

Israel and the Occupied Territories

Under the rubble: House demolition and destruction of land and property. Executive Summary

INTRODUCTION

More than 3,000 homes, vast areas of agricultural land and hundreds of other properties have been destroyed by the Israeli army and security forces in Israel and the Occupied Territories in the past three and a half years. Tens of thousands of men, women and children have been made homeless or have lost their livelihood. Thousands of other houses have been damaged, and tens of thousands of others are under threat of demolition, their occupants living in fear of homelessness. House demolitions are usually carried out without warning, often at night, and the occupants are forcibly evicted with no time to salvage their belongings. Often the only warning is the rumbling of the Israeli army's US-made Caterpillar bulldozers beginning to tear down the walls of their homes. The victims are often amongst the poorest and most disadvantaged. In most cases the justification given by the Israeli authorities for the destruction is "military/security needs", while in other cases it is the lack of building permits. The result is the same: families are left homeless and destitute, forced to rely on relatives, friends and humanitarian organizations for shelter and subsistence.

House demolition has been a long-standing policy in the Occupied Territories and in the Arab sector in Israel. However, in the past three and a half years the scale of the destruction has reached an unprecedented level. The destruction of Palestinian homes, agricultural land and other property in the Occupied Territories, is inextricably linked to Israel's long-standing policy of appropriating as much as possible of the land it occupies, notably by establishing Israeli settlements in violation of international law. In Israel it is essentially the homes of Palestinian citizens of Israel (Israeli Arabs) which are targeted for demolition. The phenomenon is linked to the state's policy of large-scale confiscation of land, restrictive planning regulations and discriminatory policies in the allocation of state land which makes it difficult or impossible for Israeli Arabs to obtain building permits.

This document summarizes a 65-page report: *Israel and the Occupied Territories: Under the rubble: House demolition and destruction of land and property* (AI Index: MDE/15/033/2004, May 2004), which analyses the main patterns and trends of forced eviction, house demolition and destruction of property by the Israeli army and security forces in Israel and the Occupied Territories in the light of international human rights and humanitarian law

PATTERNS AND IMPACT OF PROPERTY DESTRUCTION

The destruction of houses, land and other properties falls into two categories: houses built without a permit and houses, land and other properties which the Israeli authorities contend are destroyed for "military/security needs":

1 – Unlicensed houses: In the Arab sector in Israel demolition of houses for lack of building permits is a recurrent phenomenon, whereas house demolition in the Jewish sector is virtually unheard of. In the Occupied Territories it is also invariably Palestinian homes which are destroyed, while illegal Jewish settlements continue to be expanded.

2 – “Military/security needs”: Most of the destruction in the Occupied Territories falls under this category. The scale of the destruction is massive, including more than 3,000 homes, large areas of cultivated land, hundreds of shops, workshops, factories and public buildings. Tens of thousands of other homes and properties have been damaged, many beyond repair. The Israeli army’s criteria to define “military/security needs” are extremely broad. This category can be divided into four, at times overlapping, sub-categories:

A. Punitive demolitions of houses belonging to families of Palestinians known or suspected of involvement in suicide bombings and other attacks against Israeli civilians and soldiers have become routine, frequently resulting in neighbouring houses also being destroyed or damaged.

B. Houses, land, and other properties which the Israeli authorities claim it is necessary to destroy for “security needs”, notably to build or expand roads or other infrastructure for the benefit or protection of Israeli settlers or soldiers.

C. The destruction of houses, land and other properties which the Israeli authorities contend were used or could be used by Palestinian armed groups to shoot or launch attacks against Israelis. This category, which the authorities often refer to as “preventive”, is extremely broad and such demolitions are often also manifestly carried out in retaliation for Palestinian attacks and as a form of collective punishment on the inhabitants of the area. In some cases the destruction also serves the purpose of removing Palestinians from areas where Israel has a particular interest in seizing or consolidating control of the land and/or benefit Israeli settlements.

D. Properties which the Israeli army contends were destroyed in the course of combat activities.

Impact on the economic situation: In addition to the demolition of thousands of homes, the extensive destruction of agricultural land will continue to have severe repercussions on the Palestinian economy for many years to come. Agriculture was a major sector of the Palestinian economy, especially since most Palestinians who used to work in Israel have no longer been permitted to do so in recent years. The land on which trees and crops stood is now mostly inaccessible to Palestinian farmers. Even if Palestinians were allowed to resume farming the land which has been destroyed in recent years, it would take a long time and considerable resources for it to become productive again.

