



A LIFE EXPOSED

Military invasions of Palestinian homes in the West Bank

November 2020



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"The poorest man may in his cottage bid defiance to all the forces of the Crown.

It may be frail—its roof may shake—the wind may blow through it—the storm may enter—the rain may enter—but the King of England cannot enter; all his force dares not cross the threshold of the ruined tenement!"

(William Pitt, Speech before the House of Lords, 1763)

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**Military invasions of Palestinian
homes in the West Bank**

INTRODUCTION

Most of us feel safe in our homes. As night falls, we turn out the lights, close the doors and gather inside with our families, safe in the knowledge that within our four walls, we are protected from the world outside. The knowledge that when our door is closed, no one can invade our private space without our permission enables the peace of mind and comfort we feel at home.

This sense of security is stolen from Palestinians in the West Bank, where almost every night, throughout the area, armed Israeli soldiers raid Palestinian homes. This report presents the Israeli military's widespread practice of invading Palestinian homes, which forms a key aspect of everyday life under the Israeli occupation. These invasions repeatedly and seriously violate the dignity and privacy of Palestinian families and communities and have a harmful effect on the mental health of many. They are used as a significant and effective tool by the State of Israel to oppress Palestinians and increase control over them.

"We were very scared. Every time the army comes in, it's a trauma. I keep remembering that fear and cannot sleep properly. The youngest child, he also suffers from trauma. He's quieter, does not want to talk, does not want to let me go."¹

In its mundane meaning, a home is a specific physical space that has boundaries - walls and doors that separate its dwellers' private space from everything that lies outside. The home is under the control of those living in it. It gives them a sense of belonging and identity, as well as freedom, rest and protection. It is a familiar place, a protected refuge from the strangers, dangers, challenges and stresses of the world. A home is where people live, whether alone or in families. It is where children grow up and develop in a safe environment, or at least, it should be.

The importance of the home is also reflected in the fact that protecting it is associated with protecting fundamental human rights. The modern concept of the individual's right to dignity and liberty is reflected, in part, in stringent restrictions designed to impede the sovereign from invading the private domain, violating privacy and stripping people of the right to choose

who may enter their home and when, unless this is required for public or personal safety.

Israel has been controlling the West Bank with a military occupation for more than 53 years. This control effectively relies on a plethora of practices that violate Palestinians' rights and liberties. This report focuses on one of these practices, one the Israeli military employs routinely - military invasions into homes, which rob individuals and families of their basic right to treat their home as their castle.

Home invasions are potentially traumatic events that can have a detrimental impact on the mental health of those who experience them. Adults who have gone through a home invasion report a lingering sense of loss of control and helplessness after the incident, as well as symptoms of post-traumatic stress and anxiety. Post-traumatic stress symptoms, such as hyperarousal and aggressive behavior, were reported among children and adolescents as well, along with symptoms of anxiety and increased dependency on parents. Consequently, home invasions may impede functioning and development in both adults and children.

The Israeli military derives its powers in the West Bank from international law, which regulates the status of the occupier as the sovereign's substitute and requires it to maintain public order and safety in the area under its control and to protect the rights of the local population. Israel would argue that invasions by its security forces into Palestinian homes in the West Bank constitute the fulfillment of the occupying power's right and duty to maintain public order and safety, that is, that these acts are not materially different from home searches the Israel Police conducts in its capacity as a law enforcement agency, as an example. This report shows that reality is drastically different.

The Order regarding Security Provisions (also known as security legislation or military law, consolidates the orders the military commander issues pursuant to his powers as the sovereign in the area)² gives Israeli security forces extremely broad powers to intrude into Palestinian homes and offers Palestinians no protection against arbitrary, unjustified and unnecessary invasion of their private quarters. The military uses this power to invade

1. Testimony collected by Yesh Din from R.H., a woman from Silwad, October 30, 2018, Yesh Din Case 4280/18.

2. This report uses the term "military law" to refer to the orders promulgated by the military commander since the occupation of the West Bank and consolidated in 2009 in the Order regarding Security Provisions.

homes without any concrete suspicions, or extremely weak suspicions, against their occupants, while severely violating the rights of adults and children and undermining their mental health. The military considers some of its invasions into Palestinian homes (“mappings”) as lying outside the definition of law enforcement and the maintenance of public order, seeing them rather as combat actions governed directly by the laws of war, which grant extremely broad powers, or by the laws of occupation (seizure for operational needs).

Military law empowers any officer (or a soldier given authorization by an officer) to order an invasion into a home for the purpose of a search. No judicial warrants are used in these invasions, and consequently, there is no judicial review over them, or any other scrutiny of the need for the invasion. Additionally, such invasions sometimes occur for purposes such as deterrence, or what is referred to in military jargon as “making the military’s presence felt,” that is, as a means of influencing and controlling the actions of individuals and communities through intimidation. All of these are a breach of the provisions of international law.

The term “invasion” or “home invasion” is used in this report to describe events in which Israeli security forces intrude into Palestinian homes in the occupied Palestinian territories (oPt). An invasion is an intrusion into a specific space by force and without permission. Israel treats such incidents as lawful and legitimate acts, and as such, not as invasions but as entries into homes performed as part of the sovereign’s rights and duties. The legal term that appears in the Order regarding Security Provisions is “entry.” The term invasion has been selected for this report for two reasons: First, it expresses both the fact that military law allows arbitrary intrusion into Palestinian homes in the West Bank (in other words, intrusion that cannot be justified on grounds that it fulfills an imperative, substantiated need), and the reality that the military uses this power. Second, from the occupants’ perspective, the forced invasion of their home is a tangible expression of the control the occupation powers have over their lives and another tool of oppression.

About the project

This report is the product of a joint project launched by Yesh Din, Physicians for Human Rights Israel (PHRI) and Breaking the Silence in 2018, which focuses on invasions into the homes of Palestinians in the West Bank.³ At the field level, the three organizations engaged in research and documentation on military home invasions and their impact by collecting testimonies from Palestinians whose homes had been invaded by soldiers, as well as from soldiers and commanders who participated in such invasions.⁴

Further, as part of the project, PHRI’s mobile clinic visited communities where such invasions are prevalent.⁵ Alongside the usual activities during these medical days, representatives from PHRI, joined by Yesh Din staff members, spoke to local residents about the impact these invasions have on mental health and about the victims’ legal rights.

At the legal level, Yesh Din offered representation and assistance in filing complaints to the military to Palestinians who fell victim to criminal offenses perpetrated by Israeli soldiers during home invasions (for instance, violent offenses or looting). We note that only a handful of families elected to file a complaint with the authorities. Additionally, on March 22, 2020, Yesh Din, PHRI and six Palestinian families whose homes were searched filed a petition with the High Court of Justice demanding amendments to military law such that home invasions would be permissible only with a judicial warrant (barring cases where there is an urgent need that cannot be postponed). This would bring military law in line with the requirements of international human rights law and the standards set by every legal system that respects the rights of the individual.⁶

The present report offers a summary and analysis of the vast amount of information the three organizations collected during the project. From March 2018 to May 2019, **Yesh Din** collected 158 testimonies from Palestinian men and women whose homes were invaded by soldiers in 128 separate incidents. The testimonies were collected relatively soon after the invasion and

3. The project did not record home invasions in East Jerusalem. Invasions by Israeli security forces into the homes of Palestinians living in East Jerusalem should be carried out according to Israeli law. However, there have been many cases of invasions into the homes of Palestinian residents in the city without warrants and in breach of legal provisions. See, e.g.: Nir Hasson, “Rights Group: Police Collecting Intel by ‘Visiting’ E. J’lem Homes at 3 A.M.”, **Haaretz English website**, May 22, 2016; Nir Hasson, “Breaching Protocol, Police Step Up Nighttime Raids on East Jerusalem Homes”, **Haaretz English website**, February 3, 2017.

4. In addition, in the years preceding the project, Yesh Din documented dozens of military invasions into Palestinian homes in the West Bank involving suspected criminal offenses by soldiers. Breaking the Silence has also collected hundreds of testimonies from soldiers and officers describing invasions they carried out.

5. PHRI’s mobile clinic has been delivering medical services in Palestinian villages in the West Bank for the past 28 years, seeing hundreds of patients each week. This work combines medical care with protest against the occupation and its impact on the right to health. For more information, see [PHRI website](#).

6. HCJ 2189/20, **Raba’a Abed Al-Aziz Abdallah Hamed et al. v. Commander of Army Forces in the West Bank**, March 22, 2020 (Hebrew). For more, see Yesh Din website, [HCJ petition: subject military searches in Palestinians’ homes in the West Bank to judicial review](#). The petition was filed by Atty. Michael Sfar and Atty. Hagai Benziman of Yesh Din’s legal staff.

focused on detailed descriptions of the incidents. They document home invasions throughout the West Bank (with the following approximate distribution: 27% in the Hebron district, 24% in the Bethlehem district, 20% in the Ramallah district, 9% in the Nablus district, 15% in the Qalqilyah district, and the rest in other districts).

In 91 of the cases, there was some sort of search of the rooms in the house. Fifty-eight incidents were described as an arrest raid. Nine cases were classified as incidents in which the invasion was likely carried out for the purpose of temporary takeover of the premises (seizure) for some military need, and in 18 cases, family members said that while in the house, the soldiers engaged in documentation, such as photographing family members or rooms in the house. These activities could indicate the purpose of the invasion was “mapping” (collecting information about the structure of the home or its dwellers). Six cases were classified as ‘other,’ meaning it was not possible to discern the objective of the invasion from the testimony collected.⁷

It is important to note that the testimonies collected as part of the project are not indicative of the prevalence of military invasions in the West Bank, but rather represent only the cases brought to Yesh Din’s attention and regarding which affected individuals agreed to give testimony. Accordingly, the figures in this report cannot be used as a source for general figures about this practice (for instance, the relative number of invasions in a certain area). At the same time, testimonies regarding a large number of cases do provide a credible picture of how such incidents routinely play out, as well as statistics about their main features.

