



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

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 in the field of cultural rights; the Special Rapporteur on the right to food; the Special Rapporteur on minority issues; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

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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 in the field of cultural rights; Special Rapporteur on the right to food; Special Rapporteur on minority issues; and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pursuant to Human Rights Council resolutions 25/17, 19/6, 22/9, 25/5, and 5/1.

We would like to draw the attention of your Excellency's Government to information we have received on steps being taken by the Government of Israel to implement zoning plans which would lead to the relocation of Palestinian Bedouin communities currently residing in the central West Bank, including the East Jerusalem periphery, to three urbanized sites at Al Jabal, Nuweima and Fasayil in the Jerusalem and Jericho Governorates of the West Bank. If these allegations are accurate, it would provide evidence of an imminent risk of forced eviction and forced transfer prohibited under international human rights law and international humanitarian law. The plan is officially referred to as the 'Bedouin Regulation' plan by the Israeli Civil Administration (ICA). Estimates indicate that between 5,000 and 11,000 individuals (from up to 46 rural communities) of various ages could be forcibly relocated to these sites. In addition, the majority of Bedouin in Area C of the West Bank are registered Palestine refugees. The information received indicates that approximately 1,600 plots have been allocated for the proposed sites to which they would be transferred, and that the number of persons relocated would vary depending on how many plots the ICA decides to allocate per family.

According to the information received,

On 27 April 2014, the Coordinator of Government Activities in the Territories (“COGAT”) presented a comprehensive initiative to the Subcommittee on Judea and Samaria of the Knesset Foreign Affairs and Defense Committee to transfer Bedouin communities residing in rural areas of Area C of the central West Bank to three ICA planned “townships”: Al Jabal, Nuweima and Fasayil, located in a different part of Area C of the Jerusalem and Jericho Governorates. According to the plans, these Bedouin communities currently reside in E1 and Ma’ale Adumim which are slated for new Israeli settlement development.

In the face of these plans, members of the concerned Bedouin communities in the Jerusalem, Jericho and Ramallah Governorates are reportedly already being forcibly evicted, displaced and threatened thereof. For example, prior to Ramadan (June 2014), there was reportedly an increased number and frequency of eviction notices and demolition orders regarding structures within these Bedouin communities, including Palestinian refugees. One such case includes eviction notices issued by ICA on 28 April 2014 to the [entire] Sateh al Bahr community, providing just 48 hours to leave their homes or face eviction and confiscation of their livestock. On that same day, the ICA also carried out demolitions which resulted in eviction, displacement or otherwise affected 62 registered Palestinian refugees, including 32 children, in the five Bedouin communities of Khan al Ahmar Mihtawish, Khan al Ahmar Tabana, Nkheila, Kasara and Ghawaliya.

On 11 June 2014, the ICA Higher Planning Council approved the deposit of plans for the Nuweima and Fasayil transfer sites for public objection. The plans were published and open for objection in August and September. A 60 day objection period has reportedly been granted, after which there may be an extension and possibly hearings related to any objections raised.

The proposed ‘Bedouin Regulation’ plan is not the first time that Bedouin communities and other pastoralist communities have been subjected to similar initiatives and relocated within the West Bank to make way for settlement construction and expansion. For example, between 1997 and 2000, 150 Salamaat Jahalin Bedouin Palestinian refugee families were forcibly transferred out of their rural kinship groups in the East Jerusalem periphery – an area targeted for the expansion of the Ma’ale Adumim settlement – and concentrated into a single village, Arab al Jahalin.

A number of sources have documented that the transfer of Bedouin communities into urban settings has led to the collapse of their traditional way of life, resulting in irreparable damage to their distinct social fabric, and vastly increasing their vulnerability. Forced evictions and forced displacement, possibly amounting to forcible transfer of these communities has had a detrimental impact on their livelihoods, their specific forms of living and cultural practices, and in the relationship to their land.

Current developments are allegedly linked to a discriminatory and restrictive planning and zoning regime in Area C of the West Bank, which does not comply with international law. Reportedly, only one percent of Area C has been planned for Palestinian development. Palestinians are generally not able to secure construction permits for construction in Area C, either because most of the land is not zoned for Palestinian construction (in notable comparison to plots available for settlement construction/expansion), or because permits are not forthcoming.

All affected Bedouin communities are currently facing pending demolition orders. Various sources indicate that it is highly likely that once the plans for the above-mentioned three sites are approved, enforcement of the demolition orders and other measures to implement the forced relocation will be imminent. It is noteworthy that there has already been an increase in frequency of measures taken to evict and displace individuals and families, including on the basis of seizure orders. The Bedouin communities are reportedly being pressured by authorities to “consent” to relocation, and are also exposed to settler violence, intimidation and the use of court mechanisms to accelerate the implementation of pending demolition orders.

In this context, concern is raised about the planning and zoning regime which provides the domestic legal basis for the issuance and enforcement of demolitions orders. All of these measures have had and will continue to have an adverse effect on the way of life, livelihood, housing and culture of Bedouin communities, in particular due to the impacted of alleged forced evictions and forced transfers.