Impact on women: Families whose homes have been demolished often cannot afford a new home and have to rely on relatives or friends for shelter. Most Palestinian women do not work outside the home, which is their primary responsibility and the space which they feel is their own. Hence, they are more affected by the discomfort of living in someone else’s space, where they can no longer take responsibility for the administration of the family space and activities.

“Women suffer immensely from forced eviction...Domestic violence is higher in the precarious and often stressful situation of inadequate housing, especially before and during a forced eviction.” Centre on Housing Rights and Evictions to the UN Commission on Human Rights, March 2003

The loss of privacy and space often causes increased tensions between family members, including an increase in domestic violence. In these circumstances women are less inclined to complain and seek redress because in the face of the loss of the family home their grievances may not be seen as a priority, and because the additional practical and financial difficulties caused by the destruction of their home make it more difficult to find a solution to their individual problem.

DESTRUCTION FOR “MILITARY/SECURITY NEEDS”

Punitive house demolition: The Israeli army has destroyed close to 500 homes of families of Palestinians known or suspected of involvement in suicide bombings or other attacks against Israeli civilians or soldiers since 2001, when Israel officially resumed punitive demolitions.¹ These houses are usually blown up, whereas for other types of demolitions the army generally uses bulldozers. The powerful explosive charges used by the army frequently result in nearby houses also being destroyed or seriously damaged in the process.

Noha Maqadmeh, a mother of 10 and nine months pregnant, was killed in her bed by the collapsing walls of her home in central Gaza Strip when the Israeli army blew up an adjacent house. Her husband and most of her children were injured and six other nearby houses were destroyed by the blast, leaving some 90 people homeless. Her husband told Amnesty International: *“We were in bed, the children were asleep; the bedroom was the most sheltered room, at the back of the house... There was an explosion and walls collapsed on top of us. I pulled myself from under the rubble... I started to dig in the rubble with my hands; first I found my two little boys and my three-year-old girl. ... one by one we found the other children but my wife remained trapped under the rubble with our youngest daughter, who is two; she was holding her when the wall fell on her...”*

The Israeli authorities claim that these demolitions are not intended as punishment, but rather to “deter” Palestinians from getting involved in attacks. Israel has never destroyed the homes of Israeli Jews who committed serious attacks, such as the murder of Prime Minister Rabin, or bomb attacks against Palestinians or Israeli Arabs. These punitive forced evictions and house demolitions are a flagrant form of collective punishment and violate a fundamental principle of international law, which stipulates that collective punishment is never permissible under any circumstances.

“Preventive” and “security” destruction: House demolition has been most extensive in the Gaza Strip, one of the most densely populated areas in the world. Since October 2000, close to 3,000 homes have been destroyed, most of them homes of refugees. According to the United Nations Relief and Works Agency (UNRWA) between October 2000 and October

¹ This practice was used in previous decades but was suspended from 1997 to 2001.

2003, more than 2,150 homes were destroyed and more than 16,000 were damaged in the Gaza Strip. In the same period 600 other homes were destroyed in the West Bank. Much of the destruction has targeted the refugee camp in Rafah, in southern Gaza, where close to 1,000 homes have been destroyed and hundreds of others partially destroyed or seriously damaged.

From 10 to 13 October 2003, the Israeli army destroyed some 130 houses and damaged scores of others in Rafah refugee camp and nearby areas, making more than 1,200 Palestinians homeless, mostly children. The army stated that it had uncovered three tunnels used by Palestinians to smuggle weapons from Egypt. Suha 'Abdallah, whose house was partially destroyed, told Amnesty International: *"There was no tunnel or anything in our home, anyone can come and see for themselves; part of the house is still standing but it is not safe anymore. ... now what are we to do? Destroy the rest of the house ourselves so that it does not fall on anyone"*.

In the preceding six weeks some 50 other houses were also demolished in Rafah, leaving hundreds more Palestinians homeless.

"You have a very striking picture of people fleeing. But fleeing to where? If you're in Rafah, you can't go south because there is a border, you can't go west because there is an ocean, and you can't go north and you can't go east because there is nowhere to go. You can't get out of Gaza." Peter Hansen, UNRWA Commissioner-General in October 2003.

