

16 April 2021

Ms. Fatou Bensouda, Prosecutor
Office of the Prosecutor
International Criminal Court
Oude Waalsdorperweg 10
The Hague, The Netherlands

Urgent: Call to Open Investigation into Imminent Forced Evictions in Sheikh Jarrah

Dear Ms. Fatou Bensouda,

We, the undersigned, are representatives of 500 Palestinian refugees residing in the Karm Al-Ja'ouni area of the Sheikh Jarrah neighbourhood in occupied East Jerusalem, Palestine, at risk of forced eviction by Israel, the Occupying Power. Amidst this global pandemic, eight families totalling 87 Palestinians, are at imminent risk of forced eviction. Unlawfully applying Israeli domestic law to an occupied territory, Israeli courts have ruled in favour of lawsuits undertaken by settler organisations to evict the eight Palestinian families. Israel's Jerusalem District Court has ordered four families to leave their homes by 2 May 2021 and three other families by 1 August 2021.¹ For this reason, immediate action by your Office is necessary to forestall the displacement of these Palestinian families from their homes in East Jerusalem.

We, and the co-sponsoring organizations, call on your Office to initiate an immediate investigation into the imminent forced displacement of Palestinians from Sheikh Jarrah, and the related war crimes and crimes against humanity on the territory of Palestine of which this action is but the latest example. Specifically, we ask that you urgently open an investigation into the war crimes of forcible transfer of parts of the population of the occupied territory (art. 8(2)(b)(viii) and 8(2)(a)(vii)), transfer by the Occupying Power of parts of its civilian population into the territory it occupies (art. 8(2)(b)(viii)), destruction and appropriation of property not justified by military necessity and carried out unlawfully (art. 8(2)(a)(iv)) and, as these forced evictions are part of an ongoing, widespread and systematic

¹ For more detailed background on the current situation facing the Palestinian residents of Sheikh Jarrah, see Al-Haq and others, 'Joint Urgent Appeal to the United Nations Special Procedures on Forced Evictions in East Jerusalem' (10 March 2021) <https://www.alhaq.org/cached_uploads/download/2021/03/10/joint-urgent-appeal-to-the-united-nations-special-procedures-on-forced-evictions-in-east-jerusalem-1615372889.pdf> accessed 09 April 2021; The Office of the United Nations High Commissioner for Human Rights, 'UN expert calls for reversal of Israel's eviction order against 16 Palestinian families' (11 January 2021) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26648&LangID=E>> accessed 09 April 2021; European Union, 'Six Month Report on Israeli Settlements in the occupied West Bank, including East Jerusalem' (4 February 2019) at: <<https://eeas.europa.eu/sites/default/files/six-month-report-on-israeli-settlements-in-the-occupied-west-bank-including-east-jerusalem-reporting-period-july-december-2018-0.pdf>> accessed 09 April 2021 ("Sheikh Jarrah is one in a ring of Palestinian neighbourhoods where displacement activities are increased in order to deepen Israeli control").

attack against Palestinian civilians, the crimes against humanity of deportation or forcible transfer (art. 7.1(d)), persecution (art. 7.1(h)), apartheid (art. 7.1(j)) and other inhumane acts causing great suffering or serious injury to *inter alia* mental health (art. 7.1(k)).

In 2018, the Office of the Prosecutor issued a statement expressing concern regarding the planned eviction of the Bedouin community of Khan al-Ahmar “and with it the prospects for further escalation and violence,” and put Israel on notice “that extensive destruction of property without military necessity and population transfers in an occupied territory constitute war crimes under the Rome Statute.”² With the Court’s jurisdiction over the territory of the State of Palestine – Gaza and the West Bank, including East Jerusalem – confirmed,³ and an investigation underway,⁴ we call upon your Office to prioritize this investigation as to avoid the imminent and irreparable harm to the Palestinian residents of Sheikh Jarrah due to Israel’s settlement-related criminal activities.

Background

During the 1948 War, we were forcibly displaced from our homes in Palestinian towns, cities, and villages that are today inside the Green Line, and following the establishment of the State of Israel, have been denied our inalienable right to return to our homes and properties. In 1956, 28 Palestinian refugee families moved to the Karm Al-Ja’ouni area of Sheikh Jarrah in East Jerusalem as part of an agreement between the government of Jordan and the United Nations Relief and Works Agency (UNRWA). The agreement stipulated that the Jordanian government would provide land, that UNRWA would sponsor the construction of housing units for us on this land, and that we would receive legal title to the properties after three years. The legal title of the property was never transferred to us. Rather, since Israel occupied and illegally annexed East Jerusalem in 1967, all Palestinian Jerusalemites have been subjected to a coercive environment designed to transform Jerusalem’s demographic composition to secure Israeli-Jewish control over Jerusalem and drive out Palestinians. Today, the Karm Al-Ja’ouni area is home to at least 72 Palestinian households of approximately 500 people, and we all face the threat of a second forced displacement.

