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by Gilead Ini

## **Jeff Halper Distorts International Law**

The adoption of the Geneva Conventions in 1949 was preceded, in the words of International Committee of the Red Cross (ICRC) official François Bugnion, by "four years of intense and almost continuous negotiations" ("The Geneva Conventions of 12 August 1949: From the 1949 Diplomatic Conference to the Dawn of the New Millennium," *International Affairs*, January 2000).

During these post-war years, the ICRC, representatives of relief organizations, and government experts worked together to study data, analyze existing agreements and draft the new conventions. The drafts were discussed and amended over the course of a number of conferences and Commissions of Experts. Finally, the representatives of 63 governments met in the summer of 1949 for the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, which entailed an additional "four months of continuing and exhaustive debate" (Jean S. Pictet, "The New Geneva Conventions for the Protection of War Victims," *The American Journal of International Law*, July 1951).

But never mind all that rigorous effort. In its relentless quest to demonize the Jewish state, The Israeli Committee Against House Demolitions (ICAHD), a virulently anti-Israel activist organization headed by Jeff Halper (and [funded](#) by the European Union), has in effect rewritten the Fourth Geneva Convention, the main achievement of those years of work.

Here is what visitors to the Frequently Asked Question of the ICAHD Web site are told:

The Israeli Committee Against House Demolitions  
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## Frequently Asked Questions

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**Q** Are Israel's house demolitions legal under international law?

**A** No. Under the Fourth Geneva Convention Occupying Powers are prohibited from destroying property or employing collective punishment. Article 53 reads: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons...is prohibited." Under this provision the practice of demolishing Palestinian houses is banned, as is the wholesale destruction of the Palestinian infrastructure.

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If Article 53 of the Fourth Geneva Convention indeed asserts that the destruction of private property "is prohibited," *period*, it might be reasonable to claim, as does ICAHD, that "the practice of demolishing Palestinian houses is banned" under international law, *period*.

But this is not what the Convention says. Through manipulative editing, Halper's organization substantially changes and effectively misquotes Article 53, which in actuality says:

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.* (emphasis added)

In other words, the paragraph's tail section, which ICAHD lopped off without so much as an ellipsis, makes clear that the organization's blanket assertion about the illegality of Israeli demolitions is simply untrue. *Certain* demolitions are prohibited by the Fourth Geneva Convention, but demolitions under specific circumstances are obviously permissible. This is no minor point. The passage that ICAHD surreptitiously conceals from readers is described in the [official commentary](#) to the Convention as "an important reservation."

Even critics of specific types of Israeli house demolitions (punitive demolitions) acknowledge that the official commentary to Article 53 leaves it to the occupying power to determine what is "necessary" destruction. One critic, for example, points to this commentary and concludes that "so long as the occupying power is authorized to make that determination, the legal argument that demolitions violate Article 53 will be difficult to make" (Brian Farrell, "Israeli Demolition of Palestinian Houses as a Punitive Measure: Application of International Law to Regulation 119," *Brooklyn Journal of International Law*, Vol. 28(3), 2002). (Note that, as of February 2005, Israel no longer practices punitive demolitions, the type of demolition opposed by the critic.)

Of course it is still reasonable for people to debate which house demolitions by Israel (or any other country) are a "necessary" part of military operations. But it is neither reasonable nor ethical to circumvent such debate and automatically impart guilt to Israel by lying to the public about what the relevant legal statutes actually say.

*(Note: This article focuses specifically on ICAHD's distortion of Article 53 of the Fourth Geneva Convention. There is a separate debate, not discussed above, regarding whether the West Bank can accurately be described as "occupied territory" and whether the Fourth Geneva Convention applies to this territory. For more on this debate, see [here](#) and [here](#).)*