Until the autumn of 2000 the first rows of houses in the refugee camp stood only meters from the border with Egypt. Row after row of houses have since been destroyed, up to 300 meters, contrary to claims by the Israeli authorities that only houses used by Palestinians in attacks were targeted. Already from the end of 2000 Palestinians living in the refugee camp told Amnesty International that Israeli soldiers had told them that many rows of houses would be destroyed. Statements by Israeli officials indicate that this was indeed the intention. Major-General Yom Tov Samiah, the then Commander of Israeli army Southern Command, in the wake of the destruction of some 60 Palestinian homes in Rafah refugee camp on 9 and 10 January 2002, told Israeli Radio: *"These houses should have been demolished and evacuated a long time ago... Three hundred meters of the Strip along the two sides of the border must be evacuated... Three hundred meters, no matter how many houses, period."*²

The Israeli army also destroyed hundreds of non-refugee homes and other properties and vast areas of cultivated land throughout the Gaza Strip. More than 10% of Gaza's agricultural land has been destroyed in the past three and a half years. According to the UN Office for the Coordinator of Humanitarian Affairs (OCHA) more than 1,800 acres of agricultural land were destroyed and more than 226,000 trees were uprooted in the Gaza Strip in 2002 and 2003 alone.³ Agricultural infrastructure, including hundreds of wells and water storage pools and water pumps which provided water for drinking, irrigation and other needs for thousands of people, have been destroyed along with tens of kilometers of irrigation networks.

² Voice of Israel, 16 January 2002.

³ Consolidated Appeal Process 2004 (CAP) on: <http://ochadms.unog.ch>

The case of the Bashir family illustrates many of the patterns of forced eviction, house demolition and destruction and expropriation of land described in this report. Khalil Bashir, a school principal, his wife Souad, their six children and his elderly mother, have long been under pressure from the Israeli army to leave their home and their land, in the village of Deir al-Balah, in the Gaza Strip, near the Israeli settlement of Kfar Darom. Since October 2000 the Israeli army has destroyed the nearby houses of Bashir's brother and parents and most of their cultivated land around the house, and has taken over the top floor of the Bashirs' house and turned it into an army base, confining the family to the ground floor, frequently harassing and ill-treating the family and pressuring them to leave the house. Israeli soldiers shot and injured Khalil Bashir and two of his children in or around the house. In the last incident in February 2004, 15-year-old Yusuf Bashir was shot in the back and seriously injured by Israeli soldiers as he was outside his home with his father and UN staff members who had visited the house.

"...The home should be the safest place but for our family it is not; yet it is our home and we should not be forced to leave it. No one should be forced out of their home, and we won't leave our house..". (Khalil Bashir's daughter, Amira, to Amnesty International)

In the West Bank large scale destruction of houses and other properties began in early 2002, with a series of prolonged Israeli army incursions which left a trail of destruction in every refugee camp and town raided. Army tanks rolled over parked cars, broke down walls and house fronts and smashed electricity poles and water mains.

Forty-year-old Nabila al-Shu'bi, who was seven months pregnant, her three young children, her husband, two of her sisters-in-law and her father-in-law, were left to die under the rubble of their home, when it was demolished by Israeli army bulldozers on 6 April 2002 in Nablus. The Israeli army kept the area under strict curfew for days, denying access to rescue workers, and it was not until a week later that their bodies were found under the rubble of the house by relatives. Nabila's elderly aunt and uncle survived, trapped under the rubble for a whole week.....

The largest single wave of destruction carried out by the Israeli army was in Jenin refugee camp in April 2002. The army completely destroyed the al-Hawashin quarter and partially destroyed two additional quarters of the refugee camp, leaving more than 800 families, totaling some 4000 people, homeless.⁴ Aerial photographs and other evidence show that much of the house destruction was carried out after clashes between Israeli soldiers and Palestinian gunmen had ended and Palestinian gunmen had been arrested or had surrendered.⁵ Since then Israeli army raids and destruction of homes and properties throughout the West Bank have continued.

On the morning of 5 September 2003 Israeli soldiers blew up a seven storey building in Nablus in which eight families lived, including 31 children. Ibtisam, a teacher and mother of four, told Amnesty International: *At about 9-9.30 pm Israeli soldiers called on all of us living in the building to get out...we scrambled to get the children from their bed and get out. It was*

⁴ Information supplied to Amnesty International by UNRWA on 13 June 2002.

