



29 May 08

Prime Minister Ehud Olmert
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Re: Housing rights violations in the ‘unrecognised villages’ in the Negev’

Dear Prime Minister Olmert,

The Centre on Housing Rights and Evictions (COHRE) is an international human rights non-governmental organisation based in Geneva, Switzerland, with offices throughout the world. COHRE has consultative status with the United Nations and works to promote and protect the right to adequate housing for everyone, everywhere, including preventing or remedying forced evictions.

COHRE welcomes the current efforts of the Government of Israel to address the issue of the Bedouin population in the Negev. The establishment of the Goldberg Committee and the mandate it has been given to reconsider past policies and find solutions for existing problems is indeed a positive step. COHRE was among the NGOs, which submitted a report to the Committee and would welcome the opportunity to be heard and engage further in the process. COHRE hopes that the Committee will continue to engage with civil society organisations as well as with the affected people of Negev in order to find a just solution to this long standing crisis.

COHRE is concerned about both past and present policies and practices, which have adversely impacted upon the human rights of the Bedouin population. We hope that these policies and practices will be remedied and an equitable, fair and just solution will be found.

Of major concern is the situation with regard to the 45 unrecognized villages. COHRE welcomes the government’s efforts to recognize twelve of the villages including the recent approval of a new village in Abdeh, and its efforts to improve access to schools and upgrade existing infrastructure. However, the lack of security of tenure for residents of the unrecognized villages, the lack of basic services such as water, sanitation and electricity and the ongoing and widespread cases of forced evictions and house

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demolitions are inconsistent with Israel's human rights obligations. Whilst it is recognized that the 1965 Planning and Construction Law seeks to regulate planning in Israel, this law has adversely and disproportionately impacted upon the rights of the Bedouin population to adequate housing and security of tenure.

The right of all peoples to adequate housing is guaranteed under international law by a number of treaties ratified by Israel, primarily the International Covenant on Economic, Social and Cultural Rights (ICESCR: 1966), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD: 1963) the Convention on the Rights of the Child (CRC: 1989), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW: 1979).

As a state party to the ICESCR, the Government of Israel is obliged to respect the right to adequate housing, as guaranteed under Article 11(1), for everyone within Israel, and refrain from the practice of forced evictions. It is furthermore obliged to protect everyone within Israel from forced evictions undertaken by third parties, including State and Municipal authorities.

COHRE is deeply concerned about the recent increase in forced evictions in the unrecognised villages. As many as 227 homes were demolished in 2007. Further, house demolitions have continued into 2008, as seen in the case of the Twail abu Jarwal demolitions on 2nd April. We note with deep shock that this is the 15th time in the last three years that homes have been demolished in Twail abu Jarwal. Based on civil society reports, it is clear that residents of 'unrecognised villages' are rarely forewarned about the exact date of the sanctioned demolitions. As a result, families, on the one hand are unable to adequately prepare for the imminent demolition and on the other, continue to live under constant threat of evictions. There is ample research to show that the impacts of eviction and house demolition are disproportionately higher for women and children and lead to further human rights violations.

According to General Comments No. 4 and 7 of the Committee on Economic, Social and Cultural Rights, which is mandated to monitor compliance with the Covenant, forced evictions can only be justified in highly exceptional circumstances, and all feasible alternatives to eviction must be explored in meaningful consultation with the persons affected. If and only if such "exceptional circumstances" exist, and there are no feasible alternatives, can evictions be deemed justified. However, in those rare cases where eviction maybe justified, it must be carried out in strict compliance with international human rights law and in accordance with general principles of reasonableness and proportionality. These include, inter alia:

- Genuine consultation with those affected;
- Adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;

- 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;
- Especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- All persons carrying out the eviction to be properly identified;
- Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- Provision of legal remedies; and
- Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

Furthermore, and in any event, forced eviction must not result in rendering individuals homeless or vulnerable to the violation of other human rights. Indeed, the Government of Israel is obligated to ensure that adequate alternative housing and compensation for all losses is made available to affected persons. It is evident that the State of Israel has not complied with these procedural and substantive protections before ordering and carrying out the house demolitions in the Negev.

