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Mandate of the Special Rapporteur in the field of cultural rights

24 April 2019

Dear Sir, Madam,

I have the honour to address you in my capacity as the United Nations Special Rapporteur in the field of cultural rights, pursuant to Human Rights Council resolution 37/12.

In my forthcoming thematic report to the General Assembly, I will address the topic of “Cultural rights and public spaces”. I am eager to consult a wide range of stakeholders, including States, United Nations agencies, academics, experts, artists, scientists, cultural workers and practitioners, as well as civil society organizations, in order to benefit from their diverse views and experiences. Many multifaceted issues are indeed at stake, as explained in my questionnaire.

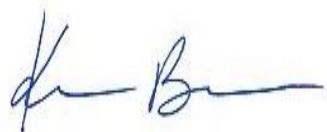
I would like to draw your attention to the fact that I use the term “public space” in its plural form, to underline the plurality and diversity of “public spaces” and their differences in nature and scope. Public spaces may include, for example, not only urban but also rural and natural spaces, real and virtual spaces.

Submissions should be sent electronically no later than **20 May 2019** to srcculturalrights@ohchr.org, using the email title: “Submission: Cultural rights and public spaces”. Please feel free to answer only the questions relevant to your work. Kindly limit your responses to **2,500 words** and attach annexes where necessary. To facilitate their consideration, it would be preferable if responses could be sent in the working languages of the OHCHR, English, French or Spanish.

Please also indicate if you have any objections with regard to your reply being posted on the OHCHR website.

I wish to thank you in advance for your cooperation and I hope to continue a constructive dialogue on issues related to my mandate.

Please accept, Sir, Madam, the assurances of my highest consideration.

A handwritten signature in blue ink, appearing to read "Karima Bennoune".

Karima Bennoune

Special Rapporteur in the field of cultural rights



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QUESTIONNAIRE ON CULTURAL RIGHTS AND PUBLIC SPACES

Please note that the term “public spaces” in its plural form aims at underlining the plurality and diversity of “public spaces” and their differences in nature and scope. Public spaces may include, for example, not only urban but also rural and natural spaces, real and virtual spaces. Various degrees of privatization may affect public spaces. This may require different measures be adopted to ensure the realization of cultural rights.

Those submitting information should feel free to answer only specific questions that they find most relevant.

Below you will find answers from Kayan- Feminist Organization:

- 1. What are the various existing definitions of “public spaces” used in national legislation or proposed by international mechanisms, experts and civil society organizations? Are other terms used such as “civic space” and “public domain”? What is the scope of the concept of such public spaces?**

There are no specific laws in Israel that determine cultural space. However, there are certain rights such as freedom of expression, freedom to work, and freedom of movement, which contribute to the wider public space. The limitations imposed on the cultural space are related to the Israeli government’s policies, which are reliant on political factors. Consequently, in Israel exists different cultural spaces: one for the Jews and one for the Arab Palestinian citizens of the State.

We at "Kayan-Feminist Organization" define public space as a free and wide space built on freedom of expression and the ability to participate in the following domains: cultural, political, social, and religious. We believe that the State should understand and acknowledge our uniqueness as aborigines and respect our cultural historical heritage and do what it must to maintain that heritage with understanding and tolerance. State legislation must support human rights,

equality, freedom of speech, and tolerance, and protect us from racist and extremist attitudes which view us as inferior and excludes us from the public space.

Cultural space is very important to the Israeli society, its various cultural groups, including the Arab minority. The Arab citizens of Israel, which make up 20% of the total population, are descendants of the Arab Palestinian people who remained in their lands after the war in 1948. They accordingly have a different cultural heritage and space defined by: their language, national identity, cultural characteristics, theatre, cinema, poetry, traditions, religion, etc. This culture is based on a significant heritage which continues to live and grow as part of the unique Palestinian identity. Palestinians see the continuation and development of their cultural space as an extension and reflection of their national, social, and political identity.

