



3 October 2010

To:

Mr. Benjamin Netanyahu
Prime Minister
3 Kaplan Street
Government Center
Jerusalem

Mr. Yehuda Weinstein
Attorney General
Ministry of Justice
29 Saladin Street
Jerusalem

Mr. Yaakov Neeman
Minister of Justice
Ministry of Justice
29 Saladin Street
Jerusalem

Dear Sirs:

**Re: The unconstitutionality of the state's policy of demolishing Arab Bedouin
unrecognized villages in the Negev**

On behalf of the following organizations:

The Association for Civil Rights in Israel
The Regional Council for the Unrecognized Villages in the Negev
The Public Committee for Protecting the Lands of Al-Araqib
Adalah – The Legal Center for Arab Minority Rights in Israel
The Sidreh NGO
Forum of Bedouin Arab Women's Organizations in the Negev
The Negev Co-existence Forum
The Negev Recognition Forum
Physicians for Human Rights-Israel
Shatil – Support and Consultation Services for Promoting Social Change

1. We hereby approach you with a request to order a halt to the policy of demolishing villages in the Negev [Naqab] as a policy that disproportionately violates the constitutional rights of the Bedouin, in particular the rights to dignity, equality and property. This policy is also contrary to the conclusions and recommendations of official Israeli committees and bodies that have discussed this matter. In addition, and as will be explained below, this policy is contrary to the concluding observations of UN human rights committees that recommended a halt to the continued demolition of homes in the Negev and that planning solutions be found for the unrecognized villages.
2. In this letter, we also ask you to adopt the Supreme Court's recommendation in the case of *Abu Medeghem*, which proposed replacing the current aggressive policy with systemic solutions based on dialogue and the inclusion of the Arab Bedouin living in the unrecognized villages. In the words of Justice Arbel in the *Abu Medeghem* ruling:¹

¹ See HCJ 2887/04, *Salem Abu Medeghem v. The Israel Land Administration* (decision delivered on 14 April 2007), para. 54 of Justice Arbel's ruling.

In addition to this, the state of affairs described in this petition, together with the distress and difficulties described, should again remind all of us of what we have long known: that the difficult reality the Bedouin population faces in the State of Israel requires a systemic, complete and comprehensive solution, and the sooner the better. Local solutions, regardless of how good they may be, cannot constitute real solutions in the long term. The time has come to formulate and implement a truly comprehensive solution to this problem.

3. Justice Arbel further stated in the ruling that the way to resolve the matter was via dialogue and by involving the public:²

Only through dialogue, cooperation, tolerance, recognition of shared interests and readiness to compromise – on both sides – can we succeed in changing it. This change is an interest of the state and certainly also of the Bedouin population.

The unrecognized villages – a government failure

4. Some of the unrecognized villages – today home to more than 80,000 citizens of the state – pre-existed the establishment of the State of Israel, and others were built in accordance with forced evacuation orders from the military governor in the region during the 1950s. These orders aimed to transfer a large section of the Arab Bedouin to what is called “the Al-Siyyaj area”. After concentrating what remained of the Bedouin in the eastern part of the Negev, in the 1990s the State of Israel began to implement a policy of reducing their living space in the region. In the framework of this policy throughout the years, seven towns were initially recognized and built. The plan was to transfer the entire Bedouin population to these towns. In recent years, the government recognized an additional five towns. Nonetheless, the objective of the policy remained one and the same: to reduce as far as possible the area of habitation and livelihood of the Arab Bedouin in the Negev, while completely disregarding their basic rights.
5. Since the state’s establishment, the various master plans in the Negev region have completely ignored the existence of the unrecognized villages. These villages did not receive any designation in these plans, and no local or detailed master plans were prepared for them. It was impossible to obtain building permits in the area of the villages, and the authorities did not provide basic services to them because of their unrecognized status. However, rather than identifying an overall solution for the matter and ending the ongoing injustice to the residents of the unrecognized villages, today the authorities are pursuing a policy of demolishing entire villages, solely focused on the evacuation of the villages and for that purpose. Instead of examining planning options for recognizing the villages, the authorities are seeking to forcibly evacuate the residents of the unrecognized villages, even in the absence of a clear public interest to justify these exceptionally severe actions.

