

Public Statement from the Bedouin Transfer Roundtable: Jericho, January 2015

Preamble:

A roundtable of international, Palestinian and Israeli experts in the disciplines of law, anthropology and planning was held to discuss the threat of forced transfer of the Bedouin in central Area C of the West Bank. The discussions focused on the legal, anthropological and planning implications of the Israeli plans to centralize the Bedouin into urban townships. Participants discussed the law on forcible transfer and the dangers of forced and accelerated urbanization on the lives and livelihoods of the Bedouin. The experts' findings are as follows:

All experts jointly recognize that:

- Palestine, including Area C - the large land area (60%) of the West Bank where Israel retains almost exclusive control - is under military occupation by Israel. As such, Israel is legally obliged to maintain the welfare of the Palestinians under its control according to the law of belligerent occupation. As an occupying power, Israel has no sovereign rights over the territory and is considered a temporary administrator until a political solution is found.
- The Israeli Civil Administration (ICA), which runs the civilian affairs of the Israeli occupation, is preparing plans for a centralized Bedouin township in Nuweima near Jericho with a capacity of 12,500. The township is one of a number of sites proposed by the Israeli authorities for the future of 30,000 mobile pastoralists, the Bedouin in Area C.
- Israel prohibits Palestinian use of 70% of Area C and has allocated these lands for Israeli settlements, military zones, the Wall and its buffer zone. The Bedouin live on the scarce remaining range-land, in increasingly unsustainable conditions.
- The majority of the Bedouin are refugees, originally forcibly displaced from their tribal lands in the Naqab area (the Negev) following the 1948 war.
- Pastoralist communities in Area C have been forcibly transferred in the past and the land that they were living on given over for Israeli settlements. Many of the targeted communities today targeted for transfer live on land earmarked for the E1 settlement construction plan and completion of the Wall around the Ma'ale Adummim settlement 'bloc'.
- The Bedouin face very difficult living conditions under Israeli control including: house and property demolitions, evictions, movement restrictions, settler harassment and denial of access to basic services.
- The Bedouin reject the Israeli proposed transfer plans. They are calling for the recognition and protection of their distinct social, economic and cultural life and request the support of the Government of Palestine and the international community to assist them in the protection and enjoyment of their rights.

All experts jointly call on the Government of Israel to:

- **Immediately cease all measures and plans that lead to transfer, displacement and further the dispossession of Bedouin and other pastoralist communities in Area C.**
- **Put in place policies and practices that support the Bedouin and reduce their vulnerability, in furtherance of its obligation as an occupying power.**
- **Stop the construction and expansion of settlements and the Wall in the occupied territories.**
- **Take action and stop all Israeli officials involved in perpetrating international law violations, including forced transfer and settlements.**

Legal Section

The participating international law professors, lawyers and jurists recognize:

- Israel has the obligation to restore and ensure public order and safety (Article 43, Hague Regulations 1907) and might assert this obligation to justify the plan to transfer the Bedouin.

- However, this obligation to ensure public order including to respect of local land ownership legislation is limited by prohibitions under international humanitarian law (IHL), notably against forcible transfer. Article 49 of the Geneva Convention IV (GC IV) prohibits forcible transfers of the protected population within an occupied territory. An exception exists in the case of temporary evacuation for imperative military reasons or for the security of the population.
- Most of the elements constituting the prohibition on forced transfer from Article 49 are present prima facie: the Bedouin in Area C are part of the protected population living in occupied territory, there are no ongoing hostilities to justify an exception to the prohibition of forced transfer and the plan is intended to be permanent. The question remains whether the transfer is forcible or by consent.
- In examining this, the term ‘forcible’ must be interpreted broadly – as not being restricted to physical force. Because of the coercive circumstances in which the Bedouin live (described above), their true consent to the transfer would be impossible as it would be obtained under duress.
- Therefore, if the plans to transfer the Bedouin were implemented this would amount to forcible transfer, a grave breach of the GC IV and a war crime.
- Individual responsibility for war crimes should be determined through judicial proceedings. As the forcible transfer of Bedouin corresponds to an official policy of Israel and as Israeli courts have failed until today, to sanction its illegality, prosecution of those responsible in Israel may not be expected. The State of Palestine’s recent declaration accepting the jurisdiction of the International Criminal Court will therefore have implications as to the available judicial proceedings.
- International human rights law also binds Israel providing additional protection to the Bedouin in Area C. Specifically, they have a right to adequate housing (Article 11 of ICESCR); the freedom from arbitrary or unlawful interference with privacy, family and home (Article 17 ICCPR); and the right to health (Article 11 and 12 of ICESCR).
- Finally, the Bedouin should be treated as a minority and/or indigenous group within the Palestinian protected population, with all the attendant rights and protections under international law, including; the right to enjoy their own culture (Article 27 ICCPR), protection from forced assimilation and the right to a broader understanding of land rights.

