

FORCIBLE TRANSFER IS A WAR CRIME

For years Israel has been implementing a plan to forcibly transfer thousands of Palestinians who live in farming-shepherding communities in the West Bank. Focusing on three areas – the Jordan Valley, the South Hebron Hills, and the area east of Jerusalem – it aims to establish facts on the ground that would achieve exclusive de facto Israeli control in those areas, and eventually facilitate formal annexation.

Israel’s plans range from freezing any Palestinian development, through minimizing the Palestinian foothold in major parts of the West Bank, to the destruction and transfer of entire communities. It is implementing these plans through the application of some – or all – of a range of coercive measures: not allowing to build new private or public buildings, to be connected to water or power grids, or to pave access roads. When, in the absence of any other alternative, residents build without permits, they face threatened – or actual – demolition, and confiscation of essential equipment.

Israel attempts to provide legal justification for its actions against these Palestinian communities by arguing that they are “building without permits”. This, however, is a disingenuous claim as Israel’s planning policy in the West Bank all but precludes Palestinians from ever receiving the required permits.

Forcible transfer – by direct physical force or by creating a coercive environment that makes residents leave their homes – is a war crime. All people responsible for it – including the Israeli prime minister and the minister of defense – bear personal liability.

The recent decision by Israel’s High Court of Justice to approve the demolition of the Khan al-Ahmar community, and thus to provide a legal stamp of approval for the forcible transfer of the community’s residents, changes nothing with regard to the above analysis. All it does is also implicate Israeli High Court justices in what is nothing short of a war crime, no matter how much legal formalism is enlisted in an effort to excuse the inexcusable.

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העברה וכפייה היא פשע מלחמה

ישראל מיישמת כבר כמה עשורים תננית להעברה בכפייה של אלפי פלסטינים שגרים בקהילות המתפרנסות ממרעה ומחקלאות בגדה המערבית. מאמצי המדינה מתמקדים בשלושה אזורים – בקעת הירדן, דרום הר חברון והאזור שממזרח לירושלים – במטרה לקבוע עובדות בשטח שיקלו על סיפוחם דה-יורה במסגרת הסדר עתידי, ועד אז – לספחם דה-פקטו.

ישראל מונעת פיתוח פלסטיני, מצמצמת את הנוכחות הפלסטינית בשטחים נרחבים בגדה המערבית, הורסת יישובים ומעבירה בכפייה קהילות שלמות. זאת, באמצעות שורה של אמצעים, הכוללים הטלת איסור גלף על בניית בתי מגורים או מבני ציבור בקהילות האלה, סירוב לחברן לתשתיות מים וחשמל והימנעות מסלילת כבישים שויבילו אליהן. כאשר בליט ברירה התושבים בונים ללא היתרים – המנהל האזרחי הורס את המבנים או מאיים להרסם.

ישראל מסנה להצדיק מדיניות זו בטענה שהתושבים "בונים ללא היתר". ואולם זוהי טענה מיממת, המתעלמת מכך שמדיניות התכנון של ישראל בגדה המערבית לא מאפשרת לפלסטינים לקבל היתר כזה אלא במקרים נדירים. העברת תושבים בכפייה – בכוח הזרוע או באמצעות הפיכת חייהם לבלתי אפשריים, כדי לכפות עליהם לעזוב בעצמם ולכאורה מרצונם – היא פשע מלחמה שכל המעורבים בו, כולל ראש הממשלה ושר הביטחון, נושאים באחריות אישית לביצועו.

ההחלטה שקיבל לאחרונה בג"ץ, לאשר את הריסתה של קהילת ח'אן אל-אחמר ואת גירוש תושביה, אינה משנה זאת – אלא רק מספקת חותמת כשרות משפטית להעברה בכפייה. בחתימתם על החלטה זו, הפכו השופטים עצמם לשותפים לפשע מלחמה זה.

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