



For the Attention of Barry Griffiths
Foreign & Commonwealth Office
Near East Group
Middle East and North Africa Directorate W2.80
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27 February 2013

Dear Sir,

Re: Forcible Transfer of Palestinian Children – Fourth Geneva Convention

Thank you for your letter of 29 June 2012. Apologies for the very delayed response; we have been liaising with others with an interest in this area regarding the content of your letter.

We welcome the confirmation that the British Government shares our concern about the treatment of Palestinian children detained in Israeli Prisons. We note that your letter sets out efforts made to lobby the Israeli Authorities for further improvement. In this regard, we should be grateful for the following information:

1. We understand from your letter that Alastair Burt raised the issue of the implementation of Israel's decision of 4 October 2011 to raise the age of legal majority for Palestinian children in the Israeli Military Justice system with the Israeli Ambassador in London. We should be grateful to know details of the Ambassador's response and the up to date position on the progress of the implementation which we trust Mr Burt has sought. In this regard, we further note the military order raising the age of legal majority significantly does not apply to the sentencing provisions and, accordingly, Palestinian children aged 16 and 17 years old will still be sentenced as adults. We should be grateful for your assurance that the Government raises this stark discrepancy with the Israeli authorities.
2. Confirmation as to who amongst the Israeli Authorities was contacted with regard to further improvements, including a reduction in the number of arrests that occur at night, an end to shackling and the introduction of audio visual recording of interrogations, by whom those issues were raised with the Israeli Authorities, the response of those Authorities and the details of any improvements.
3. The outcome of your discussions with the Israeli authorities regarding the findings and recommendations of the independent report by leading British lawyers entitled "Children in Military Custody" issued on 26 June 2012. Again, by whom was this issue raised and with whom in the Israeli Authorities?



4. We note the Israeli authorities' assurance to limit the use of administrative detention and solitary confinement of children and promise to reinstate family visits for detainees. We note your assurance that you would follow closely the implementation of the agreement dated 14 May 2012. Please inform us of:
 - (a) the response of the Israeli Government, including that in May by the Israeli Foreign Minister, Vice Prime Minister and National Security Advisor, when you raised the matter with them;
 - (b) the progress of the implementation of the agreement to date;
 - (c) the means by which you monitor and confirm this implementation.
5. Please confirm what steps the British Government has taken with regard to Israel's policy of detaining Palestinians in Israel given that it is, as you acknowledge in your letter, contrary to Article 76 of the Fourth Geneva Convention and that domestic law cannot be used as a justification for violation of international law. In particular, please confirm whether you have officially endorsed, and raised with the Israeli authorities, the recommendation made by the Defence for Children International, Palestine Section, that all Palestinian children, indeed all Palestinians, detained under Israeli military law should be held in facilities in the occupied territory and not in Israel in accordance with Article 76 of the Fourth Geneva Convention. If you have not raised this officially, please explain why you have not. If you have, please confirm with whom the matter was raised and what the response was. Please also confirm what, if any, sanctions will be used against Israel in the event that it does not comply with your request.
6. We note that in response to the question asked in parliament by Ian Lavery (Wansbeck) (Lab) on 4 September 2012: *'Is the Foreign Secretary aware that the directors of G4S are possibly violating Article 76 of the fourth Geneva Convention through their involvement in imprisoning Palestinian children in Israeli jails and, if so, would he like to comment on that'*, Alistair Burt stated the following:

'The issue of contractual arrangements between the Israeli Government and their contractors is a matter for them. We are aware that concerns have been raised about the issue and know that enquiries are going on in that regard, but essentially the contract between G4S and the Israeli Government is a matter for them.'

We have several strong concerns regarding this parliamentary statement. First, this response indicates a passive role for the Government in response to the serious allegation of complicity in an apparent Israeli violation of international humanitarian law by a British multinational company and its directors. Such complicity can incur individual criminal liability and the above stance fails to take into account the possible liability of directors of such companies, given that a contract between a company and a state will not provide immunity from criminal liability for directors of companies. We further consider that this response entails a breach of the obligation under the

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Fourth Geneva Convention to search for persons alleged to have committed a grave breach and to bring such persons before their own courts. To discharge this fundamental obligation, we respectfully suggest that if there is sufficient evidence of G4S involvement in unlawfully imprisoning Palestinian children in Israeli jails, the Government liaises with the police and Crown Prosecution Service with regard to mounting an investigation that complies with the above Convention obligation, namely to determine if G4S directors and/or the company itself have aided and abetted a grave breach, and if so, whether a prosecution under UK law is warranted, either under the Geneva Conventions Act 1957 or the International Criminal Court Act 2001.

We therefore look forward to receiving a clarification of Mr Burt's Parliamentary statement, indicating whether the government does indeed deny its responsibility as set out above, given the express provisions of the Fourth Geneva Convention, and correcting any misleading suggestion that companies and individuals involved in criminality may be protected from criminal investigation and prosecution as long as they are fulfilling a contractual duty arising from an agreement with the Israeli government. Please can you also confirm that, in conformity with implementing obligations under the Fourth Geneva Convention and the United Nations Guiding Principles on Business and Human Rights - which in part provides that states should set the expectation that all business enterprises domiciled in their territory should respect human rights 'throughout their operations' - the Government shall actively investigate the highlighted concerns regarding the alleged involvement of G4S in imprisoning Palestinian children in Israeli jails, and, if necessary, take effective measures to prevent its continuation.

With regard to points 5 and 6 of our letter, we remind you again of the United Kingdom's overarching obligation under Article 1 of the Fourth Geneva Convention "to respect and to ensure respect for the present Convention in all circumstances".

We look forward to hearing from you as soon as practicable.

Yours faithfully

Tareq Shrourou
Director, Lawyers for Palestinian Human Rights