

Special Procedures Submission

Joint Urgent Appeal to the United Nations Special Procedures on the Ongoing and Imminent Demolitions Carried out by the Israeli Occupying Authorities in Wadi Al-Hummus Neighbourhood in Occupied East Jerusalem

Date: 22 July 2019

To the attention of:

- The UN Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk;
- The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Leilani Farha;
- The UN Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego García-Sayán; and
- The UN Working Group on the issue of human rights and transnational corporations and other business enterprises, Ms. Elżbieta Karska (Chair).

1. Overview

Al-Haq addresses this joint urgent appeal on the ongoing and imminent demolitions carried out by the Israeli occupying authorities in the East Jerusalem neighbourhood of Wadi Al-Hummus to the attention of the United Nations (UN) Special Procedures, in particular to the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Leilani Farha, the Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego García-Sayán, and the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, Ms. Elżbieta Karska (Chair), in addition to other relevant UN Special Procedures mandates who may be seized of this matter.



As of the time of writing, the Israeli occupying authorities have begun demolitions of 70 Palestinian homes in the East Jerusalem neighbourhood of Wadi Al-Hummus, in the Palestinian town of Sur Bahir. These demolitions, which have been ongoing since the early hours of Monday, 22 July 2019, form part of Israel's long-term and systematic policy to forcibly uproot, displace, and dispossess Palestinians, on both sides of the Green Line, since the Nakba of 1948. As such, Al-Haq calls on the UN Special Procedures to take immediate and collective action to halt the ongoing and imminent demolitions and to ensure that Palestinians whose homes have been demolished by Israel, the Occupying Power, are ensured effective remedies, including adequate housing, until such time as they are able to return to their homes and property.

2. Context

Following Israel's occupation in 1967 of the West Bank, including East Jerusalem, and the Gaza Strip, comprising the Occupied Palestinian Territory (OPT),¹ Israel appropriated almost 1,700 dunums of the lands of Sur Bahir, a Palestinian town southeast of Jerusalem, for the construction of the illegal Israeli settlements of East Talpiot to the north and Har Homa to the southwest. Since then, Israel has appropriated more of Sur Bahir's land for the construction of the Annexation Wall, illegal settlements, and their related infrastructure and bypass roads,² in violation of international law.³ In 2005, Israel built part of the Annexation Wall on lands of Sur Bahir, fragmenting the town,⁴ and resulting in parts of Oslo Accords-designated Areas A, B, and C in Sur Bahir falling on the Jerusalem side of the Annexation Wall, thereby physically separating them from the rest of the occupied West Bank.⁵

Since 2009, Israel, the Occupying Power, has demolished or forced Palestinian owners to self-demolish 69 structures in the town of Sur Bahir. Forty-six of these were inhabited or homes

¹ Office of the High Commissioner for Human Rights (OHCHR), "Israel must face new international legal push to end illegal occupation of Palestine, UN expert says" (26 October 2017), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22315>.

² Palestine Liberation Organization (PLO), "The Carving of East Jerusalem into Segregated Bantustans: The Case of Sur Bahir," 16 July 2019, 2, available at: https://www.nad.ps/sites/default/files/07162019_1.pdf.

³ Israeli settlements in the OPT are illegal under international law, as recognised by numerous UN resolutions, e.g. UN Security Council, Resolution 2334 (2016), 23 December 2016, UN Doc. S/RES/2334 (2016). In 2004, the International Court of Justice called on Israel to dismantle the Annexation Wall, see: *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136.

⁴ Field Report on Wadi Al-Hummus, Al-Haq, 15 July 2019.

⁵ Field Report on Wadi Al-Hummus, Al-Haq, 15 July 2019.



under construction, resulting in the displacement of 400 Palestinians, about half of whom were children.⁶ Most of these structures were located within the boundaries of East Jerusalem. However, three structures were located in Area A of the West Bank, falling under full Palestinian civil and security control, while two were located in Area C, falling under full Israeli military control.⁷

In 2011, the Israeli military commander issued Military Order A/B/8/11, prohibiting the construction at various distances between 100 and 300 metres on either side of the Annexation Wall, despite the area being designated as falling under the Palestinian Authority's control.⁸ Notably, 97 buildings have been constructed in the area after the Military Order was issued. According to Al-Haq's field documentation, in addition to the illegal nature of the Military Order, the people of Wadi Al-Hummus were not duly informed about the designated prohibited area, and consequently, continued to buy land and build in the so-called "prohibited" areas.⁹

In October 2016, a notice was posted on a Palestinian home in Wadi Al-Hummus, located 10 metres from the Annexation Wall, ordering that the house be demolished due to its close proximity to the Annexation Wall. The notice required that the home be self-demolished by 18 July 2019 and that, if the owners of the home failed to self-demolish by this date, they would also have to cover the costs for the Israeli occupying authorities to demolish their home. Additionally, 12 more demolition orders were issued for Wadi Al-Hummus on 1 January 2017.¹⁰ Residents of Sur Bahir filed a petition to the Israeli High Court of Justice to prevent the execution of the demolition orders at the time.¹¹

