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מִשְׁרָד הַמִּשְׁפְּטִים
S t a t e o f I s r a e l
M i n i s t r y o f J u s t i c e

The Human Rights and Foreign Relations
Department

המחלקה לזכויות אדם וקשרי חוץ

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Mrs. Sarah Leah Whitson
Executive Director
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Human Rights Watch

Re: HRW Report on the Illegal Bedouin Villages of the Negev

We would like to address your application dated May 14, 2007, concerning a report on the illegal Bedouin villages of the Negev prepared by Human Rights Watch.

Background

There are more than 170,000 Bedouins living in the Negev desert area. Most live in urban and suburban centers, legally planned and constructed. All existing towns have approved outline plans and they include infrastructures such as schools, clinics, running water, electricity, etc.

There are 6 existing suburban Bedouin towns in the Negev (Laqya, Hura, Kseife, Arara in the Negev, Tel-Sheva and Segev Shalom), in addition to the city of Rahat. Although the seven existing towns could basically provide a proper solution to the Bedouin population's needs, subject to their expansion, the Government decided since

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1999 to establish another nine new towns for Bedouins considering their special needs and the desire to oblige them, including their will to settle according to a tribal format.

These are the nine new towns: Tarabin (the town is now being populated and 100 new houses have been built), Abu Krinat (under construction), Bir Hadaj (under construction), Kasar A-Sir, Marit (Makhoul), Darjat, Um Batin, Mulada and El Seid – all under planning procedures. Another three towns are under statutory approval procedures: Ovdat, Abu Tlul and El-Foraa. A new regional council was founded for five of the new towns called "Abu Basma", which was declared on February 3, 2004.

Moreover, in 2003, the Government, in two different resolutions (in April and September) created a comprehensive plan for the Bedouin sector, including investment of 1.1 billion NIS for the improvement of infrastructures and founding public institutions during the next 6 years.

On July 15, 2007, the Government concluded the following resolution concerning the establishment of a new Authority in the Ministry of Construction and Housing dealing entirely with the development of the Bedouin Sector, expansion of towns and provision of housing solutions for all Bedouins, which text is as follows:

"D. The Government decided to establish, in the Ministry of Construction and Housing, the Authority for the Regulation of the Bedouin Residence in the Negev, which purpose, functions and organizational structure are as follows:

- The arrangement of Bedouin residence in the Negev, including:
 - * Arranging claims of ownership over the land;
 - * Arranging permanent residences, including infrastructure and public services, both in existing towns and new towns;
 - * Aid in incorporation in employment;
 - * Coordination of education, welfare and community services.
- The functions of the authority and its main powers:
 1. Accumulating information concerning the existing situation of the population, whether scattered or located in existing towns, including claims of ownership;
 2. Initiation and execution of land arrangements;

3. Initiation of statutory planning, in coordination with the Planning Administration in the Ministry of the Interior, of suitable residence solutions, including solutions that address the characteristics of the group, social reciprocity, possible locations etc.;
 4. Promoting the planning and development of local and regional infrastructures for permanent solutions;
 5. Accompanying the population through all the stages of residence;
 6. Giving recommendations in the issue of enforcement priorities;
 7. Coordination and synchronization between the various authorities, while accompanying, tracking and supervising the execution of the decisions.
 8. The aforementioned functions of the Authority will not detract from the powers of the various Government Ministries or the powers of the local authorities according to the law.
- The proposed organizational structure of the Authority is designed to enable the efficient execution of all its goals and functions, as follows:
1. The Authority will act within the framework of the Ministry of Construction and Housing.
 2. Alongside the Authority, an Inter-Ministerial steering committee will be established, which function will be to discuss the obstructions in the way of arranging the residence and implementing the goals of the Authority. At the head of the steering committee will be the General Director of the Ministry of Construction and Housing.
 3. A council will be appointed to the Authority, whose functions will be to lay out the Authority's line of action and advise the general manager of the Authority in all that regards the execution of the Authority's policy. The council will be composed of 21 members, among them: 14 relevant Government representatives (Construction and Housing – chairman, Finance, Justice, Education, the Interior, Industry, Trade and Labor, Health, Social Affairs and Social Services, Tourism, the Negev, the Galilee, Public Security, Agriculture and Rural Development, Environmental Protection and Transportation and Road Safety) and 7 public representatives which will be appointed by the Minister of

Construction and Housing, out of them 4 will be from the Negev Bedouin, which have no ownership claims to land.

