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Israel: Stop Threatened Eviction of Palestinians

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Israeli Defense Minister Moshe Ya'alon should overturn the imminent forced displacement of 23 Palestinians from 3 families from their homes near a West Bank settlement. No Israeli authority, including the High Court of Justice, has justified this displacement as being a temporary measure for the protection of the residents themselves or for imperative military reasons. Under these circumstances, displacing the families would not only be discriminatory, but also a grave breach of Israel's obligations as the occupying power, and a war crime.

Israel's High Court of Justice on December 3, 2013, rejected a petition against the evictions on the basis that the Palestinians were not "permanent residents" when the military declared the area a military zone in 1999, and held that the military could evict the families on or after January 3, 2014. It did not refer to any of Israel's duties under international human rights law or the law of occupation. Residents say they have lived in the area since before 1972 and had offered to leave their homes temporarily during military training exercises, but the military rejected their offer.

"Israel's military is ushering in 2014 by forcing more Palestinian families out of their homes," said Sarah Leah Whitson, Middle East and North Africa director at Human Rights Watch. "Defense Minister Ya'alon should suspend this unlawful eviction and end illegal demolitions of Palestinian property."

In 2013, Israeli authorities forcibly displaced more than 1,100 Palestinians from the West Bank, including East Jerusalem, by demolishing their homes. In virtually all cases the purported justification for these demolitions was the discriminatory planning regime that allocates land to settlements but makes it virtually impossible for Palestinians to obtain building permits.

The 23 residents now at risk of displacement, including 15 children, live near the town of Jiftlik in the Jordan Valley, an area under Israeli military control. The three households, from the extended Bani Maniya family, rely on their herds of around 900 sheep for their livelihoods, according to

humanitarian agencies. The military has not offered to move the families to an alternative location after evicting them from their current area, known as Qarziliya, or offered to compensate them, residents and their lawyer told Human Rights Watch.

The families petitioned Israel's High Court of Justice to stop the displacement plans, arguing that they violated Israel's obligations to respect the human rights of Palestinians living under its control to work and an adequate standard of living, and its obligations under the Hague Regulations and the Geneva Conventions to respect the property rights of the population under occupation and prohibit the unnecessary destruction of private property. As the petition also argued, the displacement would be carried out on the basis of zoning plans and procedures that discriminate against Palestinians and in favor of settlers.

The Qarzalia residents' homes fall within an area of the West Bank that Israeli military authorities exclusively control, called Area C. Israeli authorities have zoned land in Area C, which comprises more than 60 percent of the West Bank, in ways that unlawfully discriminate against Palestinians. In practice, the Israeli military permits Palestinian construction in only 1 percent of Area C. By contrast, the military authorities have allocated 63 percent of that area to settlements, according to the Israeli rights group B'Tselem.

The court dismissed the Qarzalia residents' petition on December 3 in a judgment that did not refer to any of Israel's obligations under international human rights law or the law of occupation. Instead it accepted the state attorney's claim that the Palestinian families were not "permanent residents" of the area in 1972, when the military first declared the area to be a closed military zone, or in 1999, when the military restated its claim to the area. Under Israeli military orders, only Palestinians who are deemed by Israel to be "permanent residents" are allowed to live in their homes after the military declares they fall within a military zone, although the Israeli military had not evicted residents of Qarzalia until now.

"Declaring Palestinian land a 'military zone' and then using this as a pretext for forcibly displacing the people who live there is just one of the unlawful policies that made 1,100 people homeless this past year alone," Whitson said.

US Secretary of State John Kerry arrived in Israel on January 2 and will meet with Israeli Prime Minister Benjamin Netanyahu. Since Netanyahu came to office in March 2009, Israeli forces have displaced more than 4,100 Palestinians by demolishing homes in the West Bank, including East Jerusalem, according to figures compiled from reports by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). Military demolitions of Palestinians' homes, usually on the basis that they lack building permits, increased by almost 25 percent in 2013 over 2012, OCHA reported. Eighty percent of the Palestinians displaced by home demolitions in "Area C" in 2013 lived in the Jordan Valley, according to OCHA.

"Secretary Kerry should tell Israeli officials to stop pushing Palestinians out of the Jordan Valley, home by home, family by family, village by village," Whitson said.

The military claims to need to use this area for military training, and, during the court case, temporarily evicted the families on several occasions to conduct trainings. Israel's military has declared 18 percent of the West Bank, where more than 5,000 Palestinians currently live, as closed areas for military training, or "firing zones," according to OCHA. It has allocated, in its plans, less than 1 percent of the 61 percent of the West Bank where it exercises exclusive control for Palestinian construction. It has granted settlements jurisdiction over 43 percent of the West Bank, including areas that overlap with military zones.

The Fourth Geneva Convention prohibits Israel, as the occupying power, from "[i]ndividual or mass forcible transfers" of the Palestinian population in the West Bank unless required for their own safety or imperative military reasons. It makes no distinction between permanent or

temporary residents of a particular locale but refers to all protected residents of the occupied territory. Even on the occasions where such forced transfer is permitted, it must be temporary and the residents must be allowed to return as soon as possible. Deliberately violating this prohibition is a grave breach of the Geneva Conventions and prosecutable as a war crime.

The December 3 Israeli court judgment did not consider whether or not the military could have used other, unpopulated, areas for training purposes that would not require the permanent forcible transfer of the Palestinian residents, or whether military training qualifies as an imperative military reason justifying the forcible and permanent eviction of the residents.

The military has also designated areas of the West Bank as "nature reserves" and used that as a justification to forcibly evict Palestinians living there. The military had ordered the demolition of houses in Qarzalía in 2011, on the basis that they were built without permits in a "nature reserve;" it stayed the execution of the order pending the court's judgment on the separate matter of the eviction orders, which it issued on December 3. The military has declared approximately 10 percent of the West Bank to be nature reserves where building is prohibited. Protecting a nature reserve is not a permitted reason to justify an occupying power evicting the population of an occupied territory.

In contrast, the Israeli military allocated large amounts of land to Masu'a, a settlement near the Qarzalía area. The military did not demolish several greenhouses built by the settlers "without approved plans," in violation of Israeli law, according to a military database on settlements prepared by Brig. Gen. Baruch Spiegel and leaked to the Israeli media in 2009. The settlers there have fenced off lands where Palestinians had grazed and pastured their sheep, according to an OCHA report.

On December 29, Israeli cabinet ministers voted to propose legislation to annex the entire Jordan Valley. News media reported that members of parliament and government officials would attend a ceremony to inaugurate the construction of a new neighborhood in the Jordan Valley settlement of Gitit, about eight kilometers from Qarzalía, where the three Palestinian families are facing eviction. They quoted Deputy Defense Minister Danny Danon, from Netanyahu's Likud party, saying the Jordan Valley is an integral part of Israel.

"Military zones, nature reserves, or settlement expansions - the end result is that the Israeli authorities forcibly displace Palestinians from their land even as they increase the Jewish settler population," Whitson said. "It's disheartening that Israel is intent on starting the New Year with a war crime."

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