From September 2018 to March 2019, PHRI conducted 31 interviews with men and women whose homes were invaded by soldiers in 16 separate incidents. In these cases, one family member initially gave a testimony to Yesh Din, which led to the family being selected for follow-up interviews according to clear criteria defined in advance by PHRI’s project team. The family’s consent to give further testimony was obtained. The follow-up interviews were conducted by a social worker several months after the invasion and focused on the impact it had on the mental

health of the interviewees and their children. A steering committee of experts in the field of mental health provided guidance to the interviewers.

A total of 81 testimonies were collected from Palestinian women and 108 from Palestinian men whose homes were invaded by the Israeli military for this project. Since post-interview care and support lay beyond the scope of this project, no testimonies were taken directly from children who experienced a military home invasion, but interviewers did hear from parents about the impact the invasions had on their children.

Breaking the Silence collected testimonies from 40 soldiers and five officers who participated in invasions into Palestinian homes in the West Bank (a sample selection for this report out of 80 interviews conducted as part of the project). Twenty-nine of the witnesses said they took part in searches of Palestinian homes; 38 in arrest raids involving home invasions; 18 in invasions carried out for “mapping” missions; nine spoke about taking over homes for military purposes, and seven cited other objectives for the invasions.⁸

Soldiers’ testimonies were used to substantiate and supplement the main features of the incidents described in the testimonies given by Palestinians. They also served as a source of information about the instructions and directives given to soldiers, the considerations they make while executing them and the objectives of the invasion from the military’s perspective.

We do note that our attempts to obtain official information about military orders, directives or procedures regarding intrusions into Palestinian homes have yielded very little information. An application made under the Freedom of Information Act in August 2018 did not receive a response until November 2019 (the response came only after a petition was filed in the matter). When it arrived, the answer referred in general terms to the existence of instructions on entering Palestinian homes in the West Bank, but provided hardly any detail about their content.⁹ Information about the prevalence of home invasions was not provided.

7. In some cases, the invasion was classified under more than one category - for instance, searches that also featured an arrest. This is the reason the total number of classified incidents does amount to 128.

8. Most witnesses participated in more than one type of invasion. Among the witnesses, five completed their military service before 2010; 38 soldiers and officers who completed their military service between 2011 and 2019; a soldier with the rank of sergeant first class who was on reserve duty between 2001 and 2010 and an officer with the rank of major who was on reserve duty between 2006 and 2014. Breaking the Silence took a total of about 80 testimonies from soldiers and officers who took part in invasion into Palestinian homes for this project. Forty-five of them were used for this report, as detailed above.

9. Military response to Yesh Din’s letter, “Re:Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act”, November 18, 2019 (Hebrew).

In addition to all these, the report also makes supplementary use of testimonies collected by Breaking the Silence over the years from soldiers and officers who participated in home invasions in the West Bank and spoke about these in their testimonies. Similarly, the report uses additional testimonies collected by Yesh Din after May 2019 and in previous years from Palestinian families whose homes were invaded by soldiers and have suffered physical harm or property damage during these invasions.

About the report

Part 1 of the report presents the practice of military invasions into Palestinian homes in the West Bank, the legal context in which they take place and their impacts. **The first chapter** outlines the main features of an invasion from the moment soldiers pass through the door until they leave. **The second chapter** provides a brief background on the system of laws that apply in the West Bank and Israel's obligations under international law to protect the rights of Palestinians living under occupation. **The third chapter** presents the aggressive, intimidating strategy employed by soldiers during home invasions and its impact. **The fourth chapter** follows on this and delves into the destructive impact these invasions have on the mental health of Palestinian adults and children.

Part 2 of the report presents and analyzes the legal provisions in light of which military invasions of Palestinian homes in the West Bank occur and how they routinely unfold. The description is divided into four parts, matching the four official goals of these invasions: search, arrest, "mapping" and seizure for operational-military needs. These chapters address the substantive gaps in the legislation applicable to military invasions of Palestinian homes in the West Bank in light of the provisions of international law and show this practice results in a violation of these provisions and causes prolonged, ongoing harm to the entire Palestinian public.

Excerpts from testimonies collected from Palestinians and soldiers for this project are incorporated throughout the report.

These excerpts were selected from the many testimonies collected for the purpose of demonstration and illustration.¹⁰

The chapters address the dramatic disparities between military law, pursuant to which invasions of Palestinian homes in the West Bank occur, and the provisions of Israeli law which define when private premises may be violated in Israel and in Israeli settlements in the West Bank. This comparison provides insight into the chasm between the restrictions placed on the sovereign in legal systems that respect individual rights and the lax rules that apply to Israeli security forces in the West Bank.

We chose a comparison to Israeli law (rather than any other current legal system) both because Israeli law often inspires legislation enacted by the (Israeli) military commander of the West Bank,¹¹ and because both indigenous Palestinians and Israeli settlers live in the West Bank. Palestinians come under the orders promulgated by the Israeli military, while settlers come under Israeli law, which is dramatically different from military law, partly in its approach to human rights. This dual legal system is known as "enclave law."¹² This comparison is doubly relevant at a time when Israel openly declares its intention to formally annex parts of the West Bank.¹³

Palestinians living under occupation in the West Bank are constantly vulnerable to arbitrary invasion of their homes by Israeli security forces and the severe resulting harm. Even at home, they are not protected from the intimidating presence of soldiers. The legal provisions that set the conditions for these actions and the manner in which they are carried out result in a violation of international law, including in relation to protecting the dignity, privacy and customs of persons living under occupation and the prohibition on intimidation tactics and terrorization against this population. Additionally, these acts produce systemic discrimination on the basis of nationality. Finally, these invasions serve as a key violent and oppressive tool in the Israeli military's system of control over the Palestinian population.

10. Some of the Palestinian witnesses expressed concern over revealing their full name. Their full details are kept on record with the authors.

11. Amnon Rubinstein, "The Changing Status of the Territories - From Escrow to Legal Mongrel," *Iyunei Mishpat* 11 (1986) (Hebrew), p. 451

12. Although the military government system and the legislation it enacts presumably apply to anyone present in the West Bank, Knesset legislation has applied large parts of Israeli law to Israelis who live in the West Bank (i.e. settlers) personally and extraterritorially. This includes Israeli criminal law. In parallel, the military commander subjected the settlements and their residents to a slew of Israeli statutes. This has created a novel legal system with a sharp distinction between the law applicable to Israelis and the law applicable to Palestinians, that has, as aforesaid, been dubbed "enclave law." See, e.g.: The Association for Civil Rights in Israel, [One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank](#), (October, 2014); Amnon Rubinstein, "The Changing Status of the Territories - From Escrow to Legal Mongrel," *Iyunei Mishpat* 11 1986, pp. 451-456 (Hebrew). The dual legal system applying to the two national groups living in the West Bank is one feature of the Israeli occupation that supports the finding that the crime against humanity of apartheid is being committed in the West Bank. See: Yesh Din, [The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#), June 2020.

13. These statements are another step in a longstanding trend. For more on Israel's expanding annexation policies in recent years, see: Yesh Din website, [Annexation Legislation Database](#).



Part 1

The practice of home invasions: A violation of the home as an autonomous space



MILITARY HOME INVASIONS

"They completely destroyed our sense, one that everyone has, that home is the most peaceful, safest place. What they did is a kind of terrorism."¹⁴

Almost every night, armed Israeli soldiers raid Palestinian homes throughout the West Bank. Information collected by the UN Office for the Coordination of Humanitarian Affairs in the occupied Palestinian territories (OCHA oPt) reveals that in 2017 and 2018, an average of 267 "search or arrest operations" took place in the West Bank, excluding East Jerusalem, each month. The vast majority of these included military invasions into Palestinian homes.¹⁵

It is possible to identify four main types of military home invasions: Search - soldiers search rooms in the house, sometimes with dogs; arrest - soldiers invade a home to take a member of the family into custody; "mapping" - soldiers record the physical features of the house and the identity of its occupants; and seizure for operational needs - soldiers use all or part of the house for a military purpose, such as setting up a temporary observation post.

Although invasions for different purposes are distinct in terms of their legal source and the particular actions carried out during the invasion, they do follow similar trajectories. Accordingly, this section outlines the recurring features of home invasions, from the moment Israeli soldiers cross the threshold separating public and private space, until the moment they exit.

Invasions into Palestinian homes in the West Bank are carried out by soldiers (or Border Police officers). Often, members of

the Israel Security Agency (ISA, also known as the Shin Bet) or Israel Police officers are also in attendance. The number of soldiers who invade these private premises ranges from a handful (about five) to about 30. In 74% of the cases documented by Yesh Din, families estimated ten or more soldiers invaded their home.¹⁶

Invasions usually take place late at night or in the very early morning: 88% of the recorded invasions began between midnight and 5:00 A.M.¹⁷ The military's reasons for conducting invasions during the night are based on the perception that entry by military forces into a Palestinian town or village during the day would cause clashes with local residents, hinder the execution of the mission and require larger numbers of troops. In keeping with this, the military has recently confirmed that most arrests, of both minors and adults, take place at night, "for operational reasons and due to the desire to preserve an orderly fabric of life and execute point-specific actions wherever possible."¹⁸

The practice of nocturnal invasions exacerbates the harm already inherent in any forced intrusion into Palestinians' private spaces by agents of the occupying power. Home invasions that take place at a time when family members are ensconced in their bedrooms, presumably resting peacefully, are plainly harsher and more intimidating than they would be during the day. For one thing, nighttime invasions increase the risk of persistent sleep disruption among adults and children who experience them.

