



Rt Hon Dr Andrew Murrison MP
Minister of State for the Foreign and Commonwealth Office
Foreign and Commonwealth Office
London SW1A 2AH

URGENT

22 July 2019

Dear Minister Murrison,

Re: Israel's demolition of homes and apartments in the Palestinian community of Sur Bahir that appear to violate international humanitarian, human rights and criminal law

We write to express serious concern about the commencement this morning by Israeli authorities of the demolition of 10 buildings, including 70 apartments, in the Palestinian community of Sur Bahir. The demolition will forcibly displace seventeen Palestinians, including an elderly couple and five children, and over 350 others will encounter massive property loss.

Despite Israel's High Court having given green light to the demolitions in Sur Bahir, purportedly for security reasons because of the buildings' proximity to the illegal separation barrier, we take the view that the demolitions are likely to constitute a violation of international humanitarian law for the reasons set out further below. We note here that in its 2004 Advisory Opinion, the International Court of Justice ruled that the sections of the separation barrier that run inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violate obligations owed by Israel under international law.

We respectfully urge the UK government to intervene in this urgent matter, which sets an alarming precedent for all homes belonging to Palestinian residents that are located in the vicinity of the illegal separation barrier.

Demolitions in Sur Bahir are due to homes' proximity to the illegal separation barrier

Sur Bahir is a Palestinian neighbourhood located in the south east of Jerusalem. Most of Sur Bahir is located within the illegally annexed East Jerusalem municipal area, but the structures demolished this morning in the Wadi al Hummus neighbourhood of Sur Bahir are on land located in the West Bank that falls under the auspices of the Palestinian Authority. The homeowners received building permits from the Palestinian city of Bethlehem, which has municipal jurisdiction over that section of Wadi al Hummus. Several of those affected reportedly invested their life savings into the buildings after securing these permits.

The illegal separation barrier has been routed around Sur Bahir so that parts of Areas A, B and C of the occupied West Bank fall on the 'Jerusalem' side. Despite this, these areas have not been incorporated within the municipal boundary, although they are now physically separated from the remainder of the West Bank. In practice, the Palestinian Authority (PA) is unable to access or deliver services to Area A and B in Sur Bahir, although they still issue building permits in these areas, as they have been authorised to do under the Oslo Accords.



Over the past 14 years, the Israel authorities have issued demolition orders for dozens of structures in Sur Bahir, mainly on the grounds of lacking building permits in Area C. However, these have also included structures in Area A and B that were granted the requisite construction permits by the Palestinian Authority.

The UN Office for the Coordination of Humanitarian Affairs reports that the difficulty of constructing homes for Palestinian residents in Sur Bahir has been compounded since a military order issued in 2011 by Israeli occupying authorities. This order designates a buffer zone of 100-300 metres on both sides of the illegal separation barrier in Sur Bahir where construction is prohibited on security grounds, including Area A and B, even if the requisite permits have been issued by the Palestinian Authority. The buffer zone in Sur Bahir includes more than 200 buildings, of which about 100 were built after the 2011 military order.

On 11 June 2019, the Israeli High Court dismissed a petition that had been filed by residents of Sur Bahir in 2017. The appellants had requested that the military order prohibiting construction in the buffer zone be annulled, and/or that the demolition of their structures not be implemented. The request was made on three grounds: that the Israeli military does not have the authority to demolish buildings that received building permits from the Palestinian Authority; that the order was not publicised; and that the residents built their homes without knowing that the Israeli military authorities had prohibited it.

A week later on 18 June 2019, Israeli forces sent residents a “Notice of Intent to Demolish” with a 30-day notice to expire on 18 July. This is believed to be the first time that home demolitions have been carried out based on the 2011 military order on security grounds.

The High Court ruling immediately affects the ten inhabited or under-construction buildings that are being demolished this morning, comprising some 70 apartments, all but one of which are located on the ‘Jerusalem’ side of the Barrier. They will displace three households, comprising 17 people, including nine children, and would otherwise affect an estimated 350 people. Two of the three households at risk of displacement, comprising nine people, are Palestinian refugees. In addition, Palestinian residents fear that the High Court ruling provides a heightened risk of demolition of some 100 buildings that were built after the 2011 military order in the buffer zone in Sur Bahir.

LPHR has not had sight of the full judgment and is therefore unable to determine the extent to which, if at all, the Israeli High Court engaged with the issue of international humanitarian law provisions that could prevent the demolitions of the homes and apartments in Sur Bahir, and the forcible transfer of its residents'. We do, however, note the reporting by Haaretz that states:

'The justices said they accept the defense officials' position that extensive construction alongside the fence "Substantially impacts the barrier's security effectiveness, while endangering the lives of civilians and members of the security forces, and that there is a military-security need to restrict construction next to the fence in order to prevent this risk.'

Based on this rationale, we share the serious concern of the lawyer for the Sur Bahir residents who told Haaretz that the High Court ruling *'opens the door to mass demolitions of buildings*



near the separation barrier throughout the West Bank'. We note this concern is also shared by senior UN officials who stated this afternoon that, 'What happened today in Sur Bahir is of even greater significance, as many other homes and structures now risk the same fate'.

Demolitions of property by an occupying power are prohibited by international humanitarian law except where absolutely necessary for military operations. As noted above, the purported justification for the demolitions is the buildings' proximity to the illegal separation barrier. In this regard it is notable that the High Court rejected an expert opinion that said any such security problems could be resolved by raising the height of the barrier and adding surveillance cameras. This strongly calls into question whether the demolitions could amount to an absolutely necessary military measure. Furthermore, as the separation barrier is in and of itself unlawful, the proximity of structures to it cannot be used as a lawful or legitimate basis for their demolition.

As such, the demolitions appear to constitute a violation of international humanitarian law. Further, the demolition of property and transfer of the population are likely to give rise to breaches of international human rights and criminal law. Article 147 of the Fourth Geneva Convention makes the extensive destruction of property not justified by military necessity, and the unlawful transfer of protected persons, a grave breach of international humanitarian law. They accordingly are war crimes entailing individual criminal responsibility for all persons involved with its implementation, including government officials.

In light of the grave situation described, we respectfully ask the UK government to:

1. Urgently call on Israel to immediately halt the current demolitions and cancel all demolition orders in Sur Bahir.
2. Urge Israel to end its discriminatory and unlawful planning policies and laws, and to annul the military order issued in 2011.
3. Monitor whether any UK companies are involved in the demolitions in Sur Bahir and be prepared to engage immediately with any UK company that may be involved.
4. Instigate and provide support for the establishment of expert observation and investigation teams to document apparent international humanitarian law, human rights law and criminal law offences linked to demolitions.
5. Express in communications with Israel the UK Government's expectation that any individual responsible for the commission of the war crime of destruction of property and forcible transfer will be held legally accountable.
6. Urge Israel to dismantle parts of the separation barrier that is built with occupied Palestinian territory and to fully comply with its legal obligations set out in the advisory opinion of the International Court of Justice.

We would be grateful for your careful consideration of this urgent request and for your reply.

Yours sincerely,

Tareq Shrourou (Director) and Natalie Sedacca
Lawyers for Palestinian Human Rights