

UN AND ISRAEL - TRANSFER OF DETAINEES FROM ANSAR TO ISRAEL

Letter dated 17 April 1985 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General.

The letter of 4 April 1985 from the Permanent Representative of Lebanon to you (A/40/223-S/17080) totally misrepresents the truth concerning the temporary transfer of detainees from Ansar to a place of detention in Israel.

To characterize the release of 752 detainees by Israel on 2 April 1985, as "an attempt to palliate the reaction of international public opinion..." is groundless. Those detainees were released for no other reason than the fact that they no longer constituted a danger to the security of the IDF units currently withdrawing from South Lebanon.

The temporary transfer to Israel of detainees who still constitute an immediate and real danger to the security of the IDF became imperative because of material reasons arising from the particular circumstances currently prevailing in South Lebanon. The assertion in the Lebanese letter that such a temporary transfer violates provisions of the fourth Geneva Convention of 1949 is equally groundless, since the Convention explicitly authorises such measures "when for material reasons it is impossible to avoid such displacement" (article 49, second paragraph).

The "material reasons" for the temporary transfer of the Ansar detainees include the following:

1. Keeping the detainees at Ansar would have complicated and prolonged Israel's ongoing withdrawal from South Lebanon.
2. Releasing the detainees would have added to the instability and bloodshed in South Lebanon and the likelihood of attacks against the IDF troops.
3. Building an alternative detention centre capable of providing adequate facilities for those detainees in the area being evacuated was not possible in the time frame of the ongoing withdrawal.

Efforts are now being made to establish a smaller facility in Majidiyah in South Lebanon designed for holding some of the detainees by the IDF pending its withdrawal from the area. On this matter too, the assertions contained in the Lebanese letter are thus without foundation.

The detainees temporarily transferred to Israel are given suitable facilities and medical care, in accordance with the humanitarian standards laid down by the fourth Geneva Convention. They are given access to representatives of the International Committee of the Red Cross who have started visiting them. They are also entitled to petition an Appeals Board, in accordance with Israeli law. Several have already been released and sent to their homes under Red Cross supervision, and this process is continuing.

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I have the honour to request that this letter be circulated as a document of the General Assembly, under item 38 of the preliminary list, and of the Security Council.

(Signed) Benjamin NETANYAHU
Ambassador
Permanent Representative.

The following is additional information provided by the Minister-Counsellor at the Embassy of Israel in Canberra, Mr Yigal Lavie.

1. "While article 49 of the Geneva Convention indeed in principle prevents the transfer or deportation of protected persons from occupied territory to the territory of the occupying power, that article enumerates exceptions which enable .. evacuation of a given area if the security of the population or imperative military reasons so demand.. This may involve displacement outside the occupied territory when for material reasons it is impossible to avoid such displacement and the evacuated people will be transferred back as soon as hostilities in the area cease.
2. Israel's presence in Lebanon came about as a result of, and continues to be, a struggle against terrorism, directed towards the northern part of Israel, and not a struggle against Lebanon.
3. Despite the fact that the Government of Israel is already in the process of withdrawing its forces from Lebanon, the violence directed against Israeli soldiers continues incessantly causing casualties and fatalities.
4. The detainees who have been temporarily transferred to Israel were caught with "blood on their hands" having actively participated in acts of terror and sabotage, whilst 760 detainees, who are not considered to constitute a danger to the IDF, have already been released.
5. The probability that the release of the detainees who have been temporarily transferred to Israel would increase the likelihood of further unnecessary and senseless bloodshed, which has already brought havoc to the population and endangered the lives of Israeli soldiers, was a factor that weighed heavily in the IDF's decision not to release the detainees at this stage. There are, in other words, "imperative military reasons" for keeping these detainees out of the area until circumstances enable their release.
6. In view of the fact that there is no possibility of constructing a suitable alternative location in the area of southern Lebanon from which the IDF is withdrawing, these "material reasons" require the removal of the detainees temporarily across the border.
7. At their new location the detainees have improved conditions of detention and medical facilities which comply with the humanitarian standards set forth in the Geneva Convention, access of the International Committee of the Red Cross (ICRC) representatives to the detainees will continue

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on a regular basis. In addition, the detainees will be entitled to petition an Appeals Board which operates in accordance with the relevant Israel Art. 49 - individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the occupying power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the occupying power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The occupying power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The protecting power shall be informed of any transfers and evacuations as soon as they have taken place.

The occupying power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies.