Most of the invasions are lengthy affairs, and during this time, family members remain under the control of the soldiers and must heed their directives. In the cases recorded, soldiers spent an average of one hour and twenty minutes in the house.¹⁹ Moreover, soldiers often invade the same house more than once. To illustrate, in about 64% of the incidents documented by Yesh Din, family members stated soldiers had invaded their home on at least one more occasion. Repeat invasions

14. Testimony collected by Yesh Din from Lutfi Ahmad, a man from Silwad, April 2, 2018, Yesh Din Case 4096/18. Ahmad testified about a search of his home that lasted about three hours. For more details about this incident, see p. 50.

15. Based on figures provided to Yesh Din on July 8, 2019, regarding incidents reported to OCHA and classified as search or arrest operations. The figures do not relate to the number of homes invaded by soldiers. One incident may include invasions into more than one home. Most of the incidents under these classifications include invasion into one or more homes.

16. This figure is based on 112 cases in which Yesh Din was given an estimate about the number of soldiers (and other officials) who invaded the home.

17. This figure is based on 126 cases in which Yesh Din was given an estimate of the time soldiers arrived at the home.

18. Neta Ahituv, "Endless Trip to Hell: Israel Jails Hundreds of Palestinian Boys a Year. These Are Their Testimonies", **Haaretz English website**, March 16, 2019. See also, p. 84.

19. The figures are based on 95 cases in which Yesh Din was given an estimate as to how long soldiers remained in the house. They do not include cases in which the invasion was classified as a takeover for operational needs. Of the 95 cases, 48 were classified as invasions for the purposes of searches and 44 as invasions for the purpose of arrest.

exacerbate household members' sense that their private space is insecure and always vulnerable to invasion by soldiers.

"The previous entry was four-five months ago, but the anxiety comes back every time, the sense of threat that soldiers could come into the bedroom at any given moment. Men have seen my wife in pajamas and no head covering. Imagine what it's like to have your home, your bedroom, entered into every few months. Instead of the home being our safe, protected space, it has become insecure. S. [the witness' 16-year-old daughter] is more scared. Her sleep is disrupted. Her concentration is disrupted. She's constantly anxious. Every noise outside startles us."²⁰

1. Crossing into the private domain without a warrant or an explanation

The moment the soldiers cross from public space into the private domain, members of the household are effectively stripped of control over what happens inside their home. In legal systems that respect human rights, the police does not have sole discretion to enter a private residence other than in exceptional cases. In the systems in place in Israel, the UK and the USA, to name a few, police officers almost always have a warrant conveying the approval of an independent judicial authority for the action they intend to carry out.²¹

In contrast, the Order regarding Security Provisions does not require a judicial warrant for searches of Palestinian homes in the West Bank, nor are soldiers required to present any written authority to invade the home.²² With no requirement to obtain a judicial warrant to search private premises or approval from some other independent agency (a requirement that can have

exceptions), arbitrary violation of Palestinians' basic rights is almost inevitable. And, as demonstrated in the following sections, the military makes repeated, arbitrary use of the broad powers given to it by the law to invade Palestinian homes.

Beyond this, the absence of a requirement to present a warrant has two immediate outcomes that are readily observable: First, from the family's perspective, the invasion by soldiers who strip them of their agency to decide who enters their home and when is entirely arbitrary, as they have no way of knowing what motivated it. Second, without a warrant to give them authority, the only tools the soldiers have to establish their authority and execute their mission are intimidation, aggression and making a show of force.



Soldiers invading the Tamimi family home in a-Nabi Saleh during an arrest raid, August 23, 2020: From [a video filmed by Janna Tamimi](#).

For the most part, invasions begin with soldiers shouting and banging on the door, following which a member of the household awakens and opens it for them. If the door is not opened, soldiers force it open by either kicking it or using tools (a hydraulic door opening kit that usually destroys the door). **In about a quarter of the cases documented by Yesh Din, family members said that during the invasion, soldiers forced open the door, damaging or destroying it in the process.**²³

20. Testimony collected by Yesh Din from Muhammad 'Asfur, a man from Sinjil, January 28, 2019, Yesh Din Case 4372/19. 'Asfur, 69, lives with his wife and five of his children. On the night in question, soldiers searched the house and arrested two of his adult sons. One was released the next day and the other about three weeks after the arrest [Emphasis added. All other emphasis added unless otherwise stated].¹⁵ Based on figures provided to Yesh Din on July 8, 2019, regarding incidents reported to OCHA and classified as search or arrest operations. The figures do not relate to the number of homes invaded by soldiers. One incident may include invasions into more than one home. Most of the incidents under these classifications include invasion into one or more homes.

21. In continental law countries, there is less emphasis on judicial review. However, these systems provide oversight of the general prosecution with regards to such actions and the conditions for searches are more stringently defined. For more: HCJ 2189/20, [Raba'a Abed Al-Aziz Abdallah Hamed et al. v. Commander of Army Forces in the West Bank](#), March 22, 2020, pp. 31-38 (Hebrew).

22. For more on search and arrest warrants see pp. 51-52, 79-81. We note that in some cases where the object of the invasion is seizure for operational needs, the military does issue military seizure orders (which are not judicial warrants), but these are rarely presented to the occupants of the home. See p. 97.

23. In total, in 30 out of 128 cases, the door was forced open or broken. In one case, a window panel in the door was broken and in three others, an external gate was forced open or broken.



88%

of the invasions were carried out
Between **Midnight** and **5:00am**

*Source: Yesh Din figures



74%

Of the Homes were Invaded
By **10 Or More Soldiers**

*Source: Yesh Din figures



64%

Of the Families Stated Soldiers
Invaded their Home
More Than Once

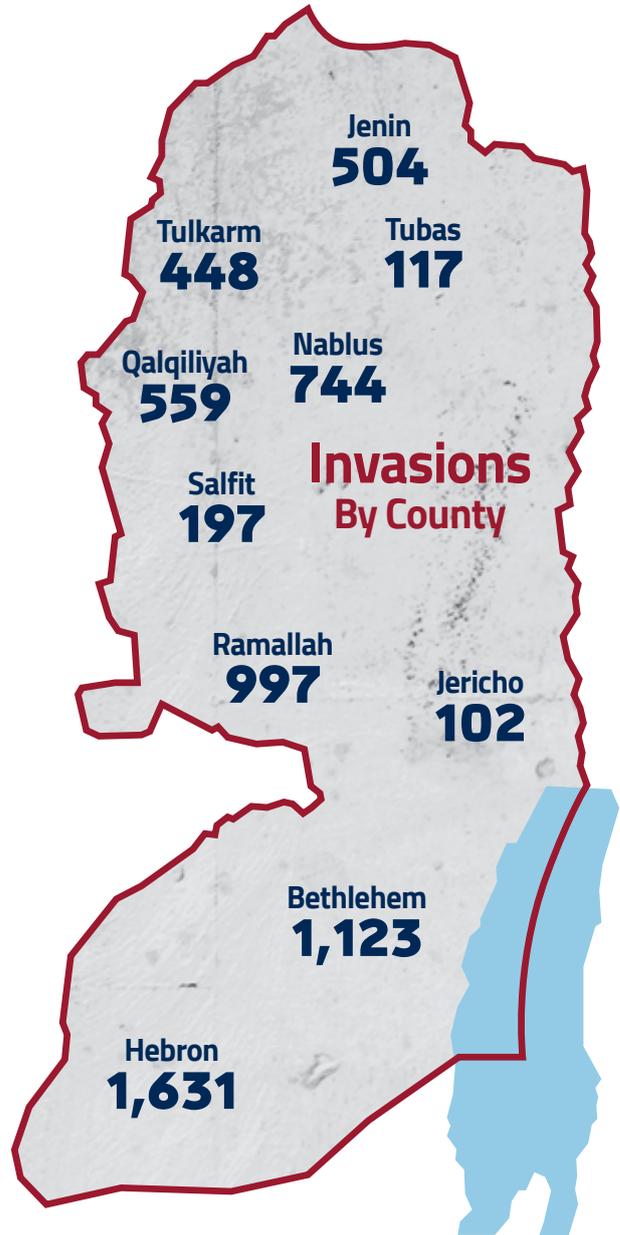
*Source: Yesh Din figures



80%

Of the Home Searches were Conducted in the
Absence of the **Occupants**

*Source: Yesh Din figures



0



Search Warrants

*Source: Yesh Din figures

*Statistics based on the 158 incidents investigated by Yesh Din for the purposes of this report.



Average Number of Search or Arrest Operations Per Month

*Source: OCHA figures on search and arrest operations in 2017 and 2018



Of the Invasions Included the Use of Violence or Physical Force

*Source: Yesh Din figures



of the invasions involved the Door being Forced Open or Broken

*Source: Yesh Din figures



Of the Invasions in Which a Search was Conducted Involved Property Damage

*Source: Yesh Din figures

Search



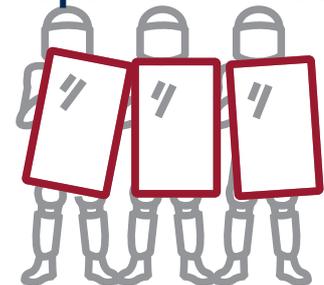
Arrest



"Mapping"



Seizure for Operational Needs



Palestinians living under occupation know that any attempt to resist a military invasion into their home would result in harm, and, accordingly, almost always, rush to open the door. But even when they do, the manner in which the soldiers enter the home reflects disregard for the human dignity of the families whose rest they have disrupted and for the harm they inflict on these families. On May 25, 2019, soldiers came to the home of 'Aisha Salim to arrest her adult son. Salim said:

"I woke up at around 1:30 A.M. from loud banging on both entry doors and the noise and yelling of soldiers outside the house. I got out of bed straight away, put on my veil, and went directly to the front door and opened it. I don't wait for anyone to open. I open right away. The way they banged and came into the house was like entering somewhere with animals, not people, with shouting and strong kicking. [...] I opened the living room door, and almost 20 soldiers came into the house."²⁴

The soldiers carrying out the raids also know the occupants have no real power to stop the intrusion into their home and that any attempt to refuse or delay will soon end with the use of force. A soldier with the rank of first sergeant described how a home invasion typically begins: "Iftah al-Bab. Jeish [Open the door. Army]. And if they don't open fast enough, you start breaking the door."²⁵

In some cases (for instance, in some of the arrest raids), the soldiers might decide in advance to force their way in rather than knock on the door. In others, the decision to break the door or force it open may be arbitrarily made by the commander on the ground.