Examples of the policy of demolishing villages in the Negev

6. On 27 July 2010, at 4:30 am, the entire village of **Al-Araqib** was razed to the ground. All 45 of the homes were brutally demolished, using force and illegal means against the

² Ibid., para. 49.

residents of the homes, women, children and the elderly alike, in order to intimidate and punish them. No demolition orders were issued against some of the homes in the village. Police forces entered the village wearing masks on their faces and without identification badges. Police forces also entered accompanied by minors who taunted the residents and egged on the police forces each time a home was demolished. The police were also accompanied by representatives of the Income Tax Authority, who seized assets of residents without warning and without verifying their debts. Moreover, the residents, including women and children, were evacuated from their homes, razed minutes later, without being provided with any professional or psychological guidance to assist them in this time of distress. Worst of all, the various authorities ordered the destruction of all of the homes in the village without arranging for alternative housing for the residents. As a result they were all left without a roof over their heads. From the date of this first demolition of the village and until the day this letter is being written, the village has been destroyed four more times after its residents returned to rebuild their homes.

7. Another example of this policy can be found in the unrecognized village of **Umm al-Hieran—Atir**, currently home to 1,100 people. Evacuation and expulsion orders are pending against the residents of the village based on the charge of trespassing. Demolition orders have been issued against many houses in the village. Umm al-Hieran—Atir was built in 1956 after members of the Abu al-Qi'an tribe were expelled from their lands in the region of Wadi Zuballa (which is today part of the agricultural lands of Kibbutz Shoal), and were ordered by the military governor to settle in the area of Nahal Yatir, where they have remained to this day. According to the various master plans, part of the area of the village is earmarked for the establishment of a Jewish town named Hiran.
8. A third example is provided by the unrecognized village of **Al-Sura**, which predates the establishment of the state and is situated on lands of the Al-Nasasra tribe.³ The authorities have issued demolition orders against all houses in the village and its land is earmarked for an industrial zone according to existing master plans.
9. In August 2010, a number of homes were also demolished in the villages of Jarabe, Abda, Abu al-Sulab, Al-Shihabi (Abu Tulul) and Baqurnub. This phenomenon is not new. Over many years, the authorities have demolished the homes of residents in many villages. In 2008, Human Rights Watch issued report entitled “Off the Map – Land and Housing Rights Violations in Israel’s Unrecognized Bedouin Villages,” which examined the phenomenon of home demolitions and published data. According to the report, 227 homes were demolished in 2007, 96 homes in 2006, 15 homes in 2005, 23 homes in 2004, 63 homes in 2003, 23 homes in 2002, and 8 homes in 2001.⁴ Home demolitions continued in subsequent years, with a dramatic rise in 2010; over 200 homes have already been demolished this year. In addition, youth centers have been demolished, the property of many residents has been destroyed, property has been seized and confiscated, hundreds of olive trees have been uprooted and agricultural crops have been destroyed. For a full list of the demolitions, see the website of the Negev Co-Existence Forum: <http://www.dukium.org/modules.php?name=Content&pa=showpage&pid=56>

³ Legal claims were submitted by members of the Al-Nasasra tribe in the 1970s, but these lawsuits did not reach a judgment.

⁴ Human Rights Watch, “Off the Map – Land and Housing Rights Violations in Israel’s Unrecognized Bedouin Villages,” March 2008, Appendix B, p. 117. See: <http://www.hrw.org/en/reports/2008/03/30/map-0>

The violation of constitutional rights as a result of this policy

A. The demolition of homes violates the constitutional rights to dignity and housing, and the constitutional rights to life and health

10. The demolition of homes violates the residents' right to housing, since it leaves them without a roof over their heads. The Supreme Court has already ruled that the right to housing is a part of the right to minimal subsistence, and is therefore part of the constitutional right to dignity. In the *Preminger*⁵ case, Justice Strasberg-Cohen ruled that "human dignity is a fundamental constitutional value in our society. No one would dispute that it is necessary to safeguard a person's dignity even if he has failed or fallen into debt, and that he should not be left without a roof over his head." In the *Ajouri*⁶ case, it was stated that, "A person's home is not only a roof over his head, but also a means for the physical and social location of the person, of his private life and social relations."⁷
11. Moreover, and since the socio-economic situation of the Bedouin citizens in the Negev is known to be difficult, the government authorities have a heightened responsibility to ensure that citizens of meager economic means are not left without shelter. In the case of the *NGO Commitment to Peace and Social Justice*, the Supreme Court ruled that the right to dignity included the right to minimal living conditions that ensure the protection of human life, in a way that imposes a duty on the state to care for those of meager means within society so that their material conditions do not lead to a lack of subsistence. In the words of the honorable (retired) Supreme Court Chief Justice Barak in this case:⁸

