

The Rt Hon Dominic Raab MP,
First Secretary of State and Secretary of State for Foreign, Commonwealth and Development
Affairs,
Foreign, Commonwealth and Development Office
King Charles St,
London,
SW1A 2AH

13 May 2021

Dear Foreign Secretary,

Re. Addressing the urgent and escalating situation in Israel and the occupied Palestinian territory

I am writing to you on behalf of the Bar Human Rights Committee of England and Wales (“BHRC”). We have been following the escalating situation in Israel and the occupied Palestinian territory with extreme concern.

In April 2021, Human Rights Watch published an important report regarding the ongoing human rights situation in the region.¹ The report asserts that Israeli authorities have “dispossessed, confined, forcibly separated, and subjugated Palestinians by virtue of their identity to varying degrees of intensity”. Human Rights Watch further asserts a threshold has been passed so that, in certain areas, these deprivations of rights are so severe that they amount to the international crimes of apartheid and persecution. That view is shared by others, including Israeli NGO, B’tselem.²

This is the wider context in which the current escalation of hostilities is occurring.

Currently, over 970 Palestinians, including 424 children in East Jerusalem, are said by the United Nations to be at risk of forced eviction and displacement,³ to make way for Israeli settlers. Palestinians peacefully demonstrating against the threat of imminent forced evictions in the Sheikh Jarrah neighbourhood of East Jerusalem have been subjected to violence by Israeli security forces and settlers. Last week, during Ramadan, Israeli forces stormed Al-Aqsa, one of the holiest sites in Islam, wounding an estimated 1,000 Palestinian worshippers with stun guns, rubber coated steel bullets and tear gas.⁴ The threatened expulsions in Sheikh Jarrah have been rightly condemned by

¹ Human Rights Watch ‘A Threshold Crossed’, 27 April 2021, available at: <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>

² B’tselem, ‘A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is Apartheid’, January 2021, available at: https://www.btselem.org/publications/fulltext/202101_this_is_apartheid.

³ UN High Commissioner of Human Rights, Press Briefing Note, 7 May 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27067&LangID=E>).

⁴ United Nations OCHA, Escalation in the West Bank, the Gaza Strip and Israel, 11 May 2021 <https://www.ochaopt.org/content/escalation-west-bank-gaza-strip-and-israel-flash-update-1-1700-11-may-2021>

the United Nations High Commissioner for Human Rights as a contravention of international law, potentially amounting to a war crime.⁵ The violent repression of peaceful protest also constitutes a serious violation of international law.⁶

Palestinian armed groups in Gaza have fired rockets at Israel in response to the attacks on Al-Aqsa, saying there are “no red lines if Al-Aqsa is violated”.⁷ Israel has responded with overwhelming force, including heavy air strikes in densely populated and blockaded Gaza. At the time of this letter, seven people have been killed in Israel, including two children. At least 84 Palestinians have been killed in Gaza, including at least 17 children, and hundreds have been wounded. The destruction in Gaza is extensive. Several multi-storey tower blocks have been destroyed, displacing hundreds of people, in the middle of a pandemic. These attacks have been carried out against a backdrop of threats made by senior Israeli governmental officials that damage to civilian areas will be “extensive and intense”, that “Gaza will burn” and that “the strike of 2021 will be harder and more painful than 2014”,⁸ Israel’s military assault on Gaza codenamed “Protective Edge”. Over 2,200 Palestinians were killed in those bombardments, including over 550 children, and 18,000 homes were destroyed.⁹ Gaza, home to approximately two million people, half of them under 18, has not recovered since.

The Office of the Prosecutor of the International Criminal Court (“ICC”), has released a statement calling for “calm, restraint and a stop to the violence”, noting the possible commission of crimes under the Rome Statute.¹⁰ It is imperative that those responsible for serious war crimes, including the targeting of civilians and the disproportionate use of force, be held accountable. Impunity breeds impunity, as the history of the past two decades in the region shows only too clearly. Neither short-term calm nor long-term peace can be achieved where human rights are routinely abrogated, as recently underscored by the United Nations.¹¹

In that context, the recent stance adopted by the UK Prime Minister in opposing the announcement by the ICC of its investigation of alleged war crimes by both the Israeli government and Palestinian armed groups – in particular crimes relating to settlements and connected to previous assaults on Gaza – is of particular concern.¹² By his suggestion that its investigation is “a partial and prejudicial attack on a friend and ally of the UK’s”, both the independence and integrity of the ICC is undermined. Such a position is difficult to reconcile with that adopted by the Foreign, Commonwealth and Development Office, emphasising the UK’s respect for the independence of

⁵ Press Briefing Note of Rupert Colville for the UN High Commissioner of Human Rights, 7 May 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27067&LangID=E>

⁶ <https://www.un.org/unispal/document/un-experts-explore-brutal-police-response-to-protests-urge-eviction-threats-to-be-lifted-press-release/>.