⁵ See: Amnesty International's report *Israel and the Occupied Territories: Shielded from scrutiny: IDF violations in Jenin and Nablus*, 4 November 2002 (AI Index: MDE 15/143/2002).

a panic; I didn't have time to take milk or anything for my baby.... The soldiers took us all to the school across the road, blew up the door to get it open and put us all inside... We were kept there all night, with no food, water, nothing... There was a lot of shooting... Then suddenly the soldiers blew up the building, without allowing us to go in to get anything. We were left with nothing, in our pajamas.....everything got buried in the rubble.

Five days later, on 10 September, an eight-storey apartment building was similarly blown up by the Israeli army in Hebron, making 68 people, 53 of them women and children, homeless.

Destruction of “temporarily” confiscated land: The Israeli army continues to seize and destroy land throughout the West Bank and Gaza Strip for “military/security needs”.

In January 2004, the Israeli army issued 12 “temporary” seizure orders for tracts of land near Israeli settlements in the Gaza Strip. The order states:

Notice is hereby given that on ____ the Commander of the Israel Defense Forces in the Gaza region, in wake of the special circumstances which exist in the region, and for imperative military needs, has ordered that the land marked on the map appended to the order regarding seizure of land (2004-2) (Kfar Darom security fence) (Gaza region) shall be seized for the construction of security components.....

On paper the land is not confiscated but only “temporarily” seized by the Israeli army for unspecified “military/security needs” for a set period only. However, “temporary” land seizure orders can be extended indefinitely and in the overwhelming majority of cases the land has never been returned to its owners. Land “temporarily” seized has been routinely used to expand and build Israeli settlements, roads for settlers and related infrastructure and, more recently, to make way for the fence/wall which Israel is building through the West Bank.⁶

The fence/wall: According to the Israeli authorities the fence/wall is intended to prevent entry into Israel to Palestinian suicide bombers and other potential attackers. However, the fence/wall is not being built between Israel and the Occupied Territories but mostly (close to 90%) inside the West Bank, cutting off communities and families from each other, separating Palestinians from their land, work, education and health care facilities and other essential services. This, in order to facilitate passage between Israel and more than 50 illegal Israeli settlements located in the West Bank. The route of the fence/wall *inside* the West Bank is purportedly aimed at protecting unlawful Israeli settlements and results in unlawful destruction and appropriation of Palestinian property and other human rights violations. “Military/security needs” cannot be invoked to justify measures that benefit unlawful Israeli settlements at the expense of the occupied Palestinian population. In its present configuration, the fence/wall violates Israel’s obligations under international law.

The failure of the Israeli Supreme Court: Most cases of house demolition and destruction of land and properties are not subject to legal supervision or appeal. In 2002 the

⁶ See Amnesty International’s report *Israel and the Occupied Territories: The place of the fence/wall in international law*, 19 February 2004 (AI Index: MDE 15/016/2004).

Supreme Court ruled that in cases of demolitions for “military/security needs” those affected must be allowed to appeal unless doing so would “*endanger the lives of Israelis or if there are combat activities in the vicinity.*” However, the Court subsequently ruled that advance notice did not need to be given if it would hinder the success of the demolition, a virtual green light for demolitions to be carried out without the possibility of appeal. This is what happens in most cases.

In cases of advance notification of intended destruction where the owners of the targeted properties have appealed, the Israeli Supreme Court has usually accepted the Israeli army’s assessment of what constitutes “military/security needs”, and has permitted the demolitions. Amnesty International believes that the Israeli Supreme Court has too readily accepted the Israeli army’s overly broad definition of “military necessity” and that by endorsing this interpretation, the Supreme Court has failed to protect Palestinians in the Occupied Territories from arbitrary destruction of their homes and property and from forced evictions.

DEMOLITIONS OF UNLICENSED HOUSES: DISCRIMINATION IN PLANNING POLICIES AND ENFORCEMENT MEASURES

“We have to begin to educate the Arab public to build high... There is no reason that everyone in the Arab sector should live in houses” Israeli Interior Minister Abraham Poraz, 21 January 2004.