The basic laws protect the right to dignity, including the aspect of material subsistence required for the exercise of the right to dignity. From this viewpoint, a person's right to dignity is also the right to conduct his normal life as a human being without his distress defeating him and bringing him to a state of intolerable impoverishment. According to this view, the right to a life of dignity is the right that ensures a person a minimum of material means to enable him to subsist in the society in which he lives.

12. Moreover, the principles of international law, including those anchored in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Israel has signed and ratified, recognized the right to adequate housing as one of the rights that are accorded to every human being.⁹ The right to adequate housing includes a number of elements that are incumbent upon the member states, including the State of Israel, to fulfill. General Comment 4, designed to interpret Article 11 of the Covenant, defines the elements that are included within the right to adequate housing: the right to affordable housing, which entails that every person has the ability to obtain housing without jeopardizing their other essential needs; equality in access to housing, according to which

⁵ Civil Appeal 3295/94, *Preminger v. Mor*, P.D. 50(5) 111, 121 (1997).

⁶ HCJ 7015/02, *Ajouri v. Commander of IDF Forces in the West Bank*, P.D. 56(6) 352, 365 (2002).

⁷ Permission for Civil Appeal 4905/98, *Gimzo v. Yeshayahu*, P.D. 55(3) 360, 375 (2001), where (retired) Chief Justice Barak stated: "The dignity of a person includes ... safeguarding a minimum of human existence... a person living in the streets, who has no housing, is a person whose human dignity is violated; a person hungry for bread is a person whose human dignity is violated; a person who has no access to elementary medical care is a person whose human dignity is violated; a person who is forced to live in humiliating material conditions is a person whose human dignity is violated."

⁸ HCJ 366/03, *Commitment to Peace and Social Justice NGO v. The Minister of Finance* (decision delivered on 12 December 2005).

⁹ See Article 11(1) of the International Covenant on Economic, Social and Cultural Rights of 1966.

every person has an equal right of access to housing, and this right also includes a prohibition on discrimination in access to housing; housing that ensures living in privacy; the right to be protected against arbitrary eviction, which holds that every person has the right to a legal proceeding before his eviction, as well as the right not to be arbitrarily evicted from his home; housing that is accessible to services and infrastructure, which guarantees that every person has the right to live in housing that is accessible to services, including health, education, infrastructure and employment services; the right to choose a place of residence, and the right to live in housing that is adapted to the culture of the inhabitant.

13. In addition, international law specifically prohibits violations of the rights of women who live in rural areas to enjoy adequate living conditions, particularly with regard to housing. Article 14(2)(8) of the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Israel has signed and ratified, states:

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

14. The International Convention on the Rights of the Child (CRC), which Israel has ratified, also states that the Member States are obliged to take measures to ensure assistance to parents and authorities in order to provide housing, nutrition and clothing to all children. Article 27(3) of the convention states:

States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing.

15. It should be noted that the courts in various states in the world have explicitly stipulated that the demolition of homes, and even mobile structures, that leave their residents without shelter is unconstitutional because it violates the constitutional rights to shelter, adequate living conditions and life.¹⁰

B. The violation of the principle of equality

¹⁰ Thus ruled the constitutional court in **India** when discussing the constitutionality of the Bombay Municipality's decision to evacuate all of the residents of the slums, as well as those living on the streets and sidewalks of the city. The court stated that residents should be provided with shelter and that residents of the slums, which have existed in the city for 20 years and more, should not be evacuated except in the service of public needs and even then the residents should be provided with alternative housing, with priority given to rebuilt settlement. See, *Olga Tellis and Ors v. The Bombay Municipal Council* (1985) Supp SCR 51. In **South Africa**, the government evicted squatters from an illegal settlement who were later housed in a municipal sports center that was without any infrastructure, electricity and sanitation. The squatters petitioned the Constitutional Court, which ruled that there was a violation of Article 26 of South Africa's constitution (which anchors the right to adequate housing), and that the government had failed to provide the basic living needs of the neediest population. In this case, the court even issued an order to the government to plan, finance and work for the wellbeing of those of meager means and the neediest residents. See, *Government of the Republic of South Africa v. Grootboom* [2000] (11) BCLR 1169 (CC).