4. The operational responsibility of the Authority will be in the hands of the authority's general manager and, underneath him, will operate various sections, which areas of occupation will be, among others, land transactions; programs and residence; planning, development and construction; community; legal counseling; finances and logistics and research, propaganda and documentation. (the land transaction section will be subject, statutorily, to the Israel Land Administration).
5. In addition, alongside the general manager of the Authority, a concessions and proceeds committee will act, headed by a retired judge, and its function will be to make recommendations concerning agreements brought before it, on the basis of the standards set in the law. The recommendations of the committee will be submitted to the approval of the Authority's general manager.

-The Government has further decided:-

To request the General Director of the Ministry of Construction and Housing to recommend to the Government, within 30 days and in coordination with the General Director of the Prime Minister's Office, and the Supervisor of Budgets in the Ministry of Finance and the Civil Service Commissioner, on the budgetary resources and personnel that are required to the execution of this decision and the sources of their finance.

To entrust the Minister of Construction and Housing to appoint a public committee, headed by a retired Supreme Court Justice, and which at least half its members are representatives of the relevant Government Ministries, including representatives of the Ministries of Construction and Housing, Finance, the Prime Minister, Agriculture and Rural Development, the Negev and the Galilee, the Interior, Justice, the Transportation and Road Safety, and the Israel Land Administration, as well as public representatives, among them representatives of the Bedouin sector that have no ownership claims to land. The committee will submit its recommendations to the Minister in order to form a bill concerning the regulation of hebetating the Bedouin sector in the

Negev, including the sum of the reparations, arrangements of allocating alternative land, civil enforcement, and a schedule of the execution of arrangements. Public representatives which have no personal interest or a conflict of interests in this matter will be selected as members of the committee. The committee will submit its recommendations within three months. The committee will act under the framework of a budget and land inventory which it will determine in coordination between the General Director of the Prime Minister's Office, the General Director of the Ministry of Construction and Housing and the Supervisor of Budgets in the Ministry of Finance, within 30 days.

Within the framework of the Government's policy to arrange the residence and land of the Bedouin in the Negev, and as an important step which integrates with the Governmental plans for the development of the Negev and the Galilee, the Government has promoted various resolutions to promote the treatment of the Bedouin population in the Negev.

Nonetheless, owing to the complexity of the solution for the various issues, and the prolongation of the treatment in the availability of the land in the area of permanent towns, which are designed to receive the diaspora populations, there is a need to coordinate the totality of the plans in an organizational framework of an authority, which will deal with the issues in a coordinated and expansive manner.

- E. The Government has decided, in continuation of its Resolution dated 8.11.2002, which determined that the "individual settlements" is a means to implement the policy of the Government to develop the Negev and the Galilee, and in continuation of the Government's dealing with the regulation of Bedouin residence in the Negev – to appoint an inter-Ministerial committee, headed by the General Director of the Prime Minister's Office, which will act to regulate the status of the existing individual farms, and recommend to the Government a procedure for establishing additional individual farms in the Negev and the Galilee.

The committee will submit its recommendations to the Government within 60 days.

In the region of the Negev, there exists about 60 individual farms: The status of about 25 farms is properly arranged, concerning 20 additional farms, comprehensive action has been taken until now both by planning authorities and through a regulating procedure. However, the procedure of regulating the status of 15 more farms which are located in areas that have great importance to habitation, which has been going on for several years, has not been completed at this time.

Moreover, there exist about 40 individual farms in the Galilee, and the status of some of those has not been arranged."

Note that recently, the Minister of Construction and Housing approached the Attorney General, regarding the freezing of demolition orders in the Bedouin sector for a period not exceeding one year. This application is currently under examination in the Ministry of Justice.