At the root of the problem of demolition of unlicensed houses in the Arab sector in Israel and in parts of the Occupied Territories lie Israel’s land and planning policies and the manner in which they are enforced. These policies have been characterized by discrimination against Israeli Arabs and Palestinians both in the use of state land, including land previously expropriated from Palestinians, and in the manner in which plans are drawn up for the use of privately owned land, as well as in the enforcement of planning and building regulations.

The expropriation/confiscation of large areas of Palestinian land has significantly diminished the reserves of available land on which Palestinians and Israeli Arabs can build to accommodate the natural growth of their communities. Planning and building regulations in these areas further restrict the amount of privately owned land on which Israeli Arabs and Palestinians can build.

The home of Salim and ‘Arabia Shawamreh has been demolished four times between July 1998 and April 2003. The house has since been rebuilt with the help of volunteers as a peace centre but is again under threat of demolition. Salim, ‘Arabia and their seven children lived in the overcrowded Shu’fat refugee camp in Jerusalem. They eventually bought a plot of land in the nearby village of ‘Anata. After having spent more than four years and a lot of money trying to obtain a permit, they lost hope and built their home without a permit. They told Amnesty International: *The authorities gave us different justifications for refusing us the building permit....Each time we succeeded to challenge or disprove the reason they had given us for the refusal, our application was rejected on different grounds. We spent thousands of dollars on this process. In the end we understood that it was hopeless and we built our home without a permit”.*

The Occupied Territories: Palestinians in the West Bank and Gaza Strip are barred from leasing or building on land which has been declared state land because state land is not for leasing or building on by “alien persons”, and the entire Palestinian population of the Occupied Territories are defined as aliens by Israeli law. After it occupied the West Bank and Gaza Strip, Israel froze planning in Palestinian towns and villages. Planning schemes dating back several decades and no longer suitable to cater for the needs of a growing population were used as the basis for refusing building permits to Palestinians. At the same time, however, Israel developed comprehensive planning schemes for more than 150 Jewish settlements it established throughout the Occupied Territories in violation of international law.

Building restrictions in the Occupied Territories since the Oslo Accords

“Our policy is not to approve building in Area C”

Israeli Army spokesperson to Amnesty International delegates in 1999.

“There are no more construction permits for Palestinians”.

Israeli army Legal Advisor Colonel Shlomo Politus, to the Israeli Parliament on 13 July 2003.

Under the Oslo Accords 60% of the West Bank was classified as Area C, where Israel retained responsibility for civil affairs. As a result Palestinians have continued to be prevented from building in most of the West Bank. In the past three years the Israeli army has demolished some 500 Palestinian houses in Area C on the grounds that they were built without permit. At the same time Israel dramatically accelerated the establishment and expansion of illegal settlements in Area C and around East Jerusalem and has built an extensive network of roads throughout the Occupied Territories to connect these settlements to each other and to Israel. In the seven years of the Oslo peace process, from 1993 to 2000, the number of Israeli settlers in the West Bank and Gaza Strip increased by more than 50%. The expansion of Israeli settlements in these areas continues. According to the Israeli Central Bureau of Statistics, in 2003 housing construction increased by 35% in the settlements in the Occupied Territories.

On 21 August 2003, on the morning of his wedding, As’ad Mu’yin had his house demolished; the house of his cousin Ziad As’ad, who had married a week earlier, was demolished at the same time. The two adjacent houses were in the West Bank town of Nazla ‘Issa. As’ad Mu’yin had been living on the ground floor of the house with his parents and three brothers and had furnished and prepared the second floor to move in with his wife. The house was demolished before he could do so. The new furniture and the wedding gifts disappeared under the rubble, along with the content of the family home on the ground floor. He told Amnesty International: *“The army came early in the morning, at about 7am. I was getting ready for the wedding, for a very happy day. They had bulldozers ...they gave us 15 minutes to leave the house. We had no time to salvage anything. They said that we did not have building permits... But everyone knows that Israel does not give building permits to Palestinians in Area C.”*

Israel: Since the establishment of the state of Israel more than 700 Jewish towns and villages have been established but not a single Arab one. Dozens of Arab villages which existed prior

to the establishment of the state were subsequently re-classified as non-residential areas. Some 93% of the land in Israel is state land, but some of it is administered through the Jewish National Fund, the Jewish Agency or other bodies which do not lease land to non Jews. These concerns have been recognized by the Or Commission, an official body, in 2003.⁷