On 11 June 2019, the Israeli High Court of Justice dismissed the petition of Palestinian residents of Sur Bahir to prevent the Israeli military from acting on demolition orders against their homes, which are located in Area A of the occupied West Bank. On 8 June 2019, the Israeli occupying

⁶ OCHA, Humanitarian Bulletin, occupied Palestinian territory, June 2019, available at: https://www.ochaopt.org/sites/default/files/hummonitor_june_2019.pdf.

⁷ *Ibid.*

⁸ Palestine Liberation Organization (PLO), "The Carving of East Jerusalem into Segregated Bantustans: The Case of Sur Bahir," 16 July 2019, 4, available at: https://www.nad.ps/sites/default/files/07162019_1.pdf.

⁹ Field Report on Wadi Al-Hummus, Al-Haq, 15 July 2019.

¹⁰ Field Report on Wadi Al-Hummus, Al-Haq, 15 July 2019.

¹¹ Palestine Liberation Organization (PLO), "The Carving of East Jerusalem into Segregated Bantustans: The Case of Sur Bahir," 16 July 2019, 5, available at: https://www.nad.ps/sites/default/files/07162019_1.pdf.



forces issued a “Notice of Intent to Demolish”, set to expire on 18 July 2019, to residents from Sur Bahir for the demolition of ten buildings located “in close proximity” to the Annexation Wall.¹² In the meantime, on 21 July 2019, the Israeli High Court of Justice rejected an appeal from the residents of Sur Bahir, requesting an injunction to delay the execution of the judgment, and as a result, the Israeli occupying forces began executing the mass demolitions the next day, in the early hours of Monday, 22 July 2019.

The judgment by the Israeli High Court of Justice in the case of Sur Bahir sets an alarming precedent, as for the first time, it authorises the Israeli military commander to demolish Palestinian structures in Area A of the West Bank, which under the Oslo Accords falls under full Palestinian control.¹³ The Oslo Accords grant the Palestinian Authority alone the competence to issue building permits in Areas A and B of the occupied West Bank, the latter encompassing Palestinian civil and Israeli military control. The Palestinian town of Sur Bahir, in which the neighbourhood of Wadi Al-Hummus is located, includes lands falling within both Areas A and B of the West Bank.¹⁴ Notably, all demolitions carried out by the Israeli occupying forces, which are not absolutely necessary for the conduct of military operations violate international humanitarian law provisions protecting the property of the occupied and protected Palestinian population.¹⁵

Overall, Israel’s High Court of Justice has demonstrated in the case of Sur Bahir that it is neither willing nor able to prevent the commission of suspected war crimes and crimes against humanity in the OPT, including the extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly¹⁶ as well as the forcible transfer¹⁷ of protected persons carried out by the Israeli occupying forces, while it in fact rules in favour of and authorises their commission. Just last year, on 5 September 2018, the Israeli High Court of Justice ruled in favour of the demolition of Khan Al-Ahmar, a Palestinian Bedouin community in the eastern Jerusalem periphery, including 180 Palestinian residents. At the time, Al-Haq condemned the

¹² OCHA, Humanitarian Bulletin, occupied Palestinian territory, June 2019, available at: https://www.ochaopt.org/sites/default/files/hummonitor_june_2019.pdf.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Article 53, Fourth Geneva Convention.

¹⁶ Article 8(2)(a)(iv), Rome Statute of the International Criminal Court.

¹⁷ Articles 7(1)(d) and 8(2)(a)(vii), Rome Statute of the International Criminal Court.



decision taken by Israel's High Court of Justice and Israeli plans for the mass destruction, forcible transfer, and forced eviction of Palestinians in Khan Al-Ahmar, stating that "[t]he decision unequivocally ignores Israel's obligations as an Occupying Power and highlights the detrimental role played by the Israeli justice mechanisms in whitewashing illegal Israeli actions."¹⁸ In a statement dated 17 October 2018, the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, further expressed concern as to "the planned eviction of the Bedouin community of Khan al-Ahmar" and recalled, "as a general matter, that extensive destruction of property without military necessity and population transfers in an occupied territory constitute war crimes under the Rome Statute."¹⁹

3. Ongoing and Imminent Demolitions in Wadi Al-Hummus

On 11 June 2019, the Israeli High Court of Justice dismissed the petition submitted to it by the residents of Sur Bahir and, on 18 June 2019, the Israeli occupying forces issued a "Notice of Intent to Demolish" to residents for ten buildings in Sur Bahir that would expire on 18 July 2019. Under this notice, residents of these buildings were required to demolish their own homes by 18 July 2019 or have the Israeli military demolish their homes and be forced to pay for the costs of the demolition. These ten buildings include approximately 70 apartments, both inhabited and under-construction. Of these buildings, six have been ordered completely demolished, and the remaining four are slated for partial demolition.

