

# Challenging Israel's House Demolition Policy

By [Stephen Lendman](#)

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Region: [Middle East & North Africa](#)

Theme: [Crimes against Humanity, Law and Justice, Police State & Civil Rights](#)

In-depth Report: [PALESTINE](#)

*Lawless by any standard. Ruthlessness writ large. Targeting Palestinians. Not Jews. Imagine the following.*

*Israel accuses a Palestinian family member or apartment building resident of violent criminality. With or without corroborating evidence.*

*It doesn't matter. The alleged offender automatically called a "terrorist." House demolition follows.*

*Collectively punishing everyone in it. Including the alleged offender. Even if innocent.*

In 2005, Israel ceased punitive house demolitions. Deeming them counterproductive. Not achieving their claimed purpose - "deterrence." Creating justifiable hatred and hostility.

In June, Israel about-faced. Reinstating its punitive house demolition policy. Targeting state-designated "terrorists."

In response to the abduction of three Israeli youths. At the time, a suspect's home was targeted for demolition. So were dozens of others in the West Bank. Unrelated to the incident.

In July, HaMoked petitioned Israel's defense minister, attorney general and West Bank military commander. Arguing against resumed demolitions.

Weeks later a response came, saying:

*"The security establishment is well aware of the ramifications of the exercise of the power granted (under British Mandate period law) to demolish the houses of terrorists, and therefore said power is exercise very prudently."*

Israeli policy contradicts rhetoric. House demolitions are punitive. Targeting Palestinians alone. Not Jews.

Israel claims a lawless failed policy works. Effectively fighting terrorism. Preventing future attacks. Despite no evidence proving it. Plenty showing otherwise.

The HaMoked Center for the Defense of the Individual and seven other human rights groups petitioned Israel's High Court of Justice (HCJ).

Challenging punitive house demolitions. Wanting them stopped. Urging Israel's HCJ to rule accordingly. Against an illegal policy.

A fundamental notion that no one should be punished for acts of others. Fourth Geneva's Article 53 states:

"Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."

Under Article 33, "'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...Reprisals against protected persons and their property are prohibited."

Israeli Committee Against House Demolitions (ICAHD) director Jeff Halper calls Israel's policy "atavistic revenge."

A flagrant Fourth Geneva violation. Halper saying:

"Not only do punitive demolitions violate the basic principle of due process of law, the home in question belonging only to a suspect, but the targeting and punishing of a suspect's family members innocent of any crime through the demolition of their home constitutes (illegal) collective punishment..."

In response to numerous appeals, Israel's HCJ consistently supported the policy. With rare exceptions.

Israel's legal system "disconnect(s) law from justice," says Halper. Letting the state violate international law with impunity.

"(T)urning itself into an instrument of oppression." State terror. According to an anonymous international law expert:

"International law is the language of the world and it's more or less the yardstick by which we measure ourselves today."

"It's the lingua franca of international organizations. So you have to play the game if you want to be a member of the world community."

"And the game works like this. As long as you claim you are working within international law and you come up with a reasonable argument as to why what you are doing is within the context of international law, you're fine. That's how it goes."

"This is a very cynical view of how the world works. So, even if you're being inventive, or even if you're being a bit radical, as long as you can explain it in that context, most countries will not say you're a war criminal."

Even if clear evidence shows otherwise. Israel has two legal systems. One for Jews. The other for Palestinian Arabs.

Homes of Jews committing violent crimes aren't destroyed. Palestinians are treated otherwise.

Declared guilty by accusation. No matter the alleged crime. Even if innocent.

Denied due process. Losing their homes at the same time. Collectively punishing everyone in them.

Israeli justice for accused Palestinians is none at all. It bears repeating. Its convoluted legal system reflects pure "atavistic revenge."

An ICAHD press release accuses Israel of "sow(ing) despair and senseless violence." Israel denies Palestinians self-determination.

Despite international law calling it a universal right. Palestinians are virtually imprisoned in ghettoized cantons. Victimized unfairly.

Persecuted. Denied all fundamental rights. Impoverished. Dispossessed. Even their only place of refuge is targeted.

Leaving them no safe haven. Defenseless. Vulnerable to all forms of Israeli viciousness. With no way to stop it.

No help from Western leaders able to make a difference. Turning a blind eye to Israeli lawlessness. The grossest of gross injustice.

Including ruthlessness writ large. Genocidal mass murder and destruction. Torture. Land theft. Settlements. House demolitions.

Institutionalized racism. Brutalizing Palestinians for not being Jews. Treating them like subhumans. Like yesterday's garbage.

Like vermin to be discarded. Eliminated. Destroyed. Including demolishing their homes.

Their most precious possession. HaMoked et al contends Israel's policy violates core international law.

Saying "over the years there have been significant developments in international law, including international criminal law, but the Supreme Court of Israel has not addressed these developments in its expansive jurisprudence on house demolitions and should do so now."

Expert legal opinion supports HaMoked's petition. Including top Israeli jurists. International, constitutional, military law experts.

Saying house demolitions constitute a grave international humanitarian and human rights law violation.