International law professors, lawyers and jurists call on third states to:

- **In accordance with their obligation to ensure respect for IHL, take action to exert pressure on Israel to prevent the forcible transfer of Bedouin in Area C.**
- **Failure to take action will place third states themselves in breach of their IHL obligations.**
- **If the plans are carried out and meet all of the relevant elements, use of universal jurisdiction to prosecute individuals responsible for the commission of this war crime should be considered.**

Anthropology section:

The participating social anthropology professors and practitioners recognize:

- Bedouin are a social group possessing a wealth of social, economic and cultural knowledge of their physical environment – extensive land of low natural resources. Their way of life, based on access to natural graze for their herds, integrates adaptive production strategies which contribute to the sustainable management of natural resources and the conservation of nature.
- Forced settlement and urbanization severs mobile pastoralist peoples from their social, economic and cultural roots, resulting in general social disintegration, impoverization, increased mortality and morbidity, as well as generational disarticulation, increased domestic violence and instability. Forced settlement of a mobile society disregards all standards of social justice and harms future human development.
- In previously documented cases of Bedouin transfer women have been particularly affected due to (i) The loss of their contributory role to the household economy (women traditionally control pastoral production and marketing of milk and cheese products) and (ii) The loss of freedom of movement since Bedouin women’s

independent movement outside the home is severely restricted in mix-tribal/clan environments. These result in social isolation of women and increased domestic violence.

- The deteriorating conditions of the Bedouin communities in Area C are not sustainable, leaving communities increasingly at risk of coerced displacement. Since the ICA transfer proposal is detrimental to the social, cultural and economic needs of the Bedouin, a suitable solution must be sought.
- A viable 'solution' for the Bedouin in Area C, until the end of the occupation, must be community-driven (bottom up) and holistic; it should address existing policies which currently negatively affect Bedouin lives and livelihoods and aim to develop a multi-disciplinary model of sustainable rural development which reflects the distinct social, cultural and economic systems of the Bedouin.

The participating social anthropology professors and practitioners call on the Government of Israel to:

- **Recognize, uphold and protect the social, economic and cultural rights of the Bedouin (mobile pastoral community) of the West Bank.**
- **Endorse community driven solutions aiming to safeguard and promote sustainable rural development of the mobile pastoralist economy and lifestyle in Area C, until the end of the occupation.**

Planning Section:

The participating planning professors and planners recognize that:

- In Area C, planning policies which regulate Palestinians' access to basic services, public spaces, infrastructure and housing are under the control of the ICA. Palestinian communities in Area C experience frequent demolitions and entire communities live under threat of displacement. Among those most vulnerable to demolition and displacement are the Bedouin.
- Due to their distinct social planning practices, planning for Bedouin requires a deep understanding of Bedouin custom, in order to translate their distinct way of life into spatial planning.
- Bedouin society has existed throughout the region for centuries but, as yet, there are limited planning tools that enable legal recognition of Bedouin residential areas as a form of human settlement based on special planning principles in accordance with their needs.
- Most of the Bedouin communities in Area C, as refugees from today's Israel, do not usually own land in the West Bank. Public state land can therefore be allocated for their needs.
- A multi-disciplinary approach is crucial to safeguarding and promoting the Bedouin existence in Area C. To secure the viability of the pastoralist livelihood, access to rangeland and natural water resources must be fully and permanently restored, including in the 70% of Area C which is currently prohibited to Palestinians.

The participating planning professors and planners call on the Government of Israel to:

- **Take all necessary measures to allow for independent community driven initiatives for principled planning for Bedouin in Area C, until the end of the occupation.**
- **Engage in policy work to support the development of special planning principles which recognize the distinct spatial habitat of Bedouin pastoralist communities and grant them recognition as a viable form of human settlement.**
- **Implement the necessary policy adjustments to secure Bedouin use of public state land in Area C.**

Signatures: Legal Section: *Professor Marco Sassoli (Geneva University), Issam Aruri (JLAC), Adv. Sliman Shahin, Salma Karmi-Ayyoub (UK Barrister)*

Anthropological Section: *Professor Dawn Chatty (Oxford University), Ahmad Amara*

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