

My name is Rabbi Arik Ascherman and I serve as the executive director of Rabbis For Human Rights. RHR is a rabbinic NGO working to promote the human rights of Israeli Jews, Israeli Arabs, Palestinians and foreign workers alike. In 1993 RHR was awarded the Speaker of the Knesset's prize for our contributions to Israeli society. Since 1997, RHR has been active on the issue of homes demolished because their owners were not able to get permits.

>From the moment that today's court date was set to take place during the "Ten days of Teshuva" between Rosh HaShana and Yom Kippur, the words we pray immediately before the Kol Nidre prayer have been echoing in my head, B' Yeshiva Shel Mala U'v'Yeshiva Shel Mata - al da'at HaMakom v'al da'at hakahal - anu matirin l'hitpalel im ha'avarayanim." (By authority of the Heavenly Court and by the authority of this earthly court - with Divine consent and with the consent of this congregation - we hereby declare that it is permitted to pray with those who have transgressed - from the High Holy Days prayer book.)

I am aware of the fact that I am being judged during these Ten days of Teshuvah both in the Yeshiva Shel Mala and the Yeshiva Shel Mata, and that at the heart of our disagreement in this trial is who should be considered transgressors: Shai, Omer and myself, who are on trial, or those Israeli decision makers responsible for the policy of home demolitions.

More than anything else, I am conscious of our Jewish tradition's teaching that we have no right to ask the Holy One of Blessing to judge us mercifully in the Yeshiva Shel Mala until our earthly courts and institutions establish justice here among us. In the Bible law and justice are synonymous - but not so in our world. Standing here on trial before your earthly court in the name of all the victims of home demolitions, I believe that it is in your power to unite justice and law.

I didn't suddenly show up in Isawiyah on April 7th 2003 or in Beit Hanina on May 26th, 2003 as a Tabula Rasa with no knowledge about demolitions. Since 1997 I have experienced countless events connected to the demolishing of homes of families whose only crime was to want a roof over their head and am probably one of the most knowledgeable people on this subject in this country.

I will not trouble the court by repeating those points already submitted in writing, but suffice it to day that I came to those places after having seen so clearly the enormity of the injustice, and after working to change the demolition policy in court, in the Knesset and with the international community. I came to the places in question after we had helped to bring about a growing consensus both in Israel and abroad that the home demolition policy was wrong.

As a result demolitions went down practically to zero in Area C between September 1998 and June 2001. There was also a serious reduction in Jerusalem. During these years courts didn't cancel demolition orders, but often gave extension after extension in order to obtain permits. Judges found ways to express their discomfort with the policy, even if they didn't directly address the overall policy. Then Deputy Defense Minister Efraim Sneh told us that the unofficial policy was to stop demolishing homes unless they constituted a slap in the face to the government. There was government pressure on the Jerusalem Municipality to stop demolitions.

Unfortunately, I have also experienced the policy reversal of recent years leading to all time high in the number of demolitions in Jerusalem. I also arrived at the two homes in question with the knowledge that there had been an

increasing number of homes demolished in which authorities knew that there was a court order on the way to stay the demolition and they hurried to destroy the home before the order was delivered or in which security forces prevented the home owners from delivering the order.

For example, in Sur Baher attorney Solan informed the Municipality and the police that he had obtained a last minute order. "Yaron," the supervisor of the demolition, refused to receive the order orally from the lawyer, from his own office or even from the police officer on site in charge of the forces protecting the demolition. The home was partially demolished when the written order was delivered. Yaron brought the Municipal Engineer to declare the home unsafe and on that basis continued with the demolition.

Clearly I did not arrive at the events which are the subject of this trial with much faith that those interested in carrying out demolitions were even respecting Israeli law. They certainly were not respecting international law or the Torah that I as a rabbi swore to uphold.

