

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ref.: AL ISR 3/2022
(Please use this reference in your reply)

22 April 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur in the field of cultural rights; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 43/8, 46/9, 41/12 and 43/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **recent confrontations between members of the Bedouin minority from the Naqab and the Israeli police.**

According to the information received:

Recent confrontations between members of the Bedouin minority from the Naqab and the Israeli police have been catalyzed by the Jewish National Fund's (JNF) afforestation works in the surroundings of the unrecognized village of Khirbit al-Watan, located south of the recognized Bedouin village of Sa'wah.

On 10 January 2022, checkpoints were set up near the Bedouin village of Sa'wah as part of a police operation that included hundreds of police officers who were preparing for the JNF's afforestation activities on behalf of the Israel Land Authority (ILA). The checkpoints were partly on lands where members of the Bedouin minority have ownership claims. The checkpoints were located in the area between Road 31 and Road 25—which prevented and delayed the entry of vehicles to their villages.

The JNF allegedly destroyed crops and trees that belong to members of the Bedouin minority in order to plant trees with the objective to "preserve the land". The Bedouins started gathering to protest the uprooting of their lands which had resulted in the destruction of olive and fig trees and crops. Bedouin residents were throwing stones at police officers which resulted in several officers being injured. The police forces repressed the protests, and 40 Bedouin adults and 9 Bedouin minors were violently arrested by police officers.

On 13 January 2022, members of the Bedouin minority organized a demonstration against land uprooting and dispossession, demanding the government to halt the JNF's harmful actions and recognize the Bedouin villages. The police violently dispersed the protest, using tear gas, drones, shock grenades and rubber bullets against the protesters. Approximately 150 persons were arrested, including 60 minors, while 6 to 8 people were detained

and investigated by the Shabak (Israeli Security Agency). Among those arrested were 26 Bedouin women, most of whom were released and placed under house arrest. The number of detainees still in custody as of 20 January 2022 was nearly 60. Ten persons were injured during the protest and a minor who was arrested left the prison with a broken arm. Additionally, a 39-year-old man was injured with rubber bullets and was placed in intensive care.

The JNF has reportedly been planting trees in the surroundings of the unrecognized village of Khirbit al-Watan, and south of the village of Sa'wah, on lands that are disputed. Land claims filed in 1973 were never discussed or approved. The afforestation was reportedly done without planning approvals, and not as part of the National Outline Plan for Forest and Forestry. The government and the JNF have set up a "Planting Coordination Committee" whose purpose is to mark areas around Bedouin villages or near them, and to plant in them, to "preserve the land."

Without prejudging the accuracy of these allegations, we would like to express our concern about the State's treatment of members of the Bedouin minority which is affecting their traditional way of life, their lands, livelihoods and cultural practices, as well as the violent repression of the legitimate exercise of their right to freedom of peaceful assembly.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the number of persons still detained in connection with the above events, any charges against them, as well as detailed information on the factual and legal grounds of their arrest and detention.
3. Please provide detailed information on measures taken to investigate and prosecute any acts of police violence directed toward the Bedouin .
4. Please elaborate on any consultations undertaken with members of the affected Bedouin minority prior to afforestation activities.
5. Please advise what steps are being taken to ensure the rights of the Bedouin minority, including to adequate housing, to freedom of peaceful assembly and to enjoy their own culture, traditions and customs.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within

60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Fernand de Varennes
Special Rapporteur on minority issues

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 3 October 1991. We recall in particular article 27, which provides that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

We would also like to bring to your Excellency's Government's attention the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law, and to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop, inter alia, their culture, traditions and customs (article 4). It further provides that national policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities (article 5).

Article 15, paragraph 1(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by your Excellency's Government on 3 October 1991, affirms the right of everyone to take part in cultural life. As stressed by the Committee on Economic, Social and Cultural Rights, article 15, paragraph 1 (a), of "the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership". (General Comment 21, para. 32).

CESCR article 11, paragraph 1, recognizes the right of everyone to an adequate standard of living, including adequate housing. We also recall the concluding observations that the Committee on Economic, Social and Cultural Rights addressed to Israel in which concerns were expressed about, among others, the absence of meaningful participation of and consultation with the affected Bedouin communities, and the substandard living conditions in both the unrecognized Bedouin villages and the recognized townships (E/C.12/ISR/CO/4, 2019).

We further recall that according to article 21 of the ICCPR, "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." As the Human Rights Committee noted in its General Comment No. 34, the requirement of necessity entails an assessment of the

proportionality of restrictions; the restrictions must target a specific objective and may not unduly intrude upon the rights of targeted persons. Additionally, the restriction must be “the least intrusive instrument among those which might achieve the desired result”.

We also would like to draw your Excellency’s Government attention to the General Comment No. 37 of the Human Rights Committee lays out State party obligations on respecting the right to peaceful assembly. It provides an analytical framework for distinguishing between peaceful and non-peaceful protests and lays out State responsibilities in regard the rights to freedom of assembly as well as other related rights, such as the right to freedom of expression and right to freedom of association. The Committee reiterates that “Law enforcement officials should seek to de-escalate situations that might result in violence. They are obliged to exhaust non-violent means and to give prior warning if it becomes absolutely necessary to use force, unless doing either would be manifestly ineffective. Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the Covenant, and those using force must be accountable for each use of force”. The General Comment also makes clear that “where individuals’ conduct places them outside the scope of the protection of article 21, for example because they are behaving violently, they retain their other rights under the Covenant.”

We would also like to draw Excellency’s Government attention to provisions in the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, which Israel ratified on 3 January 1979. Article 5 of CERD makes clear that State parties must in compliance with the fundamental obligations laid down in article 2 of this Convention, undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law. This includes the right to equal treatment before the tribunals and all other organs administering justice; the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; civil rights, including the right to freedom of peaceful assembly and association; and economic, social and cultural rights, including the right to housing; and the right to equal participation in cultural activities.