Therefore, they maintain it and protect it and expect the state to do the same as they are legal citizens and deserve acknowledgement and protection of their cultural rights from the government. The reality, however, differs and these rights are deteriorating as a result of state intervention in the Arab cultural space, such as language status, allocation for cultural advancement, etc.

2. What are the diverse legal frameworks, trends and practices at the national level that either promote or impede actors from across the cultural ecosystem, including women and persons with disabilities, from accessing and using public spaces? What strategies are most useful in overcoming such challenges?

The state limits the cultural activities and visions of the Arab society as the narrative is largely reflective of the political conflict. The state makes visible efforts to contradict this narrative with a Jewish one. For example, the “Nakba Law”¹ authorizes the Finance Minister to reduce state funding or support to an institution if it holds an activity that rejects the existence of Israel as a “Jewish

¹ <https://www.adalah.org/en/law/view/496>

and democratic state” or commemorates “Israel’s Independence Day or the day on which the state was established as a day of mourning.”

Recently legislated and given constitutional status was the nationality law². It states that Israel is the nation state of the Jewish People only, in which it realizes its natural, cultural, religious and historical right to self-determination. The law added that the State shall act to preserve the cultural, historical and religious heritage of the Jewish People among Jews in the Diaspora. It also stated the symbols of the state according to the Zionist agenda, ignoring the existence of other people and their rights. These symbols included the state flag which showcases a Star of David, as well as the declaration of Hebrew as the primary national language. It disregarded the status of Arabic as an official language of the state and defined Israel as the home of the Jewish people only, denying any status to the Palestinians.

The state intervenes in every aspect of our lives in order to determine the Zionist agenda which considers the state of Israel to be the home of Jewish people and legitimizes the settlements, the united Jerusalem, etc. Even the names of the signs for the Arab towns, which are written in Arabic, are done according to the Jewish spelling. The narrative of the Palestinians is ignored and any interpretation, cultural or otherwise, of their story or agenda is omitted.

Moreover, we find that hate and elimination speech towards the Palestinian citizens of Israel is escalating and limiting their freedoms of expression. This kind of blatant discrimination acts as a tool to minimize their cultural space by attacking them in the media, in the Knesset, and other spheres, ultimately increasing racism against Palestinians.

Another example: Al-Midan Theatre

Al-Midan Theatre was established in the year 1995 in Haifa (a mixed and diversified city), to serve the needs of both the Palestinian and Jewish communities. Al-Midan minimized the gap for the Palestinians citizens at the linguistic, political, social levels. However, the state intervened when Al-Midan hosted the show, Al-Zaman Al-Mowazi (“the parallel time”), which told the story

² <https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf>

of the Palestinian political prisoner who was accused of killing an Israeli soldier in 1984. The performance was successful and the author translated it to Hebrew. However, afterwards the Israeli Minister of Culture, Miri Regev, claimed the activities of the theatre acted against the state of Israel and promoted terrorism. Accordingly, the financial support of the state to the theatre was frozen and the theatre closed soon after.

Useful strategies in overcoming such challenges

1. Media coverage: The media tries to present the Arab perspective on the issues; however, it's limited since the Jewish media is biased. Even when they interview Arabic MKs who try to tell different points of view, they are not welcomed to do so and are even attacked by some interviewers. There is an effort from the Arab society to strengthen the presentation of their perspective in the Arab media as well as integrate it into the Jewish media. Media should be used as a tool to expose the issues of Arabs and Jews, not only focusing on the conflict but all aspects of life in Israel that affect both populations.
 2. Building coalitions between Arab and Jewish human rights activists can help bridge the divide. The Coalition Against Racism which documents cases, attacks, and statements of racism, and submits complaints, is comprised of feminist activists and NGOs. There is a great need for more partnerships like this.
 3. A legal approach is needed to maintaining cultural space for Arabs. By proposing legislation and law amendments, and presenting position papers and campaigns, long-term change can be achieved.
 4. Arab Palestinian needs must be represented in the government. The only adequate way to ensure this is by voting for Arab politicians who will demand change and confront the state's racism and violation of Arab people's rights.
 5. Using international advocacy tools to expose the Israeli policy to the global community will bring awareness to the problem and invite international actors to be part of the effort for change.
- 3. What are the specific characteristics of public spaces that either are conducive to the realization of cultural rights, including of women and persons with disabilities, or are an impediment to them, including in relation**

to issues of discrimination, equal access, accessibility, availability, and adequacy?

