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HAUT COMMISSARIAT DES NATIONS UNIES
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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandate 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

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Excellency,

I have the honour to address you in my 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 pursuant to Human Rights Council resolution 15/8.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding the **alleged threat of demolitions and evictions in Bedouin villages of Bir Hadaj in the Negev**.

According to the information received:

On 12 November 2012 police forces entered the recognized Bedouin village of Bir Hadaj, accompanied by representatives of the Israeli Ministry of Interior, which attempted to distribute home demolition orders to village residents.

Reportedly, the Israeli police fired tear gas, rubber and sponge bullets at the residents, injuring several residents, including women, children and elderly. According to information received over 12 residents were arrested and approximately 30 children were taken to the hospital to be treated for tear gas inhalation.

I am informed that similar incidents of violence occurred on 27 September 2012 and 11 October 2012.

While I do not wish to prejudge the accuracy of these allegations, I would like to remind your Excellency's Government of Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Israel is a party, which states that "the States Parties to 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". The Committee on Economic, Social and Cultural Rights commented the right to adequate housing in its General Comment No. 4, stressing that the right to 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.”

In view of this, I wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency’s Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions.

As it is my responsibility, according to the mandate entrusted to me by the Human Rights Council, to clarify all allegations brought to my attention. I would therefore greatly appreciate detailed information from your Government concerning the above situation and about the measures taken by the competent authorities. I would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged on behalf of the alleged victims?
3. Please provide the details and there available the results, of any investigation and judicial or other inquiries carried out in relation to this case, in particular in relation to the alleged use of force against the residents.

4. Please provide information in relation to legal or other remedies available to the residents allegedly affected by the reported use of force in this case.

5. Did appropriate consultations take place with the affected community? If yes, please give the details, date and outcome of these consultations.

6. Please provide information relating to any eviction notice provided to the affected residents.

7. To what extent have measures of compensation been put in place for all concerned persons, with a due assessment of the imminent loss of their housing and livelihood?

8. What measures have been foreseen to ensure that, should the eviction take place, the evicted persons will not become homeless?

9. 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 and livelihood sources.

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

While waiting for your response, I 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. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of my 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