

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 situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
UA ISR 7/2020

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Excellency,

We have the honour to address you in our capacities 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 situation of human rights defenders; Special Rapporteur on the rights of indigenous peoples; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on minority issues and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 43/14, 37/12, 43/16, 42/20, 41/15, 43/8 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the allegations of ongoing and imminent home demolitions by the State of Israel forcefully evicting and displacing indigenous Bedouin communities, who are a part of the Arab Palestinian minority in the State of Israel, from their lands in the Naqab/Negev area. 90,000 residents of unrecognized villages of the Naqab/Negev are reportedly at immediate risk of eviction and arbitrary displacement, including the inhabitants of the villages of al-'Arāgib, Wādī al-Khālīl, Rās Jarābā and al-buqay'ah. We would also like to bring your attention that such forced evictions and home demolitions take place in midst of the COVID-19 pandemic, thus further elevating the risk to health and life of the persons subjected to forced evictions. In addition, we express concern about the use of criminal and administrative sanctions to deter the work of human rights defenders protecting their rights, including Sheikh Sayah Abu Madhi'm al-Turi and other members of the Abu Madhi'm A-Turi family.**

The special procedures mandate-holders have issued communications in the past raising concerns over the allegations of forced evictions and arbitrary displacements targeting the Bedouins, as well as demolitions and destruction of Bedouin property (ISR 6/2019, ISR 10/2014). They also previously raised concerns about the charges against and detention of Sheikh Sayah Abu Madhi'm al-Turi, a Bedouin human and land rights defender from the Negev/Naqab region (ISR 6/2019). We regret that the Government of Israel has not yet responded to these letters and to the concerns expressed therein.

According to the information received:

In 1948, between 65,000 to 100,000 Bedouins were estimated to live in the Naqab/Negev area. After the establishment of the State of Israel, many of them fled or were deported to Jordan and the West Bank, Egypt, the Gaza Strip and the Sinai Peninsula. Approximately 11,000 Bedouins remained in the Naqab/Negev region.

In the 1950s, many Bedouin lands in the Negev/Naqb region were reclassified as state land, under, among others, the Absentee Property Law (1950) and the Land Acquisition Act (1953). In addition, under the Planning and Building Act (1965), lands belonging to the Bedouins were regarded as "dead lands" (uncultivated agricultural lands), and were therefore claimed by the State and reclassified as agricultural land, nature reserves, or closed military zones, in total disregard of residents' rights over them.¹

In the 1950s to 1960s, the Government of Israel started to evict Bedouins communities from unrecognized villages and to relocate them in defined townships in a process of forced urbanization. This practice has continued to date. Currently, there are seven townships, most of which are in the Siyāj (in Arabic: fence) area.

In 1975, the Government of Israel formed a special body, known as the "Albeck Committee" to address the issue of the Bedouin land claims. To date, of the total 3,220 land claims submitted, only a small number has reportedly been settled.

Since 1999, the Government has recognized eleven Bedouin villages in the Naqab/Negev. Whereas this recognition would mark a significant change from the policy mentioned above, the living conditions in the recognized village have remained similar to those in the unrecognized villages. In practice, most recognized villages lack urban planning schemes and, consequently, the residents cannot obtain building permits. Thus, house demolitions are ongoing. Moreover, infrastructure for water, electricity, sewage as well as roads are largely absent.

At present, there are more than 35 unrecognized Bedouin villages in the Naqab/Negev area, which receive extremely limited public services and continue to be subject to repeated house demolitions, which appear to be a result of a deliberate policy. Allegedly, the demolition of structures and houses is being used by the Government as a strategy to force the Bedouins in the Naqab/Negev region to move to the townships, the majority of which are in the Siyāj area, and dispossess them of their lands. Several thousand people are

¹ Since Bedouin villages were not provided any recognition in planning acts concerning the Naqab/Negev area, they have since been referred to as "unrecognized villages".

