

THE IMPACT OF MILITARIZATION ON THE RIGHTS OF INDIGENOUS PEOPLES

JUSTICE HOUSE SUBMISSION TO EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

January 2023

INTRODUCTION

Justice House welcomes the opportunity to contribute to the study of the Expert Mechanism on the Rights of Indigenous Peoples on Assessing the impact militarization has on the rights of Indigenous Peoples. We would like to bring to the Expert Mechanism's attention a number of cases that we have been working on or which have been brought to our attention, that illustrate particular aspects of how the militarization impact on the rights of Indigenous Peoples, including, but not limited to, rights contained within the Declaration, particularly, Article 30.

OUR submission will be structured around some of the questions laid out by the Expert Mechanism in the Call for Inputs.

- **THE TYPES OF MILITARIZATION AND ITS IMPACT ON THE RIGHTS OF INDIGENOUS PEOPLES**

Indigenous peoples in Egypt are often faced with the impact of militarization on their rights, especially in the indigenous areas that border the Egyptian border, such as, where the indigenous Bedouin population lives in the Sinai east of Egypt. Militarization takes many forms, including the deployment of army forces in indigenous areas, army companies controlling the economy, natural resources, and wealth in indigenous areas, as well as imposing policies, procedures, and laws of a military nature.

Deployment of Military forces to indigenous communities often results in increased violence and insecurity, as the indigenous peoples are often in the middle of the crossfire between the military and armed groups, for example, the case with the indigenous Bedouins in Sinai, putting their right to life, liberty, and security at risk. Furthermore, the military presence leads to human rights abuses, including arbitrary detention, torture, and extrajudicial killings.

The implementation of military laws and policies in the indigenous areas also result the restriction of the Freedom of action of NGOs and human rights defenders.¹ The Egyptian authorities prevent non-governmental organizations, especially those that document human rights violations, from working in indigenous areas and target lawyers and activists collaborating with them and require civil society organizations and research institutions that wish to conduct a field study to obtain permission from the military and intelligence services before undertaking such a study, which are often denied.

Human rights defenders and activists are quickly accused, arrested, and sentenced for crimes that carry prison sentences in order to intimidate communities and entire peoples. Other experiences include attacks against physical integrity, and even exile, as in the case of Mosad AboFajer was persecuted by constant smear campaigns and had to go into exile.

Civil society is shrinking in Egypt amid a relentless government crackdown. Egypt has witnessed a pattern of reprisals against human rights defenders, many of whom remain in arbitrary detention. The Egyptian authorities invoke counterterrorism and national security laws to justify such actions, and even charge human rights defenders with establishing a terrorist group, this is what the Secretary-General of the United Nations referred to in his report.

Egypt has imposed a strict media blackout on operations in Sinai since 2013, and manipulates local media coverage of Sinai to fit the state's militarization policies in Sinai and does not include all the statements issued by the Egyptian government "transparently" about the military measures taken in Sinai, or fully disclose the contents of the measures they are taking with regard to the displacement of Bedouins from their areas, as well as the widespread arrests of the population in North Sinai, and arrested journalists interested in Sinai,² and threatening them with death and shooting them when they do their journalistic work.³ In April 2021, 638 websites were blocked in Egypt.⁴ Egypt ranks 168th in the 2022 World Press Freedom Index.⁵

In the absence of independent journalists, it is not possible to know the truth of what is happening in Sinai and the precise nature of the actions carried out by the army. What has been uncovered in Sinai in the past nine years provides an "albeit incomplete" picture of the wide cycle of violence carried out by the state and armed groups against Bedouin indigenous people.

For decades before 2011, the state treated the Bedouin indigenous people as second-class citizens, they were denied full citizenship rights, and were not allowed to join the army and police, study at police or army colleges, hold key government positions, or form their own political parties.⁶ After 2011, the Bedouins were allowed to run for elections, and they were only allowed a limited number of seats in parliament, the government also interferes in choosing the leaders of the Bedouin indigenous tribes, as is the securitization of the Bedouins through their dealings with military and police leaders rather than politicians.

