



Australian Government
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Cres.
Barton 0221
Canberra, Australia

Military Court Watch
22 Ben Bella Street
Ramallah
Palestinian Territory

Attention: Ms. Hk Yu, First Assistant Secretary
Middle East and Africa Division

8 November 2018

Re: Forcible transfer of protected persons from the West Bank

Dear Ms. Yu,

We are writing to you to follow up on correspondence we received from Mr. Matthew Neuhaus, dated 27 March 2018, in his former position as Special Adviser, Middle East and Africa Division. Mr. Neuhaus's [letter](#) to Military Court Watch was in response to an earlier [letter](#) we sent, dated 2 December 2015, regarding the forcible transfer of protected persons, including children, from the West Bank in violation of Article 76 of the Fourth Geneva Convention (the Convention).

We note that in Mr. Neuhaus's letter dated 27 March 2018 that "Australia regularly makes representations to the Israeli Government affirming our interest in, and concern about, security and judicial practices specifically towards Palestinian minors in detention." We also note Australia's recommendations to Israel as part of the United Nations Human Rights Council's Universal Periodic Review process. While we appreciate these steps, you will see that the specific subject matter of our earlier correspondence related to:

1. The forcible transfer of Palestinian children from the West Bank to prisons located inside Israel in violation of Article 76 of the Convention; and
2. The legal obligations imposed on the government of Australia under the Convention for this violation, as distinct from the legal obligations imposed on Israel.

This specific focus was raised in the penultimate paragraph to our original correspondence as follows:

“We would like to take this opportunity to ask what specific steps will the Government of Australia be taking to ensure that the practice of forcibly transferring protected persons from the West Bank ceases in accordance with the legal obligations undertaken by the signatories to the Convention.”

While Israel’s violation of Article 76 of the Convention in relation to Palestinian child detainees is well documented and involves no dispute of fact, you will be aware that Australia, as a signatory to the Convention, also has certain legal obligations to do what it can to bring an end to this practice. These third-party state obligations are, in part, set out in Article 146 of the Convention and include circumstances where protected persons, including children, are forcibly transferred from occupied territory. As you will appreciate the steps already taken by Australia and listed in the letter dated 27 March 2018 do not discharge these legal obligations.

As per our original correspondence, we would like to again take this opportunity to ask what specific steps will the government of Australia be taking in accordance with its third-party state obligations under the Convention?

We thank you in advance and look forward to receiving your response.

Yours sincerely,



Raja Shehadeh
Lawyer



Gerard Horton
Lawyer