



Right Hon Alistair Burt MP
Minister of State for the Foreign and Commonwealth Office
Foreign and Commonwealth Office
King Charles Street
City of Westminster
London
SW1A 2AH

For the urgent attention of: Right Hon Alistair Burt MP

14 December 2017

Dear Minister Burt,

Urgent: Israel moves to advance forcible transfer of three Palestinian villages in the occupied West Bank with new mechanism that aims to circumvent legal proceedings

As lawyers committed to the protection and promotion of Palestinian human rights, we write to express serious concern about military orders signed last month by an Israeli military commander relating to three West Bank communities - Umm a-Jamal, Ein al-Hilweh and Jabal Al Baba - informing residents that they will imminently be forcibly transferred. The mechanism deployed significantly denies Palestinian residents from accessing legal proceedings currently pursued by individuals and communities to halt demolition orders.

This follows our letter to you dated 27 September 2017, which focused on advanced plans by the Government of Israel to demolish two West Bank villages, Khan Al-Ahmar and Susiya, entailing the forcible transfer of their residents. As stated in our earlier letter, the offence of forcible transfer is a grave one from an international humanitarian and criminal law perspective, since it amounts to a war crime under both the Geneva Convention and the Rome Statute for the International Criminal Court. We welcomed the response you provided to us dated 11 October, in particular your statement that “We also make clear to Israel that forcible transfer of protected persons would be a breach of international humanitarian law.”

In light of the disturbing new developments regarding the imminent forcible transfer of three further West Bank communities, we respectfully urge the UK government to consider taking the proposed eight urgent actions, outlined at the conclusion of this letter, for the purpose of effectively deterring the planned forcible transfer of Palestinians in the occupied West Bank.

Three communities at imminent threat of forcible transfer through use of a new mechanism

On 9 November 2017, Israeli authorities notified two communities in the northern Jordan Valley – Umm a-Jamal and Ein al-Hilweh – that they must leave their homes within eight days. These communities total 20 families, five of whom live in the area on a seasonal basis.



Then, on 16 November 2017, Israeli authorities informed the residents of Jabal al-Baba – located in the area of the large illegal Israeli settlement of Ma'ale Adumim - that they must leave their homes within eight days. This community numbers about 60 families.

It is reported by the Israeli human rights organisation, B'Tselem, that Israeli authorities are using a new mechanism to forcibly transfer these three communities, with the aim being to “circumvent [building and planning] proceedings and accelerate the expulsion of residents”.

This new mechanism appears to be even more arbitrary and lacking in safeguards than the method which has normally been used to expel Palestinian communities, which (as you will be aware from your funding of legal aid for Palestinian residents in Area C of the West Bank through the Norwegian Refugee Council) has been based mainly on military orders concerning planning and building. The legal proceedings concerning such orders are protracted and require the precise mapping of the land and buildings, as well as the issuing of separate demolition orders for each building. Although in many cases these proceedings manage to postpone expulsion, they do not remove the threat of expulsion from thousands of people, and their communities are left in a state of deliberate deprivation by Israeli authorities.

By contrast, the new mechanism reportedly being relied upon to expedite forcible transfer plans against the three aforementioned Palestinian communities is the Military Order concerning Unauthorized Buildings (Temporary Provision) (Judea and Samaria) (No. 1539), 5744-2003. This military order was originally intended for the expulsion of settlers from “illegal outposts” established by Israelis around the West Bank, although it must be noted that Israeli authorities very rarely used it for this purpose. The order allows the Military Commander to declare an area in the West Bank a “confined area,” and to order the eviction of all property in that area, without the same legal proceedings that would be required in for orders concerning planning and building. It is on the basis of this order that GOC Central Command Major-General Roni Numa signed the new military orders concerning the three aforementioned Palestinian communities. This is particularly concerning since it suggests an effort by the Israeli authorities to bypass even the minimal legal safeguards that may hinder evictions pursued via the more conventional methods.

The war crime of forcible transfer under international humanitarian and criminal law

Palestinian residents in the occupied West Bank have the status of a protected population under the Geneva Conventions. Article 49 of the Fourth Geneva Convention prohibits “forcible transfer” of protected persons. Pursuant to Article 147 of the Fourth Geneva Convention, unlawful transfer of protected persons amounts to a grave breach of international humanitarian law, and accordingly a war crime entailing individual criminal responsibility for all persons involved with its implementation, including government officials.

Article 8 (2) (a) (vii) of the Rome Statute of the International Criminal Court further provides that unlawful transfer is a war crime. Under the Rome Statute, “forcible transfer of population” is defined as “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.” We consider that the implementation of the signed military orders



for the eviction of residents from the three aforementioned communities would clearly meet this legal definition of the war crime of forcible transfer.

It must be noted in this context that the International Criminal Court is able to examine alleged war crimes committed on Palestinian territory since 13 June 2014, following Palestine's accession to the Rome Statute.

Urgent intervention required by the British government

In light of the grave situation described above, which follows a pattern of accelerating moves to advance forcible transfer plans against Palestinian residents, we would ask that you consider taking the following eight urgent actions to effectively deter them from taking place:

1. Urgently call on Israel to immediately cancel all demolition orders and forcible transfer plans, including against the three West Bank communities of Umm a-Jamal, Ein al-Hilweh and Jabal Al Baba, and to halt the expansion of illegal settlements.
2. Use precise terminology expressly referring to “forcible transfer” in public statements and bilateral relations with Israel on this issue.
3. Raise serious concerns with Israel in regard to any planned commission of the war crime of forcible transfer, and state the UK Government's expectation that any individual responsible for the commission of this war crime will be held legally accountable.
4. Instigate and provide support for the establishment of expert observation and investigation teams to document apparent criminal offences linked to demolitions.
5. Assess how the UK government can fully conform with its legal obligation under the Geneva Convention to “ensure respect” for its provisions, including through preparing the domestic exercise of *universal jurisdiction* measures to hold individuals criminally responsible for committing the war crime of forcibly transferring Palestinians in the occupied West Bank.
6. Seek compensation for the destruction or damage of any structure, whether funded in whole or in part, and whether directly or indirectly, by the UK Government.
7. Urge Israel to end its discriminatory and unlawful planning policies and laws by amending its planning legislation and processes to clearly ensure planning and construction rights for Palestinian residents in Area C of the occupied West Bank.
8. Urge, in its bilateral relations, public statements and before international fora (including the forthcoming Universal Periodic Review of Israel at the UN Human Rights Council in January 2018), that Israel immediately and fully acts in conformity with its obligations under international humanitarian and human rights law.

We would be grateful for your careful consideration of this urgent request and for your reply.

Yours sincerely,

Tareq Shrourou (Director) and Natalie Sedacca
Lawyers for Palestinian Human Rights