"There's rarely an operational motivation for it. Often, the motivation is practice, meaning we got a breaching tool for the first time; no one knows how to use it, so it is decided that we break into a house now. Usually, I think with one exception

where it was clear to me why a breach was necessary; everything was completely random."²⁶

It seems that without oversight or restrictive directions, a door might be forced open or broken even when it is not possible to point to an imperative need, while little if any importance is ascribed to minimizing the harm to members of the household. This practice reflects the absence of a proper balance between military considerations, such as speed, and considerations relating to protecting the rights and safety of the occupants.

2. Loss of sovereignty over the home

Violation of bodily autonomy

The military's modus operandi, whereby homes must be invaded quickly and without warning, coupled with the practice of nocturnal invasions, increases the likelihood that occupants would lose control over how their physical body itself is seen by strangers. In other words, this practice increases the risk of violating occupants' autonomy over their bodies. Men, women and children are repeatedly exposed in partial clothing or in nightwear in front of soldiers who are strangers to them. Such exposure would be a violation of anyone's privacy and dignity, and it is amplified when the families in question hold religious beliefs or practice a tradition that requires modesty, as is the case among a significant proportion of the Palestinian population of the West Bank.

Saad Abu 'Eishah, of Hebron, whose home was invaded by soldiers who were looking to arrest his brother, and he himself was pulled out of bed and beaten, said:

"I asked one of the soldiers - "What is this? Have you no shame? Not just you - all of you. The way you came in. If you had knocked on the door, I would have opened it for you. Look what you've done to the door. It's completely dislodged, including the lock. I don't understand how it broke. It looks like it was blown up. If you had knocked on the door, at least we would have put something

24. Testimony collected by Yesh Din from 'Aisha Salim, a woman from 'Azzun, May 23, 2019, Yesh Din Case 4465/19.

25. Testimony collected by Breaking the Silence from a first sergeant, Engineering Corps Battalion 605, 2009-2012, Testimony No. 21.

26. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2011-2014, Testimony No. 49.

on. Can't you see I'm in my undergarments? Have you no shame?" He did feel a little embarrassed and told me - "I can't help you."²⁷

Some of the testimonies put a particular emphasis on the harm in situations where soldiers see women in their nightwear, or before they manage to put on a head covering, which goes against customs that require modest attire in the presence of strangers. A resident of the village of al-Mughayir told PHRI that she changed how she dresses for bed because of an invasion: "I sleep in my clothes, so that if soldiers suddenly come in, my body won't be exposed."²⁸ On August 9, 2018, soldiers forced their way into the home of S.H., who lives with her family in the village of 'Einabus:

"I was sleeping in the room and woke up at 1:30 A.M. I saw four female soldiers and two male soldiers above me.

They opened the door to the house themselves and came in. I started screaming, saying - "Would you agree to someone coming in on your mother, your sister?" [...] the male soldiers left the room to let me get dressed. I was so scared I couldn't find my clothes. I opened the closet and got fresh clothes out and got dressed. [...]

I told 'A. [S.H.'s son, who lives with his family in an adjacent unit]: "Stay with the soldiers. I'll go wake up your wife and children." The soldiers didn't let me go in to wake them up alone. They told me: "We'll come in after you." Male and female soldiers came into my daughter-in-law's bedroom. She had short clothes on. I covered her with a sheet and held her. She trembled. They saw the baby was asleep and let him sleep. I woke up my granddaughter, H., who is three years old."²⁹

A soldier who described the first moments of an invasion also spoke about the encounter with children and women who were not fully clothed.

It's waking up children and babies, all kinds of toddlers in the middle of the night, and seeing women in their pajamas, without their hijabs or whatever it is. You know, waking them from sleep, and I remember the scared look and that sense of helplessness.³⁰

Restrictions on movement

In 67% of the cases documented by Yesh Din, family members testified that after the soldiers invaded their home, they ordered them to gather in one room, or separated them into different rooms, and kept them under guard. **This practice is even more common in search raids, occurring in about 88% of them.**³¹

The practice of locking members of the household in a room increases soldiers' control over what happens in the house, reduces interference in their actions and improves their safety. All of this comes at the expense of the household members' own control as their freedom of movement is restricted, and they remain nearly helpless, while the soldiers are free to do as they please. The soldiers guarding family members have firearms - an instrument that establishes the balance of power between them and the family members, and they sometimes point these weapons directly at family members.

"There were somewhere between 18 and 20 soldiers. I didn't have enough time to get dressed and cover myself up before they came in. They didn't show us a warrant. Five or six of them were masked. They spoke Arabic to us, in a violent manner, and threatened us with weapons drawn [...] They told my husband, me and the kids to sit in the living room downstairs while two soldiers stayed with us, and the rest started searching all of the floors in the house. They didn't let us come with them during the search. [...] We were already fasting [for Ramadan]. There was a water bottle in the room, and the soldiers agreed to let the children drink. When my four-year-old son approached the soldier, the soldier yelled at him, "Go back to your place."³²

27. Testimony collected by PHRI from S.A., a man from Hebron, July 2018, Yesh Din Case 4150/18. For S.A.'s testimony about his beating, see p. 36.

28. Testimony collected by PHRI from Sabrin Abu Alia, a woman from al-Mughayir, September 10, 2018, Yesh Din Case 4248/18.

29. Testimony collected by Yesh Din from S.H., a woman from 'Einabus, August 9, 2018, Yesh Din Case 4204/18. The soldiers, accompanied by police officers, searched the home for about three hours and arrested S.H.'s son.

30. Testimony collected by Breaking the Silence from a sergeant first class, Paratroopers, 1998-2010 (including reserve duty), Testimony No. 47.

31. In 86 of the 128 cases documented by Yesh Din and in 48 of the 55 recorded cases classified as invasions for the purpose of search, household members testified soldiers had told them to gather in one room or separated them into several.

32. Testimony collected by Yesh Din from A.S., a woman from 'Urif, May 9, 2019, Yesh Din Case 4437/19. The soldiers searched the house for about an hour and found nothing.

Testimonies from soldiers and officers corroborate that confining members of the household in one or two rooms is routine operating procedure during invasions into Palestinian homes.³³

"We go into a house, gather everyone who is home, which is mostly a ton of children and women, in the living room. At first, I'm in the living room with them and, again, it's my first arrest, and I just point the weapon at them, at a mother and children, I'm aiming my weapon at them, and children are crying hysterically in there, and in the meantime, the house gets searched."³⁴

The movement restriction protocol means soldiers deprive members of the household of the ability to take the simplest of actions such as drinking, going to the bathroom, getting medication or bringing a blanket for the children without their express approval. Testimonies reveal that in some cases, family members do not dare even ask, and in others, the answer could be negative or positive without consistency.

On September 18, 2018, at around 3:00 A.M., more than ten soldiers arrived, with an ISA officer, at the home of the Z. family in 'Azzun to arrest a family member. The soldiers separated members of the household into two separate rooms and searched the house for about an hour. The father, A.Z., who was kept in a room with his adult sons recounted:

"When I talked to my sons, they [the soldiers] yelled at me to keep quiet. They walked around the house for an hour, an hour and a half. I heard things fall and break, and I gathered they were searching. **My son [an adult] asked to go to the bathroom. The soldier pushed him and refused.** There was no shooting. The weapons were just threatening and intimidating. That entire time, I didn't see my wife, who was sitting on a mattress in the front room with my son and daughter."

The mother, N.Z., said:

"My three-year-old daughter, B., was sleeping in the front room with her brother, M. [who is eight]. B. woke up. **M. was woken up by one of the female soldiers as she grabbed him by the shirt collar, pulled him and shouted, "get up, get up."** I took him away from the soldier, and the three of us sat in the front room. The soldiers physically pushed my husband and the boys into the room next to the front room. I don't understand a word of Hebrew, but every time I tried to get up, the soldier would gesture for me to sit and say something. [...] **We were too scared to talk or ask to go to the bathroom.** The children did not cry or scream. They were in a state of shock and fear."³⁵

Harm to children

The testimonies also reveal that during military home invasions, children (including very young children) find themselves in situations where they are at the mercy of armed soldiers who wake them up aggressively, shout at them or keep them under guard with their parents.

Despite the fact that children and adolescents are a particularly vulnerable demographic, and that interacting with them is an inseparable part of home invasions, testimonies collected by Breaking the Silence reveal that soldiers involved in such invasions receive no special instructions on the treatment of minors, and even when such instructions are given, they are not considered too important. **The absence of any significant training specifically on children is a clear expression of the secondary importance the military ascribes to minimizing any violation of the rights of innocents during home invasions.**

The testimony of Iman Ekhilil, from Beit Ummar, is a particularly stark example of how the movement restriction protocol combined with the lack of training on protecting children could result in harm. On May 1, 2018, soldiers invaded Ekhilil's home to arrest her 15-year-old son. That day, aside from Ekhilil herself

33. For more, see p. 55.

34. Testimony collected by Breaking the Silence from a first sergeant, Paratroopers 2018-2015, Testimony No. 15.

35. Testimony collected by Yesh Din from A.Z. and N.Z, a married couple from 'Azzun, September 18, 2018, Yesh Din Case 4239/18.

and her son, two of her nieces, aged four and six, were at the family home. Ekhilil said the soldiers forced the door open, and the girls began crying.