Excerpts from the Or Commission report (September 2003)

36) *In the first 50 years of the state's existence the Arab population has grown seven-fold but the amount of land allocated for housing construction has remained almost unchanged. Thus the population density in the Arab sector grew considerably ...new localities were not established...land was not usually allocated for building in the Arab sector. Residents of the Arab sector who wish to build on land which they own but which is under the jurisdiction of neighbouring Jewish local authorities were blocked by the regulation of these authorities.*

37) *A major obstacle facing construction for housing purposes in the Arab sector has been the lack of outline and master plans. ... in the Arab sector there were unreasonable delays. Added to that was the problem of the lack of effective representation of the Arab sector in planning and building committees. ...local commissions were not established in Arab localities and these localities were placed under the jurisdiction of commissions managed by Jews. ...the decisions regarding the developments of the Arab sector have not been sensitive enough to the needs of the Arab population.... by the end of the century half of the Arab localities still did not have approved master plans ...in large parts of the areas of jurisdiction (of the Arab localities) private land owners could not build houses legally. A widespread phenomenon of unlicensed buildings ... partly stems from the inability to obtain building permits..... Demolition orders were issued for houses of Arabs... It has been claimed that behind the legal situation ...a situation of double standards has been created towards the Arab citizens.*

The unrecognized Bedouin villages in the Negev region: Some 60,000-70,000 Bedouins live in some 45 “unrecognized villages” in the Negev, Israel’s southern region. Although the Bedouins have lived in the Negev for generations their villages have never been recognized by the authorities and the inhabitants are not allowed to build houses or to farm the land, and live in constant fear of forcible eviction and house demolition. In the past two years alone the security forces have demolished scores of homes in these villages and have destroyed the Bedouins’ crops by helicopter spraying on several occasions. No warning was given before spraying the area and several people were taken ill as a result.

Since more permanent constructions in the unrecognized Bedouin villages are more likely to be destroyed, many Bedouins are forced to live in shed-like homes, which offer little protection against the extreme desert climate. Even so, most of their homes and animal sheds are under the threat of demolition. The ILA puts the number of unlicensed (and thus liable to demolition) structures in these villages at 60,000, of which 25,000 are houses, and the Israeli Interior Ministry gives a figure of 30,000.⁸

⁷ The Or Commission was set up by the Israeli authorities to investigate events surrounding the killing by Israeli police of 13 Israel Arabs in protest demonstrations in October 2000.

⁸ State Comptroller report 52B of 2000 (The Bedouin Diaspora in the Negev, page 111, paragraph 2).

On 4 August 2003 Israeli security forces demolished 10 homes in Sa'wa, one of the unrecognized Bedouin villages, including the home of 'Ali and Sara Abu Sbeit and their six young children. 'Ali Abu Sbeit told Amnesty International: "*The police and border guards came at about 7am. We were still asleep.. they had bulldozers. They tied my hands behind my back and took me, my wife and the children out. They did not allow us time to take anything out of the house. ... Since our home was destroyed we have been staying with our relatives, but not all together because there are a lot of us. ...This is the second time that my home has been demolished. The first time was in 1997 and I had to demolish the house myself; or else the authorities were going to make me pay the cost of the demolition...after I lived with my mother for three years, but now there isn't space for all of us there. Then in 1999 I built this home, and now we are homeless again*".

The authorities have been putting pressure on the Bedouins living in the unrecognized villages to sign agreements renouncing their claims to this land and move to urbanized townships planned for them by the authorities. In past decades about half of the Bedouin population has given in to government pressures and moved to five townships lacking in infrastructure and job opportunities, which were set up by the Israeli authorities especially for the Bedouins. These Bedouin townships remain amongst the poorest localities in the country and have high rates of unemployment and crime. The 60-70,000 Bedouins who still live in the unrecognized villages have resisted the government's pressures to give up their land and traditional lifestyle of farming and animal-grazing and to move to such townships. While stepping up efforts to concentrate the Bedouin population into small townships with little or no employment or development prospects, the authorities have encouraged and sponsored the establishment of new Jewish villages and single family farms in the region.

APPLICABLE INTERNATIONAL LEGAL STANDARDS

Both in Israel and in the Occupied Territories, Israel is bound by international human rights law, including the international human rights treaties to which Israel is a State Party, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In the Occupied Territories, in addition to international human rights law, Israel's conduct as the occupying power must also comply with the provisions of international humanitarian law applicable to belligerent occupation, including the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention).

