegations, I wish to appeal to your Excellency's Government to seek clarification of the circumstances regarding the above mentioned allegations.

We draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 requires that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity". Article 2 (para. 2) states that persons belonging to minorities have the right to participate effectively in economic and public life. Furthermore, Article 2.3 states that "Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation". In addition, Article 4 of the Declaration states that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law". The Declaration highlights the fact that States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country (art. 4, para. 5). It also states that ensuring that persons belonging to minorities are "an integral part of the development of society as a whole" is necessary to maintain or build harmonious and respectful relations within society (sixth preambular paragraph).

Excellency, the third annual session of the Forum on Minority Issues produced recommendations on the issues of minority and effective participation in economic life (A/HRC/16/46). The Forum recommendations recognize the importance of land and property rights for minorities and that without protection of their rights, minorities may face challenges and negative outcomes, including forced displacement, the perpetuation of poverty and, in some cases, violence. Undue legal restrictions on the practice of traditional livelihoods and other economic activities of minorities still exist in some countries. Minorities often lack the political or legal means to challenge land theft, forced displacement, involuntary resettlement or other activities that impact on the territories which they own or occupy and their livelihoods. Strategies for the inclusion of minorities in economic life should take into account the diversity of situation, identity and interests of minority groups. Different minority groups within a given country can have varying degrees of economic participation and diverse goals for economic inclusion. Recommendations include, that Governments should review, with the full and effective participation of minority groups, the extent to which minorities have equal access to land and security of land and property rights. Furthermore, consistent with the provisions of the UN Declaration, the Forum on Minority Issues recommended that strategies for improving security of land rights for minorities must be based on the principle of free, prior and informed consent to actions that would have an impact on the rights of minorities. Several factors can exacerbate the exclusion of minorities, including deteriorating economic conditions, ethnic, religious, cultural or sectarian tensions or discrimination.

In this context it is particularly notable that the Forum on Minority Issues recommends that “Governments should value and protect the pursuit of traditional livelihood practices by minority groups. Such practices frequently add value to the wider economy but may face threats from environmental change, economic crisis or undue restrictions on activities. Pastoralists, for example, should have special protection measures for access to pasture and water; regional development initiatives could enable trans-border economic activity. Governments should develop legislation and policies to promote the sustainability and welfare of pastoralist ways of life and include pastoralists, particularly women, in the development of such policies.

We would also like to draw the attention of your Excellency’s Government to article 15 paragraph 1 (a) of the International Covenant on Economic, Social, and Cultural Rights, to which Israel is a party, relating to the right of everyone to take part in cultural life. The Committee on Economic, Social and Cultural Rights, in its 2009 General Comment 21 on the right to take part in cultural life (E/C.12/GC/21), stressed that article 15 includes the right of minorities and of persons belonging to minorities to conserve, promote and develop their own culture (para. 32). This entails that States parties must respect free access by minorities to their own culture, heritage and other forms of expression, as well as the free exercise of their cultural identity and practices (para. 49 d). In addition, States have the core obligation “to allow and encourage the participation of persons belonging to minority groups, indigenous peoples or to other communities in the design and implementation of laws and policies that affect them (para. 55 e).

We would also like to refer Your Excellency’s Government to article 13 of the International Covenant on Economic, Social and Cultural Rights, ratified by Israel in 3 January 1992, and article 28 of the Convention on the Rights of the Child, ratified by Israel in 27 December 1999, both recognizing the right of everyone to education. Furthermore, we would like to draw the attention of your Excellency’s Government to General Comment No. 13 on the right to education adopted in 1999 by the Committee on Economic Social and Cultural Rights, which recognize that availability and accessibility are among four interrelated and essential features of the right to education that must be ensured by Governments. The Committee also stated that the obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education and that the obligation to fulfill requires them to take positive measures that enable and assist individuals to enjoy the right to education.

We further recall that in July 2010, the General Assembly adopted resolution 64/292 recognizing water and sanitation as a human right, and that Human Rights Council resolution 16/2 specifies the criteria of availability, quality, accessibility, affordability, and acceptability, as well as the need to respect the principle of non-discrimination. In this regard, we recall that all people have a right to safe drinking water and sanitation.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the cases accurate?
2. Have complaints been lodged with regard to the incidents mentioned above?
3. Please provide the details and where available, the results, of any judicial investigation, or any criminal charges and other inquiries carried out?
4. Have affected communities been consulted regarding their situation and, if so, what were the outcomes of those consultations?
5. Please indicate what measures, if any, have been put in place or are being envisaged to address the needs of the Bedouin community in the West Bank and ensure their enjoyment of their human rights?

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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