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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on the human right to safe drinking water and sanitation**

REFERENCE: UA Housing (2000-9) Indigenous (2001-8) Water (2008-1)  
ISR 6/2013

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the rights of indigenous peoples; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 15/8, 15/14, and 16/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **alleged plans to enact in the coming days the "Law for the Regulation of Bedouin Settlement in the Negev-2013", also known as the Praver-Begin Bill.**

According to the information received:

On 6 May 2013, the Ministerial Committee on Legislation approved the proposed "Law for the Regulation of Bedouin Settlement in the Negev- 2013" (known as Praver-Begin Bill). This bill was originally discussed in January 2012 in the Cabinet, and additional recommendations were incorporated after post-facto discussion and the consideration of proposed modifications. If passed, the legislation would serve to implement a State plan for the unrecognized Bedouin villages in the Negev (known as the Praver-Begin Plan) which was adopted in September 2012. This plan reportedly seeks to resolve the issue of Bedouin land claims in the area mainly through the resettlement of Bedouin people from unrecognized villages to Government-planned townships.

However, serious reservations and concerns have been raised about the Plan and the legislation for its implementation by the indigenous Bedouin communities who have had a presence in the region for hundreds of years. Reportedly the Plan and Bill will lead to the eviction and displacement of tens of thousands of people who belong to a minority indigenous group of Palestinian origin, the Bedouins,

and will lead to the destruction of a high number of Bedouin villages in the Negev desert in the South of Israel. Concerns also include severance of the historical ties to land by the Bedouin community, strict limits and conditions to access and receive adequate compensation whether in money or land, and concerns about the use of force in the form of additional police officers for the implementation of this Plan. It is alleged that judicial review of State actions evicting villagers is limited to challenges only on technical grounds, for example if there is an incorrect date in an eviction order. In addition compensation would reportedly only be available to those Bedouin who filed a land claim between 2 May 1971 and 24 October 1979. Reportedly, a person would also be ineligible for compensation if a court previously denied their land claims. Further, all compensation is reportedly conditioned on Bedouins claiming moving to townships established by the State and on them waiving their lands rights.

Alleged lack of participation of the concerned community in decision-making has been drawn to our attention. In addition, it is alleged that deliberate denial of basic services including water and sanitation has been used to put pressure on the community to leave their lands.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of Racial Discrimination, both instruments to which Israel is a party.

In relation to the right to adequate housing, Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions". This article must be read in conjunction with Article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind. Along similar lines, the International Convention on the Elimination of Racial Discrimination, Article 5, provides for the exercise of the right to adequate standard of living, including adequate housing, without discrimination. The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 has stressed that the right to adequate housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With "due priority to those social groups living in unfavorable conditions," the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that "the right to housing should be ensured to all persons irrespective of income or access to economic resources".

As stated in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally

recognized human and mass evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. According to the General Comment No. 7:

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

“16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

Furthermore, in accordance with article 10 of the United Nations Declarations on the Rights of Indigenous Peoples, the relocation of indigenous peoples from their traditional lands may not take place without their consent. Article 10 states: “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, and where possible, with the option of return”.

With regard to the human rights to water and sanitation, the ICESCR, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child (CRC) entail human rights obligations attached to access to safe drinking water and sanitation. Furthermore, on 28 July 2010 the UN General Assembly explicitly recognized water and sanitation as a fundamental human right. In 2010 the Human Rights Council (resolution 15/9) explicitly reaffirmed that safe and clean drinking water and sanitation are a fundamental human right, derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable of physical and mental health, as well as the right to life and human dignity. The human right to water means that everyone is entitled to sufficient, safe acceptable, physically accessible and affordable water for personal and domestic uses, which includes sanitation. The human right to sanitation means that everyone, without

discrimination, has physical and affordable access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity.