"I told the girls not to scream. The officer did not let them out, and I stayed here. He wouldn't let me go to them, and when they screamed, the soldiers immediately closed the door on them. I told him I was going to open the door for them, because they were scared, but he refused. [...]"

Interviewer: For an hour and a half, the girls were in the room with the door closed?

They wouldn't let me go to them and wouldn't let them out. They stayed inside until my little niece, the moment I saw her, her body was shaking, and we took her to Aalia Governmental Hospital right away. They said the girl had anxiety and gave her sedative shots, but she didn't get better, so we took her to Caritas Hospital, and she did get better."³⁶



A family examining the havoc wreaked by soldiers on its home at Balata Refugee Camp, June 17, 2014. Photo by Ahmad al-Baz, ActiveStills

The harm caused as a result of military invasions into Palestinian homes in the West Bank is not inevitable. It is the outcome of a policy that prioritizes military or operational needs (such as speedy mission completion), or even the soldiers' convenience, over minimizing the infringement on the rights of Palestinians whose homes are invaded. The invasion of private space by armed soldiers has dire ramifications. Household members suffer harm as a result of losing control over their home and their mobility inside it; the soldiers' conduct, which shows no regard for children; and the exposure, sometimes literally, that is forced on them. The military sees no need to weigh whether or not any of this harm is truly necessary or limit it to instances in which it is absolutely unavoidable.

The military's response to Yesh Din's inquiry about specific protocols on protecting the rights of Palestinians during home invasions noted: "According to directives, when entering a home, the dignity and privacy of the occupants must be respected, and the mission must be carried out such that the harm to members of the household and their property is minimal."³⁷ This noncommittal, vague wording demonstrates the secondary importance ascribed to protecting the rights of members of the household during an invasion. Moreover, soldiers carrying out these invasions are not familiar with these directives and do not respect the dignity and privacy of Palestinians.

As a result, military home invasions involve a systemic breach of the occupier's duty, under international law, to treat members of the population under its control humanely, protect their rights and avoid unnecessary violations of their dignity, bodily integrity or customs.

36. Testimony collected by PHRI from Iman Ekhilil, a woman from Beit Ummar, May 1, 2018, Yesh Din Case 4118/18.

37. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act", November 18, 2019 (Hebrew).

B.

PURPORTED LEGAL FRAMEWORK: HOME INVASIONS IN INTERNATIONAL AND DOMESTIC LAW

Entry into private homes by law enforcement agencies is normally a rare measure reserved for exceptional cases. The premise is that the home is one's castle and entering it is a violation of privacy and personal security. For this reason, democracies abstain from intrusion into the private domain by state authorities as much as possible, generally conditioning such intrusion on obtaining a judicial warrant. Such a warrant is meant to serve as a barrier against arbitrary conduct by law enforcement agencies as well as frequent or unnecessary use of this exceptional measure. The grounds for granting an order to enter a person's private home tend to be extremely limited, allowing such entry only when it is necessary and when the purpose sought by it cannot be achieved by other means.

An early expression of the view that the home is a place where the individual is free and protected from the forces of government can be found in the following statement made in the English House of Lords as early as 1763:

The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter, the rain may enter, but the King of England may not enter; all his force dares not cross the threshold of the ruined tenement.³⁸

Separation of powers - between the judiciary, entrusted with granting permission [the warrant] and the executive, entrusted with carrying out the action - creates a mechanism that mitigates abuse of power by the government and balances the public interest of law enforcement and security against the individual rights and the personal safety of the citizenry.

The occupied West Bank is governed by an undemocratic military regime installed by Israel. In a regime of temporary occupation, the military commander takes the place of the sovereign and holds legislative powers in the territory. Legislation is enacted through military orders signed by the military commander (in the case of the West Bank, this is the general officer commanding the Central Command).

The law in the occupied West Bank is a patchwork of statutes that were in place in the area prior to the Israeli occupation and the changes Israel introduced during its time (through military law). These two sets of laws are nestled under international humanitarian law (IHL), which includes the laws of occupation, international human rights law (IHRL), the principles of Israel's administrative law and, to some extent, the principles of Israeli constitutional law.³⁹ These laws define the obligations the State of Israel has as an occupying power in the West Bank.

This chapter begins with a review of the central provision in military law that sets out the legal framework for a large proportion of the military's invasions into homes in the West Bank. It continues with an analysis of specific provisions in the systems of law applicable to the occupied West Bank that are relevant for examining the legality of military home invasions. The provisions in military law that allow invasions into Palestinian homes, and the manner in which they are implemented, will be examined against the standards set by international law throughout the report.⁴⁰

We briefly note, at this early stage, that the legal framework that provides for invasions of Palestinian homes in the West Bank does not include any of the self-imposed restrictions democracies use to ensure the protection of individual rights. As a result, the routine practice of military invasions into Palestinian homes constitutes a severe violation of the rights to dignity and privacy, as well as various other human rights.

38. William Pitt, Earl of Chatham, speech, March 1763, in Lord Brougham, **Historical Sketches of Statesmen in the Time of George III** First Series (1845) vol.

39. International humanitarian law and human rights law are complementary international legal systems. While international humanitarian law applies during armed conflict and includes the laws of occupation, human rights law applies, in principle, at all times, i.e. in peacetime as well as during armed conflict. In accordance with the obligations imposed on the occupying power by the laws of occupation to preserve the existing legal situation in the occupied territory as much as possible - the law applicable in the West Bank is the prevailing law in the area prior to the occupation (consisting of Ottoman, British Mandatory and Jordanian law). Added to that law are the thousands of military warrants issued by the Military Commander of the West Bank since 1967. Finally, although the laws of the State of Israel do not apply in the West Bank, the actions of the Israeli governing authorities are restricted by Israeli administrative law even when they operate outside the sovereign borders of the state. Therefore, the state and its authorities are obliged to consider the principles of Israeli administrative law when operating in the West Bank.

40. For broad legal analysis of the provision addressing searches in Palestinian homes, which supplies the legal framework for most of the invasions into Palestinian homes in the West Bank, including an examination of the provision in light of international law and comparative law, see HCJ 2189/20, Raba'a **Abd Al-Aziz Abdallah Hamed et al. v. Commander of Army Forces in the West Bank**, March 22, 2020 (Hebrew). The case was still pending at the time of writing.

1. Military law: Purported legal framework that permits arbitrary and disproportionate harm

The circumstances in which Israeli security forces - soldiers or police officers - may enter homes and other places in the West Bank to conduct searches and for other purposes, are defined in Section 67 of the Order Regarding Security Provisions:

An officer or a soldier so authorized by an officer in general or in a specific instance may enter, at any time, any place, vehicle, marine vessel or aircraft that have been used or there may be reason to suspect have been used for any purpose harmful to public safety, the security of IDF forces, the maintenance of public order, or for purposes of uprising, revolt or riots, or where there is reason to suspect the presence of a person who has violated this order, or goods, objects, animals, documents liable for seizure under this order, and they may search any place, vehicle, marine vessel, aircraft or any person present in them or exiting them.⁴¹

Military law does not include a mechanism stipulating that entry into a home must be carried out pursuant to a judicial warrant (exempting, as accepted in all legal systems, exigencies that cannot tolerate postponement). Thus, the use of the dramatic, expansive power to invade the private domain is at the discretion of the party entrusted with executing it. In other words, the power is entrusted in the hands of military officers (and sometimes soldiers) who have a narrow military perspective and no legal background.

Judicial review is designed to limit the power of the executive branch to intrude into the private domain by transferring the approval for such intrusion to an external judicial authority. This authority is meant to weigh the public interest presented to it by the requesting body against the interest of protecting the rights of individuals. The importance of judicial review in protecting individual liberties has been emphasized in a host

of judgments. In a petition concerning administrative detention for example, former Supreme Court President Justice Aharon Barak ruled that:

Performing judicial review of the decision made by the authority, wherein the considerations it made are examined and a balance is struck between the aforementioned interests, is what ensures that the aforesaid balance is maintained and that the violation of individual rights is carried out for a proper purpose and to an extent that does not exceed necessity.⁴²

Justice Isaac Amit has also emphasized the importance of judicial review, not only in the context of arrests but also when it comes to the search and seizure of property by the state:

Where arrests are concerned, the rule is that arrests are conducted pursuant to a judicial warrant [...] Similarly, so it is too with regard to seizure of property. The rule is that seizures are conducted pursuant to a search and seizure warrant [...] and the exception is seizure without a warrant. These are the foundational principles of our legal system.⁴³

Without external oversight, there is no separation between the party that makes the decision to search and the party executing the search. Therefore, the danger that the balance between the public interest in entering the house and the protection of its occupants' privacy would be broken, as well as the risk that power might be used based on extraneous considerations – become certain.

The grounds and circumstances listed in Section 67 as justifying home invasions are general, vague and extremely broad. Moreover, the Section sets a very low bar of suspicion, meaning almost any act (and not just a criminal offense) can fall within its scope and serve as a justification to enter a home. The party that has the authority to determine whether these vague conditions are met, is any "officer or a soldier so authorized by an officer" (see also part 2 chapter A.1).

41. **Order regarding Security Provisions.** Section 67, [unofficial translation](#) of the full order is available on the No Legal Frontiers website.

42. ADA 10/94 A. et al. v. Minister of Defense, judgment, November 13, 1997, para. 7 (Hebrew); HCJ 3239/02 Marab et al. v. IDF Forces in Judea and Samaria, judgment, February 5, 2003, para. 32 (Hebrew).

