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CONSEIL DES DROITS DE L'HOMME**

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Mandate of the Special Rapporteur on the rights of indigenous peoples

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 6/12.

In this capacity, I would like call the attention of your Excellency's Government to information received in relation to **the alleged ongoing demolition of "unrecognized" Bedouin villages in Negev desert and the relocation of their inhabitants to Government-planned villages**. As your Excellency is aware, on 1 September 2010, I sent a letter to your Excellency's Government expressing my interest in carrying out a visit to Israel to examine the situation of Bedouin people in the Negev; I have not received a response to that letter.

I am still hopeful of a positive response by your Excellency's Government of my request for a visit to address the situation in the Negev. I understand that Israel has agreed to a visit in 2011 by 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, and expect that the situation of the Bedouin in the Negev will be addressed during this visit. Nevertheless, given the alleged urgency of the situation and possibility of further demolitions of Bedouin dwellings, I would like to move forward to address this situation and its underlying causes at this time, and so especially in light of relevant international standards concerning indigenous peoples.

According to the information received:

The Bedouin have inhabited the area known as the Negev—an area in the southern part of the State of Israel comprising some 12,500 square km—since as early as the seventh century. Historically, Bedouin people practiced a semi-nomadic lifestyle, engaging in subsistence farming and raising livestock, and land use practices were governed by an intricate system of customary land and water distribution and management.

Since 1948, Government land policy in Israel has failed to recognize Bedouin legal entitlement to their traditional lands in the Negev, and virtually all of the lands in the Negev are officially owned by the State of Israel. Rather than adopt a land policy that recognizes Bedouin villages in the Negev, from the 1960s to 80s, the Government created seven urban towns for the Bedouin, in order to provide them with education, housing, water, electricity, and other services, and also to help resolve what the State viewed as a difficult land ownership situation in the Negev. These towns are Rahat, Arara, Tel Sheva, Kseifa, Segev Shalom, Lagiva and Hura.

However, even though the Government has committed significant resources towards Bedouin housing and delivery of essential services within the planned towns, the people in the Government-created towns reportedly rank at the bottom of all social and economic indicators used by the State, and suffer from the highest unemployment rates and lowest income levels in Israel. Furthermore, Bedouin have complained that they cannot continue to live in their traditional manner in these urban areas, given that raising crops or animals in the towns is not allowed and there are not sufficient other opportunities for employment. Still, the Israel Land Administration has plans to create 13 new villages or towns for the Bedouins of the Negev, five of which have already been built.

Out of approximately 155,000 Bedouin living in the Negev today, around half live in the recognized towns created by the Government and half live in 47 so-called “unrecognized villages”. Although officially unrecognized, the majority of these villages were established prior to the creation of the State of Israel, and virtually all were established prior to the creation of the Government-created towns.

The unrecognized villages are denied all forms of basic infrastructure and are not allowed to build or develop in any way. The villages all lack basic services, such as running water, electricity, waste removal, telephone lines, paved roads, schools, and health facilities. Unrecognized Bedouin villages are purportedly too under-populated to justify delivery of essential services; however, Jewish settlements in the Negev with comparable or smaller populations have received such services. Thus, some have therefore argued that the demolitions of Bedouin villages are carried out to maintain a Jewish presence throughout the Negev, in order to off-set the high population growth of the Bedouin which is one of the highest in the world.

Building permits may not be issued in unrecognized villages, resulting in Bedouin individuals being indicted continually for “illegal” construction and in countless Bedouin homes being subject to demolition orders. Since the early 1990s, Bedouin people living in unrecognized villages throughout the Negev desert have experienced ongoing demolitions of their homes and villages by Israeli authorities.

Most recently, during the course of 2010 and 2011, the Al-Arakib village has been destroyed on nine occasions. For example, in July 2010, an estimated

1,500 police officers surrounded Al-Arakib and destroyed the entire village. Forty homes were destroyed and around 300 people were left without shelter or water. The residents were given no notice or warning about demolitions before the bulldozers arrive to retrieve their personal possessions and valuable items like gas stoves and water tanks. Further, their sources of livelihood – olive trees, poultry and sheep – were also destroyed.