- **VIOLENCE AND ITS IMPACT ON INDIGENOUS PEOPLES' RIGHT TO LIFE, LIBERTY, AND SECURITY IN THE CONTEXT OF MILITARIZATION.**

The implementation of military laws and policies in indigenous communities in Egypt results in human rights abuses, including arbitrary detention, torture, and extrajudicial killings. This further undermines the right to life, liberty, and security of indigenous peoples.

The state of emergency has been almost permanently applied in Sinai since the promulgation of Law No. 162 of 1958 on the state of emergency, Since July 2013, Sinai has witnessed numerous the spread of a state of chaos and insecurity. After Abdel Fattah Al-Sisi became President of Egypt in 2014, he issued a decree declaring a state of emergency in some areas of North Sinai and a curfew. This was accompanied by the issuance of several laws that grant the army and police wide powers in Sinai, which led to the Bedouin indigenous people being subjected to violence and targeting under the umbrella of combating terrorism.⁷

The imposition of a state of emergency in Sinai was accompanied by a severe deviation in its application, and it also helped spread violence with the tightening of the screws on its population, which resulted in the killing and wounding of thousands, including civilians, armed men and security personnel. Human Rights Watch concluded that the army and police forces in North Sinai arrested more than 12,000 residents from July 2013 until December 2018, and the army officially acknowledged about 7,300 arrests, but it rarely published the names or accusations of these people. Human Rights Watch found that many of these people were subjected to arbitrary arrest and enforced disappearance, and that some of them were killed extrajudicially. Thousands of residents have also been displaced from the governorate in recent years, either to escape the conflict or after the army forcibly evicted them.⁸

Justice House believes that arbitrary arrests and enforced disappearances are part of everyday practices faced by citizens in Sinai and that torture and ill-treatment occurred while holding Bedouin citizens we have studied their situation. According to Justice House Reports, Egyptian authorities have not opened an investigation into alleged human rights violations against Bedouins in Sinai and have not held accountable any of the officials who committed or participated in these crimes.

Justice house studied the human rights situation of the Bedouin community in Sinai in 2021 and 2022, 10 people were allegedly killed in various incidents that were not investigated, and three others were inside detention facilities. During that period, the armed forces announced through a military spokesman that at least 139 people had been killed, and a police spokesman announced that five others had been killed. There were also alleged killings of persons using excessive or lethal force by the army and police forces, resulting in the death of 11 persons and the injury of 2 others. While 79 people were alleged to have been subjected to enforced disappearances, 26 remain unaccounted for. A total of 68 people

were allegedly subjected to torture and inhuman and cruel treatment, some of them subjected to multiple incidents. 8 people have allegedly been deprived of health care in the places of detention, and 2 of the Sinai Bedouins died in their custody allegedly as a result of health care deprivation.⁹

The UN Working Group on Arbitrary Detention has highlighted "a systematic problem of arbitrary detention in Egypt",¹⁰ Despite repeated recommendations by UN mechanisms for an immediate end to "incommunicado detention and allegations of enforced disappearance,"¹¹ Egyptian authorities have continued to detain individuals without warrants at National Security Agency offices and unspecified police stations, failing to include them in official records, and have detained detainees incommunicado and denied their requests to contact relatives and lawyers.¹²

The Committee Against Torture stated in 2017 that the facts it had gathered "lead to the inescapable conclusion that torture is a systematic practice in Egypt."¹³ Egyptian human rights organizations have said that "torture in Egypt is a systematic practice with complete impunity."¹⁴

Impunity became legal following the passage of the Armed Forces Senior Commanders Act, which grants immunity from prosecution to senior military commanders responsible for human rights violations and other crimes committed between 2013 and 2016, and diplomatic immunity while traveling abroad for their entire lives.¹⁵

Egypt's police law allows the National Security Investigations Agency (NSS) to exercise full control over the lives of citizens who have been released, a so-called "security monitoring" pattern that has become prevalent in dealing with former detainees from indigenous Bedouin peoples.¹⁶

The military measures in Sinai have led to the imposition of restrictions on movement through roads, with their partial closure at some times, many fixed and mobile military and security checkpoints are spread on the roads between cities in North Sinai. Successive army decisions have deprived the Bedouins of their freedom of movement. Anyone who violates these instructions is shot, and the residents are denied entry to the villages and work on their land located outside the villages.