16. The policy of evacuation and demolition of unrecognized villages discriminates against the Arab Bedouin citizens of the state on the basis of their nationality and violates the constitutional right to equality. The principle of equality is based on equal treatment of the legitimate interests of the relevant group. The government's failure to find planning solutions for these villages violates the legitimate interests of this group to live in dignity and equality.
17. In parallel to demolishing the Bedouin villages, the authorities are working to establish new and developing existing Jewish towns and villages. For example, the authorities are in the process of establishing a new Jewish community named Hiran in place of and on the land of the unrecognized village of Umm al-Hieran. They are also developing a town named Givot Barr adjacent to the village of al-Araqib, on land that has been used by the Al-Uqbi tribe for many years for both housing and agriculture. In addition, while demolishing Bedouin villages in the Negev, the authorities are concurrently granting official recognition to individual settlements in the Negev built by individual Jewish families in violation of the law and contrary to planning policy. In this context, in July 2010 an amendment was passed to the Negev Development Authority Law – 1991. In the framework of this amendment, all of these individual settlements in the Negev will be recognized and master plans prepared for them. This amendment also stipulates that combined agricultural-tourism projects should be encouraged under the auspices of the Negev Development Authority. Such projects are defined in the amendment as, “an initiative in the Negev in which lands will be used for both agriculture and tourism, including uses associated with these uses, such as **use for the residences of those who hold** these lands for the aforementioned purposes” [emphasis added]. Just as the state authorities are striving to ensure the settlement of Jews in the Negev, they are also obliged, under the principle of equality, to settle the Bedouin on their land or on land to which they were transferred by the military government, equally and according to their choice.
18. The policy of demolishing the villages discriminates against the rights of Bedouin citizens to equality as an indigenous minority. International law explicitly stipulates that the state must recognize the property and ownership rights of the indigenous peoples that live within it in terms of the land they traditionally hold, and special attention is to be given to nomadic indigenous people and nomadic farmers.¹¹ The UN Declaration on the Rights of Indigenous Peoples was passed in 2007. This declaration states that it is prohibited forcibly to evacuate indigenous peoples from their lands or living areas;¹² indigenous peoples have the right to own the land they hold;¹³ and states must recognize and protect the right of indigenous people to the land, in accordance with their customs, traditions and methods of ownership of their land.¹⁴ Academic experts have addressed the issue of recognizing the Arab Bedouin as an indigenous minority whose living conditions correspond to the international norms that define a minority group as an indigenous group. For example, Dr. Sandy Kedar argues¹⁵ that the Bedouin in the Negev are recognized as an indigenous minority group in light of their historical existence that

¹¹ Convention 169 of the International Labor Organization pertaining to the rights of indigenous peoples.

¹² The UN Declaration on the Rights of Indigenous Peoples, Article 10.

¹³ Ibid., Article 26(1) and (2).

¹⁴ Ibid., Article 26(3).

¹⁵ Dr. Alexander (Sandy) Kedar, “Land Arrangements in the Negev in the Contexts of International Law,” *Adalah's Newsletter*, vol. 8, December 2004.

predates the establishment of Israel; the fact that their cultural characteristics set them apart from those of the general population; their lack of a position of dominance; and their self-definition as a distinct group.

19. It should be emphasized that it was the authorities themselves that failed to give serious consideration to the interests of the Bedouin and the planning of their villages, and they gave no consideration to the legitimate interests of the residents living in these villages, which constitute a nucleus of their social life. Thus, the authorities have ignored the principle of equality, which requires that equal weight is afforded to the legitimate interests of the various population groups. This policy violates the right to dignity of the Bedouin and does not even purport to explore planning alternatives, preferring to establish new towns in place of or adjacent to these villages. Therefore the objective of this policy is illegitimate. In this context, it should be noted that the District Court, sitting as an appeals tribunal, canceled a demolition order without conviction issued in accordance to Section 212 of the Planning and Construction Law – 1961, on the ground that the construction had existed illegally for many years. The court canceled the order since it aimed to exert pressure to evacuate the Bedouin residents in order to implement the policy of concentrating the Bedouin population in settled and recognized towns. In the words of the court:

The correct interpretation [...] is that the authority is trying to use the demolition order as leverage to prompt the appellant to abandon the place and move to live in the Bedouin township of Farush Rumneh, where the appellant would enjoy urban infrastructure and modern conditions. On the other hand, we have not heard the witness say whether and for which purpose the authority needed the territory on which the building is situated. In any case, such need or “necessity” (in the words of the respondent’s representative) was not proven. As noted, there is no plan for this territory and no planning there.

