

THREAT OF DEMOLITIONS IN EAST JERUSALEM

Houses to be demolished in Sur Bahir because of proximity to the Barrier

Sur Bahir (pop. 24,000) is a Palestinian neighbourhood in the south east of Jerusalem. Most of Sur Bahir is located within the unilaterally-annexed East Jerusalem municipal area, but the community reports that they own some 4,000 dunums of land in Area A and B and C, as designated under the Oslo Accords. Uniquely, the Barrier has been routed around Sur Bahir so that parts of Area A, B and C fall on the 'Jerusalem' side. The residents' local committee estimates that some 6,000 people, or a quarter of the population, currently live in these Oslo-defined areas. 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 authorized to do under the Oslo Accords.¹

There has been significant construction in Area A, B and C in Sur Bahir since the construction of the Barrier in 2005. This is as a result of population growth, planning and zoning restrictions applied in the municipal area of Sur

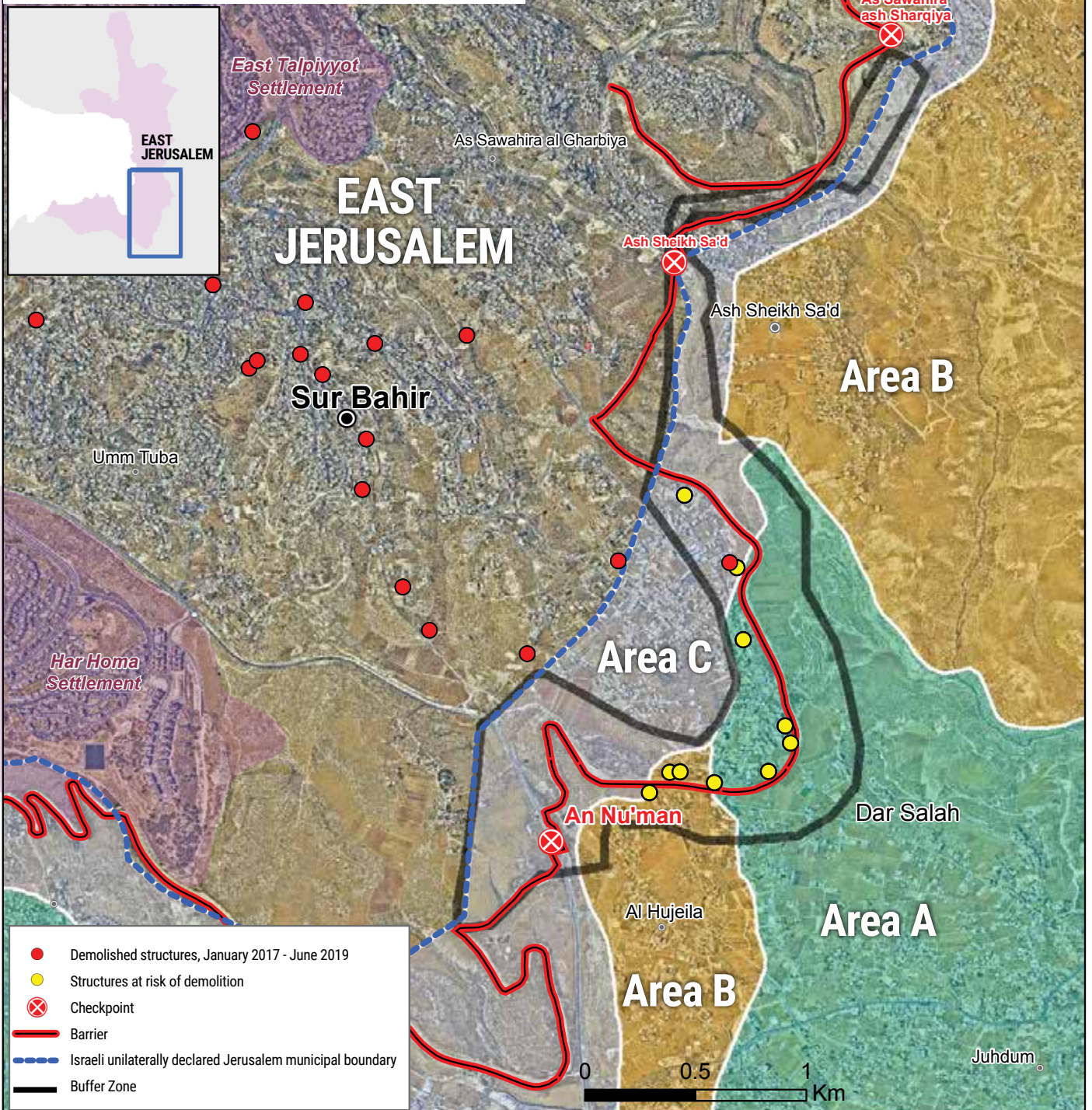
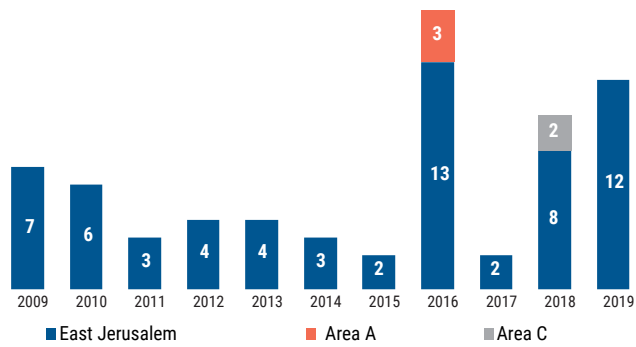
Bahir,² and the difficulties which Palestinian residents of East Jerusalem experience in obtaining building permits from the Jerusalem municipality.³ Over the past 14 years, dozens of these structures have been issued with demolition orders by the Israeli authorities, mainly on the grounds of lacking 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.

