



Right Hon Alistair Burt MP
Minister of State for the Foreign and Commonwealth Office
Foreign and Commonwealth Office
London SW1A 2AH

For the urgent attention of: Right Hon Alistair Burt MP

11 June 2018

Dear Minister Burt,

Urgent: Israel's Supreme Court approves demolition of homes and forcible transfer of residents of Khan Al-Ahmar

We write to express serious concern about the heightened threat of demolition of homes and forcible transfer of residents of Khan Al-Ahmar following a recent Israeli Supreme Court ruling. A judgment of 24 May 2018 gives permission to Israeli authorities to demolish the homes of the community of Khan Al-Ahmar and relocate the residents away from their homes, meaning there is no longer any domestic legal obstacle to the forcible transfer of the residents.

Following our previous letter about Khan Al-Ahmar in September 2017, you indicated in a letter of 11 October 2017 that you have 'made clear to Israel that forcible transfer of protected persons would be a breach of international humanitarian law.' The threat of forcible transfer has significantly increased as a result of the Supreme Court judgment. In the circumstances, we are writing again to respectfully urge the UK government to consider taking further actions to deter and prevent this action, as set out at the end of this letter.

The Khan Al-Ahmar community

According to figures reported by the Israeli human rights NGO B'Tselem in April 2018, the residents of Khan Al-Ahmar number 173 persons, including 92 children and youths, in 32 families. The community also has a school, where over 150 children aged six to fifteen are educated, some of whom come from nearby communities. Before it was built, these children had to make lengthy and risky journeys to attend school.

A number of petitions have been filed by settlers over the years seeking demolition of both the school and residential structures, including one filed a month after the school was built in 2009. In September 2012 the state announced that it was considering a relocation of the community and school through a participatory process, and in November 2013 it indicated its plan to relocate residents to an area north of Jericho, in response to which the residents made clear their opposition. Thereafter, further petitions were filed by both settlers and residents.

Alongside the attempts to obtain court orders for demolition and transfer, the Israeli state has made the lives of residents as difficult as possible in an effort to pressure them to leave. In



advance of a hearing scheduled for 25 September 2017 (which was postponed), representatives of the Civil Administration attended Khan Al-Ahmar and told its residents they would be relocated to an area called ‘al-Jabal West’ or ‘West Jahalin’ near the Abu Dis municipal rubbish dump. Although the residents objected to this plan, the proposed relocation site was also relied on in the most recent petition to the court.

The Supreme Court decision of 24 May 2018

The Supreme Court judgment centres upon the view that the construction in Khan Al-Ahmar is ‘illegal.’ However, the residents have been forced to build without the requisite permissions because these are systematically denied, as acknowledged in your October 2017 letter.

In addition, the judgment suggests that judicial intervention to prevent the transfer plans is not required because the proposal for relocation is ‘not an unreasonable one’ given the new area for the families to live and arrangements made for family members to continue shepherding. Apart from the fact that this cannot justify forcible transfer, as discussed below, it is also factually incorrect. The residents did not participate in the ‘relocation plan’ and it has been imposed on them. Furthermore, the government’s own statement to the court confirms that the neighbourhood ‘is indeed planned in an urban environment’ which does not include any large pasture lands or farming areas. Accordingly, residents would be forced not only to leave their homes but to fundamentally change their way of life.

Crucially, the judgment fails entirely to engage with the issue of international humanitarian law (IHL) provisions that should prevent the residents' transfer. It states that the court will not interfere in decisions made by the state about ‘law enforcement’ actions, but gives no explanation for the glaringly clear potential breach of IHL and / or international criminal law that would be inherent in the forcible transfer of the residents of Khan al Ahmar.

Violations of IHL and international criminal law

We are grateful for the recognition in your October 2017 letter that demolitions, except in the most exceptional of cases, are contrary to IHL. We would add to this that (a) in the case of Khan Al-Ahmar, there is nothing to make the demolition exceptional and as such that it would constitute a violation of IHL and (b) that the demolition and transfer of the population are also likely to give rise to breaches of international criminal law.

As both villages are in the occupied West Bank, their residents have the status of a protected population under the Geneva Conventions. Article 49 of the Fourth Geneva Convention prohibits forcible transfer for any reasons. It allows for evacuations only where required by the security of the population or imperative military reasons. Reasons of this nature are simply not referred to in the Supreme Court judgment, which refers instead to the absence of building permits and the purported suitability of the area for relocation. In addition, the proposed demolitions appear to relate to settlement expansion and building plans, in particular to make way for the expansion of the Israeli settlement of Kfar Adumim.

Article 147 of the Fourth Geneva Convention makes unlawful transfer of protected persons 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. In addition, Article 8 (2) (a) (vii) of the Rome Statute of International Criminal Court (relevant since Palestine acceded in January 2015) provides for the war crime of “forcible transfer of population” 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.” The forced relocation of the Khan Al-Ahmar community would clearly appear to meet this description.

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 urgent actions:

1. Urgently call on Israel to immediately cancel the demolition order and forcible transfer plan for Khan Al-Ahmar and all other West Bank communities.
2. Continue to use precise terminology expressly referring to “forcible transfer” in its public statements and bilateral relations with Israel on this issue, to make it clear that potential violations of international criminal law as well as IHL are involved.
3. Express in communications with Israel the UK Government’s expectation that any individual responsible for the commission of the war crime of forcible transfer 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 it 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. Continue to urge Israel to end its discriminatory and unlawful planning policies and laws and, specifically, to grant planning permission to the residents of Khan Al-Ahmar.
8. Urge, in its bilateral relations, public statements and before international fora, 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