In spite of the establishment of a number of permanent towns for the Bedouins, about 70,000 Bedouins still choose to continue and live in illegal clusters of buildings in tens of communities throughout the Negev, ignoring the planning procedure of the planning authorities in Israel. This illegal building is carried out without any preparation of plans as required in the *Planning and Building Law*, 5725-1965, and with no approval of the planning authorities. In addition, it causes many difficulties in terms of providing services to the residents of these illegal villages.

The Government is encouraging movement to permanent towns by providing unique financial benefits to all the residents of the Bedouin diaspora who seek to move to permanent towns, regardless of their economic condition or any entitlement test. These benefits include, *inter alia*, provision of land plots for free or for very low cost and compensation for demolition of illegal structures.

Provision of Housing and Land-Use Planning

1. There are currently 8 towns for the Bedouin population in the Negev, that are existing and vivacious and another 11 are in different stages of planning and

construction. There are 6 suburban Bedouin towns in the Negev (Laqiya, Hura, Kseife, Arara in the Negev, Tel-Sheva and Segev Shalom), and the city of Rahat. Another suburb town (Tarabin) is now being populated.

Expansion of Existing Towns

2. In order to satisfy the growing needs of the Bedouin sector, the planning authorities are working intensively in order to expand the area of the existing towns. All existing towns have approved outline plans and the Government is advancing their expansion.
3. The Bedouin Administration has been vigorously advancing the project of expanding the city of Rahat. Phase 1 of the project includes 4,500 residence units out of 10,000 in total. The marketing of phase 1 has started already very successfully. In addition, there are 7,500 plots for residence in the area of the existing permanent Bedouin towns – 3,000 of them are virtually developed and available for housing. At present – 10,000 residence plots have been marketed.
4. The following table details the number of land plots in the Bedouin towns:

Town	Total Land Plots	Land Plots Waiting for Development	Land Plots Marketed	Available Land Plots For Marketing
Hura	3259	956	1509	794
Kseife	2777	1697	935	145
Laqiya	2347	1008	820	519
Araara in the Negev	2044	311	1185	548
Rahat	4107	35	3956	116
Segev Shalom	1732	255	1006	471
Tel Sheva	2067	157	1518	392
Total	18333	4419	10929	2985

5. The table above shows that there are 3,000 empty land plots in the existing permanent towns which can be populated immediately by the Bedouins from the diaspora. In addition, there are another 4,400 plots which can be developed if demand will require it.

6. Although the existing towns could basically provide an efficient solution to the Bedouin sector's needs, subjected to their expansion, only some of the Bedouins in the Negev moved to the permanent towns and the other tens of thousands choose to continue and live in tens of communities in the diaspora and build their houses ignoring the planning purposes of the planning authorities in Israel. Unfortunately, in practice, there are thousands of empty developed land plots in the permanent Bedouin towns waiting for housing for a long time.

Establishment of New Towns

7. Since 1999 the Government decided to establish nine new towns for Bedouins in the diaspora. Construction operations have already started in some of the towns (Abu Krinat, Bir Hadaj). Some of the towns are still in different stages of planning procedures and one of the towns (Tarabin) has already been populated last year with 100 new houses. The nine new towns are: Tarabin, Abu Krinat, Bir Hadaj, Kasar A-Sir, Marit (Makhol), Darjat, Um Batin, Mulada and El Seid. Another three towns are under statutory approval procedures: Ovdat, Abu Tlul and El-Foraa. A new regional council called "Abu Basma" was established for five of the new towns on February 3, 2004.
8. The following table summarizes the different statutory stages in which each of new towns stand:

Name of Town/ Quarter	Planning Essence	Statutory Condition	Remarks
Marit (Makhol)	Expansion of Marit to road no. 31, Additional land of 10,000 dunam	In preparation for a hearing in the regional committee Abu-Basma	Under Abu-Basma R.C responsibility
Tarabin	Detailed urban building plans for re-assignment to an employment area	Approved in the regional committee Abu-Basma in June, 2007	Under Abu-Basma R.C responsibility
Bir Hadaj (phase 2)	Detailed urban building plan for additional 1,300 residence units	Approved for conditional depositing in the regional committee in February 2007	Under Israel Land Administration responsibility
Ovdat	Transformation of the regional outline plan – establishment of a	Approved for depositing in the regional committee	In preparation for a hearing in the national council on

	new town to the Azzazma tribe (1,100 dunam)		July 3, 2007.
Bir Hadaj (Employment Area)	Detailed urban building plan of an employment area	Published for validation	Under Israel Land Administration responsibility
Abu Krinat (Employment Area)	Detailed urban building plan to an employment area	Approved for depositing in the regional committee	In preparation for publication of validation
Pachas El Amor (in Makhoul)	Detailed urban building plan of 240 residence units	The depositing period is over	Published for depositing
Darjat	Detailed urban building plan of 400 residence units	Approved for validation (under conditions) in January 2007	valid
Abu Ayda (in Makhoul)	Detailed urban building plan of 380 residence units	Approved in the regional committee Abu-Basma	Approved for depositing in June, 2007
El Seid	Detailed urban building plan of the town south of Hura in an area of 3,000 dunam	Approved for depositing in the Regional Committee. Depositing is publicized	The depositing period is over
Kasar A-Sir	Detailed urban building plan of 2 sites of 380 residence units	In depositing	Under Abu-Basma R.C responsibility

Land-Use Planning

9. Planning principles for all the 11 new planned towns were determined as follows:

- 9.1. Creation of a new texture of towns which will be an appropriate and acceptable alternative to the traditional way of life in the Diaspora.
- 9.2. Establishment of services centers for the population of the diaspora which is planned to be populated in the towns.
- 9.3. Establishment of employment and tourism areas, including areas for employment of women.
- 9.4. Provision of a variety of accommodation solutions which will fit the different needs of the different communities: suburban towns, rural towns, semi-

agricultural towns (with combined land plots: residence + low density agriculture).

9.5. High standard infrastructures.

10. The planning of the nine new Bedouin towns in the Negev was carried out with participation of representatives of the local tribes and families as follows:

10.1. Holding shared meetings with the residents' representatives and meetings with social counselors with participation of the residents' representatives.

10.2. Participation of the residents' representatives in steering committees of the new towns' outline plans in the Ministry of the Interior.

11. The policy of Abu-Basma regional council, for example, is unequivocal – to attain clear understanding with the local Bedouin residents on outline plans and to consolidate recognition and approval simultaneously with statutory procedures. The process of attaining understanding and coordination with the residents is long and is accompanied by planners' teams, counselors, lecturers and researchers from Ben-Gurion University and "Mandel" Institute. All development plans are executed in corporation with the residents of Abu-Basma towns.

Abu-Basma Regional Council

12. The regional council is operating according to Government Resolutions and statutory resolutions of the planning bodies. The public building and development of the towns is executed after the approval of the statutory plans. In 2007, the regional council is building 76 new classrooms in schools in the towns. In addition, access ways to roads are to be paved (6 projects in expense of 24.5 millions NIS) and multi-purpose public buildings are to be built during the year, and so forth.

13. The Abu-Basma Regional Council is also working in the area of upgrading human resources and it initiates projects in areas of education, welfare and employment. For example, in the last three months, 87 students are studying in the technological college for an engineering degree in cooperation and funding of the Ministry of Industry, Trade and Labor. The students that will complete their

studies successfully will be nominated for employment in the "Intel" factory in Kiryat Gat. In addition, the regional council is funding from its budget "boards course" in Ben-Gurion University, in which the members of the local boards are provided with wide knowledge in the areas of economics, law, municipal services development, etc. This Course started two months ago and will last another year. These activities and others aim to create a professional and municipal leadership together with development of infrastructures in the towns.