Since 2009, the Israeli authorities have demolished, or forced owners to demolish, 69 structures in Sur Bahir, on the grounds of lack of building permits, of which 46 were inhabited or under-construction homes. This has resulted in the displacement of 30 households; in total, some 400 people have been displaced or otherwise affected by demolitions, half of whom were children under 18 years of age. The structures were generally located within the Israeli-defined East Jerusalem boundary, with the exception of three structures in Area A and two in Area C. Twenty of the total structures (all in East Jerusalem) have been demolished by their owners following the receipt of demolition orders.⁴



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STRUCTURES DEMOLISHED IN SUR BAHIR FOR LACKING BUILDING PERMITS, 2009 - JUNE 2019



The difficulty of constructing homes for Palestinian residents has been compounded since 2011 by the issuing of a military order by the Israeli authorities which designates a buffer zone of 100-300 metres on both sides of the Barrier in Sur Bahir where construction is prohibited. This includes Area A and B, even if the requisite permits have been issued by the PA. The reason given was security: the Barrier in the Sur Bahir area consists of fences, an electronic monitoring system, and a patrol road, rather than the 8-metre-high concrete slab wall which characterizes the Barrier around most of East Jerusalem. The buffer zone includes more than 200 buildings, of which about 100 were built after the 2011 military order, according to local sources. In its 2004 Advisory Opinion, the International Court of Justice established that the sections of the Barrier which run inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violate Israel's obligations under international law. (See box: *15 years since the International Court of Justice Advisory Opinion*).⁵

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.⁶ A week later on 18 June, Israeli forces sent residents a "Notice of Intent to Demolish" with a 30-day notice, which will expire on 18 July. Although structures have been demolished in the vicinity of the Barrier in East Jerusalem for lack of building permits, this is believed to be the first time that home demolitions will be carried out based on the 2011 military order on security grounds.

The ruling affects ten inhabited or under-construction buildings, comprising some 70 apartments, all but one of which are located on the 'Jerusalem' side of the Barrier. If executed, the demolitions would displace three households, comprising 17 people, including nine children, and would otherwise affect an estimated 350 people.⁷ Two of the three households at risk of displacement, comprising nine people, are Palestine refugees. Residents have reported that Israeli forces have visited the area on at least four occasions since the ruling, signalling that demolition of one or more of the targeted buildings is imminent. Additionally, residents fear a heightened risk of demolition of some 100 buildings that were built after the 2011 military order in the buffer zone in Sur Bahir.

PERSONAL STORY: "IT SEEMS NO ONE IS LISTENING TO US."

Ismail Obeidi, a 42 year-old-father of six, owns one of the homes in Sur Bahir that is targeted for demolition by 18 July, (*structure 3 on map*).