It does not seem to us that the use of the demolition order the authority is seeking to use here under the relevant directive, is a proper and legitimate use that we could approve. Of course, we can appreciate the authorities’ desire to help the appellant and offer him alternative land in a different community that is organized and has municipal services, but the authorization discussed here is not intended for such a purpose.

Criminal Appeal (Nazareth District Court) 224/91, *Falah v. The State of Israel*, P.D. 1992 332 (3), 337 (1992).

C. The constitutional right to own property

20. The right of the residents of the unrecognized villages to use the land that has served them for housing for long periods of time creates a constitutional right to property under Section 3 of the Basic Law: Human Dignity and Liberty. As noted, regardless of whether they are villages that existed prior to the establishment of the State of Israel; or villages that were created as a result of an expulsion policy and at the orders of the military government in the Negev region in the early 1950s; or villages whose residents decided to return to their original lands after the authorities’ failings, the investment of the residents of the unrecognized villages in constructing their homes and developing their villages and their lives within them, as well as the expectation and assumption that this was their home and this was land that they could use on a permanent basis – all of this reinforces a constitutional right to property that deserves protection, and no monetary reparation can compensate them for such a severe and sweeping violation of this right resulting from the policy of demolition and evacuation.

Recommendations of Israeli committees and organizations

21. Official committees formed by the state have recommended that the Bedouin villages in Negev should be recognized and developed. The report of the Official Commission of Inquiry into the clashes between the security forces and Israeli civilians in October 2000 (the Or Commission) described the ongoing conflict between the Bedouin and the state over the issue of land ownership as follows:¹⁶

The land conflict has existed since the first days of the state between the state and the Bedouin. The government sought to register in its name most of the land that was used by the Bedouin in the Galilee and the Negev, and to concentrate the Bedouin in a number of planned towns. This policy encountered opposition from the Bedouin, who claimed rights to the land. The state tried to reach agreements over disputed land, but as of the year 2000 agreements were reached only with regard to 140,000 dunams, which comprise a small part of the land in dispute. The main part of the dispute entails a large expanse of land in the Negev that sprawls over most of the territory of the Rahat-Dimona-Arad triangle. The Arab public strongly supports and identifies with the Bedouin's stance.

Another problem that primarily pertains to Bedouin citizens is the problem of the Arab villages that have not received official recognition from the Ministry of the Interior. Villages grew as a result of unauthorized construction, mostly on state land, by those who sought to build homes near or on land they claimed to use. Over the years, several dozens of such groupings of homes have arisen, and about 70,000 people live in them in the Negev, as well as around 10,000 in the Galilee. Since the villages are not recognized, they have not been provided with infrastructure and services, and in many places they lack running water, electricity, roads or sewerage; no health clinics or schools have been built in them. The authorities have recognized, after the fact, a small number of such villages in the north. The vast majority of residents of the unrecognized villages were required to move to a number of central towns that were planned for them. The state has acted to enforce the law in these towns and over the land that serves their residents, including by submitting demands to court to evict them from the land and issue demolition orders to hundreds of homes. Several public associations have formed to promote the struggle of the residents of the illegal villages. The "Association for the Protection of Bedouin Rights" was formed in the Negev, and the "Association of the Forty" in the Galilee. The Arab sector has been mobilized in the struggle of the residents of the unrecognized villages, and thus another element of conflict was added that weighs upon its relations with the state.

22. The Goldberg Committee for resolving Bedouin settlement in the Negev, which was appointed in 2007 by the Minister of Housing and Construction, and which presented its recommendations to the minister on 11 November 2008, recommended that all the unrecognized villages in the Negev should be recognized and ownership rights to the land should be awarded to Bedouin citizens in consideration of their historical connection to it. The committee stated as follows:

¹⁶ Volume A of the Or Commission Report, paras. 39-40.