43. LCrimA 4526/18, Shaul Alovich v. State of Israel, judgment, August 5, 2018 (Hebrew).

This translates into an alarmingly extreme and far-reaching power with no tangible restraints or external oversight, to the point of constituting an absolute power for all intents and purposes. Inevitably, this power is used to disproportionately and arbitrarily infringe on the dignity and privacy of Palestinians whose homes are invaded by military forces.

The power granted in military law (Section 67) violates legal norms of a higher order, namely the provisions of IHL (the laws of occupation) and IHRL. As such, **it is a legal provision that fails to meet the requirements set forth in the laws of occupation, which empower the military commander to legislate in the occupied territory, calling its very legality into question.** Moreover, granting such extensive, unchecked search powers is tantamount to a **lacuna in law, in this case military law.** The near complete absence of conditions and grounds for executing a search do not express a norm, but rather the absence of one. The meaning of this lacuna – given the principle of legality by which the authority is prohibited from carrying out any act for which there is no explicit authorization in law - is that the law contains no authorization to carry out a search.

In addition to the fundamental flaws arising from a legal framework that grants such broad authorization to carry out invasions (the lack of definite grounds and clear tests for assessing whether they are met), military law makes no provisions as to how these invasions should be carried out or how the rights of those potentially harmed by them should be protected. For the most part, the military system takes no action to implement and enforce the meager protocols that do exist regarding invasion of homes. The lack of restrictions on the very decision to invade a home, along with the scarcity of guidelines designed to protect its occupants, produce an extremely injurious practice that grossly violates the rights of Palestinians.

The pervasive harm described in detail in this report is the result of an alleged legal framework that gives the military almost complete freedom to infringe on the rights of Palestinians.

2. Military home invasions under international and Israeli law

IHL and IHRL are complementary international systems of law designed to protect the lives, health and dignity of individuals. IHL, which is also known as “the laws of war” and includes the laws of occupation, applies during armed conflict and aims to reduce the harm conflict inflicts on people. In contrast, IHRL theoretically applies at all times: in peacetime and during armed conflict.

The laws of occupation, IHRL and Israeli law place a great deal of importance on establishing the **right to dignity** as a basic right and the **right to privacy** as a central pillar within it. The importance given to these rights can be understood as a form of protection against unjustified intrusion into the private domain by the authorities. In addition, these legal frameworks provide special protections for children and prohibit collective punishment, deterrence, intimidation and terrorization.

IHL does not **explicitly prohibit** raids on the homes of protected persons (a population under military occupation),⁴⁴ as opposed to explicit prohibitions on collective punishment or looting. However, the principle of legality, which stipulates that the powers of an authority are established in law and anything that is not permitted in law is prohibited – requires explicit authorization for a particular act by an authority to be considered legal. This is especially true when a particular act by an authority violates the fundamental rights of civilians.

The power to invade homes should appear in the laws of occupation that apply in the West Bank, but in certain circumstances, it can also be found in the laws of war (the law of armed conflict) that give the military broad powers, including the power to invade homes in the context of combat. When it comes to invasions for the purpose of search or arrest, which are law enforcement activities, the power is found in Article 43 of the Hague Regulations. This article gives the occupying forces the powers they require to restore order and safety.⁴⁵

44. The Geneva Convention relative to the Protection of Civilian Persons in Time of War and the customary provisions set out in the protocols thereto, outline the rules designed to protect civilians who have found themselves in the hands of the adversary, including a civilian population in territory occupied by the other party to the conflict. The Convention stipulates that these citizens are “protected persons”. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 4.

45. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Article 43.

Given that home invasions severely violate the dignity and privacy of the occupants, both of which are rights enshrined in IHL and IHRL, the general power granted in Article 43 is not sufficient, but rather a balance must be struck between the public interest in entering the private domain and the clear interest of protecting the rights of the individual. Hence, the State of Israel and the military commander of the West Bank have a duty to ensure that the rights of the occupied are not violated disproportionately or arbitrarily: i.e., without a justifiable cause and evidence-based suspicion that justifies the harm.

Violation of the aforesaid rights, therefore, is permissible only when it is based on a concrete suspicion, serves a proper purpose, and has the narrowest possible effect. For the harm to be considered proportionate, the means must suit the purpose, and they must be the least injurious of the variety of measures available for achieving the purpose. Lastly, the infringement on human dignity must be proportionate to the benefit gained.⁴⁶ Nevertheless, this report shows that Israel routinely violates these rights without concrete suspicion, and in a manner that is inconsistent with the principles of proportionality.

We note that the laws of war, which give the military extensive powers in an armed conflict (in accordance with military needs) could be said to empower the Israeli military to invade Palestinian homes. However, this report focuses on actions Israel carries out as part of the routine of occupation in the West Bank, which is not a routine of warfare. Most of these actions are carried out within the legal framework that requires the occupying forces to maintain public order and enforce the law, rather than a state of combat. As such, the laws of war do not constitute a legitimate legal source for the vast majority of the actions described here.

The right to dignity and privacy in international humanitarian law

Human dignity is a value that expresses recognition of the humanity of every individual and the corollary belief that all human beings deserve to be treated with respect. This value has been translated into a legal principle taking the form of the

right to dignity, which is considered the foundation for all basic and universal human rights. This means that every person must be guaranteed living conditions that enable the realization of their basic rights, and that no one should be treated simply as a means or an instrument.⁴⁷ Additional human rights are derived from the right to dignity, such as the right to life, the right to bodily integrity, the right to personal safety, the right to property, the right to equality and the right to privacy.

IHL recognizes the importance of the right to dignity, and enshrines it in key conventions: Article 46 of the Hague Regulations states, *inter alia*, that "Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated."⁴⁸ Article 27 of the Fourth Geneva Convention, instructs the occupying power to protect the human dignity of the protected persons:

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.⁴⁹

This article establishes the principle of humane treatment to which protected persons are entitled: Their bodies, private homes, daily routines, family lives, religion and social and cultural norms must be respected and unharmed. Article 27 is considered as consolidating the basic principles of the Law of Geneva - the sanctity of human life and dignity and the recognition of the fundamental rights derived from it, which are guaranteed to every person.⁵⁰

Individuals who are involved in hostile activity against the occupying power are still considered 'protected persons' under the Fourth Geneva Convention, and therefore the provisions of Article 27 apply to them as well. Nevertheless, the protections to which they are entitled are limited and must be balanced against the security considerations of the occupying power.⁵¹

46. This test is sometimes referred to as "proportionality in the narrow sense." On the tests of proportionality in international law, see: HCJ 7957/04 **Mara'abe v. Prime Minister of Israel**, judgment, para. 30.

47. See, for example: Aharon Barak, "Human Dignity", **HaMishpat**, 7, 2002 (Hebrew).

48. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Article 43.

49. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 27. Israel's official position is that the Fourth Geneva Convention does not apply in the West Bank, but it considers itself committed to implementing the Convention's humanitarian provisions. This position is not accepted by the international community, and most international legal scholars familiar with the matter hold that the Fourth Geneva Convention does apply in the West Bank occupied by Israel.

50. International Committee of the Red Cross, Commentary of 1958, **Convention (IV) Relative to the Protection of Civilian in Time of War**, Geneva, Article 27.

51. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 5; Orna Ben-Naftali and Yuval Shani, **International Law Between War and Peace**, Ramot Publishing - Tel Aviv University, 2006 (Hebrew).

The right to privacy is a central derivative and manifestation of the right to dignity and ensures its existence. In general, this right concerns the control individuals have over their autonomous unit.⁵² Former Supreme Court President Justice Aharon Barak described the right to privacy as “[T]he right of privacy draws the line between the individual and society. It defines the boundaries within which the individual is left to himself, for the development of his own individuality, without the interference of others.”⁵³

Under IHL, in accordance with the provisions of the aforementioned Article 27, the occupying power must **avoid arbitrary harm** to the private homes, daily lives and social, religious and cultural norms of the protected persons. The occupying power is also obligated to treat protected persons humanely and protect them from violence, threats of violence, public curiosity and whatever else may impinge on their dignity.⁵⁴

According to **the principle of proportionality** in the laws of war,⁵⁵ a military action that is likely to result in harm to humanitarian interests should not be permitted if the harm is disproportionate to the military benefit expected from it. In other words, the military forces must **balance** the expected harm against the concrete, direct military benefit the forces undertaking the operation anticipate.⁵⁶

The right to dignity and privacy in international human rights law

Human dignity holds a central place in IHRL as well, from its initial inclusion in the Universal Declaration of Human Rights (UDHR). It serves as a supreme value and the core of all other universal human rights. In the context of the right to privacy, the UDHR states that: “No one shall be subjected to **arbitrary** interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”⁵⁷

The International Covenant on Civil and Political Rights prohibits **arbitrary** interference of the state with the right to privacy, and states in Article 17 that, “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”⁵⁸ The UN Human Rights Committee, which oversees the implementation of this Convention, has ruled that infringement on rights enshrined in Article 17 is illegal even if based on a provision in domestic law where domestic law does not require an examination of the proportionality of the infringement. The use of the term **arbitrary** is meant to ensure that even if the infringement is carried out pursuant to a law, it must be carried out in accordance with the provisions, object and purpose of the Convention and must be reasonable and suited to the specific

52. Michael Birnhack, “Control and Consent: The Theoretical Basis of the Right to Privacy,” *Mishpat U'Mimshal Government*, 11:1, 2007 (Hebrew).

53. HCJ 2481/93 *Dayan v. Jerusalem District Commissioner et al.*, judgment, 1994, para 16.

54. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949) (1949), Article 27.

55. In the modern laws of war, these four key principles are crucial when it comes to protecting humanitarian interests: the principle of military necessity, the principle of distinction, the principle of preventing unnecessary suffering and the principle of proportionality, the latter of which is relevant to the matter herein. These principles underlie many specific provisions found in the various instruments, and can be seen as binding, customary law. Therefore, the provisions must be interpreted in light of these principles, and in some cases, it is possible to extract specific rules for action from them. See: Orna Ben-Naftali and Yuval Shani, *International Law Between War and Peace*, Ramot Publishing - Tel Aviv University, 2006, 2006, pp. 146-158 (Hebrew).

56. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 51(5)(b) of the First Protocol to the Convention (1977).

57. **Universal Declaration of Human Rights** (1948), Article 12.

58. **International Covenant on Civil and Political Rights**, (1966), Article 17.

circumstances. Impingements that do not fall in line with these principles will be considered arbitrary.⁵⁹

The UN Human Rights Committee interprets the word 'arbitrary' in a manner that allows only **reasonable** human rights violations - language that allows considering reasonableness and proportionality as relevant tests for the implementation of the Convention's provisions.⁶⁰ The Committee interprets the **reasonableness requirement** as assuming that any violation of privacy must be proportionate to the desired outcome and necessary in the circumstances of each and every case.⁶¹ As stated, the **principle of proportionality** seeks to balance individual rights with public interests. In international law, the principle of proportionality serves as an important restraint on how states exercise their power and rights. IHRL requires any state that limits the rights of its residents to justify the necessity of the limitation and its proportionality.⁶²

Regarding the search of a person's home, the Committee's interpretation states that these should be limited to searching for **necessary evidence and should not be permitted to amount to harassment**.⁶³

The European Convention on Human Rights (ECHR) also stipulates that every person has the right to have their

privacy protected, unless such infringement is carried out in accordance with the law and under limited circumstances.⁶⁴ In a string of rulings, the European Court of Human Rights determined that an invasion of privacy that is not based on evidence raising real and concrete suspicion is disproportionate, and, since disproportionate invasion of privacy is arbitrary, illegal.

So, for instance, the court ruled that powers to detain and search without reasonable suspicion, even if exercised by virtue of domestic law, constitute a violation of the right to privacy and that a lawful invasion of privacy must be proportionate to the purpose of the law.⁶⁵ In another decision, the court ruled that vague suspicion was not sufficient to justify entering and searching a private domicile, even carried out pursuant to a search warrant. The court also ruled an action in which the police did not make minimal effort to link the address of the raid to the suspect could not be considered reasonable, and by extrapolation, proportionate.⁶⁶ In two other cases, the court ruled that a search conducted by virtue of a court order that was so broadly worded as to allow the seizure of documents without any restrictions could not be considered proportionate,⁶⁷ and that a search and seizure of property by virtue of a judicial warrant that did not specify the purpose for its issuance could not be considered proportionate or "necessary in a democratic society."⁶⁸

59. UN, The Office of the High Commissioner for Human Rights, **CCPR General Comment No. 16: Article 17 (Right to Privacy)**, para 4; **Toonen v. Australia**, CCPR / C / 50 / D / 488/1992 at para 8.3, UN Human Rights Committee, 1994.

60. Yuval Shani, **The Principle of Proportionality under International Law**, The Israel Democracy Institute, Policy Paper No. 75, Jerusalem, June 2009. p. 27 (Hebrew, English [translation](#) available on The Israel Democracy Institute website).

61. **Toonen v. Australia**, CCPR / C / 50 / D / 488/1992 at para. 8.3, UN Human Rights Committee, 1994: "The Committee interprets the requirement of reasonableness to imply that any interference with privacy must be proportional to the end goal and must be necessary in the circumstances of any given case". The case in question concerned the compliance of domestic legislation proscribing homosexual intercourse between consenting adults with the Convention.

62. Yuval Shani, **The Principle of Proportionality under International Law**, The Israel Democracy Institute Democracy, Policy Paper No. 75, Jerusalem, June 2009 (Hebrew).

63. UN, The Office of the High Commissioner for Human Rights, **CCPR General Comment No. 16: Article 17 (Right to Privacy)**, para 8.

64. **Convention for the Protection of Human Rights and Fundamental Freedoms** [the European Convention on Human Rights – ECHR] (1950), Article 8.

65. **Gillan and Quinton v. United Kingdom**, 4158/05, ECHR, January 2010. In this case, two British citizens turned to the European Court of Human Rights (ECHR), claiming that the police had exercised detention and search powers against them in a manner that violated their rights under the ECHR. The two were detained and searched while on their way to a protest against an international defense equipment exhibition held in London. The Court held, *inter alia*, that the British law by virtue of which the search was conducted violated Article 8 of the Convention which concerns, as aforesaid, the right to privacy.

66. **Keegan v. The United Kingdom**, 28867/03, ECHR, July 2006. In this case, a citizen of Ireland and his spouse, a UK national, together with their children, appealed to the ECHR, after police raided their home in Liverpool. The raid was carried out with a judicial search warrant, after a police detective testified under oath before a judge that there was a reasonable suspicion that the address contained goods stolen in a series of armed robberies that took place in the city. The person the police suspected was involved in the robbery did not live at the address where the search was conducted. The court ruled, *inter alia*, that the police had violated Article 8 of the Convention by failing to make a minimal effort to verify the connection between the address and the offense being investigated.

67. **Niemietz v. Germany**, 13710/88, ECHR, December 1992. A lawyer from Germany turned to the court after a search, with a warrant, had been conducted in his office. The search took place after his partner refused to provide details about a suspect who in a minor offense (punishable by up to a year in prison or a fine). The court ruled that the search constituted a violation of Article 8 of the Convention due to the fact that the order was broadly worded and allowed the search and seizure of "documents" without restrictions.

68. **Robathin v. Austria**, 30457/06, ECHR, July 2012. An lawyer from Austria who was the subject of criminal proceedings on suspicion of aggravated theft, aggravated fraud and embezzlement, turned to the court after a search had been conducted in his office by virtue of a judicial warrant which allowed, among other things, to search and seize all electronic information in the office. The applicant was eventually acquitted of all suspicions against him. The court ruled that the search constituted a violation of Article 8 of the Convention because the warrant had not been restricted to the search and seizure of information connected to the offenses of which the applicant was suspected.

The right to privacy in Israeli administrative and constitutional law

Israeli administrative law requires Israeli authorities to respect human rights and demands that injurious administrative actions be undertaken in keeping with the requirements of due process and in light of the principles of proportionality and the prohibition of arbitrariness.⁶⁹

The right to privacy is a basic right in Israeli law, and it is explicitly enshrined in Basic Law: Human Dignity and Liberty, which states that: (a) All persons have the right to privacy and to intimacy. (B) There shall be no entry into the private premises of a person who has not consented thereto. (C) No search shall be conducted on the private premises of a person, nor in the body or personal effects. (D) There shall be no violation of the confidentiality of conversation, or of the writings or records of a person.⁷⁰

The scope of the right to privacy is not sufficiently defined and suffers from inherent ambiguity.⁷¹ However, jurisprudence does state that due to its status as a constitutional right, it must be interpreted broadly and “liberally” rather than technically.⁷² In the ruling in the Dayan case, Justice Aharon Barak, then serving as the Vice-President of the Supreme Court, described the importance of protecting privacy:

[I]t can be held that the constitutional right of privacy includes, inter alia - but without any attempt to encompass all aspects of the right - a person's right to lead the lifestyle he wishes inside the privacy of his home, without outside disturbance. A man's home is his castle, and inside it he is entitled to be left to himself, to develop the autonomy of his own private will.⁷³

Since the enactment of Basic Law: Human Dignity and Liberty (in 1992), the right to privacy has been positioned at the forefront of human rights in Israel, alongside other rights such as the right to life.⁷⁴ In another Supreme Court ruling, Justice Barak stated that:

The right to privacy is one of the most important human rights in Israel [...] It is recognized in Israeli common law as a human right [...]. In 1992, the status of the right to privacy was fundamentally altered [...] Indeed, by virtue of the Basic Law, privacy has become a supra-legal constitutional right. Every governmental authority [...] must respect it.⁷⁵

Although Israeli basic laws do not apply directly to the OPT when it comes to Palestinians, they do place limitations on the actions of the Israeli authorities everywhere, including in the West Bank. The military commander has a duty to respect the constitutional rights of every person against whom the powers of the State of Israel are exercised, regardless of their citizenship and where the activity takes place.⁷⁶

Special protections for children

One of the features that distinguish home invasions from other military operations, is the fact that they impact the lives of entire families, including children and adolescents. Therefore, such actions must also be examined in light of the special protections international law affords children.

The International Convention on the Rights of the Child (1989) (CRC) is the most prominent and comprehensive international instrument in the area of children's rights. The CRC forms part of public international law and is therefore binding upon the

69. See, e.g.: HCJ 3477/95 **Ben-Attiah v. Minister of Education, Culture and Sports**, judgment (Hebrew); HCJ 4638/07 **Al-aqsa al-Mubarak Ltd. v. Israel Electric Company**, judgment (Hebrew), 2007; HCJ 2056/ 04 **Beit Sourik Village Council v. Government of Israel**, judgment, 2004.

70. **Basic Law: Human Dignity and Liberty**, Section 7.

71. Michael Birnhack, “Control and Consent: The Theoretical Basis of the Right to Privacy,” **Mishpat U'Mimshal Government**, 11:1, 2007 (Hebrew).

72. HCJ 2481/93 **Dayan v. Jerusalem District Commissioner et al.**, judgment, 1994, para. 16.

73. HCJ 2481/93 HCJ **Dayan v. Jerusalem District Commissioner et al.**, judgment, 1994, para. 16.

74. Omar Tene, “The Right to Privacy Following the Basic Law of Human Dignity: A Conceptual, Constitutional and Regulatory Revolution”, **Kiryat Hamishpat**, 8, 2009 (Hebrew).