"I got married in 1998 and lived in the Jabal Al Mukabbir neighbourhood of East Jerusalem until 2016. We lived on the third floor of my parents' house, but we never had a building permit. We were served with a demolition order, for which I've paid an estimated NIS 120,000 in fines.

Because of the fines and my growing family, I bought this piece of land here in 2014. I thought it would be easier to get a building permit in Area B and, indeed, I got a permit from the Palestinian Ministry of Local Government in February 2015.

I thought I was doing everything according to the law. I invested a lot of money in building and furnishing our house. Shortly after moving here in 2016, we received a demolition order from the army, ordering us to demolish the house for security reasons, since it's located close to the Wall. I hired a private lawyer and paid huge sums of money to challenge the order in court. We hired experts to propose alternative solutions that would prevent us from having our house demolished, including building a concrete wall to replace the current fence, which I offered to pay for myself. But we've exhausted all options and last month the High Court issued its final decision to demolish our house.

We've knocked on all doors, tried everything, in order to prevent the demolition. It seems no one is listening to us. They say, they want to demolish our house, for security reasons, but there are houses closer than ours which don't have demolition orders. The Wall here is poorly built, and can be crossed with ease.

I'm still in debt for about NIS 400,000 for the house and I owe the lawyer money too. Today is the fourth time the authorities visit our house in the past ten days. They are in a hurry and they intend to demolish. This is a tragic situation."



Hiba, daughter of Ismail

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PERSONAL STORY: "WE'VE GROWN OLD AND WANT TO LIVE IN PEACE AND QUIET."

Ghaleb Abu Hadwan, a 63-year-old Jerusalem resident moved from Shu'fat refugee camp to build a house in Area A of Sur Bahir. His house is now at risk of demolition, (structure 1 on map).

"I built my house here in Sur Bahir in 2016. Our family has grown and we needed more space. I wanted to build a house for me and my three married sons, since our apartments in Shu'fat refugee camp are only 40m² each.

In 2017, one of the neighbours told me that Israeli forces hung a notice near my house. I couldn't find it, but I contacted St. Yves Society to have a lawyer follow up. When our case reached the High Court in mid-2017, we were instructed not to make any changes to the building until there is a ruling. We complied. We wanted to build four apartments but had only completed two by that time. I didn't even add a main gate, hoping that we would get a ruling in the end against demolition.

But the court ruled in favour of demolition. Our life is difficult and we are tired. I sometimes think that if we went to the Moon, we'd be told that construction is forbidden there. We're grown old and want to live in peace and quiet. We've been going from one wave of displacement to another. We are refugees. My father and uncles grew up in Jaffa. I was born in the Old City of Jerusalem in 1956 and then we moved to Shu'fat refugee camp in 1966. If they demolish our home, we will have no choice but to go back to the camp. Rent is very high in East Jerusalem and we can't afford it. I really hope our home won't be demolished and call on everyone who can do so to help us."



PERSONAL STORY: "THERE ARE NO LANDS LEFT IN JERUSALEM FOR US TO BUILD OR LIVE ON."

Mohammed Abu Teir owns an under-construction building with 40 apartments that is now at risk of demolition in Area B of Sur Bahir, (structure 2 on map).

"I'm from Um Tuba in East Jerusalem. I first bought land in Sur Bahir in 2009. In 2010, I received a demolition order from the Israeli Civil Administration against a multi-storey building I'd built in Area A, so I hired a lawyer. We were first told that I'm not allowed as an Israeli citizen to be present in Area A. After we explained my status as a permanent resident of East Jerusalem, we were given a paper from Beit El which stated that they do not have jurisdiction over the area. So, I continued building. It now contains 36 inhabited apartments and is not threatened with demolition.



In 2011, as we were working on a nearby plot in Area B of Sur Bahir, we were told that the area has been declared a security buffer zone through a military order that expired on 31 December 2014. I stopped construction for three years. We never received a renewal of the order. So in 2015, I began construction but received a demolition order from the Israeli military commander. I hired a private lawyer. When the High Court ordered us to stop all work until there is a final ruling, I complied. That was two years ago. Now we have a final ruling for demolition. It's shocking.

