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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by The Palestinian Return Centre Ltd, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



The forcible transfer of Masafer Yatta communities approved by Israel's High Court of Justice

Overview

After more than 20 years of legal proceedings, Israel's High Court of Justice ruled¹ on May 4 that the forcible transfer of hundreds of Palestinians from their homes and the destruction of their communities – for the clear purpose of taking over their lands in the service of Jewish interests – is legal.²

After a two-decade legal battle, Israel's high court has ruled that about 1,000 Palestinians can be evicted from an area of the West Bank and the land repurposed for Israeli military use, in one of the single biggest expulsion decisions since the Israeli occupation of the Palestinian territories began in 1967. About 3,000 hectares of Masafer Yatta, a rural area of the south Hebron hills under full Israeli control and home to several small Palestinian villages, were designated as a "firing zone" by the Israeli state in the 1980s. Firing zones are used for military exercises, and the presence of civilians is prohibited.

"The court decision is a racist decision taken by a settler judge," said Nidal Younes, the head of the Masafar Yatta village council. "We have been fighting with Israel in the courts for the last 22 years and it took this judge five minutes to destroy the lives of 12 villages and the people who are dependent on the land. In the end, history repeats itself: Nakba after Nakba".³

Eighteen per cent of the occupied West Bank has been declared "firing zones" for Israeli military training since the 1970s. According to the minutes of a 1981 ministerial meeting, the then agriculture minister, Ariel Sharon, later prime minister, proposed creating Firing Zone 918 with the explicit intention of forcing local Palestinians out of their homes.⁴

Palestinian communities living within firing zones have been repeatedly threatened with home demolitions and the confiscation of agricultural land because they lack building permits, which are issued by the Israeli authorities and are nearly impossible to obtain.

People in Masafer Yatta have also been subjected to intensifying attacks from nearby illegal Israeli settler communities in recent years.

In 1999, 700 residents of Firing Zone 918 were evicted, but after an appeal by the Association for Civil Rights in Israel (ACRI), the Supreme Court issued an injunction allowing them to return until a final decision was made by the high court. The injunction had remained the uneasy status quo until the last ruling.

"The high court has just green-lighted the largest population transfer in the history of the occupation since the early 1970s", said an Israeli NGO. "Deportation of over 1,000 people in favour of expanding settlements, outposts and training of Israel Defence Forces soldiers is not only a humanitarian catastrophe that could set a precedent for other communities across the West Bank, but also a clear step in de facto annexation of the occupied Palestinian territories and cementing military rule indefinitely."⁵

Violation of international law

According to the Geneva conventions pertaining to humanitarian treatment in war, it is illegal to expropriate occupied land for purposes that do not benefit the people living there, or to forcibly transfer the local population.

International law establishes the normative framework binding on Israel in its conduct in the occupied territories. International humanitarian law (IHL) establishes the rules that apply to an occupying power. The rules state that occupation is, by definition, temporary and that the occupier is never the sovereign in the occupied territory.

The temporary nature of the occupation gives rise to the restrictions imposed on the occupying power, and most especially to the rule that the occupier may not make permanent changes in the occupied territory, with the exception of changes made for the benefit of the local population or to meet the occupier's imperative military needs. Among the restrictions

set out in this rule is that the occupying power may not change the law that applies in the occupied territory, build permanent settlements there or exploit natural resources.

IHL also establishes that the people who lived in the occupied territory prior to the occupation are considered “protected persons” and may not be subjected to collective punishment or violence, their private property may not be confiscated, their dignity may not be violated and they may not be expelled from their homes.

In addition to these provisions, Israel must also uphold the provisions of international human rights law in its conduct in the occupied territories. In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights,⁶ which proclaims that all human beings are born free and equal in dignity and rights, without distinction of any kind.

In addition, the Universal Declaration proclaims the right to life, liberty and security of persons, and it prohibits slavery, torture and arbitrary arrest. The Declaration also acknowledges the universal right to equality before the law, social security and an adequate standard of living, the right to found a family without any limitation due to race, nationality, or religion, and the right to freedom of thought, conscience and religion.

Over the years, a host of international conventions were developed on the basis of the Declaration, chief among them being the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,⁷ both of which were adopted by the UN in 1966. They reiterate that states are obliged to protect the human rights – as detailed in each covenant – of all persons living under their jurisdiction, and also add two collective rights: that all peoples have the right to self-determination and the right to use their natural resources freely.

The court has, in this decision proven its unwillingness to sanction almost any injustice or violation of the human rights of Palestinians. Over the years, it has permitted nearly every kind of human rights violation that Israel has committed in the occupied territories. Violations approved by the court include the punitive house demolitions, lengthy detention without trial, the ongoing blockade of the Gaza Strip and the imprisonment of some two million people inside it, the expulsion of entire communities from their homes, and the construction of the Separation Barrier on Palestinian territory, resulting in extensive land grab.

In 2021 alone, Israel confiscated about 61,442 dunums of West Bank lands, and these large lands were transferred for the benefit of settlement projects.⁸

Conclusion and recommendations

From the foregoing, the decision, weaving baseless legal interpretation with decontextualized facts, makes it clear that there is no crime which the High Court would not legitimize. Employing sugarcoated language, hypocrisy, and lies, the justices once again fulfilled their role in Israel’s practices that establish for Jewish supremacy and pave the way for the crime of forcible transfer to be committed, while reversing reality: The ruling stereotypes Palestinian victims as the “unlawful” offenders, while portraying the apartheid applauders as the victim.

Accordingly, the international community must prevent Israel from forcibly transferring the Masafer Yatta communities and make sure, should this crime be committed, that those responsible for it – including government ministers, the military top echelons, and the Supreme Court of Justice – will be held accountable.

¹ Israel’s High Court of Justice

<https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts%2F13%2F130%2F004%2Fn89&fileName=13004130.N89&type=2&fbclid=IwAR03oMksoLjnT2qD1Zk1eEhbmrrFbGhCXm517cdRVh1GQB9B2eR6FmHUKr0>

² B’Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

https://www.btselem.org/press_release/20220505_international_community_must_prevent_the_forcible_transfer_of_masafer_yatta_communities_approved_by_hcj

3 The Guardian <https://www.theguardian.com/world/2022/may/05/israeli-court-evict-1000-palestinians-west-bank-area>

4 HAARETZ <https://www.haaretz.com/israel-news/.premium-40-year-old-document-reveals-ariel-sharon-s-plan-to-expel-1-000-palestinians-1.9057519>

5 Statement of Breaking the Silence, an Israeli NGO

6 United Nations <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

7 United Nations <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

8 European initiative to remove the wall and settlements
https://pwws.info/Summary_of_the_Israeli_colonial_violations_in_the_West_Bank_during_2021.pdf