Our proposal for the settlement solution is also based on the principle that the State grant land ownership rights on the basis of due consideration for the Bedouin's historical attachment to the land, and not in recognition of any legal bond (which does not exist).

...

In principle, we recommend recognition, as far as possible, of all the unrecognised villages which have a critical mass of residents, at a level to be determined, and which can maintain themselves as municipal units, on condition that such recognition in no way contradicts the District Master Plan.

23. Following the publication of the Goldberg Committee's recommendations, the government approved Decision No. 4411 of 18 January 2009,¹⁷ in which it decided that it "regards the outline proposed by the committee as a basis for resolving the settlement of the Bedouin in the Negev." In addition, in June 2010, the "Investigator's Recommendations Regarding the Objections to District Master Plan 23/14/4 – A Partial District Master Plan for the Beersheva Metropolitan Area" was published, which examined the objections submitted to this master plan. Here, too, it was recommended to recognize the unrecognized villages.¹⁸

24. Prof. Oren Yiftachel, who has researched many issues of land ownership involving the Bedouin in the Negev, has also addressed the real potential alternatives for resolving the dispute over land ownership in the Negev. According to Prof. Yiftachel, "a fair mechanism" needs to be established for "clarifying pending land claims, which will enable property rights to be granted on a basis of traditional ownership. The property rights that are recognized will 'drive' the track of planning solutions, and thus enable rational, consensual and just development of the settlement array."¹⁹ Prof. Yiftachel added that once the process of land resolution has been completed, it will then be time to move onto "the 'planning stage' while recognizing the villages and/or establishing new villages according to equal and accepted criteria in the planning system; this stage will be accompanied by a gradual transition to an Arab municipal array that will manage the rural Bedouin space over the long term."

Recommendations of UN committees

25. In July 2010, the UN Human Rights Committee, responsible for monitoring the state's implementation of the International Covenant on Civil and Political Rights, issued its "Concluding Observations" on the 3rd periodic report submitted by Israel. The committee expressed concern about the phenomenon of home demolitions and the state's forcible evacuation of residents from their homes, while at the same time disregarding the need to develop the Bedouin villages and failing to take into account their unique way of life in the Negev desert. The committee called upon the State of Israel to respect the right of the

¹⁷ www.pmo.gov.il/PMO/Archive/Decisions/2009/01/des4411.htm [Hebrew]

¹⁸ See, investigator's report for district master plan 23/14/4, a partial district master plan for the metropolitan Beersheva area and the Bedouin population outside of the recognized communities, submitted to the Objections Subcommittee of the national council by Attorney Talma Duchin, June 2010.

¹⁹ Prof. Oren Yiftachel, "Toward Recognition of Bedouin Villages? Planning Metropolitan Beersheva vis-à-vis the Goldberg Committee, *Tichnun*, 6(1), 165-184, (2009).

Bedouin to the land and their right to make their livelihood from agriculture. In the committee's words:²⁰

The committee notes that school enrollment rates increased and infant mortality declined among the Bedouin population. Nevertheless, the committee is concerned at allegations of forced evictions of the Bedouin population based on the Public Land Law (Expulsion of Invaders) of 1981 as amended in 2005, and of inadequate consideration of traditional needs of the population in the state party's planning efforts for the development of the Negev, in particular the fact that agriculture is part of the livelihood and tradition of the Bedouin population. The committee is further concerned at difficulties of access to health structures, education, water and electricity for the Bedouin population living in towns, which the state party has not recognized (Articles. 26 and 27).

In its planning efforts in the Negev area, the state party should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on agriculture. The state party should further guarantee the Bedouin population's access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the state party.

