



Lawyers for Palestinian Human Rights' briefing on planned Israeli demolition of 46 Palestinian communities in Area C of the occupied West Bank which entail the forcible transfer of their residents

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About Lawyers for Palestinian Human Rights (LPHR)

LPHR is a lawyer-based charity in the UK that works on projects to protect and promote Palestinian human rights. We distinctly provide a legal and human rights perspective on issues affecting Palestinians. Our trustees include leading human rights lawyers, Sir Geoffrey Bindman QC and Tessa Gregory.

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Introduction

1. It is vital for the UK Government to take urgent and effective action to halt planned Israeli demolitions of Palestinian communities in Area C of the occupied West Bank which entail the forcible transfer of their residents.
2. 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 urge the UK government to carefully consider taking the proposed eight urgent actions, outlined at the conclusion of this briefing, that should effectively deter the planned forcible transfer of Palestinians in the occupied West Bank.

Demolitions policy and practice, coercive environment and forcible transfer

3. The United Nations Office for Coordination of Humanitarian Affairs (UN OCHA) has highlighted that “many Palestinians throughout the West Bank are at risk of forcible transfer due to a coercive environment generated by Israeli policies and practices, which create pressure on many residents to leave their communities.”
4. In particular, UN OCHA has stated that a “relocation plan” published by the Government of Israel in 2014 places 46 Palestinian Bedouin/herding communities at “high risk of forcible transfer”. This “relocation plan” advanced by Israeli authorities, which from a legal perspective amounts to a “mass forcible transfer plan”, encompasses 1,348 families and 8,142 individuals. It targets Palestinian communities in the central parts of the West Bank, including eighteen located in or near to the sensitive E1 area around Jerusalem, where the Government of Israel plans to expand existing illegal settlements.
5. The then UN Secretary-General, Ban Ki-Moon, stated on 26 January 2016 that Israel’s proposed “relocation plan” would amount to forcible transfer, stating: *“I reiterate the UN’s call for an immediate end to Israeli plans to forcibly transfer Bedouin communities currently living within the occupied Palestinian territory in the Jerusalem area.”*
6. Communities outside the “relocation” plan are also facing the same fate. In August 2017, the Israeli defence minister, Avigdor Lieberman, was reported to have said that work was being done to implement a plan to “evacuate” the Palestinian village of Susiya, located in the South Hebron Hills and home to 32 families, within a few months.



In addition, Israel's defence minister indicated that the same work was being done to “evacuate” the village of Khan al Ahmar, near the Israeli settlement bloc of Ma'ale Adumim, and one of the 46 Palestinian communities named in the Israeli Government's “relocation plan” published in August 2014. Khan al Ahmar is home to 21 families.

7. The Israeli human rights group B'Tselem has described Lieberman's proposals to demolish entire communities and forcibly transfer its residents as “virtually unprecedented”, and, significantly, as constituting a war crime. Both Khan Al-Ahmar and Susiya are described as ‘illegal’ by Israel because of the lack of permission for their structures. However, their residents are forced to build without permits because these are systematically denied by Israeli authorities. If the Israeli high court authorises the demolition of these two villages, they could go ahead immediately, according to Lieberman's reported comments.
8. The court petition for the demolition of Khan Al-Ahmar, brought by residents of an illegal settlement, also specifically calls for the destruction of a school where 170 children of 6 – 14 years of age are taught. According to the Norwegian Refugee Council, the school is one of 55 in Area C of the West Bank that is subject to a demolition order by Israeli authorities, many of them built with EU funding.
9. The specific targeting of Palestinian education facilities for destruction is hugely disturbing. In this context it must be noted that in two consecutive days at the start of the new school year this August, Israeli authorities destroyed and seized six caravans used as primary school classrooms serving 60 students in the herding community of Jubbet adh Dib (Bethlehem), and another structure used as kindergarten in Jabal al Baba community in the Jerusalem governorate, affecting 25 children.
10. In the first seven months of 2017 (January to July inclusive), B'Tselem documents that Israeli authorities demolished 103 homes in the West Bank, including East Jerusalem, leaving 336 persons homeless, of whom 189 were children. Throughout last year, B'Tselem recorded the highest use of demolitions since it began documenting the practice in 2004: Israeli authorities demolished 362 homes in the West Bank, including East Jerusalem, leaving nearly 1,500 residents homeless, about half of them children.

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

11. 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 for any reasons. 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.

12. Under Article 49 of the Fourth Geneva Convention, evacuations are only permitted where required by the security of the population or imperative military reasons. This is not the case in regard to actual and planned demolitions by Israeli authorities in the occupied West Bank. Israel has specifically referred to lack of permits for buildings in its purported justification for its proposed actions. This underlines the fact that their plans relate to building plans and the expansion of settlements, and are not based on the only legally permitted grounds of military or security needs.
13. Article 8 (2) (a) (vii) of the Rome Statute of the International Criminal Court 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 the Israeli government plans for the “relocation” of residents in the occupied West Bank would clearly meet this legal definition of the war crime of forcible transfer.
14. 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.
15. In response to a recent letter from LPHR on the issue of forcible transfer of Palestinian residents in communities targeted for demolition, the Minister of State for the Middle East, Alistair Burt MP, notably made express reference to “forcible transfer” in his reply dated 11 October 2017 (“*We also make clear to Israel that forcible transfer of protected persons would be a breach of international humanitarian law.*”)
16. It is also important to note that the extensive demolition of private property, when carried out wantonly and unlawfully, constitutes a grave breach of the Fourth Geneva Convention and is also prosecutable as a war crime.

Violations of international human rights law flowing from demolitions and forcible transfer



17. The aforementioned plans of the Israeli government would also have egregious results from a human rights perspective. They would limit the ability of Palestinian residents of the targeted communities to realise their rights to water, adequate housing, education, health and dignified livelihoods under the International Convention on Economic, Social and Cultural Rights. They would also impede compliance with equivalent rights under the UN Convention on the Rights of the Child.

Eight actions for the British government to consider as part of an urgent intervention

We urge the UK Government to carefully consider taking the following eight actions to effectively deter planned demolitions of communities in the occupied West Bank and the forcible transfer of its Palestinian residents:

1. Urgently call on Israel to immediately cancel all demolition orders and forcible transfer plans, including those affecting schools, and to halt the expansion of illegal settlements.
2. Use precise terminology expressly referring to “forcible transfer” in its 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. 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.
5. Instigate and provide support for the establishment of expert observation and investigation teams to document apparent criminal offences linked to demolitions.
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 third Universal Periodic Review of Israel at the UN Human Rights

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Council in January 2018), that Israel immediately and fully acts in conformity with its obligations under international humanitarian, criminal and human rights law.

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