Benefits to the Bedouin Sector

14. The Government offers the residents of the Bedouin diaspora permanent housing solutions in permanent towns which include all the necessary facilities and infrastructures, according to the present policy. All the residents of the Bedouin diaspora who seek to move to the permanent towns are granted with special benefits as follows:
 - 14.1. Financial compensation due to demolition of illegal buildings and relocation to permanent towns. The rate of compensation depends upon the type of the buildings, their components and size - the larger the building is and the stiffer the material it is made of, the higher the compensation is.
 - 14.2. Option to purchase a developed building plot for a low price (sometimes for free). The developed building plot includes all the infrastructures: roads, drainage, sewerage, electricity, water, etc.
 - 14.3. Special benefits for singles- a single resident above the age of 24 who does not receive compensation for illegal buildings, is eligible to acquire a developed building plot for free.
 - 14.4. Special benefits to members of the security forces – singles who serve in the security forces can acquire a building plot for free even under the age of 24, in addition to other special benefits for members of the security services who are not from the diaspora.

14.5. Special grants for poor families – such families are granted with 7,500 NIS when evacuated and additional 1,500 NIS per every single child. Singles receive relocation grant of 5,000 NIS.

14.6. Optional extra building plots purchase – every Bedouin citizen is eligible to purchase another two building plots per family for reduced prices.

Admission to communal and agricultural towns

15. Granting admission of new residents to communal or agricultural towns of less than 500 families is exercised according to special procedures of "Selection Committees" as determined in Resolution no. 1064 of Israel Land Administration Council from July 27, 2005, which updated Resolution no. 1015 from August 1, 2004. According to Article 2 of the resolution, the criterions that a Selection Committee can consider when recommending a nominee for purchasing of land rights in a small communal or agricultural towns are as follows:

15.1. An adult over 18

15.2. Economic ability to build a house in the town in a time frame which is determined in the development agreement with Israel Land Administration.

15.3. In a communal town: appropriate social life in a small community

15.4. In an agricultural town: appropriate social life in a community

15.5. A society which will include this criterion must include also a provision that will demand all nominees to provide an opinion of a professional institute which will examine whether they fit the social life of the community. Any decision of the Selection Committee rejecting the nominees for this reason must be based on a professional opinion.

15.6. Criterions about unique characteristics of the town, if there are any, must be pre-approved by Israel Land Administration after receiving an approval of the Register of Cooperative Societies, as required.

16. Resolution 1064 determines the composition of the selection committees and the procedures for submitting an appeal against its decision if rejected. The selection

committees in a communal town consists of a senior official in the Jewish Agency or the Zionist Organization, a senior official of the Ministry of Construction and Housing, a representative of the cooperative society, a representative of the regional council and a representative of the relevant settlement movement– in the relevant towns. In an agricultural town the composition of the selection committees will be determined by the society's institutions.

17. The supervision mechanism allows a rejected nominee to appeal against the selection committee's decision to an appeal commission whose role is to recommend whether to accept the appeal and annul the decision, to reject the appeal or to return the issue to anew hearing of the selection committee. The appeal commission is headed by a public figure and it consists of a representative of the Register of Cooperative Societies and a representative of Israel Land Administration.
18. The appeal commission invites the nominees and the selection committees to a shared hearing in which both sides hold their claims in relation to the rejection decision. Both sides are allowed to be represented by lawyers. The commission is allowed, according to its own considerations, to order the examination of the relevant nominee by a professional body in the area of behavioral sciences before it makes its decision in the appeal. The decision of the appeal commission is submitted to the director of Israel Land Administration who is allowed to accept it, all of it or part of it, or reject it.
19. During the working period of the appeal commission, there has been one appeal of a Bedouin from the Negev against a decision of the selection committee of the town "Gvaot Bar" in the Negev, which was accepted by the commission. It is to be indicated that during the hearing, the selection committee claimed that another Bedouin nominee had already been accepted to the town.

Conclusion

20. The Government invested and continues to invest great financial resources in the planning and developing of new Bedouin towns and expansions of existing towns. It shall be stressed- today there are 8 existing towns for the Bedouin population in

the Negev and another 11 in different stages of planning and construction. These towns provide sufficient residence solutions for the entire Bedouin Diaspora.