currently living in homes under demolition orders, usually due to lack of ability to obtain a building permit. In 2019, approximately 2,241 structures were demolished in the Bedouin villages in the Naqab/Negev, of which 655 structures were estimated to be residential. So-called “self-demolitions” – i.e. demolitions undertaken by the owner of the concerned structure, following the issuance of a demolition order - amounted to approximately 88 per cent of all demolitions in 2019. The high percentage of self-demolition is reportedly caused by a situation of pressure and fear, as owners prefer to demolish the houses themselves to avoid the trauma of being subjected to demolitions carried out by the enforcement agencies and potential criminal or economic sanctions that may follow. When demolitions are carried out by the enforcement agencies, they involve long convoys including dozens of personnel, police officers from the Yoav special police unit and Israeli police forces. Police forces often arrive without prior notice in the early morning. Moreover, enforcement agencies often demand that the owners reimburse the demolition costs, which places a further pressure on the owners to opt for self-demolitions. The possibility of saving personal equipment and construction materials, are also additional reasons leading people to decide to demolish their own houses.

The Authority for the Development and Settlement of the Bedouin in the Negev, which was created in 2007 to regulate land ownership claims and permanent residency, and support infrastructure development, employment integration, and coordinate education and welfare services in the Negev/Naqab area. Now it is reportedly denying the possibility of formal recognition of the existing Bedouin villages and is forcing residents to move to designated townships and waive any land claims. Reportedly, an overall environment of intimidation and threats, resulting from the systematic use of judicial orders of demolition, administrative fines, presence of police forces in the villages and the use of video-surveillance through drones, is pushing residents to reach ‘agreements’ with state authorities to relocate against their will. Moreover, enforcement agencies have been mandated to remove forcibly anyone who returns to the place from which he/she was evicted or try to rebuild his/her home within 30 days from the return. Criminal sanctions for trespassing and unlawful entry into public land, including imprisonment, are used against activists and, more generally, those who resist the violations of their land rights. Such sanctions are applicable to thousands of Bedouins given the classification of their lands as state lands. On 21 September 2020, three members of the Abu Madhi’ m A-Turi family from the unrecognized Bedouin village of Al-‘Arāgīb, in the Negev/Naqab area, were convicted with the charges of trespassing with intent to commit an offense, violating lawful directions and unlawful entering into public land. Whereas Aziz Abu Madhi’ m and his brother Seif were condemned, respectively, to six and three months of prison, their father, Sheikh Sayah², was condemned to three months of

² Sheikh Sayah was convicted already in 2017 for trespassing and unlawful entry into public land because of his struggle to defend his family’s land rights.

community service owing to his age and his health condition. Previously another member of the Abu Madhi'm A-Turi family, Salem, had been sentenced to four months in prison. They were all also fined. These convictions represent a continuation of the State's reported attempts to target members of the Abu Madhi'm family for their tireless efforts to defend the rights of Bedouins in Negev/Naqab and deter such efforts, through criminal, civil and administrative legal procedures. The targeting of the Abu Madhi'm family for their resistance against violations of Bedouin rights, can be viewed as a broader attack on those who work to defend and protect Bedouin rights.

Currently, more than 90,000 citizens in the unrecognized villages of the Naqab/Negev lack security of tenure and are reportedly at immediate risk of eviction and arbitrary displacement, including in the villages of al-'Arāgib, Wādī al-Khālīl, Rās Jarābā and al-buqay'ah.

Without prejudging the accuracy of the information received, we wish to express our serious concern about the ongoing home demolitions, lack of security of tenure and the risk of forced eviction and arbitrary displacement affecting approximately 90,000 Bedouin residents, who are a part of the Arab Palestinian minority in the State of Israel, living in unrecognized villages in the Naqab/Negev area. Of particular concern is the irreparable damage these evictions may cause to the traditional way of life of the Bedouins, their livelihoods, their specific forms of living and cultural practices, and their relationship to their land. We are also alarmed at the strategy of intimidation and pressure which appear to be used as a means to force residents to relocate, against their will, and the criminalization of human rights defenders. We are furthermore deeply concerned that home demolitions and evictions are continuing to occur in the context of the COVID-19 crisis, thereby exposing these families to a great risk for their health and life, and heightening the risk of spreading the virus.