[Emphasis in the original]

26. The UN CERD Committee, responsible for monitoring the state's implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which Israel has signed and ratified, also addressed the lack of consideration for such alternatives in the summary of its recommendations of June 2007. The committee expressed concern that the State of Israel had not examined alternatives to the evacuation and transfer of the population, and noted that the fact that basic services had not been provided is liable to ultimately compel the residents to move to the towns planned by the state. The committee went on to call upon the State of Israel to examine alternatives to relocating the Bedouin to recognized villages and also to recognize the rights of the Bedouin to own and develop their land:²¹

The committee expresses concern about the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns. While taking note of the State party's assurances that such planning has been undertaken in consultation with Bedouin representatives, the committee notes with concern that the State party does not seem to have inquired into possible alternatives to such relocation, and that the lack of basic services provided to the Bedouins may in practice force them to relocate to the planned towns. (Articles 2 and 5 (d) and (e) of the Convention)

The Committee recommends that the State party inquire 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,

²⁰ Para. 24 of the Committee's Concluding Observations can be read at:

<http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc>

²¹ See para. 25 of the Concluding Observations of the UN Committee for the Elimination of Racial Discrimination, published in June 2007, which can be read at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/424/79/PDF/G0742479.pdf?OpenElement>

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.

[Emphasis in the original]

27. More specifically, in 2005 the UN CEDAW Committee, responsible for monitoring the state's implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (ICEDAW) expressed its concerns over the difficult living conditions of Bedouin women, as follows:²²

The committee is concerned that Bedouin women living in the Negev desert remain in a vulnerable and marginalized situation, especially in regard to education, employment and health. The committee is especially concerned about the situation of Bedouin women who live in unrecognized villages with **poor housing conditions** and limited or no access to water, electricity and sanitation.

[Emphasis added]

And, in 2002, the UN CAT Committee, responsible for monitoring the state's implementation of the International Convention Against Torture (CAT), which Israel has also ratified and signed, published a summary of observations that, inter alia, addressed Israel's policy of home demolitions. This committee determined that Israel's policy of home demolitions could in some cases constitute cruel, inhuman and degrading punishment, in violation of the Convention Against Torture.²³

Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (Article 16 of the Convention).

Summary

28. In light of the above, we ask that you grant our request as stated at the beginning of this letter and order a halt to the policy of demolishing the Bedouin villages in the Negev, and to replace the current aggressive approach with one of dialogue with the population in order to create planning solutions for the unrecognized villages. This approach would address fundamental solutions and respond to the recommendations of the Israeli Supreme Court, and the aforementioned official Israeli committees and UN human rights treaty bodies.
29. Finally, we note the Supreme Court's ruling in *Abu Medeghem*, where the Supreme Court ordered an end to the policy of spraying crops in the unrecognized villages, arguing that it was liable to violate the right of the residents of the sprayed areas to dignity and health. In this case, the court ruled that even though the residents were not entitled to grow the crops, and **despite the fact that the land, according to this ruling, does not belong to them**, the authorities are prohibited from taking the step of spraying,

²² Para. 39. The Concluding Observations of the UN Committee for the Elimination of Discrimination Against Women can be read at: <http://daccess-ods.un.org/TMP/9422238.html>

²³ See UN document A/57/44, § 6(j)

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3260e70453995e8fc1256e4000501519?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3260e70453995e8fc1256e4000501519?Opendocument)

even though it was aimed at preventing the takeover of lands, because the policy of spraying does not give adequate consideration to the health of the public. And in the words of the honorable Justice Arbel in the *Abu Medeghem* case:²⁴

The spraying, as it has been conducted, violates, in my view, a cluster of rights and values whose protection is essential for maintaining the existence and dignity of a person as a human being. Alongside the state's role in protecting land, it bears another duty of supreme importance – to defend the wellbeing and welfare of its citizens: men and women; young and old; law-abiding ones and lawbreakers. In this framework, the state bears a responsibility to protect the health, bodily integrity and dignity of the members of the Bedouin sector in the Negev, each of whom is a citizen of the state, and thus it must pursue its objectives and policy in the field of land and in general via means that are consistent with this responsibility to protect the basic rights of its citizens.

Respectfully yours,

Sawsan Zaher, Attorney (with Adalah)

On behalf of the following organizations:

The Association for Civil Rights in Israel
The Regional Council for the Unrecognized Villages in the Negev
The Popular Committee for Protecting the Lands of Al-Araqib
Adalah – The Legal Center for Arab Minority Rights in Israel
The Sidreh NGO
Forum of Bedouin Arab Women's Organizations in the Negev
Negev Co-existence Forum
Negev Recognition Forum
Physicians for Human Rights
Shatil – Support and Consultation Services for Promoting Social Change

²⁴ The *Abu Medeghem* case, para. 50 of the Justice Arbel's ruling.