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**At the Supreme Court in Jerusalem
Sitting as the High Court of Justice**

HCJFH 360/15

- 1. HaMoked - Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger - RA 580163517**
- 2. Bimkom – Planners for Planning Rights – RA
580342087**
- 3. B'Tselem – The Israeli Information Center for Human
Rights – RA 580146256**
- 4. The Public Committee Against Torture in Israel – RA
580168854**
- 5. Yesh Din – Volunteers for Human Rights – RA
580442622**
- 6. Adalah – The legal Center for Arab Minority Rights in
Israel – RA 580312247**
- 7. Physicians for Human Rights – RA 580142214**
- 8. Rabbis for Human Rights – RA 580151967**

represented by counsel, Adv. Michael Sfard and/or Shlomi Zachary and/or Emily Schaefer and/or Anu Deuel-Luski and/or Noa Amrami and/or Roni Peli, all of 45 Yehuda HaLevi St., Tel Aviv 65157 Tel: 03-6206947; Fax: 03-6206950

The Applicants

v.

- 1. Minister of Defense**
- 2. IDF Commander in the West Bank**

represented by counsels from the State Attorneys' Office
Ministry of Justice, Salah a-Din Street, Jerusalem

The Respondents

Applicants' Request to Submit Document

The honorable court is hereby requested to permit the applicants to submit a document which came to their possession only a few days ago, which to the best of their knowledge has never been published before, and which has a bearing on the evaluation of the issue being the subject matter of the application and justifies a further hearing by an expanded panel of the Justices of this honorable court.

The document at hand is an opinion of the legal advisor to the Ministry of Foreign Affairs (as then titled), Professor Theodor Meron, which was submitted to Dr. I. Herzog, General Manager of the Prime Minister's Office, on March 13, 1968, and which pertains, *inter alia*, to the lawfulness of the use of Regulation 119 of the Defense Regulations for the purpose of demolishing the homes of individuals suspected of hostile terror activity.

The Grounds for the Request are as follows:

1. This Request for a Further Hearing relates to one of the oldest and most controversial practices of the security forces in the West Bank – the demolition of the homes of individuals suspected of terror according to Regulation 119 of the Defense (Emergency) Regulations, 1945.
2. According to the Request, the issue at hand is very difficult, important and controversial, as required by law.
3. In the last few days the applicants located a copy of a document the existence of which, to the best of their knowledge, has never been published before. The document at hand is the opinion of the legal advisor to the Ministry of Foreign Affairs of 1968 on the issue being the subject matter of the issue at hand. The document was found in a file of the state archives No. 7454/8-A.
4. As stated in the beginning of this Request, the opinion examines the question of the lawfulness of the use of Regulation 119 of the Defense (Emergency) Regulations 1945, by way of confiscating and demolishing the homes of individuals suspected, accused or convicted of involvement in hostile activities against the State of Israel and/or its citizens, and mainly the relation between the power granted under the Regulation and the prohibition on collective punishment and on damaging property of protected persons established by international humanitarian law, international human rights law and Israeli law – **which is the issue that stands in the center of the Request for a Further Hearing.**
5. The opinion concludes that house demolition as aforesaid is unlawful for all the reasons which were also specified in the petition being the subject matter of the Request for a Further Hearing.
6. Needless to note that the author of the opinion is one of the leading international jurists living today, who has been serving for years as the President of the International Criminal Tribunal for the former Yugoslavia and held in the past diverse international positions pertaining to humanitarian law and the laws of war.
7. **The opinion sought to be submitted clearly indicates that already in the early days in which Regulation 119 was used in the territories which were occupied by Israel in 1967, very senior jurists in the civil service were of the opinion that said practice was unlawful. It supports applicants' position that this case concerns a difficult question which justifies a further hearing by an expanded panel.**
8. As repeatedly argued by the applicants and as attested by the document sought to be submitted, this crucial issue which after the elapse of 48 years remained relevant, and which relates to the life and property of the protected residents in the Area, has never been decided by a reasoned

resolution based on the rules of international law which applies in the Area and its developments and justifies a thorough discussion by an expanded panel.

9. The response of the respondents' counsel, Advocate Aner Helman, is hereby attached separately.
10. The applicants note that contrary to the stated in the response of the Respondents' counsel, the opinion sought to be submitted is not based only on the assumption that house demolition constitutes punishment, but determines the unlawfulness based also on the prohibition on damaging the property of protected persons.
11. Therefore, the honorable court is hereby requested to permit the applicants to submit the opinion of Professor Theodor Meron of March 1968, The Geneva Convention: Demolition of Houses and Expulsions.
12. For the sake of caution, the document is not attached, and will be submitted insofar as the honorable court accepts the request.

Michael Sfard, Advocate

Noa Amrami, Advocate

Roni Peli, Advocate

Counsels to the petitioners