We recall the concluding observations that the Committee on the Elimination of Racial Discrimination addressed to Israel in which concerns were expressed about house demolitions and the ongoing transfer of Bedouin communities to temporary locations, the absence of meaningful participation of and consultation with Bedouin communities in the formulation of such plans affecting their access to land and property, as well as the substandard living conditions in both the unrecognized villages and the recognized townships (CERD/C/ISR/CO/17-19, 2020). 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 eviction of Bedouin people from unrecognized villages in the Negev Desert and their forced relocation to recognized Bedouin townships, as well the substandard living conditions in both the unrecognized villages and the recognized townships, which are characterized by very limited access to adequate housing, water and sanitation facilities, electricity and public transportation (E/C.12/ISR/CO/4, 2019).

We would like to draw the attention of your Excellency's Government to its obligations under article 11.1 of the International Covenant on Economic, Social and

Cultural Rights (ICESCR), ratified by Israel in 1991, which recognizes the “right of everyone to an adequate standard of living for himself and his family,” including housing. 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. We also would like to draw the attention of your Excellency’s Government’s to its obligations under articles 6,17, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR), ratified in 1998, on the rights to life, to non-interference with privacy, family, home or correspondence, the principle of non-discrimination and the rights of persons belonging to minorities.

As clarified by the Committee on Economic, Social and Cultural Rights, in its General Comment No. 7, forced evictions are a gross violation of the right to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.³ Paragraph 15 of the same General Comment provides that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves. We wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.⁴

We also wish to recall that the Committee on Economic, Social and Cultural Rights has indicated that States must allocate sufficient resources to the realization of the right to adequate housing and prioritize the needs of disadvantaged and marginalized individuals or groups.⁵ The Committee has further clarified that the obligation to progressively realize the right to housing will almost invariably require the adoption of a national housing strategy which should be developed in consultation with affected groups, include clearly defined goals, identify the resources to be allocated and clarify responsibilities and a time frame for implementation. Moreover, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies with the obligations under article 11 of the Covenant.⁶

In addition, we would like to refer your Excellency's Government to the Principles on security of tenure for the urban poor (A/HRC/25/54) and Guidelines for the Implementation of the Right to Adequate Housing (A/HRC/43/43), notably

³ The Committee on Economic, Social and Cultural Rights (CESCR) General comment No. 7, para. 4.

⁴ CESCR, General Comment No. 4, para. 8.

⁵ CESCR, General comments Nos. 3 and 4.

⁶ CESCR, General comment No. 4, para. 12.

guideline no. 6 on forced evictions, as well as the “COVID-19 Guidance Note: Prohibition of evictions” elaborated by the former Special Rapporteur on the right to adequate housing.

Furthermore, we wish to recall that Article 1 (1) of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), to which Israel is a party since 3 January 1979, defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”. Articles 2 (1) and 5 of ICERD oblige States Parties to prohibit and eliminate any act or practice of racial discrimination against persons and/or groups and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to adequate housing and to own property, alone as well as in association with others.

We furthermore wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of indigenous peoples. These fundamental human rights include equality and non-discrimination, life and personal integrity, culture, health and property, all of which are recognized in the principal human rights treaties. In particular, we would like to recall article 7 of the UNDRIP which provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

With respect to their rights to property in the form of land and natural resource rights, Article 26 states for the right of indigenous peoples to ‘the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired’ and for legal recognition of those rights ‘with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.’ Article 10 affirms that 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.’

Furthermore, the UNDRIP provides for the rights of indigenous peoples to redress for actions that have affected the use and enjoyment of their traditional lands and resources. In that regard, Article 28 states that ‘indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.’

In addition, we would like to draw the attention of your Excellency's Government to articles 21, 23 and 26 of UNDRIP which specify their right, without discrimination, to the improvement of their living conditions, including in relation to housing and sanitation; and their right to be actively involved in developing and determining housing policies and to administer such policies through their own institutions. In this connection, we would also like to bring to your attention the report on the right to housing for indigenous peoples by the former Special Rapporteur on the right to adequate housing, which calls upon States to declare a moratorium on forced evictions affecting indigenous peoples (A/74/183).

We would also like to refer to the Guiding Principles on Internal Displacement of 1998, which establishes that every human being shall have the right to be protected against being arbitrarily displaced from his or her home, including due to serious violations of human rights, discrimination and fear of persecution (Principle 6). Guiding Principle 7 (1), establishes that "Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether". Guiding Principle 7 (2) also stipulates that "The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated"; and Guiding Principle 7 (3) states that " (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation; (c) The free and informed consent of those to be displaced shall be sought; (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation; (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected. The Guiding Principles further state under Guiding Principle 9 that "States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands."