The Special Rapporteur on the right to adequate housing raised concerns and reservations about the Praver Plan and implementing legislation in the report of her official country mission to Israel and the Occupied Palestinian Territories, 2012. The report (A/HRC/22/46/Add.1) addresses in section D, paragraphs 32 to 41, the situation of the Bedouin minorities in particular in relation to the Praver Plan, such as in relation to the lack of recognition of the right to ownership of ancestral land, dispossession, displacement and eviction of residents in the unrecognized villages, limitations on access to judicial review and remedies and the power to access justice and also insufficient and inadequate compensation. Reportedly, these concerns have not been addressed in the final version of the bill to be enacted. In the conclusions and recommendation of her report, the Special Rapporteur on adequate housing explicitly called for revision and reform of laws relevant to the right to adequate housing that, in their application, do not comply with the principle of non-discrimination as provided in the international human rights instruments to which Israel is a party (paragraph 101 (a)(i)). Ms. Rolnik also recommended to “recognize the specific rights of the Bedouin community as indigenous peoples as per the United Nations Declarations on the Rights of Indigenous Peoples and revise all relevant policies and laws on this basis, ensuring respect for their land ownership and cultural traditions”. (paragraph 101 (a)(vi)).

Along a similar vein, the Committee on the Elimination of Racial Discrimination, when considering the state of Israel’s report in 2012, also raised concern about discriminatory planning policy, affecting the Bedouin communities, and its adverse tendency of preferential treatment for the expansion of settlements in detriment of the rights of these communities. In this context, the Committee “urge[d] the State party to reconsider the entire policy in order to guarantee [...] the Bedouin rights to property, access to land, access to housing and access to natural resources (especially water resources). The Committee also recommended to the State that any planning and zoning policy be implemented in consultation with the populations directly affected by those measures” (paragraph 25).

Similarly, the situation of the Bedouin people in the Negev has been the subject of concern for the Special Rapporteur on the rights of indigenous peoples as expressed in his communications of 1 February 2011 and 16 June 2011. These communications related to the alleged ongoing demolition of “unrecognized” Bedouin villages in the Negev desert and the relocation of their inhabitants to Government-planned villages. The Special Rapporteur on the rights of indigenous peoples recommended that Israel ensure that its laws and administrative policies related to lands and development align with relevant international standards concerning the rights of indigenous peoples to lands, territories and resources; to immediately cease further demolitions of Bedouin villages in the Negev or any forced relocations of Bedouin without their free, prior and informed consent; establish an adequate mechanism under which affected Bedouin can receive redress for restrictions on their land and resource rights; ensure the delivery of essential services to

Bedouin people, both within and outside recognized towns; and enable the participation of and benefits to Bedouin people, including within “unrecognized” Bedouin villages, as part of a long-term vision for social and economic development in the Negev. (See, A/HRC/18/35/Add.1, Annex VI, paras. 17-21).

As it is our responsibility, according to the mandate entrusted to us by the Human Rights Council, to clarify all allegations brought to our attention. We would therefore greatly appreciate detailed information from your Excellency’s Government concerning the noted situation, which would have a grave impact on the Bedouin Communities, and about the measures taken by the competent authorities. We would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the summary of the case accurate?
2. What mechanisms have been used to ensure adequate, informed and genuine participation by the Bedouin communities and their representatives in the discussions and decisions related to the Praver-Begin Plan and its implementing legislation?
3. Did appropriate consultations take place with the Bedouin community prior to the approval of the legislation by the Ministerial Committee on Legislation? If yes, please give the details, date and outcomes of these consultations, as well as give details about the mechanisms used for consideration of modifications as a result of these consultations.
4. Please give details about the way in which compensation will be provided for all concerned individuals, with a due assessment of the imminent loss of their housing, land and livelihood, should the legislation be adopted. Please give information about the administrative procedures people will need to follow in order to access compensation and time frames.
5. What measures have been foreseen to ensure that, should the eviction take place, the evicted persons will not become homeless?
6. What has been foreseen in terms of relocation? If locations have been designated for the relocation, please provide details on the exact location, including details on the area and quality of land, access to public services, including water and sanitation, and livelihood sources.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the

alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Raquel Rolnik

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

James Anaya

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Catarina de Albuquerque

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