Warnings, Demolition Orders and Demolitions

21. An ex parte demolition order, according to Article 212 of the *Planning and Building Law, 5725-1965*, is executed only as a final resort, when it is impossible to file an indictment against the owners in a usual manner (Articles 204 and 205) or when every other alternative was exhausted. Following a two-week period, if none of the residents arrives to identify the illegal building, a request is submitted to the Magistrate Court to render an ex parte demolition order. In any case, the order is valid only after posting a demolition notice for 30 days, to allow the owner of the building to submit his reservation. In addition, the owner is entitled to contest the demolition order and raise his own claims in court hearing.
22. The number of legal procedures against violations of the *Planning and Building Law, 5725-1965* and illegal Bedouin structures are as detailed in the following table:

		2004	2005	2006
Warnings of Building Violations		481	394	793
Self Demolitions	Administrative Procedure	10	11	13
	Judicial Procedure	54	70	55
	Total	64	81	68
Demolitions by the Authorities	Administrative Procedure	6	6	24
	Judicial Procedure	162	16	108
	Total	168	22	132
Total Demolitions		232	103	200

23. As of today there are 45,000 illegal buildings in the Bedouin diaspora, there are 2,000 pending legal procedures against buildings and 700 valid demolition orders - 15 of them administrative.

Housing Solutions and Compensation to Residents of Illegal Villages

24. The solutions offered to the residents of the specified communities are as follows:

Residents near Goral Junction (Talalka Family)

25. The Bedouin Administration offered to the Talalka family's representatives land plots on State land in a developed quarter in the town of Hura (Quarter 15), in which 50 land plots can be marketed immediately. In addition, they were offered housing solutions in the framework of Rahat's expansion. The family's representatives rejected these offers and claimed that they wish to establish an independent town on land in the area of Goral hills. They also refused to an alternative interim housing solution north of the town of Hura, which is expected to be expanded in this direction in the future.

26. It shall be pointed out that there are other permanent solutions for the Talalka family in Quarter 8 in the town of Araara and in Quarters 16, 17 and 18 in the town of Hura, in which the number of available land plots is much higher than necessary for the family.

27. Talalka Family is residing these days south of Quarter 8 of Laqya and not in Goral Hills. It seems that the family's intention is to hold possession of areas in Goral Hills in order to establish "facts on the ground" and force the Government to establish a new town in the area. The Beer-Sheva District Court held in *A.P. 257/04 The Association for Support and Protection of Bedouin Rights in Israel v. The National Council for Planning and Building* that accepting the Talalka Family's demand will actually discriminate other Bedouin families. The Court, which related to the lack of clean hands on the part of the petitioners, rejected their demands and held that they did not raise a substantial reason for the establishment of a new town for them, while part of the tribe is already resettled and the others stay in the diaspora since they refuse to accept the State's solutions.

Residents near Nevatim Airbase

28. these residents are offered to move to one of the quarters in the new town of Makhlof and/or to one of the other permanent towns. It shall be indicated that the land in the area of the airbase and its surroundings is necessary for the expansion of the airbase and other military needs.

Residents near the Yatir Forest

29. The State invested close to 10 million NIS in developing Quarter 9 in the town of Hura. In this Quarter there are 380 available land plots. The Bedouin Administration had offered and is offering permanent housing solution in the framework of this quarter.

Residents near Beer-Sheva Prison and Ramat Hovav

30. The Government offered these residents immediate housing solutions in the town of Segev Shalom (500 available land plots) and permanent housing solution in the new town of Bir Hadaj, subjected to the local committee's approval. In addition, the Bedouin Administration is willing to develop another two new quarters in Segev Shalom which will provide sufficient housing solutions:

30.1. Quarter 6 is planned for 200 families of Azzazma tribe (600 residence units) who currently live in the areas of Beer-Sheva Prison, Ramat Hovav and next to the town of Bir-hadaj and the city of Yeruham.

30.2. Quarter 7 is planned to house families of Azzazma tribe as well. There are 260 planned land plots, each for 2 residence units (520 in total).

31. It shall be stressed that although issue at hand is a suburban town, these two quarters are planned to have agricultural - rural elements because of the unique character of the population.

32. In spite of the housing solutions detailed above, the residents near Beer-Sheva Prison and Ramat Hovav insist on establishing a new independent town for themselves.

Sincerely yours,

Hila Tene, Adv.