Movement restrictions imposed by the military's 2018 campaign have caused severe restrictions on people and goods almost, leading to a sharp drop in supplies of food, medicine, cooking gas, and other essential commercial goods. "Egyptian authorities have also banned the sale or use of gasoline for vehicles in the area, and water and electricity have been almost completely cut off in most eastern parts of North Sinai", Many killings of indigenous people occurred as a result.¹⁷

• **THE IMPACT OF MILITARIZATION ON THE RIGHT TO LAND AND NATURAL RESOURCES OF INDIGENOUS PEOPLES.**

The army's military campaigns in indigenous communities in Sinai since 2013, under the umbrella of combating terrorism, also led to result in the displacement of indigenous peoples from their lands and resources. This displacement also leads to the degradation of the environment and the loss of biodiversity, further undermining the rights of Bedouin indigenous peoples.

The Egyptian military has completely razed, bulldozed, and burned all of Rafah, and Human Rights Watch documented the destruction of at least 6,800 homes and thousands of hectares of farmland between 2014 and 2018.¹⁸

According to Human Rights Watch, after analyzing satellite imagery, the army demolished about 5,500 buildings in and around the city of al-Arish between December 2017 and July 2020, most of them in 2018, while more than 2,000 of those buildings were demolished before December 2017.¹⁹

In response to a question by the UN Special Rapporteur on adequate housing,²⁰ the Egyptian government said that evictions of Bedouins are carried out in a consensual manner, not forced evictions, and at the same time claimed to provide them with compensation.²¹

"The Egyptian military's mass displacement and forced eviction of homes in the Sinai Peninsula violated international law, while the government failed to properly support the population during and after the evictions in North Sinai with little or no notice of eviction, no temporary housing, often insufficient compensation for their destroyed homes, no compensation at all for farmland, and no effective means to challenge evictions, house demolitions, or compensation

payments. "All of these actions violate the protections available to forcibly evicted populations set out in UN and African agreements to which Egypt is a party, and may have violated the laws of war as well, Human Rights Watch said." ²²

In January 2017, the Prime Minister issued a decree on the rules and conditions of ownership of land in the Sinai Peninsula by squatters,²³ which deprived the Bedouins of their historical lands. It carried with it many difficulties and severe restrictions that prevented Bedouins from being able to exercise their rights normally and smoothly. Many Bedouins were deprived of their right to own their land, and Bedouins were prevented from obtaining documents for all their lands and were indirectly forced to surrender part of them in return for obtaining documents for part of their land.

However, proving ownership of the land by grandfathers is not easy, because the Bedouins in general do not have birth certificates or identity cards, and the process of registering land is also expensive, and those who cannot meet the registration requirements imposed by the state face the loss of their land, property, and the history of their tribe and families.

In August 2020, President Abdel Fattah al-Sisi issued a law which transferred the National Agency for the Development of the Sinai Peninsula subordination from the prime minister to the defense minister and gave the defense minister wide powers.²⁴ As a result of this law, the Minister of Defense issued a decision to amend the provisions of the statute of the National Agency for the Development of the Sinai Peninsula,²⁵ and the decision made the agency dependent from the Cabinet of Ministers to the Minister of Defense. He also made the agency an economic body subordinate to the Armed Forces, This led to the militarization of all Bedouin lands in Sinai.²⁶

In November 2014, President Abdel Fattah al-Sisi issued a decree defining the areas adjacent to the borders of the Arab Republic of Egypt and the rules governing them,²⁷ This decision prohibits the presence of citizens or cars or the movement of any means of transport of all types and forms except for the personnel, vehicles, and equipment of the armed forces in Sinai.

This decision was amended in 2019,²⁸ and 2021 to add more restrictions to the presence of Bedouins in their areas and eliminate the hope that they will return to their homes.²⁹

- **THE IMPACT OF MILITARIZATION ON THE SOCIAL, ECONOMIC AND CULTURAL RIGHTS OF INDIGENOUS PEOPLES.**

The army forces forced the original inhabitants to leave their homes and areas in Sinai, which led to their displacement and the loss of their homes and resources. Military policies and measures during the past years led to Bedouin indigenous people living in poverty, with unemployment, and limited resources, which led to more Economic and social marginalization of indigenous people.

