



J.C. Bamford Excavators Limited (“JCB”)
Lakeside Works
Rocester
Uttoxeter
ST14 5JP

21 August 2018

Dear The Lord Bamford DL and Mr MacDonald,

Urgent: JCB's involvement in the imminent demolition of Khan al-Ahmar that is in breach of its human rights responsibilities and may amount to aiding and abetting a war crime

Lawyers for Palestinian Human Rights¹ (LPHR) is writing to you following the publication of images of a JCB excavator assisting in the levelling of access roads to Khan al-Ahmar on 4 July 2018, a village which the Israeli government is preparing to imminently demolish.

Legal concerns about the proposed demolition of Khan al-Ahmar

As you may be aware, United Nations human rights experts have urged the Israeli government not to proceed with this demolition, stating that it would lead to “the eviction of 181 inhabitants and constitutes an involuntary move that would likely amount to forcible transfer.” Forcible transfer of protected persons within an occupied territory, such as the occupied Palestinian territory in which Khan al-Ahmar is located, constitutes a grave breach of the Fourth Geneva Convention and is a war crime under the Rome Statute of the International Criminal Court.

The then UK Foreign Secretary, Boris Johnson, affirmed on 1 July 2018 that: '[T]he UN has said that the proposed demolitions could amount to “forcible transfer”, in violation of international law. The British Government has consistently urged Israel not to proceed.'

Legal concerns about the involvement of JCB products in the demolition process

The involvement of JCB's products in the pre-demolition process, and the likelihood that they would also be involved in the demolition itself (as they have been in other demolitions in the region previously), raises serious concerns that:

a) JCB's products are contributing to human rights violations against the Palestinian residents of Khan al-Ahmar, and that the provision of JCB's products for use by the Israel authorities in these (and other) demolitions is in breach of JCB's human rights responsibilities under the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines); and

¹Lawyers for Palestinian Human Rights (LPHR) is a lawyer-based legal charity in the UK that works on projects to protect and promote Palestinian human rights. LPHR's mission is to use our expertise to meaningfully contribute towards transforming the critical human rights situation impacting Palestinians.



b) JCB may be in the process of committing the criminal offence of aiding and abetting the commission by another person of a grave breach of the Fourth Geneva Convention, namely aiding and abetting Israeli authorities in perpetrating the forcible transfer of protected persons which is prohibited by Article 49 of the Fourth Geneva Convention. This could lead to the criminal liability of individuals within the company.

We understand that Comasco Ltd/Israel (**Comasco**) is JCB's distributor in Israel and so the contractual relationship for the supply of JCB products to the Israeli authorities may be between Comasco (rather than JCB) and the Israeli authorities. Even if that is the case, however, the UNGPs and OECD Guidelines make clear that JCB still has a responsibility to: “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (UNGP 13). The term “business relationships” is stated to include “relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services.” On this basis, JCB clearly has a business relationship with Comasco, and potentially the Israeli authorities as well. JCB should therefore be taking steps to prevent or mitigate the use of its equipment in the demolition of Khan al-Ahmar. Failure to do so would lead to a breach of the JCB's business and human rights obligations under the UNGPs and OECD Guidelines.

You will no doubt be concerned to learn, if you are not already aware, that the presence of the JCB excavator in Khan al-Ahmar was reported in the House of Commons on 4 July 2018 and Foreign Office Alistair Minister Burt expressly committed to investigate this situation. LPHR has separately written to Minister Alistair Burt on 5 July 2018 – the letter is published on our website - in relation to this deeply concerning matter.

On the basis of the above, we urge you to:

1. immediately implement all necessary measures to bring JCB into transparent compliance with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises in regard to the use of JCB products by the Israeli authorities; and
2. take all available steps and use all available leverage to ensure that JCB's products are not used to contribute to the demolition process in Khan al-Ahmar or the prohibited forcible transfer of its residents and that no further equipment is supplied in relation to such purpose

We would be grateful for your careful consideration of this urgent request and to relay to LPHR as soon as possible what steps have been taken in respect of points 1 and 2 above.

Yours sincerely,

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