



INSIGHTS BRIEFING

Young Palestinians' Struggles for Adequate Redress for House Demolitions

ISSRAR is an international research project focussing on understanding young Palestinians' responses to house demolitions. Over three years we explored how these responses impact young people's ability to cope with violence, maintain dignity, imagine their futures and build sustainable development for Palestinians. We worked with young people to devise questions, conduct interviews, create drawings, photographs and art works across rural and urban communities while engaging with NGOs and civil society organisations.

For further information about the project please visit
<https://issrar.community>

INSIGHTS

House demolitions continue to be issued and carried out by the Israeli government across Palestine, yet are widely believed to be in breach of international law.

In the event of a demolition order being issued, Israel provides an avenue for redress by allowing Palestinians access to the Israeli court system.

Redress through the courts can be difficult to access and challenging to navigate for those with no prior knowledge of the law and even with such knowledge, the complexity and impenetrability of the different legal systems make it almost impossible to achieve.

'The demolition did not just change my life, it destroyed it. I used to dream of a future where I would get married and set up my own house. But now after the demolition, I have nowhere [...], there is no place to rest, nowhere at all' (Young man in Jordan Valley)

OVERVIEW

HOUSE DEMOLITIONS, HUMAN RIGHTS AND ACCESS TO AN EFFECTIVE REMEDY

The practice of house demolition is widely considered to be in breach of international human rights law (Fourth Geneva Convention, Art. 53, International Covenant on Economic, Social and Cultural Rights, Art. 11). As such, all those who have been victims of house demolitions should be able to seek a remedy through national court systems. The right to an effective remedy is a fundamental right enshrined in a number of international human rights conventions. The Universal Declaration of Human Rights (UDHR, Art.8), the International Covenant on Civil and Political Rights (ICCPR, Art. 2) and the European Convention on Human Rights (ECHR, Art. 13) all contain, in clear and unambiguous language, provisions that stress the need for effective remedy for human rights violations.

In the context of house demolitions in Palestine, an effective judicial remedy for Palestinians could therefore prevent a demolition order from being carried out or prevent a demolition that has already begun from continuing. It would place those who had already lost their home in the same position as they were prior to the demolition, meaning their home would have to be rebuilt.

The Israeli government grants Palestinians access to their national court system and the Israeli Supreme Court is therefore able to hear petitions from Palestinians to grant relief against the State or any of their administrative authorities. Crucially, this gives the Supreme Court the power to provide an effective remedy for Palestinians facing house demolition.



Settler homes overlooking communal tents and homes of Bedouin families in the South Hebron hills. These structures have been rebuilt after demolition several times. All but two structures in the village have demolition orders on them.

BARRIERS TO ACCESS FEELINGS OF HOPELESSNESS AND PERPETUAL FRUSTRATION

The fact that the Israeli government allows access to the courts does not, however, mean that all those who are in need of redress are aware of their rights or have the means to effectively file a petition before the court. Practical barriers can include a lack of sufficient funds to bring an action and even language can form a barrier as often court proceedings and the demolition orders themselves are in Hebrew.

The ISSRAR project allowed us to gain an understanding of the realities young people encounter when faced with a demolition order and how they experience this. Through our interactions with young Palestinians, we were able to capture the frustration and the feelings of hopelessness that arise when they are served with a demolition order,

"God, there is nothing that can stop them. They see themselves as if they're above the law. That's it, decision is made, and nothing to change."

Despite there being the potential avenue for redress through the Supreme Court, many of the people we interviewed indicated that they didn't feel there were any procedures open to them to stop the demolitions. Others felt more, hopeful, that they could take steps to stop the demolitions but were simply unaware of the legal steps they could take to save their homes,

"There are means to stop the demolition actions for sure, but we don't know them..."

For those who were more aware of procedures, it was clear there was a lack of trust in the system. Some claimed to have paid out significant financial resource to lawyers only for their homes to be demolished anyway. Others struggled with the idea that their route to redress came via engaging an Israeli lawyer.

"As they were pulling it down they told us to hire an Israeli lawyer, they, themselves Israelis advise you to hire an Israeli lawyer..."

Our research led us to few people who had successfully been able to navigate the legal system and use it in their favour. A great majority of those interviewed felt there was no course of action to be taken at all. The Supreme Court therefore, is not necessarily an accessible or legitimate route to remedy that is being felt on the ground, by its intended users. This reality only leads to heightened feelings of frustration and financial loss from those who are facing house demolitions.

THE ILLUSION OF REDRESS EVIDENCE OF HEAVY BIAS AND NOT CHALLENGING THE STATUS QUO

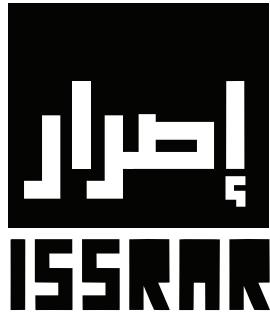
Despite the fact that the Israeli government have granted Palestinian's access to their national court system and the Supreme Court has the power to prevent house demolitions from taking place, to date no petitions against a demolition order have ever been granted.

Criticism has been aimed at the Court for failing to examine the legality of the demolition orders themselves and focusing instead on the legality of the grounds on which the demolition order was issued. For example, many demolition orders are made when Israeli authorities claim that structures were erected without the required building permits. The Court has so far focused on whether, in fact, the petitioner had the correct building permit as opposed to ever questioning the planning laws which make it close to impossible for Palestinian people to obtain such permits.

The very practice of house demolitions has never been called into question despite widespread criticism and the fact that such actions are in breach of international law. Access to effective remedy is therefore not provided by the Israeli state and international law lacks adequate means of enforcement to benefit the Palestinian people. Instead, granting Palestinians access to the court system creates the illusion of redress but rather than help placate those in need, it leads to ever growing feelings of fear, hopelessness and frustration.



A demolished house next to an existing family home in the Jordan Valley. The owners of the destroyed house were a young family wanting to move out of the existing family home due to cramped conditions living with several generations, but were not granted a permit to build. Less than 4% of Palestinian building permits are granted in Area C of the West Bank.



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CRITICAL ISSUES

The route to redress for Palestinians faced with the threat of house demolition is very difficult to access and requires significant knowledge and resources and still provides limited chance of success.

Those who are able to bring a claim before the court face a legal system characterised by complexities that effectively serve to undermine routes to redress.

What is effectively an illusion of redress engenders feelings of hopelessness and frustration and compounds the suffering of young Palestinians already struggling to deal with the loss or potential loss of their home.

FURTHER RESOURCES

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). "Peak in demolitions and confiscations amidst increasing denial of the right to justice." December 2020.

<https://www.ochaopt.org/content/peak-demolitions-and-confiscations-amidst-increasing-denial-right-justice>

B'Tselem. "He looked for justice, but behold, oppression: The Supreme Court Sitting as the High Court of Occupation." December 2019

https://www.btselem.org/sites/default/files/publications/201912_supreme_court_sitting_as_high_court_of_occupation_eng.pdf

B'Tselem. "Fake Justice: The Responsibility Israel's High Court Justices Bear for the Demolition of Palestinian Homes and the Dispossession of Palestinians." February 2019

https://www.btselem.org/sites/default/files/publications/201902_fake_justice_eng.pdf