



הוועד הישראלי נגד הריסת בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد مدمم البيوت

# STATEMENT TO THE HUMAN RIGHTS COUNCIL: 'ISRAELI ILLEGAL PRACTICES AND PROLONGED OCCUPATION'

## AGENDA ITEM 7, 20<sup>TH</sup> REGULAR SESSION, JULY 2012



This project is funded by the European Union and the United Nations Development Programme.

The Israeli Committee Against House Demolitions | P.O.B 2030 Jerusalem 91020 Israel  
Tel. +972-2-6245560 | Fax. +972-2-6221530 | [www.icahd.org](http://www.icahd.org) | [info@icahd.org](mailto:info@icahd.org) | 1



הוועד הישראלי נגד הריסת בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد هدم البيوت

The Israeli Committee Against House Demolitions (ICAHD) is a human rights and peace organization established in 1997 to end Israel's Occupation over the Palestinians. ICAHD takes as its main focus, as its vehicle for resistance, Israel's policy of demolishing Palestinian homes in the Occupied Palestinian Territory and within Israel proper. ICAHD was granted ECOSOC Special Consultative Status in 2010.

Published by the Israeli Committee Against House Demolitions (ICAHD)  
PO Box 2030 Jerusalem 91020 Israel  
+972 2 624-5560  
info@icahd.org | www.icahd.org



Statement to the Human Rights Council: 'Israeli Illegal Practices and Prolonged Occupation' is licensed under a Creative Commons Attribution-NonCommercial-NoDerivs License.

The contents of this publication are the sole responsibility of the Israeli Committee Against House Demolitions and can in no way be taken to reflect the views of the European Union and the United Nations Development Programme.

Compiled by **Adv. Emily Schaeffer** (Michael Sfard Law Office) and **Itay Epshtain, LL.M.**



הוועד הישראלי נגד תריסת בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد هدم البيوت

## I. Introduction

While Israel refuses to provide information on the implementation of human rights treaties in the Occupied Palestinian Territory (OPT), this submission provides the Council with pertinent information on the plight of Palestinians under the effective control of Israel. ICAHD's position is that international human rights law is applicable to all territory over which a state exercises effective control, including occupied territory, as was expressed by numerous UN Treaty Bodies, and the ICJ Advisory Opinion on the Wall (2004).

The Palestinian population in the OPT, including occupied and illegally annexed East Jerusalem, continues to endure displacement, dispossession and deprivation as a result of prolonged Israeli occupation, in most cases in violation of their rights under IHRL and international humanitarian law (IHL). Demolitions are a major cause of the destruction of property, including residential and livelihood-related structures, and displacement. In 2011 a total of 622 Palestinian structures were demolished by Israel, of which 36% (or 222) were family homes; the remainder were livelihood-related (including water storage and agricultural structures), resulting in 1,094 people displaced, almost double the number in 2010. As of April 2012, 278 structures had been demolished since the beginning of the year, including 87 family homes. As a result, 477 people were displaced, and 1,687 people were affected.

The demolition of Palestinian homes and other structures, forced or resulting displacement and land expropriation are politically and ethnically motivated. The goal is to limit development and confine the 4 million Palestinian residents of the OPT to small enclaves, thus effectively foreclosing any viable, contiguous Palestinian state and ensuring Israeli control, and the "Judaization" of the occupied West Bank and East Jerusalem.

We are witnessing a process of ethnic displacement and Judaization – institutionalized policies designed to alter the ethnic, religious or racial composition of an affected population: Palestinians residing in Area C and East Jerusalem. This strategy has resulted in many members of that population relocating to Areas A and B, which are nominally under Palestinian Authority control. Israel's policies create a situation not only of displacement, but of de facto forced deportation, which may rise to the level of a war crime. For instance, East Jerusalem Palestinians who relocated to the West Bank or elsewhere based on Israel's demolition policies may face residency revocation and be barred from reentering East Jerusalem, thus de facto deporting them. In some cases Palestinians have been physically deported from their communities, such that Israel has indeed committed the war crime of forced deportation.



הוועד הישראלי נגד הריסת בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد هدم البيوت

## II. Israeli Practices and Policies of Property Demolition and Forcible Transfer

Israel's practices in the OPT violate Palestinians' economic, social and cultural rights enshrined in several bodies of IHRL. Notably, the human right to adequate housing is contained, inter alia, in the Universal Declaration of Human Rights of 1948 (Art. 25(1)); the International Covenant on Economic, Social and Cultural Rights of 1966 (Art. 11); the International Covenant on Civil and Political Rights of 1966 (Art. 17); the International Convention on the Elimination of All Forms of Racial Discrimination of 1969 (Art. 5(e)(iii)); and the Convention on the Rights of the Child of 1990 (Arts. 16, 27).

The right to adequate housing, enshrined in the ICESCR, is an essential component of the right to an adequate standard of living. When guaranteed, it provides a foundation for the realization of other rights, including the rights to family, work, education, and ultimately, national self-determination. Furthermore, Israeli policies violate its commitments under the ICERD, notably, Article 5(e)(iii) regarding the right to housing. Israel is obligated to create and maintain conditions that will ensure Palestinians' realization of their rights to self-determination, participation without discrimination in public affairs, and their right, as individuals and collectively, to develop and advance their respective communities economically, socially, culturally, and politically.