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Finally, we also would like to recall the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities which states that States shall protect the existence and the identity of minorities within their territories (article 1) and shall, among others, adopt the

required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

Given the urgency of the situation of persons affected by the evictions and those at the risk of further evictions and home demolitions, we call upon your Excellency's Government to urgently halt any ongoing evictions and home demolitions and ensure that evicted persons are provided with alternative accommodation and necessary assistance in accessing food, clothing, water and sanitation facilities and services. We also urge your Excellency's Government to identify a permanent solution to fulfil their housing needs in the long term in consultation with the concerned people. We further urge your Excellency's Government to halt any act of intimidation and against the residents. In addition, in the context of the current crisis caused by the COVID-19 pandemic, we urge your Excellency's Government to ensure that no evictions are carried out until the end of the pandemic and for a reasonable period of time thereafter.⁷

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

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 person(s) 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. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on the housing conditions in unrecognized and recognized Bedouin villages and the Bedouin townships disaggregated by gender, age, disability, socioeconomic status and other indicators and the number of persons living in these settlements. Please provide in this context information on access to safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage, emergency services and access to education, health care and relevant cultural facilities and programs for residents in these settlements.

⁷ See press statement of the Special Rapporteur on the right to adequate housing, from 18 August 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26170&LangID=E> and the COVID-19 guidance notes issued by the Special Rapporteur, available at: <https://www.ohchr.org/EN/Issues/Housing/Pages/COVID19RightToHousing.aspx>

3. Please provide detailed information on the home demolitions and the forced evictions conducted since 1 January 2020 in the Negev/Naqab region, the number of persons affected disaggregated by gender, age, disabilities, socioeconomic status and other indicators. Please also indicate the legal basis for such evictions and home demolitions, whether the people affected were consulted, if their free, prior and informed consent was obtained, and whether they received adequate and reasonable notice prior to these evictions and specify in which manner the affected persons had access to effective legal remedies and if any such remedies were sought before national courts or other bodies and institutions.
4. Please provide information on any specific measures taken by the Government to prevent the negative human rights impact of the evictions and home demolitions, including the rights of residents to adequate housing (both emergency shelter and long-term accommodation solutions), health, water and sanitation, food, education, cultural rights, and to not be arbitrarily displaced.
5. Please elaborate on whether any specific actions were taken to protect the residents of the villages and the seven townships in relation to their health risk in the context of the COVID-19 pandemic and whether any considerations were given to suspend or stop any evictions during the pandemic.
6. Please indicate if and how all feasible alternatives to the alleged planned eviction of the residents of the unrecognized Bedouin villages have been explored and whether any free, prior and informed consent for any eviction or resettlement of the residents living in these villages has been obtained. If alternatives to eviction and resettlement have been considered, please provide details as to why proposed alternatives to the eviction have been deemed unsuitable. If no alternatives were considered, please explain why feasible alternatives to the eviction were not explored.
7. Please describe what concrete housing alternatives are currently available to the families evicted from the unrecognized villages to ensure that no one remains homeless or lives in substandard conditions as a result of the eviction.
8. Please provide information on any measures adopted to ensure security of tenure for the residents of the unrecognized and recognized villages and the townships.
9. Please provide updated information on the pending land claims filed by the Bedouins in the Negev/Naqab region, and indicate which measures have been adopted to protect their housing and land rights pending

resolution of these claims, and if such measures were adopted in consultation with them.

10. Please provide information on the steps taken to ensure that human rights defenders seeking to protect the rights of the Bedouins are able to carry out their peaceful and legitimate work in a safe and enabling environment, free from any physical, judicial or other harassment.
11. Please provide any additional information with regard to the arrest, sentencing and detention of Sheikh Sayah, Aziz, Seif and Salem Abu Madhi'm al-Turi and please explain the rationale behind the legal action against them as well as their conviction and sentencing, notwithstanding the fact that their land claims are reportedly still pending before the Beer Sheva District Court.
12. Please provide updated information with regard to the land claim case of Mr. al-Turi and his family before the Beersheba District Court.

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 responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

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

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