Many Israeli laws were legislated to promote and develop social issues, such as integration of people with disabilities in workplaces³, minimum wage law, law for equal salaries for men and women (1996), etc... However, the reality is different and there is a lack of implementation and enforcement of these laws.

Laws should be implemented for the improvement of citizens' status. These laws should improve the status of women and help cancel traditions or social codes that deter women from promotion and advancement; however, this is not evident in many cases. Palestinian Arab women suffer from different kinds of violence, especially domestic violence. The Police, the institution responsible for implementing the laws and protecting women, fail to do so and neglect the needs of Arab Palestinian community, particularly the needs of women. The message is clear- Arabs, especially Arab women are not the Police's priority.

In 50% of cases of women who are killed, it has been found that these women had appealed to the Police for help. They had presented themselves at Police Stations to file a case, but were either sent back home, or had statements taken, but not processed, or in an even worse case scenario, they were abused or harassed by the police - resulting in the women's mistrust and hesitance in approaching the police again. In order to cover up their mistreatment of the cases, after a woman is killed, a court appointed gag-order is placed on the case. The result is that more women are killed, around ten every year. Women do not trust Law Enforcement and, thus, many women do not complain and live in continuous fear for their lives.

The Police's negligence and attitude towards women's safety is part of the State's policy to cancel the Arab Palestinian identity, including its culture, and degrade our heritage by presenting us as violent people who violate laws and murder women. This assessment of Arab people justifies the government's lack of intervention in the Arab society and allows the government to continue to ignore the issues they face, such as femicide. The government currently does not have a

³ https://en.wikipedia.org/wiki/Nakba_Day

serious plan to fight the continued phenomenon of violence in our community. Every month, an Arab woman is killed and the Israeli state justifies it as a result of a patriarchal and conservative Arab society, placing the responsibility on the Arab society, not the state.

- 4. What could be the contents and contours of a possible “right to public spaces”, and of legitimate restrictions that could be made to it, in accordance with international standards? Is this concept employed in your country or in your work? Is it helpful?**
- 5. What is the role of cultural rights in ensuring the existence, availability, accessibility, and adequacy of public spaces that are conducive to widespread participation in cultural life, the realization of citizenship, cultural democracy, as well as the realization of other human rights?**

Cultural rights will contribute to ensuring the narrative, history, and identity of Palestinians is protected. Arab Palestinians in Israel struggle to attain their basic rights to live in their lands, maintain and develop their culture, and practice freedom of speech in telling their stories and demanding their rights. For example, Arab citizens should have the right to name and write signs in their own language of Arabic and to keep the original and historical names of their villages and towns without Hebrew spelling.

- 6. What is the impact on the enjoyment of cultural rights of trends regarding privatization, which may affect a variety of public spaces?**
- 7. What recommendations should be made to States and other stakeholders concerning these topics?**

- The equal rights of Arab citizens need to be acknowledged and implemented. The Arab minority should be treated as equal citizens and their culture and collective identity should be respected.

- The history, the rights, the culture, and the narrative of the Palestinian citizens must be recognized. They should be given the space to express their rights and narratives and develop their cultural space instead of minimizing it.
- The language of Arabic needs to be given the same status as Hebrew.
- Equal implementation of the law for all citizens must be a priority. The State must address and deal with the core challenges of the Palestinian citizens, such as violence against women.
- The fight against escalating racism against Arab people, which narrows the rights of Arab citizens, including their cultural space, must be fought for and supported.
- There must be equal allocations of funds and resources for cultural institutions, especially for minorities to develop their cultures.