I must add that, if I thought I knew everything that there was to know about demolitions beforehand, even I have been surprised by what I have discovered in preparation for this trial. For example, I found minutes of city council meetings in which it was clearly stated that the policy was to use zoning regulations to prevent Palestinian building until such time as land could be expropriated to build Jewish neighborhoods.

Most importantly, I arrived at the homes for which I am on trial today carrying in my heart all the families in whose name I stand before you - the families that suffered and continue to suffer because of the home demolition policy.

I held in my heart the looks of the children in Shufafat who had gone of the school in the morning and returned to discover their home demolished, with a toy or book peaking through the rubble.

I held in my heart the families who are on the brink of divorce because of the pressures of being homeless, the children of the Shawamre and Shamasneh families and so many others who wake up with nightmares, who will wet their beds rather than go to the bathroom by themselves, who collapse when they see an Israeli soldier and who have gone from outstanding students to finding it difficult to learn.

I held in my heart the frightened looks of families sitting on packed suitcases waiting for the bulldozers to arrive, the grown men crying and the tens, if not hundreds of families whom I have spent time with before, during and after home demolitions.

I met the Da'ari family at least a year before the demolition as part of our project to prepare profiles on the families owning endangered homes. We followed their legal efforts and I knew that their village of Isawiyah had owned some 12,000 dunam before 1967. They now have some 666 dunam. Of this, some 400 dunam are zoned for building (I have also heard claims that it is actually much less) and the rest is zoned as "green land," "open view land," or restricted for military use. Some 80% of the land zoned for building is already fully built up. There is no possibility of building legally in the neighborhood in which Ahmed Musa Da'ari built a home for his two sons because the entire neighborhood, although clearly part of Isawiyah, is not included in the village's master plan. There is a very good possibility that they will finally succeed in their efforts to obtain a new master plan which will correct this. (The residents are

preparing this plan at their own expense. Such plans would be funded by the government or municipality in Jewish neighborhoods.)

However, it is already too late for Ahmed Musa. He is partially handicapped and can no longer work. He will never be able to earn the money required to rebuild his demolished home.

The Maswadeh family in Beit Hanina has a letter from the Municipality stating that they can build on their land after "reparcelization" takes place (Combining and redividing properties so that the burden of lands expropriated for schools, roads, etc., is evenly divided.) However, the authorities are making no effort to carry out reparcelization. There are therefore some 1,000 dunam in Beit Hanina which in reality one can not legally build. Again, were this to change tomorrow it would not help the Maswadeh family, which is considering selling their property in order to pay off debts.

I must state that I was surprised that your March decision rejecting our pre-trial motion was based, among other things, on the argument that we are not personally affected by these demolitions. Nobody with a heart beating in their chest can not be affected. Furthermore, the trial opened last January the week in which we celebrate the birthday of one of the great proponents of non-violent civil disobedience, Martin Luther King Jr. He taught that "Injustice anywhere is a threat to justice everywhere."

That week we also marked the yartzeit (anniversary of death) in the Hebrew calendar and the birth date according to the secular calendar of one of the great rabbis of our time, Rabbi Abraham Joshua Heschel. He often said that "In a democracy a few are guilty - all are responsible." I am very deeply affected when the Torah which I am sworn as a rabbi to uphold is being trampled on.

In a piece which I wrote immediately after the demolition of the Da'ari home I noted that my kippah was lost in the rubble. I wondered whether this symbolized what was being done to Jewish values and/or whether it would be found some day so that it would be known that somebody had stood against this evil in the name of Torah.

I hope that the message emanating from your court will be one unifying law and justice. At the end of the day, everything is B'Yad HaYotzer (In the hands of the Creator - from the High Holy Days prayer book based on Jeremiah.) in the Yeshiva Shel Mala. However, your honor, here in this Yeshiva shel Mata, the decision is in your hands.

I wish everybody Shana Tova (a good new year) and G'mar Khatima Tova (May the final seal be for the good), a year in which we build a better and more just society.