For decades, the Bedouins of Sinai have withstood the attempts of the state and successive governments to take control of their lands, The situation has changed with the intensity of the military campaign launched by the Egyptian authorities against Sinai since 2014, The country issued laws that strip the Bedouins of their land by force or force them to sell their land to developers and investors in the tourism and mining sector linked to the state and the army companies.

The government also prevented the indigenous people of Sinai from owning or developing their lands, and on the rare occasions when Egyptian officials have invited Bedouins to discuss their grievances, their recommendations have been ignored.

The state announces the implementation of many investment and development projects in the Sinai, while on the other hand, we find those projects are the beginning of a broader militarization approach to the rule of the Sinai, and those projects are predominantly of a military nature. They are carried out by companies belonging to the armed forces and battalions of military engineers, in what could be described as "the militarization of development projects in the Sinai. These projects are changing the nature of the Bedouin areas, limiting their authority over their lands, forcing them to leave their lands or leave or relinquish a large part of them, as well as the difficult requirements and conditions set by the state towards documenting and legalizing the Bedouin indigenous people ownership of their lands in Sinai.

A large segment of young people left Sinai to escape severe repression and economic disruption under the army's siege of the north. The Bedouins find it very difficult to find job opportunities due to the discourse that is prevalent in the Egyptian media, through officials, drama, and cinema, which promotes a reductionist image of the Bedouin of Sinai as non-patriotic and criminal. The Bedouin areas of Sinai are absent from the real development projects that achieve the

aspirations of the Bedouins in developing their areas and that are compatible with their culture, lifestyle, and aspirations, which led to a decline in their confidence in the successive Egyptian governments.

The military's policies and procedures in Sinai affected the ability of the Bedouins to promote their heritage and nomadic culture, and the Al-Arish Museum closed in November 2014, which has more than 300 artefacts representing the history of Sinai through the ages

In September 2022, for the first time since 2008, the festival was held west of the city of El Arish, after refusing to reside her repeatedly by the Egyptian authorities. The festival is considered one of the symbols of Bedouin identity and the most famous sport practiced by Bedouins.

The Bedouins feel "spatial isolation and social alienation" as one of the factors affecting development. The Bedouins of Sinai are continuously demanding their right to integrate their cultural and historical heritage into educational curricula and to stop campaigns of disinformation about their history and heritage.

Bedouin activist Musaad AbuFagr said that Sinai's Bedouins are being subjected to "cultural genocide" and warned of "the Egyptian state's attempts to exterminate and cultural the Bedouin tribes". "Local Bedouins have inherited cultural values and practices from thousands of years of history. "They only care about their honour, and fear nothing but the disgrace of their tribes."

- **THE IMPACT OF MILITARIZATION ON THE RIGHT OF INDIGENOUS WOMEN AND INDIGENOUS CHILDREN TO BE FREE FROM ALL FORMS OF VIOLENCE AND THE RIGHT TO BE FREE FROM ALL FORMS OF DISCRIMINATION.**

The Egyptian government has failed to protect the indigenous women and their children in Sinai from all kinds of violence and has failed to adequately investigate it. Bedouin women have been caught between state and society violence, discrimination within their society, exclusion by the state, and inequality between their Egyptian counterparts in the Nile Valley, in light of the state's failure to recognize Bedouin women as an indigenous people and vulnerable and marginalized group and the denial of the rights that this entails.

They have been subjected to violations based on gender and ethnicity, as well as multiple discrimination resulting from their status. Their public and private rights have been violated, lacking community, economic, and political empowerment.

Women in Sinai are facing extremely difficult conditions, and have been forcibly displaced, detained, tortured, disappeared, and killed as a result of armed forces operations and violence by armed groups such as the ISIS-affiliated Sinai Province group, amid a massive state siege of northern Sinai, thousands of homes destroyed and farms destroyed.