Israel has consistently denied its obligation to apply the UN human rights treaties which it has ratified in the West Bank and Gaza Strip and has consistently rejected the applicability of the Fourth Geneva Convention. However, Israel stands alone in its contention. The applicability of both the Fourth Geneva Convention and international human rights treaties has been repeatedly reaffirmed by the relevant bodies and by the international community.

International human rights law

The right to housing: The right to housing is a basic right, which is a fundamental component of the right to an adequate standard of living and central to the enjoyment of other human rights, guaranteed by Article 11(1) of the ICESCR.

The right to housing encompasses the right to live somewhere in peace, security and dignity, as well as the right to *adequate* housing. The right to adequate housing not only includes adequate privacy, space, security, protection from the elements and threats to health, ventilation at a reasonable cost, but also, among other things, legal security of tenure – including protection against forced eviction, harassment and threats.

In May 2003 the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed serious concerns about Israel's practices which violate the right to housing of Israeli Arabs, including Bedouins in Israel, and of Palestinians in the Occupied Territories.⁹

Discrimination: The fundamental duty of a State to guarantee rights without discrimination is enshrined in the international human rights treaties, including the ICCPR (Article 2(1) and Article 26) and the ICESCR (Article 2(2)).

Article 5(e)(iii) of the ICERD forbids any discrimination in the exercise of the various rights, including the right to housing.

Israel's housing and land policies violate the right to non-discrimination of Israeli Arabs and of Palestinians. In March 1998 the UN Committee on the Elimination of Racial Discrimination (CERD) called "... *for a halt to the demolition of Arab properties in East Jerusalem and for respect for property rights irrespective of the ethnic origin of the owner.*" and expressed concern "... *about ethnic inequalities, particularly those centring upon what are known as "unrecognized" Arab villages [in Israel].*"¹⁰

Forced eviction: Through forced eviction and the mass demolition of homes in the Occupied Territories and, to a lesser extent, Israel, the Israeli authorities have deliberately made tens of thousands of Palestinians and thousands of Israeli Arabs homeless just in the past few years.

Whether it justifies such action on grounds of "military/security needs" or whether such action is imposed as a form of collective punishment, or is carried out in enforcement of planning regulations, large-scale forced evictions are inconsistent with the realization of the right to adequate housing. The obligation of the state under international law is that it must refrain from forced evictions. The CESCR "... *considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.*"¹¹

International humanitarian law

⁹ Concluding Observations of the CESCR: Israel, 23/05/2003; UN Doc: E/C.12/1/Add.9, paras 16, 26 and 27.

¹⁰ CERD/C/304/Add.45, paras.11 and 19.

¹¹ CESCR, General Comment 4, para 18.

Prohibition on destruction of property and disproportionate use of force: According to Article 53 of the Fourth Geneva Convention and Article 23(g) of the 1907 Hague Regulations Israel, as the Occupying Power, is forbidden from destroying the property of Palestinians in the West Bank and Gaza Strip, unless it is militarily necessary to do so. According to Article 147 of the Fourth Geneva Convention, “*extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly*” is a grave breach, and hence, a war crime.

Military necessity should not be interpreted in a broad and vague manner, which would undermine the fundamental norms of international human rights and humanitarian law. Measures intended to have long term preventative effects are thus not justifiable on the grounds of absolute military necessity. In the case of long-held occupied territory over which the occupying power exercises effective control, military necessity must be read extremely narrowly – in light of the concept of proportionality inherent in policing standards, rather than conduct of hostilities standards which should only apply in the course of actual armed conflict. Demolitions and evictions should never be anything but a last resort. In the past three and half years the Israeli army has carried out extensive destruction of homes and properties throughout the West Bank and Gaza which is not justified by military necessity. Some of these acts of destruction amount to grave breaches of the Fourth Geneva Convention and are war crimes.

Prohibition on collective punishment: The Fourth Geneva Convention specifically prohibits collective punishment. Its Article 33 stipulates: “*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.*”

The prohibition on collective punishment is also a cardinal rule of human rights law. The recently accelerated Israeli practice of demolishing houses owned by relatives of suicide bombers or other Palestinian armed attackers is a blatant form of collective punishment. Collective penalties also include such measures as attacking an entire community in retaliation for acts committed by members of that community, or arbitrarily restricting the movement of an entire population.