It is noted that the Government of Israel has attempted to provide the Bedouin of the ‘unrecognised villages’ with alternative options such as relocating them to the seven government planned townships or Abu Basmaa Regional Council. COHRE, however, is concerned that these do not provide an adequate housing alternative for the Bedouin. The Bedouin who have been relocated so far rank among Israel’s poorest in terms of income levels, housing and access to basic services. The relocation in effect compels the Bedouin to give up their ancestral lands, abandon their traditional way of life which is predominantly rural and based on small-scale farming, and threatens the continuation of the community-based village which is a vital part of the Bedouin’s social strength. Further, the compensation offered in lieu of displacement does not recompense their losses. As a result, many Bedouin have rejected this option.

We also note that current proposals for developing the Negev, including the National Strategic Plan for the Development of the Negev (Negev 2015), the National Outline Plan (NOP 35) and the Beersheba Metropolis Plan (DOP 4/14/23), seek to attract a large number of Israeli Jews from Israel’s central region to the Negev. While these plans include upgrading of infrastructure and transport for the area, they do not cover the ‘unrecognised villages’. COHRE is greatly concerned that such plans are not based on the principles of equality and justice in resource allocation and discriminate against Bedouin Arab citizens of Israel. Persons belonging to national, ethnic, religious or linguistic minorities have both the right to participate in the development process and enjoy the benefits of development on an equal basis with non-minority groups.

We would like to bring to your notice that the United Nations Committee on Economic, Social and Cultural Rights in its Concluding Observations in 2003 urged the

State “to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in the unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme for Bedouins who have agreed to resettle in ‘townships’.”¹

Additionally, the United Nations Committee on the Elimination of Racial Discrimination, in its consideration of Israel’s periodic report in June 2007 recommended “...the State party enquire into possible alternatives to the relocation of inhabitants of the 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 Bedouin to own, develop, control and use their communal lands, territories and resources traditionally owned or otherwise inhabited or used by them. It recommends that the State party 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”.²

The recognition of all Arab ‘unrecognised villages’ in the north of Israel was a welcome step and can be used as a precedent for developments in the Negev. The Ministry of Construction and Housing has made a number of positive suggestions regarding relocation of the Bedouin of the Negev and noted that major obstacles included the lack of an agreement on land ownership disputes and low compensation for relocation. It also notes the “failure of the urbanization policy” as one of the major obstacles.³

A solution to the Bedouin settlement must be found within as short a time frame as possible, offering the population a choice of residential options, allowing the continuation of their rural way of life and community or tribal associations and providing adequate compensation and a fair solution to land ownership claims. International human rights law makes clear that victims of human rights violations, including the right to adequate housing and land, are entitled to remedy, restitution, compensation and guarantees of non-repetition. Most importantly all plans should be carried out with the real and meaningful participation of affected communities. COHRE welcomes the willingness of the Government to engage with the community leadership particularly the RCUV in this regard.

COHRE believes it is in Israel’s interests to find an adequate and just solution, which satisfies its citizens’ needs, encouraging the provision of services, the development of

¹ United Nations Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*, UN Doc. E/C.12/1/Add.90 (2003) para. 43.

² United Nations Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by States Parties Under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel*, UN Doc. CERD/C/ISR/CO/13 (2007), para. 25.

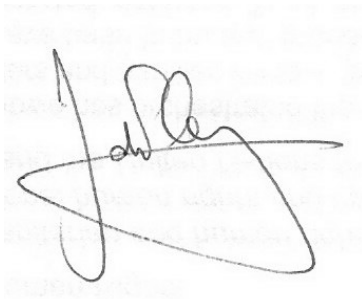
³ The Ministry of Construction and Housing, ‘The Bedouin in the Negev’, Presentation, April 2007.

the economy and society and the improvement of the rule of law. Further, through bringing current policies in line with internationally recognized human rights standards and through the fulfilment of its legal obligations the Government of Israel will avert harsh international criticism and show itself to be at the forefront of current efforts to protect indigenous and housing rights.

COHRE therefore urges the State of Israel to:

- Declare a moratorium on all housing demolitions in the Negev;
- Ensure that all unrecognised Bedouin villages have adequate access to basic services including water, sanitation and electricity;
- Take concrete steps to ensure that all settlement arrangements are in compliance with the State's international human rights commitments and respect, inter alia, the economic, social and cultural rights of the Bedouin;
- Provide remedy, including restitution and guarantee of non-repetition, to all those affected by the recent demolitions.
- Ensure that future planning policies are consistent with Israel's obligations under international human rights law.

We look forward to your response and an opportunity to meaningfully engage with you on the issue.

A handwritten signature in black ink, appearing to read 'Jean du Plessis', written over a light grey rectangular background.

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