

# Working Paper: House Demolitions and Collective Punishment

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*Note: This is an abbreviated version of an Arabic-language paper that was presented at an Al-Quds University conference on the Israeli military's practice of home demolitions in the occupied Palestinian territory, including as the practice serves as a form of collective punishment. This paper is intended as a summary of the issue as it impacts Palestinian residents of the Gaza Strip.*

## **Introduction**

The policy of house demolitions has been used by the Israeli government since 1948 to seize lands, prevent the natural development of Palestinian communities, displace Palestinians, and transfer the people of Jerusalem further afield in the occupied territory. The use of this policy has been pervasive throughout the occupied Palestinian territory and is considered a form of collective punishment, as it is implemented with no legitimate legal justification to support the practice and entails severe penalties and harm to the civilian population. The practice of home demolitions serves to intimidate the protected population and hinder their ability to access or call for their fundamental rights, from the right to an adequate standard of living to the right to self-determination. Home demolition is a main tool in Israel's separation and fragmentation policy that aims to maintain repression of, and domination over, the Palestinian people. In the Gaza Strip, the practice of home demolitions has taken various forms, including the razing of homes and other structures completely in the "buffer zone" and the mass bombing of homes during hostilities.

## **Israeli Forces' Demolition of Houses in the Gaza Strip**

In late 2000, the Israeli military began to accelerate the demolition of houses near the separation fence on the northern, eastern and southern perimeter of Gaza. The destruction occurred during ground invasions into Palestinian communities, when the Israeli forces used bulldozers and explosives to destroy homes.

During Israel's operation "Cast Lead" in the winter of 2008/9, the Israeli military targeted houses directly, with missile attacks occurring *en mass* and frequently without warning as families were inside them. The same practice was implemented in the subsequent bombardment, operation "Pillar of Cloud" in 2012, and notably accelerated during the summer 2014 bombardment code-named operation "Protective Edge".<sup>1</sup> Al Mezan has documented the sporadic use of the practice of home-targeting in 2018 and in the first half of 2019.

The practice of home demolitions has caused the forced displacement of tens of thousands of Palestinian families in Gaza, a number of whom remain without safe, adequate and/or affordable permanent shelter today.

<sup>1</sup> See Al Mezan and Lawyers for Palestinian Human Rights' complaint to the United Nations Special Procedures concerning destruction and damage to family houses in Gaza with associated loss of life and injury to Palestinian residents, during Israel's military operation between 7 July 2014 and 26 August 2014, available at:

<http://mezan.org/en/uploads/files/1481542435312.pdf>

See also, Al Mezan and Lawyers for Palestinian Human Rights 2016 update on the issue, available at:

<http://mezan.org/en/uploads/files/14815404001307.pdf>

Al Mezan’s documentation shows that between 2008 and mid-2019, 46,599 housing units were targeted by Israeli forces in Gaza. Of them, 11,290 were completely destroyed and 35,309 partially destroyed.<sup>2</sup> The partially destroyed units housed 392,345 people, including 136,098 women and 192,473 children<sup>3</sup>. Due to a rampant housing crisis, many residents continued to live in their damaged homes following bombardments. Al Mezan’s documentation shows that over 83 percent of people continuing to live on a permanent basis in a partially destroyed house are women and children.

The practice of destroying personal properties includes two important facets that critically impact the civilian population: firstly, houses are often targeted while they are occupied, killing people inside their homes. In the 2014 bombardment, for example, 1,068 people were killed inside their homes—923 of them were civilians, including, 378 children and 246 women. It would appear that the practice particularly targets civilians. Secondly, the scope of the targeting extends to the civilian infrastructure, including factories and businesses, power, sanitation and water lines and facilities, which serves to diminish the housing standards and greatly exacerbate the economic conditions—and therefore standard of living—for families in the Gaza Strip.

The large-scale focus on civilian targets for property destruction— and on civilians who are uninvolved in any form of hostilities— suggests that there is an intent to intimidate or punish the population in Gaza. The intent is often referred to in terms of establishing ‘deterrence’; sometimes openly. These acts amount to a collective punishment under international law, as they are largely directed at the entire population. In addition, over 48 percent of people killed during the 2014 bombardment were targeted within their homes, indicating that in nearly half of all killing cases, a collective punishment was also meted out on the family as a whole in the form of a house demolition or damage.

### **Restrictions on the Reconstruction Process**

Residents of the Gaza Strip continue to endure an aggravated housing crisis that occurs in light of rapid population growth combined with a restricted number of houses and housing units. In order to meet population growth, Gaza requires an additional 14,000 housing units annually, on top of the 331,543 units currently available in Gaza.<sup>4</sup>

Largely to blame for the housing crisis is the Israeli government’s unilaterally imposed blockade and closure of the Gaza Strip, in place since 2007 and rooted in restrictions on the movement of materials and goods. The blockade and closure have taken a dramatic toll on the housing sector, particularly after mass demolitions occurring in the three most recent bombardments. The blockade and closure measures include restrictions on entry into Gaza of all construction materials, either banning or limiting the much-needed building supplies.

Further, the United Nations-brokered ‘Gaza Reconstruction Mechanism’ deal between the Israeli and Palestinian Authority governments crippled the process of reconstruction after the 2014

<sup>2</sup> The number of partially destroyed houses does not include the lightly damaged houses.

<sup>3</sup> Al Mezan’s database, the period from 2008 until the first half of 2019.

