

Summary of the Centre on Housing Rights and Evictions (COHRE) and the International Commission of Jurists (ICJ) Affidavit

by Sarah Williams

This affidavit argues that a state's power to police itself is not absolute but is circumscribed by international law. Israel's forced eviction of Palestinian residents from East Jerusalem is without due process, is accompanied by violence and/or threats of violence and is contrary to the fundamental principles of international law. Four principal areas of international law apply:

Firstly, under Human Rights Law, the prohibition against forced evictions is a well-defined, universal and obligatory international human rights standard. It is to be found under international treaties applicable to Israel, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The UN Human Rights Committee has stated that Israeli policy is in violation of the obligation on the part of a state party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home, the freedom to choose one's residence and the right to equality of all persons before the law. The UN Committee on Economic, Social and Cultural Rights has also condemned the practice of forced evictions and the UN Committee on the Elimination of Racial Discrimination has called for a halt to demolitions and respect for property rights, irrespective of the ethnic origin of the owner. Many other universal and regional human rights instruments further articulate the human rights argument against these evictions.

Secondly, under International Humanitarian Law, the Fourth Geneva Convention prohibits both the forcible removal of people from an occupied territory and the transfer of parts of the occupier's own population into the occupied territory. Furthermore, except for reasons of military necessity, destruction of property belonging to private persons within the occupied territory is prohibited.

Thirdly, under International Criminal Law, acts of forcible eviction have given rise to liability since the days of the Nuremberg Tribunals and more recent developments have established that the forcible displacement of persons (even within the same country) is a crime against humanity whose basis for liability does not require that it be committed during an international armed conflict.

Finally, the affidavit provides several examples to support the fact that under customary international law, which is the law derived from the practice of states and the opinion of states as to what principles bind their actions, a policy of forced evictions violates universal and obligatory legal standards, accepted as such by the international community.