As the Occupying Power, Israel is obligated to safeguard the homes of the protected persons under IHL (namely the Hague Regulations and the Fourth Geneva Convention, both of which constitute binding customary international law). Israel's claim that the Fourth Geneva Convention does not apply to the OPT has been consistently rejected by the international community, including the UN Security Council and the ICJ.

## III. East Jerusalem

East Jerusalem is currently home to approximately 300,000 Palestinians. They experience racial discrimination in many spheres of life, and are the subject of a process of ethnic displacement that is the cumulative result of the policies and practices applied to them, particularly those pertaining to housing and legal status. Numerous official government documents express the deliberate intent to limit the Palestinian population growth in Jerusalem.

Israel's policies and practices constitute institutionalized discrimination and domination of one population over the other with the intent to perpetuate this domination through strengthening the numbers and socio-economic well-being of one population at the expense of another. The maintenance of a demographic



הוועד הישראלי נגד הריסת בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد هدم البيوت

balance based on ethnicity or nationality constitutes, prima facie, an illegal and repugnant practice of discrimination that is reminiscent of the motivation behind policies of racial segregation and apartheid.

What is more, the results of these policies are already tangible. Israel's discriminatory planning and housing policies in East Jerusalem, including administrative home demolitions and discriminatory residency policies have set into motion a process of "ethnic displacement" of parts of the Palestinian population of East Jerusalem. Should the status quo of policies and practices remain – or worsen – this process of ethnic displacement will only intensify.

#### **IV. Area C**

Following the 1995 Interim Agreement and the subsequent agreed division of the occupied West Bank, Area C - consisting of 62% of the West Bank - remained under full Israeli security and civil control. This partition severely fragments Palestinian communities as well as isolates a great expanse of rural area in Area C, while enclosing heavily built-up enclaves in Areas A and B. Thus, while 150,000 Palestinians reside in Area C, the remaining 2.3 million are squeezed into 38% of the territory.

Palestinian presence in Area C has continuously been undermined through different administrative measures and planning regulations, including wanton demolition of Palestinian residential and livelihood-related structures. The increasing depopulation and integration of Area C into Israel proper has left Palestinian communities ever more isolated, and at growing risk of displacement, while the expansion of illegal Israeli settlements in Area C continues to flourish under detailed plans approved by the Israel. If current trends are not stopped and reversed, which seems unfeasible, the establishment of a viable Palestinian state seems more remote than ever. In actuality, the window of opportunity for a two-state solution has closed, mainly due to the continued expansion of Israeli settlements and access restrictions for Palestinians in Area C.

#### **V. Impact of Prolonged Occupation**

The illegal Israeli practice of demolishing homes and sources of livelihoods continues to shatter Palestinian communities in East Jerusalem and Area C. Demolitions are almost invariably in contravention of international law and lead to a significant deterioration in living. As a result, large numbers of Palestinians face increased poverty and long-term instability, as well as limited access to basic services. The destruction must be discontinued, and the damage remedied if Israel is to meet its obligations under international law.



הוועד הישראלי נגד הריסה בתים  
The Israeli Committee  
Against House Demolitions  
الحركة الاسرائيلية ضد هدم البيوت

However, for a viable, just solution to be attained, and for the realization of the alienable right to national self-determination, the very nature and legality of occupation must be addressed.

In a December 2011 controversial ruling on the legality of Israeli owned quarries in the West Bank, the Israeli High Court of Justice held that the unique characteristics of Israel's belligerent occupation of the OPT, primarily its duration, grant additional powers and rights to the occupying power under international humanitarian law. The Court's misguided interpretation of IHL seeks to modify its provisions on the pretext of prolonged occupation to allow for economic exploitation of occupied territory. This dangerous approach is reflected in the long-term, entrenched relationship of occupied and occupier in the OPT and East Jerusalem, starkly contradicting the Palestinian aspiration for national self-determination.

The tension between an occupying power's duty to maintain the status quo in an occupied territory (in anticipation of a permanent sovereign assuming control over the territory, immediately following the pacification of armed conflict) and its duty to maintain public order and safety grows ever more significant in the case of a prolonged occupation. ICAHD firmly holds that Israel's occupation can no longer be considered temporary, and that other obligations should be invoked, such as the right to development.

In a short-term occupation, this tension would seem to favour leaving the occupied territory and its laws untouched. However, Leaving the laws and urban plans of the occupied territory as they were when occupation began, more than four decades ago, could have detrimental consequences for Palestinians. Such consequences might violate the occupying power's duties under IHL and IHRL.

## **VI. Recommendation**

**ICAHD calls the Human Rights Council to reflect on the legality of a prolonged Israeli occupation, which has outlived the armed conflict that spawned it by 45 years, and with no time limit in sight, and explore the possibility that prolonged and indefinite occupation has morphed into a new type of crime against humanity.**