<sup>4</sup> Palestinian Central Bureau of Statistics, Population, Housing and Establishments Census, 2017.

bombardment.<sup>5</sup> Although the Gaza Reconstruction Mechanism was set up with expectations to facilitate progress on the reconstruction front, Israel's blockade and closure restrictions remained in place within the Mechanism, serving to prevent its effectiveness.<sup>6</sup>

Five years after Operation Protective Edge and reconstruction is still very much a work in progress, with about 2,000 housing units that had been completely destroyed still in need of rebuilding, at a cost of \$80 million. While another 73,500 housing units that had been damaged have not been repaired, with the cost estimated at \$90 million.<sup>7</sup> The costs of rebuilding continue to mount, with the Israeli forces' destruction of houses in 2018 estimated at \$5.1 million and the costs for the first half of 2019 already estimated at \$8 million.

The base-line housing crisis that exists in Gaza as a result of the blockade and closure is dramatically heightened by the Israeli military's practice of house demolitions, which is then further exacerbated by the decrease in international aid provided to the housing sector. As of 2018, no new housing projects have been launched.<sup>8</sup> This is despite the fact that since the end of Operation Protective Edge, only 7,770 housing units—71 percent of those razed during the Operation—have been rebuilt.<sup>9</sup>

This situation worsened in June 2018 when the UN Relief and Works Agency, pressed by financial limitations, challenges to its mandate by the Israeli government, and withdrawal of funding by the United States, stopped making rental payments to 402 refugee families whose houses had been destroyed.<sup>10</sup>

### **House Demolitions and Collective Punishment Under International Law**

The cumulative effect of the practice of house demolitions, displacement of people and the obstruction of the reconstruction process constitutes a serious violation of the rights to housing and an adequate standard of living, to life, and of the principles of international humanitarian law (IHL).

Collective punishment in situations of occupation is prohibited under IHL according to articles 50 of the Hague Regulations (1907) and 33 of the Fourth Geneva Convention (1949) and is considered customary international law. As a form of collective punishment, Israel's policy of house demolitions is therefore illegal per international law.

<sup>5</sup> Lawyers for Palestinian Human Rights' briefing on the Gaza Reconstruction Mechanism: its ineffectiveness, its incompatibility with international humanitarian and human rights law obligations, and its future. July 2018, available at: <https://lphr.org.uk/wp-content/uploads/2018/07/LPHR-briefing-on-the-Gaza-Reconstruction-Mechanism-July-2018-FINAL.pdf>

<sup>6</sup> The GRM is a temporary mechanism to allow the entry into Gaza of large amounts of materials considered 'dual-use' for the purposes of reconstruction following the conflict in 2014.

<sup>7</sup> Ministry of Public Works and Housing, 2 July 2019. Figures from Under-Secretary Naji Sarhan.

<sup>8</sup> Ibid 7.

<sup>9</sup> Ministry of Public Works & Housing, 2019, Infographic on the updates on the restriction program of the Gaza Strip after 2014.

<sup>10</sup> Interview with Imad Okal, director of UNRWA operations, by Hussien Hammad on 18 June 2019.

The practice of destruction of property belonging to protected persons—public structures or private houses—is also primarily protected by IHL, which strictly limits if, and in what circumstances, demolitions can take place. Article 53 of the Fourth Geneva Convention outlines the protection, stating that “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.” The phrase “absolutely necessary” places strict limits on the circumstances in which lawful destruction may be carried out and can’t be argued for the destruction *en masse* of civilian properties in Gaza.

Private property is also specifically protected under Article 46 of the Hague Regulations and its destruction is classified as a grave breach of IHL under article 147 of the Fourth Geneva Convention. To ensure prosecution of “the most serious crimes of concern to the international community as a whole”,<sup>11</sup> including illegal house demolitions, the International Criminal Court (ICC) was established in 2002. The Rome Statute, or founding document of the ICC, provided for the jurisdiction of the Court in circumstances of “Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” (article 8(2)(a)(iv)).

Accountability is needed in the case of house demolitions in the occupied Palestinian territory in order to serve as a deterrent and to uphold the right to justice of victims and survivors.

### **The Effects of House Demolitions**

The practice of house demolitions inflicts serious harm on the people whose homes are destroyed. The toll assumes a spectrum of harm on its targets, from loss of life to huge financial losses that result in attacks on the dignity of the residents. For example, in many cases, the Israeli forces destroy houses whose owners are still paying off the housing loans. The families of destroyed houses also lose possessions, like furniture, clothes, official documents and papers, as well as personal memorabilia like family photographs. These cumulative losses, in addition to the trauma of the initial destruction, result in deep psychological harm, anxiety and post-traumatic stress disorders. The effects on children, in particular on those who endure long stretches of displacement, are compounded.

This occurs in the context of 12 years of closure and blockade that has caused a humanitarian catastrophe, with unemployment at 52 percent and poverty at 53 percent, and opportunities to recover from the demolition of a house therefore extremely limited.

### **Recommendations**

1. The international community must intervene and exert pressure on the Israeli authorities to halt their attacks against civilian properties, to end the blockade and closure imposed on the Gaza Strip and ensure the entry of construction materials and an adequate standard of living;

<sup>11</sup> Rome Statute of the International Criminal Court (1998), Preamble

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2. The international community must hold to account the perpetrators of serious violations of international law, and pressure the Israeli authorities to compensate victims for the loss of their homes.