⁷ Virginia Pietromarchi, ‘Gaza death toll jumps to 83 as Israeli air raids intensify: Live’, *Al Jazeera*, 13 May 2021, available at: <https://www.aljazeera.com/news/2021/5/13/israel-bombs-high-rise-buildings-as-gaza-marks-deadly-aid-live>.

⁸ Benny Gantz, ‘Israeli Defense Minister's message to Gaza people’, 11 May 2021, available at: <https://www.youtube.com/watch?v=EIYe1EfMT2Q>.

⁹ United Nations OCHA, ‘Key figures on the 2014 Hostilities’, 23 June 2015, available at: <https://www.ochaopt.org/content/key-figures-2014-hostilities>.

¹⁰ ICC Prosecutor Fatou Bensouda, 12 May 2021, available at: <https://twitter.com/IntlCrimCourt/status/1392364652504522753>

¹¹ Press Release 11 May 2011 ‘UN Experts deplore brutal police response to protests, urge evictions to be lifted’, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27083&LangID=E>

¹² Rob Merrick, ‘Boris Johnson condemns International Criminal Court Palestine investigation as ‘attack on Israel’, *The Independent*, 14 April 2021 available at: <https://www.independent.co.uk/news/uk/politics/boris-johnson-israel-palestine-icc-b1831418.html>.

the ICC.¹³ It is also out of step with the UK Government's long recognised position that Israeli settlements in the West Bank are illegal under international law.¹⁴ Settlements, including those in East Jerusalem, constitute a grave violation of the Fourth Geneva Convention, as well as a war crime under the Rome Statute of the ICC. It is of profound concern that the UK Government should undermine attempts to bring these serious violations of international law to an end and to hold those responsible accountable.

We call on the UK Government to urge Israel, its friend and ally, to cease all violations of its obligations and responsibilities as an occupying power immediately, including its assault on Gaza. We urge the Government to issue a statement of unambiguous support for an independent investigation into alleged war crimes in the occupied Palestinian territory by the ICC. We also urge the Government to halt arms exports from the UK to Israel immediately, in accordance with the long-established calls by eminent human rights organisations, including Amnesty International,¹⁵ and the UK Government's own commitment in 2014 to suspend some arms exports to Israel if hostilities were to resume at that time.¹⁶

We deplore the serious impact of the escalations on Israeli and Palestinian civilians and civilian infrastructure, the loss of life, homes, livelihoods and the physical and psychological harm caused. As Israeli troops are massing around the Gaza border in apparent preparation for a ground invasion, we request an urgent response from the UK Government as to the actions it will take itself to ensure the protection of civilians and civilian objects in Gaza, in particular, as well as the protection of civilians from forced eviction in East Jerusalem.

Yours sincerely,



Schona Jolly QC

Chair, Bar Human Rights Committee of England and Wales

¹³ Hansard Parliamentary Questions 20 April 2021, available at <https://hansard.parliament.uk/Commons/2021-04-20/debates/23433A61-1771-4239-A7F9-E4199ACE9FFA/details>

¹⁴ <https://www.gov.uk/government/news/uk-statement-on-israeli-settlements-january-2021>.

¹⁵ Amnesty, 'Amnesty urges suspension of UK arms sales to Israel as evidence revealed that Israel military drones may use British-built engines', 9 January 2009, available at <https://www.amnesty.org.uk/press-releases/amnesty-urges-suspension-uk-arms-sales-israel-evidence-revealed-israel-military>; see also Israel: Arms embargo needed as military unlawfully kills and maims Gaza protesters', 27 April 2018, available at: <https://www.amnesty.org/en/latest/news/2018/04/israel-arms-embargo-needed-as-military-unlawfully-kills-and-maims-gaza-protesters/>.

13 May 2021: <https://www.amnesty.org.uk/press-releases/israelgaza-likely-war-crimes-israeli-military-and-palestinian-armed-groups>

¹⁶ The Guardian: 'UK government to block arms exports to Israel if military action resumes', 12 August 2014, available at https://www.theguardian.com/politics/2014/aug/12/british-arms-exports-israel-gaza-block-suspension?CMP=Share_iOSApp_Other