With other residents, I paid money to get an opinion from a former military officer who provides expert advice on security matters. We each paid him 15,000 NIS. We presented these findings to the court, including proposals to place cameras and build a metal fence like they have in Sinai. These proposals were all rejected and we don't know why, as there are solutions to security concerns. We feel a huge sense of indignation. Land from Sur Bahir and Um Tuba was confiscated so that Har Homa settlement could be built. There are no lands left in Jerusalem for us to build or live on. We're convinced that the sole aim of all these policies is to displace us and make us leave this country."

15 YEARS SINCE THE INTERNATIONAL COURT OF JUSTICE ADVISORY OPINION⁸

On 9 July 2004, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, issued an Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The ICJ recognized that Israel faced 'numerous indiscriminate and deadly acts of violence against its civilian population [however], the measures taken are bound nonetheless to remain in conformity with applicable international law.'

The ICJ stated that the part of the Barrier which runs inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, cannot be justified by military exigencies and thus violates Israel's obligations under international law.

The ICJ called on Israel to: cease construction of the Barrier 'including in and around East Jerusalem'; dismantle the sections already completed; 'make reparations' for the 'requisition and destruction of homes, businesses and agricultural holdings' and 'to return the land, orchards, olive groves, and other immovable property seized.'

The ICJ also called on member states "not to recognize the illegal situation resulting from the construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem."

UN General Assembly Resolution ES-10/15, of 20 July 2004, demanded that Israel comply with its legal obligations as stated in the ICJ advisory opinion.

Endnotes

1. Residents who build in Area A and B must obtain construction permits from the PA through Dar Salah Village Council, which is located in Bethlehem governorate on the West Bank side of the Barrier.
2. The area designated for Palestinian construction in Sur Bahir, like the rest of East Jerusalem, is very limited, particularly after East Talpiot and Har Homa settlements were built on Sur Bahir lands and wide areas were designated as “green”, where no construction is allowed. In addition, the construction density allowed in the municipal areas of Sur Bahir that are designated for construction is low and generally less than half of the building percentage permitted in Har Homa settlement that was built on Sur Bahir lands. See: UN-HABITAT, 2015. *Right to Develop*, <https://unhabitat.org/books/right-to-develop-planning-palestinian-communities-in-east-jerusalem/>, pp.12-13; and IPCC, 2007, *Jerusalem on the Map*, http://www.ipcc-jerusalem.org/attachment/14/IPCC_JOM%20III.pdf, pp. 38 and 40.
3. According to residents of Sur Bahir, an apartment in Areas A or B costs between \$70,000-100,000 compared to \$300,000 – 350,000 for an equivalent unit in the municipal area of Sur Bahir.
4. On the phenomenon of ‘self demolitions’ see, OCHA, Humanitarian Bulletin, April 2019, *Record number of demolitions, including self-demolitions, in East Jerusalem in April 2019*. <https://www.ochaopt.org/content/record-number-demolitions-including-self-demolitions-east-jerusalem-april-2019>
5. Overall, there are about 2,500 dunums of Sur Bahir lands located in Area A and B on the ‘West Bank’ side of the Barrier, which contain numerous olive groves. However, farmers are prevented from accessing this land, due to the lack of agricultural gates. They are also prohibited from bringing harvested crops into Jerusalem via barrier checkpoints, except for small amounts permitted for household consumption. One family living on the ‘West Bank’ side of the Barrier has been provided with a gate and key to travel between their house and the part of Sur Bahir on the ‘Jerusalem’ side. The Barrier also impedes garbage collection and sewage systems, leading to reported sewage overflows.
6. The court stated: “Continued construction without a permit in close proximity to the security barrier limits the operational freedom of movement near the fence and increases friction with the local population. Such construction may also serve as a hiding place for terrorists or persons residing illegally within a non-involved civilian population, and enable terrorists to smuggle weapons or even enter into Israel from that area.” Nir Hasson, *High Court Allows Demolition of 13 East Jerusalem Buildings Under Palestinian Control*, Ha’aretz, 17 June 2019.
7. The original demolition orders concerned a total of 15 buildings but the ruling cancelled the orders affecting two of the buildings. The remaining 13 orders included three foundations, whose owners intended to carry out construction, and ten buildings. According to the ruling, of the ten buildings to be demolished, six will be completely and four partially demolished.
8. ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004*, para. 141. The full text of the ICJ opinion can be found at: <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>