Contradicting Israeli law. Prohibiting punishing anyone except offenders. According to HaMoked:

“The(ir) opinion stresses that the house demolition policy could amount to a war crime in certain circumstances and that it may put all those involved in its implementation at risk.”

“HaMoked believes that a situation in which the judiciary and the relevant academic community are so divided on such a pivotal, fundamental legal issue, at the very least calls for renewed deliberations on the issues of principle.”

Israel responded to HaMoked et al’s petition. Ignoring legal and moral principles. According to international human rights lawyer Michael Sfard:

“The State in its response requests the court not to discuss the substantial and general arguments of the organizations and attempts, once again, to avoid discussing the morality and legality of the punitive house demolition policy.”

“The petitioners point to the fact that the Supreme Court has never actually discussed the argument raised by all international law experts both in Israel and worldwide, that this policy constitutes a brazen violation of the prohibitions established by international law.”

“The State in its response fails to point at even one judgment which refutes said argument.”

On December 3, Israel’s HCJ heard arguments for and against home demolitions. HaMoked et al wants a clearly illegal policy stopped.

Other human rights groups involved include Yesh Din, Bimkom, B’Tselem, Public Committee Against Torture, Adalah, Physicians for Human Rights and Rabbis for Human Rights.

Represented by Michael Sfard, Noa Amrami and Roni Pell. Israel represented by state prosecution attorney Aner Hellman. Claiming Israel’s policy is “deterrence.” Not punishment.

With no need to “deter” potential Jewish community perpetrators. So no point in demolishing their homes.

Petitioners call demolitions “collective punishment.” Flagrantly violating international law. Punishing Palestinians alone shows racist discrimination.

Israeli settlers abducted Mohammed Abu Khdeir. Doused him with petrol. Burned him alive. A revenge attack for killing three West Bank Israeli Jews he had nothing to do with.

Israel didn’t demolish homes of suspected killers. Despite the nature of their crime. Horrendous by any standard.

Sfard said “harming innocent (Palestinians) raises serious (legal and) moral issues.”

“We believe that after 36 or 29 years, this issue should be examined, especially since so many changes have occurred in international law since the 1980’s...”

“Anyone who teaches international law teaches that that clause is illegal. Jewish law also forbids collective punishment.”

Hellman ludicrously claimed Israel uses its authority sparingly. "Where the Israeli and international law clash, Israeli law takes precedence," he said.

Sfard maintained that "(i)f this clause (permitting demolitions) were enacted today, (Israel's HCJ) would revoke it, because it contradicts the vital core of (Israeli) Basic Law: Human Dignity and Liberty."

Saying in part:

"The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state."

"There shall be no violation of the life, body or dignity of any person as such."

"There shall be no violation of the property of a person."

"All persons are entitled to protection of their life, body and dignity."

"There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise."

"All persons have the right to privacy and to intimacy. There shall be no entry into the private premises of a person who has not consented thereto."

"No search shall be conducted on the private premises of a person, nor in the body or personal effects."

"All governmental authorities are bound to respect the rights under this Basic Law."

"This Basic Law cannot be varied, suspended or made subject to conditions by emergency regulations."

Justices Elyakim Rubinstein, Esther Hayut and Noam Sohlberg heard specific petitions against demolishing family homes of two Palestinians involved in Har Nof synagogue killings.

Family lawyer Andre Rosenthal said doing so has no deterrent effect. "There's no evidence of this," he said.

"The result is the opposite. It leaves the hatred and the possibility that the remaining family relatives will avenge the demolition of their home."

No evidence shows their involvement in what happened. "Their only ties to it are blood ties," said Rosenthal.

"Are these the values Israel is advancing, demolishing the home of an uninvolved family because maybe it will serve as deterrence?"

"How do we know demolitions deter? They've been practiced for decades. Have the terror attacks ceased because of them?"

It remains to be seen how HCJ rules. If past is prologue, expect injustice.

Rarely ever does Israel's High Court uphold Palestinian rights. Expect nothing different this time.

*Stephen Lendman lives in Chicago. He can be reached at [lendmanstephen@sbcglobal.net](mailto:lendmanstephen@sbcglobal.net). His new book as editor and contributor is titled "Flashpoint in Ukraine: US Drive for Hegemony Risks WW III." <http://www.claritypress.com/LendmanIII.html> Visit his blog site at [sjlendman.blogspot.com](http://sjlendman.blogspot.com). Listen to cutting-edge discussions with distinguished guests on the Progressive Radio News Hour on the Progressive Radio Network. It airs three times weekly: live on Sundays at 1PM Central time plus two prerecorded archived programs.*

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#### About the author:

Stephen Lendman lives in Chicago. He can be reached at [lendmanstephen@sbcglobal.net](mailto:lendmanstephen@sbcglobal.net). His new book as editor and contributor is titled "Flashpoint in Ukraine: US Drive for Hegemony Risks WW III." <http://www.claritypress.com/LendmanIII.html> Visit his blog site at [sjlendman.blogspot.com](http://sjlendman.blogspot.com). Listen to cutting-edge discussions with distinguished guests on the Progressive Radio News Hour on the Progressive Radio Network. It airs three times weekly: live on Sundays at 1PM Central time plus two prerecorded archived programs.

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