At least 11 other cases regarding properties in Areas A, B, and C of Sur Bahir are currently pending in Israeli courts. These cases involve over 100 apartments, the demolition of which is either ongoing or imminent.²⁰ Although the Oslo Accords conferred the Palestinian Authority with jurisdiction to grant building permits for Areas A and B,²¹ the Israeli occupying authorities argue that the demolitions are being carried out for "security" reasons.²² Critically the

¹⁸ Al-Haq, "Alert on Imminent Destruction of Khan Al Ahmar" (10 September 2018), available at: <http://www.alhaq.org/advocacy/topics/population-transfer-and-residency-right/1298--qq->.

¹⁹ Office of the Prosecutor of the International Criminal Court, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the Situation in Palestine" (17 October 2018), available at: <https://www.icc-cpi.int/Pages/item.aspx?name=181017-otp-stat-palestine>.

²⁰ Palestine Liberation Organization (PLO), "The Carving of East Jerusalem into Segregated Bantustans: The Case of Sur Bahir," 16 July 2019, 5, available at: https://www.nad.ps/sites/default/files/07162019_1.pdf.

²¹ OCHA, Humanitarian Bulletin, occupied Palestinian territory, June 2019, available at: https://www.ochaopt.org/sites/default/files/hummonitor_june_2019.pdf.

²² *Ibid.*



International Court of Justice's 2004 Advisory Opinion established that the parts of the Annexation Wall running inside the West Bank, including East Jerusalem, violate international law.²³ As such, the demolitions of homes of the protected Palestinian population,²⁴ for reasons related to the continued construction of the Annexation Wall, are unlawful, cannot be justified under so-called "security" pretexts, and amount to unlawful appropriation of land, destruction of property,²⁵ and forcible transfer,²⁶ which constitute grave breaches of the Fourth Geneva Convention, and war crimes and crimes against humanity under the Rome Statute of the International Criminal Court,²⁷ giving rise to individual criminal responsibility.

In light of the above, Al-Haq expresses its gravest concern regarding the ongoing and imminent mass demolitions of 70 residential apartments in Sur Bahir's Wadi Al-Hummus neighbourhood, placing the residents of Sur Bahir at risk of forcible transfer and forced displacement. Al-Haq notes that the demolitions have been ongoing since the early hours of Monday, 22 July 2019, and that a number of Palestinian families have already been rendered homeless as a result. Al-Haq stresses that Palestinians displaced as a result of the demolitions must be granted effective remedies, including adequate housing and restitution for lost or damaged property. Further, the unprecedented, demolition of homes in Areas A and B of Sur Bahir sets a dangerous precedent for future demolitions and displacement of Palestinians living in areas in proximity of the Annexation Wall.²⁸

Al-Haq recalls that the Annexation Wall has been built in violation of international law,²⁹ and constitutes mass violations of human rights, including the right to freedom of movement³⁰ and

²³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136.

²⁴ Article 4, Fourth Geneva Convention.

²⁵ Article 46 of the Hague Regulations; Article 8(2)(a)(iv) of the Rome Statute of the International Criminal Court.

²⁶ Article 49, Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949; Articles 7(1)(d) and 8(2)(a)(vii), Rome Statute of the International Criminal Court.

²⁷ Article 8(2)(a)(vii) of the Rome Statute of the International Criminal Court.

²⁸ Yumna Patel, "Israeli plan to raze East Jerusalem homes may be first step towards mass demolitions across the West Bank" (Mondoweiss, 17 July 2019), available at: <https://mondoweiss.net/2019/07/planning-demolishing-jerusalem/>.

²⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136.

³⁰ Article 12, International Covenant on Civil and Political Rights (ICCPR).



the right to freedom from arbitrary and unlawful interference with one's privacy, family or home,³¹ while the construction of the Annexation Wall for Israel's territorial expansion, *de facto* annexation, and colonisation of the Palestinian territory violates the Palestinian people's inalienable right to self-determination and permanent sovereignty over land and natural resources, as recognised by the International Court of Justice in 2004.³²

4. Conclusions and Recommendations

Accordingly, and given the ongoing and imminent nature of Israel's mass demolitions of Palestinian homes in Sur Bahir's Wadi Al-Hummus neighbourhood, Al-Haq submits this urgent appeal for the immediate intervention of the relevant UN Special Procedures mandates and calls on them to:

- i. Issue a public call on Israel, the Occupying Power, to halt the ongoing and imminent mass demolitions in Wadi Al-Hummus, refrain from forcibly displacing the residents of the area, and comply with its obligations under international human rights law and international humanitarian law with regards to the rights of protected Palestinians in the OPT at large, and in Sur Bahir in particular;
- ii. Highlight the urgent need for accountability for widespread and systematic human rights violations committed against Palestinians, including for suspected war crimes and crimes against humanity, by calling on the International Criminal Court to immediately open an investigation into the situation in Palestine without any further delay;
- iii. Call on third States to cooperate to bring to an end grave breaches of international law committed in the OPT, including as a result of the ongoing construction and expansion of the Annexation Wall and illegal Israeli settlements, in line with their obligations under Common Article 1 to the Fourth Geneva Convention, and urge them to carry out their duty to exercise criminal jurisdiction and activate universal jurisdiction mechanisms, in line with their obligations under Article 146 of the Fourth

³¹ Article 17(1), ICCPR.

³² Article 1 of the ICCPR and of the International Covenant on Economic, Social and Cultural Rights (ICESCR); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, para. 122.



Geneva Convention to investigate and prosecute grave breaches committed in the OPT and to bring alleged perpetrators before their own courts; and

- iv. Examine and condemn the involvement of corporations, such as Caterpillar and LiuGong documented in the pictures below (*see Annex I*), in Israel's policy of house and property demolitions across the OPT, including those being carried out in Wadi Al-Hummus since the early hours of 22 July 2019, and remind corporations of their responsibilities under international law, namely under the UN Guiding Principles on Business and Human Rights, to carry out enhanced due diligence when operating in the OPT and/or when providing services, products, and machinery to Israel, the Occupying Power, to ensure that they are not involved or complicit in grave breaches of international law committed in the OPT.

5. Annex

Annex I: Images of the Demolitions in Sur Bahir on 22 July 2019 – Source: Al-Haq (c) 2019



Image 1: Israeli Military Jeeps at Sur Bahir, 22 July 2019, Al-Haq (c) 2019



***Image 2: Coach Loads of Israeli Soldiers Arrive at Sur Bahir to Carry out Mass Demolitions
on 22 July 2019, Al-Haq (c) 2019***



Image 3: Demolition Equipment used by the Israeli Occupying Forces at Sur Bahir on 22 July 2019, Al-Haq (c) 2019



Image 4: Caterpillar Demolition Equipment Employed by the Israeli Occupying Forces at Sur Bahir on 22 July 2019, Al-Haq (c) 2019



Image 5: Caterpillar Demolition Equipment Employed by the Israeli Occupying Forces at Sur Bahir on 22 July 2019, Al-Haq (c) 2019



Image 6: Israeli Military Jeeps at Sur Bahir, 22 July 2019, Al-Haq (c) 2019

Annex II: Israeli High Court of Justice Decision in the Case of Sur Bahir, dated 11 June 2019



בבית המשפט העליון בשבתו כבית משפט גבוה לצדק

בג"ץ 3246/17

בג"ץ 676/17

לפני: כבוד השופט ע' פוגלמן
כבוד השופט י' עמית
כבוד השופט מ' מזוז

העותרים בבג"ץ 3246/17: 1. מוחמד אבו טיר
2. אחמד אבו הדואן
3. עלא עמירה
4. געפר אבו חאמד
5. מחמד אטרש
6. עלי חמאדה
7. אשרף חמוד
8. ראפת שקיר
9. מחמד דבש

העותרים בבג"ץ 676/17: 1. טארק מוחמד ווחש
2. אסמעיל עבידיה
3. מוחמד אבו טיר
ג ד

המשיבים: 1. מפקד כוחות צה"ל
2. יחידת הפיקוח המרכזית של המנהל האזרחי

בקשה לעיכוב ביצוע זמני של פסק דין

בשם העותרים: עו"ד הייטם חטיב
בשם המשיב: עו"ד יונתן ברמן

החלטה

דין הבקשה להידחות.

פסק דינו של בית משפט זה בעתירות אלה ניתן ביום 11.6.2019, ובקשה לדיון
נוסף בפסק הדין שהגישו העותרים, נדחתה (דנג"ץ 4347/19 ווחש נ' מפקד כוחות צה"ל
(27.6.2019)). בכך הפך פסק הדין לסופי וחלוט, ובית המשפט סיים את מלאכתו.

בקשה זו לעיכוב ביצוע מבוססת על הנטען בעתירה חדשה שהוגשה בסוגיה
מושא העתירות דנן (בג"ץ 4800/19), אלא שבעתירה זו נדחתה ביום 15.7.2019 בקשת
העותרים לצו-ביניים להימנע מהריסת המבנים.

אשר על כן הבקשה נדחת כאמור.

ניתנה היום, י"ח בתמוז התשע"ט (21.7.2019).

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