On 16 January 2011, the Israel Land Authority again bulldozed Al-Arakib, disposing of all remnants of bulldozed buildings and personal items at a municipal dump. Families were not given the opportunity to rescue their belongings and police used tear gas and rubber bullets to assist in evicting the residents of Al-Arakib. On 17 January, police returned again to demolish the temporary structures that had been constructed overnight by Al-Arakib residents (with new, purchased materials) in order to endure the desert's cold nighttime conditions. In the days that followed, heavy equipment was brought in to prepare the Al-Arakib area for the construction of a new road for a reforestation project of the Jewish National Fund, a project that some have assumed is the reason for the demolitions of the Al-Arakib village. These recent demolitions also resulted in the arrest of twelve people, charged with disobeying a court order against rebuilding in the village, although no one was aware of the existence of this order.

I would like to draw the attention of your Excellency's Government to international standards that are relevant to the issues that are presented in the situation of the Bedouin of the Negev, in particular those contained in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007.

In light of the Bedouin's alleged lack of legal certainty over the lands they have traditionally occupied, it bears mentioning that the United Nations Declaration on the Rights of Indigenous Peoples states the following:

Article 26

1. Indigenous peoples have the right to the lands, territories• and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27 of the United Nations Declaration further holds that States have the affirmative duty to establish a process by which indigenous land rights can be recognized

and that this process should be carried out in conjunction with the indigenous peoples concerned:

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Furthermore, in general, removals of people from their traditional lands have serious implications for a wide range of human rights, and these implications are greater for indigenous peoples, who usually hold bonds of deep cultural significance to the lands in which they live. For this reason, consent is a precondition for any forced removal according to Article 10 of the United Nations Declaration on the Rights of Indigenous Peoples, which 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, where possible, with the option of return.

Finally, as you are aware, the situation of the Bedouin in the Negev has been addressed previously by United Nations human rights institutions; in particular, the Committee on the Elimination of Racial Discrimination has expressed concern over the relocation of inhabitants of unrecognized Bedouin villages to planned towns (CERD/C/ISR/CO/13, para. 25 [2007]). In this connection, the Committee recommended that Israel “[...] enquire into possible alternatives to the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns, in particular through the recognition of these villages and the recognition of the rights of the Bedouins to own, develop, control and use their communal lands, territories and resources traditionally owned or otherwise inhabited or used by them” (Ibid). The Committee also recommended that the State “enhance its efforts to consult with the inhabitants of the villages and notes that it should in any case obtain the free and informed consent of affected communities prior to such relocation” (Ibid).

I urge your Excellency's Government to exercise the utmost caution in regard to its actions concerning the Bedouin people and to ensure that those actions comply with all relevant human rights standards, including those referenced above.

As I continue to monitor and clarify the circumstances surrounding the present situation, I would be interested in knowing your Excellency's Government's views on the accuracy of the information contained in this letter, and I would be grateful to receive any additional information your Excellency's Government may deem relevant. In particular, I would like to know more about:

1. Israel's policy with respect to the unrecognized Bedouin villages;

2. Any Government plans to further demolish Bedouin villages and steps being taken to ensure the human rights of those affected by such plans
3. Any steps the Government has or plans on taking to implement the recommendations of the Committee on the Elimination of Racial Discrimination regarding the Bedouin villages in the Negev/Naqab;
4. Any Government plans to relocate inhabitants of unrecognized Bedouin villages into urban areas;
5. Any measures that the Government has taken or plans to take, to obtain the consent of Bedouin villagers prior to the demolition of their villages; and
6. Any measures taken by your Government to give legal recognition and protection to the lands, territories and resources that the Bedouin have traditionally owned or otherwise occupied or used.

I would appreciate a response from your Excellency's Government within 60 days. I undertake to ensure that your Excellency's Government's response will be taken into account in my assessment of this situation and in developing any recommendations that I may make for your Excellency's Government's consideration pursuant to the terms of my mandate to contribute to overcoming obstacles to the enjoyment by indigenous peoples of their human rights.

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

James Anaya
Special Rapporteur on the rights of indigenous peoples