

Mandates of the 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; and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as 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; and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 34/9 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the plan to construct 6,800 settler housing units in Area C of the West Bank.

According to the information received:

The Government of Israel is planning to construct 6,800 settlement housing units in Area C of the West Bank, to be brought before the Israeli Military Commander High Planning Council for approval. The Council meeting is scheduled for 7 August 2019 to accommodate the Cabinet decision implementation. Around 3,700 settlement housing units have already been approved this year, therefore the addition of this 6,800 will bring approvals of new units in 2019 to 10,500.

The plan also includes the approval of 715 Palestinian housing units. These appear to be meant exclusively for Palestinians that resided in Area C before 1994 and currently lack a permit, with the reported aim of ensuring that only the original residents of the area would get approval for construction, and not those who came later from Areas A and B. Statements made by Israeli Government ministers indicate that in granting these permits, Israel will aim to ensure that those Palestinians who resided in Area C prior to 1994, will not be able to create territorial continuity essential to a Palestinian state, and will in no way harm the settlements' enterprise and security. No other permits are currently planned for Palestinians in Area C and the rate of approval for building permits for Palestinians has been extremely rare since 2014. Between 2009 and 2016, Israel issued only 66 building permits to Palestinians living in Area C, while it demolished at least 400 Palestinian structures in Area C, over the last two years alone.

As part of the Cabinet decision, the Israel Civil Administration is expected to begin the process of mapping homes and livelihood-related structures, agricultural land and conduct a population census in Area C. The intention is ultimately to formulate an updated spatial plan (to update and revise the S-15 Master Plan of 1946 and the RJ-5 of 1942). The planning process appears to be a step forward in applying Israeli sovereignty to parts of the West Bank.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern with Israel's intensification of settlement activities in the occupied West Bank as a further step towards applying Israeli sovereignty to parts of the West Bank. We further express concern over plans to issue building permits to Palestinians in a manner that may be discriminatory, and not in line with Israel's obligations as an occupying Power.

In view of the urgency of the matter, we call upon your Excellency's Government to uphold international law and ensure that it acts in accordance with international resolutions in relation to the settlements.

We would like to remind your Excellency's government of its obligations under International Humanitarian Law, and note that the actions described appear to be in contravention of those obligations. The annexation of territory is strictly prohibited in modern international law. The illegality of settlements under international law has been reiterated in several Security Council resolutions, including, most recently, resolution 2334 (2016). The transfer of parts of an occupying Power's own civilian population into a territory it occupies is a direct and serious violation of the Fourth Geneva Convention and is considered a war crime. In addition, settlement expansion is connected to a number of other violations of international humanitarian law and has severe repercussions on human rights. Furthermore, it is the responsibility of the occupying Power to act in the best interest of the protected population, which would include access to housing.

The discriminatory approval of housing units, favouring Israelis and generally excluding Palestinians, would constitute violation of articles 2.2 and 11 of the International Covenant on Economic, Social and Cultural Rights, ratified by Israel on 3 October 1991.

In relation to the status of housing units currently lacking a permit, we would like to remind your Excellency's government that the Committee on Economic, Social and Cultural Rights, commenting on the right to adequate housing in its General Comment No. 4, urged States to take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in active and meaningful consultation with affected persons and groups (para. 8 (a)). All planning and zoning decisions must include housing for those already living in the area, in a way that

fully meets their needs, in terms of affordability, design and adequacy (A/73/310/Rev.1, par. 41).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on the decision to approve 6,800 settlement housing units in Area C of the West Bank. Will these be awarded for new construction or to regularize existing structures that currently lack permits? What is the location of these housing units?
3. Please provide detailed information on the decision to approve 715 housing units for Palestinians in Area C of the West Bank. Will these be awarded for new construction or to regularize existing structures that currently lack permits?
4. What criteria will be used by the Government in relation to the 715 Palestinian housing units? Will these be exclusively reserved for Palestinians that resided in Area C before 1994 and currently lack a permit?
5. Please provide detailed information on any consultations held with Palestinians in regard to the planning process in the West Bank. Is there any legal recourse available for Palestinians to challenge decisions related to the planning process?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release

will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Leilani Farha

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

Michael Lynk

Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967