The eviction orders by Israeli courts in favour of the settler organisation Nahalat Shimon International in our neighbourhood have been facilitated by the 1970 Legal and Administrative Matters Law, which exclusively allows Jewish Israelis to pursue claims to land and property allegedly owned by the Jewish population in East Jerusalem before the establishment of the State of Israel in 1948.⁵ Utilising this law, the Israeli Custodian General in 1972 transferred the

² ICC, ‘Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the Situation in Palestine’ (17 October 2018) <<https://www.icc-cpi.int/Pages/item.aspx?name=181017-otp-stat-palestine>> accessed 09 April 2021.

³ Situation in the State of Palestine, Decision on the ‘Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine’ ICC-01/18, (5 February 2021) <https://www.icc-cpi.int/CourtRecords/CR2021_01165.PDF> accessed 09 April 2021.

⁴ ICC, ‘Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine’ (3 March 2021) <<https://www.icc-cpi.int/Pages/item.aspx?name=210303-prosecutor-statement-investigation-palestine>> accessed 09 April 2021.

⁵ Legal and Administrative Arrangements Law, 1970 <https://www.nevo.co.il/law_html/law01/319_009.htm> accessed 09 April 2021

ownership of the Karm Al-Ja'ouni land we have been residing on since 1956 to two Jewish Committees. In the 1990s, the two Jewish Committees sold their ownership rights to Nahalat Shimon International, a private settler organisation, which does not have ties to the original alleged Jewish owners. The settler organisation has vigorously worked to bring eviction lawsuits against us.

Current Situation in Sheikh Jarrah: Imminent Forced Displacement

Three families totalling 67 people were already forcibly evicted from our neighbourhood in 2009, with the support of the Israeli police. Following these evictions, the settler organisation, Nahalat Shimon International, submitted a Town Plan Scheme to the Jerusalem Local Planning Commission of the Jerusalem Municipality for the establishment of a new settlement in our neighbourhood. The Plan proposed to evict the Palestinian residents, demolish their houses, and later construct 200 settlement units for Jewish Israeli settlers.⁶

In addition to the threat of losing our homes, we have been enduring a lengthy, exhausting, and unaffordable legal struggle to challenge the eviction lawsuits filed against us by settler organisations in Israeli courts since 1972. Given the discriminatory and untransparent nature of the Israeli legal system as applied in the occupied territory, we are systematically denied access to justice or any effective remedy.

If the forced evictions move forward, we will be subjected to other Israeli policies that together make-up Israeli practices that result in the widespread and systematic transfer of the Palestinian Jerusalemite population. If we set up a tent outside our houses, the Israeli occupying forces will demolish it, as part of its widespread and systematic policy of demolition of Palestinian property. If we rent a home outside Jerusalem because we cannot afford to rent in Jerusalem, we will be at risk of having our residency status revoked and not be allowed to enter Jerusalem, pursuant to Israel's residency revocation policy, which requires Palestinian Jerusalemites to constantly prove their "center of life" is in the city.

We welcome the 3 March 2021 announcement by your Office on the opening of a full criminal investigation into the Situation in Palestine. This is a long-awaited and a critically important step towards ensuring the rule of law and ending impunity, while ensuring accountability for Israel's crimes within the jurisdiction of the Court.

As part of that investigation, we call on your Office to:

1. Publicly condemn the imminent forced evictions of Palestinians in Sheikh Jarrah neighbourhood and open an urgent investigation into this case within the Situation of Palestine;
2. Identify those perpetrators most responsible for the conduct in question and warn them that their policies and actions in occupied East Jerusalem, which aim at

⁶Ir Amim, 'Evictions and Settlement Plans in Sheikh Jarrah: The Case of Shimon HaTzadik' (25 June 2009) <<https://www.ir-amim.org.il/sites/default/files/SheikhJarrahEngnew.pdf>> accessed 09 April 2021.

manipulating the city's demographic character in favour of Israeli-Jewish domination, may constitute war crimes and crimes against humanity within the jurisdiction of the Court;

3. Operating under Part 9 of the Rome Statute, call upon Jordan and Palestine, as ICC States Parties, to cooperate with your Office in providing any documents relevant to the investigation of the imminent forced evictions in Sheikh Jarrah; and
4. Take any appropriate action, within the confines of the exercise of your mandate under the Rome Statute, to prevent the Palestinian protected population in the Karm Al-Ja'ouni area of Sheikh Jarrah from being displaced and dispossessed for the second time.

We remain at your disposal and stand ready to provide further information to assist the investigation.

Yours sincerely,