MAIN RECOMMENDATIONS

TO THE ISRAELI AUTHORITIES:

- Punitive demolitions and the destruction of houses, land, and other properties without absolute military necessity as prescribed by international humanitarian law should stop immediately.
- The law must be amended in a manner so as to require that, except during the actual conduct of military operations or armed confrontations which make the destruction absolutely necessary, no demolition should be carried out without prior notification to the

concerned parties, who should be given adequate time and opportunity to challenge before an independent and impartial court of law any demolition order.

- The creation and expansion of Israeli civilian settlements in the Occupied Territories and infrastructure to support them, including roads, must stop and Israel must cease and prohibit the destruction of houses, land or other properties for these purposes.
- Israel must stop construction of the wall/fence *within* the Occupied Territories, remove what has already been constructed within the Occupied Territories, restore seized property, and ensure reparation for land and property seized, confiscated or destroyed.
- A judicial commission of inquiry should be established to investigate all the cases of destruction, confiscation and damage to property carried out by the Israeli army in the Occupied Territories since October 2000, in order to establish the extent of the damage caused and the necessary reparation.
- Israel should invite the international community to deploy qualified and experienced observers in the Occupied Territories to monitor the conduct of the Israeli army, Palestinian armed groups and Palestinian security forces. Such independent, expert observers should report publicly on the conduct of all parties in light of international law, including in relation to destruction of and damage to property.
- All outstanding orders for forced evictions and demolitions of unlicensed houses should be cancelled and a moratorium should be placed on future forced evictions and demolitions until such time as the law is amended in a manner that complies with international standards.
- Laws and policies governing the zoning and allocation of land in Israel must be reviewed and provisions which are discriminatory must be repealed or amended.
- Legal recognition/status should be granted immediately to the unrecognized villages. Legal security of tenure should be afforded to the residents of these unrecognized villages and efforts to forcibly remove their inhabitants should be immediately halted.
- Effective redress and reparation should be granted to those whose homes have been demolished.

TO THE PALESTINIAN AUTHORITY (PA):

- The PA should take all possible measures to prevent attacks by Palestinian armed groups and individuals against Israeli civilians in the Occupied Territories and inside Israel.
- The PA should take all possible measures to ensure that Palestinian armed groups and individuals do not initiate armed confrontations from residential civilian areas.
- The PA should support the call on the international community to deploy qualified and experienced observers in the Occupied Territories to monitor the conduct of the Israeli army, Palestinian armed groups and Palestinian security forces.

TO THE INTERNATIONAL COMMUNITY:

- The International community and states parties to international human rights and humanitarian law treaties to which Israel is a party must take steps to ensure Israel's compliance with its obligations under international law.
- States, particularly the US, should stop the sale or transfer of weaponry and equipment that are used to commit unlawful destruction of homes and other serious violations of international human rights and humanitarian law, until they secure guarantees that Israeli forces will not use the equipment to commit violations.

TO CATERPILLAR Inc.

- Caterpillar Inc., the US company which produces the bulldozers used by the Israeli army, should take measures – within the company sphere of influence – to guarantee that its bulldozers are not used to commit human rights violations, including the destruction of homes, land and other properties.

BACKGROUND

The human rights situation in Israel and the Occupied Territories has seriously deteriorated since October 2000. Since then violence and human right abuses have reached unprecedented levels. More than 2,500 Palestinians, including some 450 children have been killed by the Israeli army. More than 900 Israelis, most of them civilians, including some 100 children have been killed by Palestinian armed groups in suicide bombings and other attacks. Tens of thousands of Palestinians and thousands of Israeli civilians have been injured, many seriously.

In addition, the Israeli army has carried out large-scale destruction of Palestinian houses, land and other properties and has imposed increasingly stringent restrictions on the movement of Palestinians in the Occupied Territories. As a result the Palestinian economy has virtually collapsed, and unemployment and poverty have increased dramatically in the West Bank and Gaza. Two thirds of the Palestinian population now live below the poverty line and malnutrition and other medical conditions are spreading.

These and other concerns about the human rights situation in Israel and the Occupied Territories have been addressed by Amnesty International in numerous reports and other material (available on www.amnesty.org)