Justice house studied the human rights situation of the Bedouin community in Sinai in 2021 and 2022 and concluded that numerous violations have occurred against Bedouin women in Sinai, which necessitates investigations into these incidents and allegations. 64 women and 15 girls were alleged to have suffered multiple violations. The Egyptian military and police have also been alleged to have been responsible for these incidents to varying degrees.³⁰

The armed group "Sinai Tribes Union-operating under the supervision of the army" allegedly arrested and interrogated three women and five children who claimed their marriage and membership in the "Sinai Province" organization. Twenty-nine women and two girls allegedly turned themselves into the "Sinai Tribes Union" and the Union handed them over to the army and police forces.

27 women were alleged to have been arrested by government forces and have been deprived of liberty for varying periods. 21 of them were alleged that they have been subjected to enforced disappearance and torture on multiple occasions and for varying periods of time. Also, there is an allegation that one woman was subjected to enforced disappearance and her fate unaccounted.

2 women were allegedly killed, and another was injured as a result of shelling and indiscriminate shooting by army forces. In addition to, one woman was killed by Sinai Province members for allegedly cooperating with the army. Another woman was wounded when an improvised explosive device exploded. There also 3 girls were killed when an improvised explosive device exploded, and 5 others were wounded.

Bedouin women from the cases that Justice House have worked on have experienced additional violations of the level of discrimination and gender-based violence when they were treated in detention, as well as torture, cruel, inhuman and degrading treatment inside detention facilities, including humiliating physical searches.

In its 2021 report, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed deep concern at gender-based violence, ill-treatment in detention, lack of medical care and unsanitary conditions in Egyptian prisons, where women prisoners are often subjected to naked searches and prolonged solitary confinement as punishment.³¹

The UN Special Rapporteurs expressed "grave concern" about the government's expanded and broad definition of terrorism, which conflates civil disobedience and peaceful critics with "terrorism", which has "collective and devastating effects on the promotion and protection of human rights."³²

Recommendations:

1- To the United Nations

- The Human Rights Council should investigate grave human rights violations in Egypt, including the rights of indigenous peoples.

2- To Egyptian state officials and institutions:

- Ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- To review the laws in conflict with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in order to ensure the respect and recognition of the collective rights of indigenous peoples. Towards this end, laws and policies in violation of the collective rights of indigenous peoples shall be repealed.
- Engage in the open dialog to empower Bedouins and reinforce their presence in their areas; employ the customs and traditions of Sinai Bedouins to facilitate conflict resolution and discuss key issues related to respect for the rights of indigenous peoples.
- Stop immediately treating the Sinai Bedouin as a security and strategic threat to Egypt, amend the policies that are based on it, and review the state's security and military strategy in Sinai, and stopping the military policies and measures imposed in their areas, as it has a profound impact on the human rights situation of the Bedouins in Sinai.
- Protect the presence of Bedouins in their areas and immediately cease the isolation, eviction, destruction, and forced relocation of Bedouins. and enable them to return urgently to their areas. and provide them with permanent and easy access to the resources necessary for their continued presence in their areas. and to stop practices that deliberately weaken the Bedouins in Sinai.
- End the policies of economic marginalization of the Bedouins in Sinai, implement real development projects that help them survive according to their traditions and lifestyle, and involve them in the planning and implementation of projects in Sinai.
- Allowing international organizations and specialized non-governmental organizations to access indigenous areas in Egypt to provide basic services related to health or education or psychological support or delivering basic goods.
- Incorporate the cultural and historical identity of the Bedouin into educational curricula, to achieve social integration and challenge discrimination against them.
- Stop hate speech and smear campaigns against Bedouins in "public and private" media, drama, and cinema, as well as political and official discourse. Stop perpetuating misconceptions and stereotypes about the Bedouin, and raise the level of representation of the Bedouin in the media.
- Take measures to ensure the protection and care of Bedouin children exposed to or exposed to violence, in accordance with the UN Convention on the Rights of the Child.
- Consider the specific needs of Sinai Bedouin women and girls and stop the use of violence against them. Ensure that Bedouin women have access to justice and hold those responsible for violating their rights to the account.

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