

Cost without Benefit

A Reexamination of Israel's Home Demolition Policy

Amichai Cohen | Tal Mimran

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The Israel Democracy Institute
4 Pinsker St., P.O.B. 4702, Jerusalem 9104602
Tel: (972)-2-5300-888
Website: <http://en.idi.org.il>

To order books:
Online Book Store: <http://tinyurl.com/en-idi-store>
E-mail: orders@idi.org.il
Tel: (972)-2-5300-800; Fax: (972)-2-5300-867

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Abstract

Under a policy that was in force from 1967 until 2005, the Israel Defense Forces (IDF) demolished the homes of the perpetrators of terrorist acts and various security offenses, as well as their accomplices. In 2005, a commission of experts, headed by Maj. Gen. Ehud Shani, expressed its doubts as to the policy's legality and efficacy and recommended that it be abandoned. Notwithstanding, the home demolition policy was revived three years later, in 2008.

The demolition of homes is an extreme measure. The arguments against it include that it is a disproportional infringement of private property rights, constitutes collective punishment, and that there are no evident gains that can justify its use. Nevertheless, over the years, decision-makers in the IDF insisted that the deterrent effect outweighs other considerations and justifies the infringement of rights. The Supreme Court of Israel, almost without exception, has given its full backing to that position. The underlying assumption about the deterrent effect of home demolition is based on the intensity of the sanction against the terrorist and his family as well as the rapidity with which it is implemented.

This study is a three-part examination of how the IDF reached the conclusion that home demolition is an effective policy and employed it for so many years without ever conducting an empirical study. We also consider what caused the decision-makers to revive the policy only three years after it was decided to abandon it.

1. The Theoretical Plane

The IDF's defends home demolition on the grounds that it is effective. It holds that it is justified to injure a terrorist's family, even if they are not themselves involved in terrorism, in order to deter others from committing terrorist acts in the future. The fact that the policy was employed for so many years, despite the strong objections to it, indicates that cost-benefit considerations were given primacy and used by its supporters to justify this policy.

We assert that the policy of home demolition has encountered massive criticism over the years because this utilitarian rationale is debatable.

Our Recommendation. Proof must be offered that the gain derived from some measure exceeds the damage it causes. If the efficacy of the home demolition policy cannot be demonstrated, its moral underpinnings collapse. Therefore, if the IDF holds to the utilitarian rationale, it must offer evidence of its efficacy to justify this.

2. The Practical Plane

Here we ask whether there is a sufficient factual basis for the position that home demolition is effective. As we understand it, one way to do so requires empirical data, meaning statistics or research methods that employ them to reach fundamental conclusions.

Nevertheless, over the years Israeli courts and decision-makers have rejected the idea that statistical data could demonstrate the policy's efficacy (or inefficacy). We have been unable to find data to support the position that home demolition serves as a long-term deterrent to terrorism.

Our Recommendation. Empirical data must be employed in the decision-making process about the policy of home demolition. This is true even though it may be difficult to frame the relevant data precisely and even though decision-makers may not have the professional tools for analyzing the data and assessing their quality. Because there are many positive examples of decision-makers' ability to use empirical tools, it is not unreasonable to expect them to do so in this context as well.

3. The Existence of Rational Thinking in Decisions about the Home Demolition Policy

We believe that the data we have gathered demonstrate that there is rational justification for abandoning the policy of home demolition, but it is still employed.

Hence we chose to look into the role of cognitive biases in the decision-making process related to the home-demolition policy. If we understand their place, we will achieve a better understanding of the decision-making process

and the reasons why the policy remains in effect. We have chosen to focus on several relevant biases: loss aversion (the tendency to strongly prefer the avoidance of losses to the acquisition of gains); anchoring and adjustment (the tendency to select a starting value and then modify it in order to arrive at the final answer sought from the outset); over-optimism (excessive self-esteem that does not coincide with reality); overconfidence (an exaggerated estimate of the ability to predict future results); egocentric bias (too high a self-estimation of the person who evaluates the sequence of events); representativeness (basing decisions on the perceived closeness of values); and availability bias (evaluation of the probability of a particular event according to the ease with which cases or examples come to mind). We examined the possible influence of all of these biases on two decisions, that of 2005 to stop demolishing homes and its reversal in 2008.

Our examination leads us to the conclusion that cognitive biases played a role in decisions about the policy of home demolitions. We also concluded that the use of the policy over the years and the decision to revive it in 2008, after a three-year suspension, can largely be attributed to a mistaken impression rather than to some malicious intent.

Our Recommendation. To deal with cognitive biases, a decision-making mechanism should be adopted that takes these biases into account, and even endeavors to offset them.

The new decision-making mechanism for should be based on five pillars:

- (1) Periodic reexamination of the policy by bodies with no commitment to the previous policy. The Shani Commission is an excellent example of such an independent group. Justices Rubinstein and Hayut recognized this in their opinion on the appeal in principle against the home-demolition policy and ruled that periodic reexamination of the policy, including research and monitoring of implementation, should be considered in the future.
- (2) Appointment of a person whose role is to challenge the current policy and present other and contrary considerations to those that ground it.
- (3) Separation of the groups that participate in the decision-making processes in a manner that balances the biases; for example, isolation of those who gather the information from those who make the final decision. This

separation would prevent the biases in data collection from infiltrating the decision-making process itself. In order to make the decision more influential, the data that led to the conclusion should be presented with the highest possible degree of transparency.

- (4) If the objective of the policy is to achieve a certain desirable outcome, such as deterrence, the data employed must reflect the efficacy of the policy to achieve that objective.
- (5) In the case of home demolition, even the courts sometimes find it difficult to take the appropriate rational considerations into account. One possible option is to institute an independent oversight body, similar to the Shani commission, that could deal rationally with the difficult issues raised by the policy. The demand that decision-makers submit their rational grounds to the oversight body could reduce the negative impact of cognitive biases.