Concerns are also raised that there will be very limited margins for such transfers to be lawful (as set out in Article 49 of the Fourth Geneva Convention). Sources indicate that free and informed consent is not possible in the context of settlement expansion, ongoing demolition of existing homes and livelihood structures, the issuance of eviction and seizure orders, settler violence and restrictions imposed on Bedouins to access grazing lands and markets for their products which undermines their livelihoods.

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.

Article 11.1 of the International Covenant on Economic, Social and Cultural Rights recognized 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 priority given to most vulnerable groups. General Comment No. 7 on forced evictions, in particular paragraphs 15 and 16, is also relevant. In it, the Committee has underlined that forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction. (para 12)

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. For the Committee forced evictions are defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” In the Committee's view, the practice of forced evictions also takes place in connection with forced population transfers, internal displacement and forced relocations in the context of armed conflict, and may amount to a violation of the through a wide range of acts or omissions attributable to States parties.

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 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).

The Special Rapporteur on the right to adequate housing already raised concerns and reservations about the planning and zoning policies in her final report on her country mission to Israel and the Occupied Palestinian Territories, 2012 (A/HRC/22/46/Add.1). In that report she specifically addressed the situation of the Bedouin minorities, including in relation to dispossession, displacement and eviction, and, limitations on access to

judicial review and remedies, as well as the issue of settlements. Reportedly, these concerns and the specific recommendations from the Special Rapporteur have not been addressed in the subsequent policies and measures; on the contrary, the situation appears to have further eroded.

Similarly, 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.

We also call your attention to the Fourth Geneva Convention, in particular Article 49. In the context of occupation, individual or mass forcible transfers of protected persons are prohibited, regardless of their motive, unless a total or partial evacuation is required for the security of the population being evacuated or for imperative military reasons. Any such evacuation must be temporary. Even if the affected individuals express consent, the transfer would be forcible unless there is genuine and fully informed consent of the affected persons. Consent would not be genuine in an environment marked by the use or threat of physical force, coercion, fear of violence or duress. In addition to the fact that no hostilities justifying evacuations are ongoing in the area, there is no publicly available evidence to indicate that the proposed relocation of the communities would be undertaken for the security of the population or for imperative military reasons.

Article 1 of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of national or ethnic, religious and linguistic minorities within their territories and to adopt the appropriate measures to achieve this end; article 2.2 states that persons belonging to minorities have the right to participate effectively in economic and public life and article 2.3 stresses the right of persons belonging to minorities 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. Furthermore, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1). We also would like to draw your Excellency's Government attention to the recommendations of the third session of the Forum on Minority Issues on "Minorities and effective participation in economic life" (2010). 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, 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.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

We would also like to draw the attention of your Excellency's Government to a joint allegation letter sent to your Government's attention on 26 May 2011 (ISR 4/2011) by the Special Rapporteur in the field of cultural rights, the Special Rapporteur on education, the Special Rapporteur on minority issues and the Special Rapporteur on the human right to safe drinking water and sanitation. The letter outlined concerns about the situation of the Bedouin community in the West Bank. A response to this joint letter was received 26 October 2011 from your Excellency's Government.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned communities in compliance with international instruments.

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. Are the facts alleged in the above summary of the case accurate?
2. Please provide concrete details of relevant planning and zoning decisions to date and pending decisions, including disaggregated data by different communities, and links with land and other resources allocated for each of the communities living in the West Bank. Please provide information and data about the allocation of land and resources for Palestinian development in Area C.
3. Please explain the plans or steps taken by the Government of Israel to ensure that the areas affected by the relocation plans will not be slated for settlement expansion or construction of a barrier around them.
4. Please demonstrate by what measures the Government of Israel ensures that its international human rights and humanitarian law obligations are integrated in its planning policies and their implementation. Please specifically reference: the right to adequate housing, the right not to be discriminated against, the right to due process of law and to an effective remedy.
5. What measures and mechanisms are available and could be taken by the Government of Israel to immediately halt or suspend the implementation of the transfer plan in view of its contravention of explicit standards and norms in international human rights law and international humanitarian law?
6. What mechanisms have been used to ensure adequate, informed and genuine participation by the Bedouin communities and their representatives in the discussions and decision related to the three ICA planned "townships", Al Jabal, Nuweima and Fasayil, or to alternative planning proposals in the current location?

7. What measures have been taken by the Government of Israel to ensure that the Bedouin communities affected by the zoning policies are able to exercise free, prior and informed consent as required under international law?

8. What measures has the Government of Israel taken to prevent and address settler violence and harassment against Bedouin communities?

9. What measures has the Government of Israel put in place to provide security of tenure for those who have already been evicted and whose houses have been demolished?

10. What judicial and administrative mechanisms are available to the Bedouin to guarantee access to justice, including guarantees of no-repetition, compensation, and restitution for individuals and communities forcibly evicted, including in relation to destruction of their property, impact on their livelihoods and forced displacement?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations as well as to prevent further violations that may result as a consequence of implementation of the transfer plans. We also urge that in the event that the investigations support or suggest the above allegations to be correct, to immediately halt the implementation of the plans and to ensure the accountability of any person(s) responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information available to us is sufficiently reliable and that this matter warrants immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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