75. HCJ 6650/04, **A. v. Regional Rabbinical Court in Netanya**, judgment, 2006, para. 8-9 (Emphasis added) (Hebrew).

76. Yael Ronen, “Applicability of Basic Law: Human Dignity and Liberty in the West Bank”, **Shaarei Mishpat** 7, 2014 (Hebrew). HCJ 1308/17, **Municipality of Silwad et al. v. Knesset et al.**, Application to join as an Amicus curia, March 2017 (was submitted by 28 top legal scholars through the Clinic for International Human Rights at the Faculty of Law, Hebrew University of Jerusalem) (Hebrew).

signatory states, including Israel, which ratified the Convention in 1991. In addition to the Convention on the Rights of the Child, several special protections for the rights of children are also included in the Fourth Geneva Convention.

The CRC is founded on four main principles: equality, the child's best interest, life, survival and development, and children's participation in decisions concerning their lives.⁷⁷ It also places special emphasis on the dignity of the child and establishes special protection for children's privacy, stipulating that, "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence."⁷⁸

All children, by virtue of being children and by virtue of being human, are entitled to the rights enshrined in the CRC without any requirement for citizenship, residency or any other status.⁷⁹ Article 2 of the Convention provides that, "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction [...]." Nevertheless, Israel maintains that the Convention does not apply in the West Bank, in keeping with its general stance on the application of human rights law in the OPT.⁸⁰ It is worth noting that the position held by the legal community, the international community and the organizations authoring this report is that IHRL, in its entirety, all human rights laws, including the CRC, apply in the West Bank, and are binding on the Israeli authorities.⁸¹

Prohibition on collective punishment, intimidation and terrorization

Article 33 of the Fourth Geneva Convention explicitly prohibits collective punishment:

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.⁸²

The first clause of Article 33 concerns the principle of personal liability and embodies, within international law, one of the general principles of criminal law, namely that penal liability is inherently personal. The Article complements and carries forward the prohibition on collective punishment contained in the Hague Regulations.⁸³ But, while the Hague Convention does not completely rule out the possibility that the community bears some responsibility, the prohibition on collective punishment in the second clause of Article 33 is clear and absolute. The prohibition on collective punishment refers to punishment of any kind imposed on an individual or a group of people for actions for which they are not responsible (as distinct from penalties imposed by a court according to a penal code in a fair trial).

The Article makes a direct correlation between collective punishment and the use of intimidation and terrorization, tying the prohibitions on such acts together. For the matter at hand, it is important to note that according to the ICRC commentary on the Geneva Convention (recognized as the official, binding interpretation), these practices must not be used to deter opposition to the military rule. The reason for this prohibition is twofold - the harm these actions inflict on the innocent and the guilty alike contradicts the principles of humanity and justice, but they also have the opposite effect: rather than suppressing resistance, they tend to strengthen

77. Ministry of Justice, Committee for the Examination of Basic Principles in the Field of Children and Law and their Application in Legislation, **Report of the Subcommittee on Minors in Criminal Procedures**, February 2003, p. 28 (Hebrew).

78. **Convention on the Rights of the Child** (1989) Article 16.

79. Ministry of Justice, Committee for the Examination of Basic Principles in the Field of Children and Law and Their Application in Legislation, **Report of the Subcommittee on Minors in Criminal Procedures**, February 2003 (Hebrew); **Convention on the Rights of the Child** (1989), Article 2.

80. In its reports to the UN Committee on the Rights of the Child, the State of Israel does not report on the rights of Palestinian children, even when they are directly related to fields directly under Israel's control and where it operates (such as detention and incarceration of Palestinian children in military prisons and their trials in military courts). See for example the statement of Israel's permanent representative to the UN's office in Geneva: **Committee on the Rights of the Child Reviews Report of Israel**, United Nations Office, Geneva, June 2013.

81. Orna Ben-Naftali and Yuval Shani, **International Law Between War and Peace**, Ramot Publishing - Tel Aviv University, 2006, 2006. p. 216 (Hebrew); ICJ Reports of Judgment, **Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory**, Advisory opinion of July 2004, para. 136 at pp. 177-181. These are also joined by a series of decisions from the European Court that set the test of "effective control" as decisive with regards to the question of geographical application of the European Convention on Human Rights and Fundamental Freedoms, as well as judgments delivered by the British House of Lords ruling that international human rights law, by which Britain is bound, applies also in the areas of occupied territory under the control of its troops, such as Iraq. In some of its judgments, the Israel's High Court of Justice has also ruled that there is a presumption regarding the applicability of the conventions in the occupied territories and that the basic rights of an individual or group apply also during war; HCJ 7957/04 **Zaharan Yunis Muhammad Mara'abe v. The Prime Minister of Israel et al.**, judgment 2005, para. 56; HCJ 2150/07 **Ali Hussein Mahmoud Abu Safiyeh v. Minister of Defense**, judgment, 2009, para. 16; HCJ 3969/06 **Head of Deir Samet Village Council, Muhammad 'Abed Mahmoud al-Harub et al. v. Commander of the IDF Forces in the West Bank et al.**, judgment, 2009, paras. 10 and 17 (Hebrew).

82. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 33.

83. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Article 50.

it. The Article's final clause adds a prohibition on reprisals against protected persons and their property.⁸⁴

Collective punishment contradicts the right to liberty and the right to a fair trial, both enshrined in the International Covenant on Civil and Political Rights. Furthermore, some forms of collective punishment may be considered inhuman, cruel or degrading treatment, itself prohibited both in the latter Convention and in the Convention against Torture.⁸⁵

Every invasion of a home includes an element of collective harm as it affects everyone who resides in the house. There is some difficulty determining whether the collective harm caused by some military home invasions in the West Bank amounts to collective punishment. For example, invasions for the purpose of search or arrest appear not to be a form of collective punishment, and the collective harm they inflict may be ancillary. However, in some cases, home invasions in the West Bank do raise substantial concern over a possible violation of Article 33 of the Geneva Convention, in light of the Article's interpretation by the ICRC. This applies to invasions carried out for the purpose of pressuring individuals or the community in an effort to suppress and discourage participation in resistance and protest activities. The same holds true for large-scale raids on entire villages or neighborhoods conducted by soldiers primarily as a show of force, or for other general purposes, without concrete suspicions against members of the households that are invaded.

Threat to life, body and property

Article 46 of the Hague Regulations states that "Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected."⁸⁶ As stated, the Geneva Convention also stipulates that in addition to the right to dignity, the bodies of protected persons must also be protected, and that among other things, they "shall be protected especially against all acts of violence or threats thereof [...]." However, the Article concludes with a provision that, "the Parties to the conflict may take such measures of

control and security in regard to protected persons as may be necessary as a result of the war."⁸⁷

Any military action taking place amidst civilians may put them in danger of death or injury. Therefore, the occupying forces have a duty to reduce this risk as much as possible. Risk of such harm is high when the military operation takes place inside a private home, due to the tension between the military forces invading the house and its occupants. In addition to physical harm, Israeli military invasions of Palestinian homes in the West Bank have severe negative consequences for the mental health of Palestinian adults and children. These violations are the result of a systematic policy that prioritizes the military or security interest over minimizing the violation of Palestinians' rights.

It follows that the very practice of military invasions into private homes increases the threat to life and health and should therefore also be examined in the context of the prohibition international law places on endangering the lives and bodily integrity of protected persons.

In addition, an invasion of a house by military forces carries a high risk of damage to property, especially when such invasion includes a search of the rooms and objects in the house. As stated, international law prohibits damage to the property of protected civilians that is not warranted by military necessity. Damage that is not essential to the search itself, for instance breaking furniture or electrical appliances, or scattering food products, would be considered unnecessary damage.

Alongside the general prohibition on damaging property, international law explicitly prohibits looting.⁸⁸ A situation in which soldiers are present in a private home, moving freely among rooms and rummaging through objects, increases the risk of looting (for example, theft of jewelry, cash, small electronic devices and other objects). Unlike other prohibitions listed in international law, the Military Justice Act also considers looting a serious offense, stipulating a ten-year prison sentence

84. Jean S. Pictet (editor), *The Geneva Convention of 12 August 1949, Commentary IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, International Committee of the Red Cross, Geneva 1958. pp. 224-229.

85. *International Covenant on Civil and Political Rights*, (1966), Article 17. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), Article 16. See also: Liron Libman, *Security and Collective Punishment*, The Israel Democracy Institute, Policy Paper 125, April 2019 (Hebrew).

86. *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land*, The Hague (1907), Article 46.

87. *Convention (IV) relative to the Protection of Civilian Persons in Time of War Geneva* (1949), Article 27.

88. *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land*, The Hague (1907), Article 47; *Convention (IV) relative to the Protection of Civilian Persons in Time of War Geneva* (1949), Article 33.

for a soldier convicted of it.⁸⁹ A prohibition on looting is also included in the General Staff orders.

Violation of equality and prohibited racial discrimination⁹⁰

The intrusion of police officers into the home of an Israeli family living in a settlement or in an unauthorized outpost is carried out under Israeli law, which is dramatically different from the Order regarding Security Provisions, by virtue of which an invasion of a Palestinian family's home takes place. The two are distinct at every level: the **grounds** that justify forced entry into a private domicile, the **competent authority** making the decision to enter, and the **manner** prescribed for executing the action, along with the restrictions imposed on those executing it. This is the case despite the fact that both settlers and Palestinians live in the occupied West Bank, sometimes just a few hundred meters from one another. The legislative acts that allow the authorities to invade homes - under Israeli and military law - are entirely different from one another and reflect a fundamental difference in their approach to individual rights and the goal they seek to achieve. As illustrated later in this report, while Israelis enjoy the protection of Israeli law with respect to intrusions into their homes, Palestinians do not enjoy comparable protections.

The disparity between the Israeli justice system and the military justice system in the West Bank is blatant and explicit. While military law reflects an expansive approach designed to make it easier for security forces to enter the private domain of Palestinians living in the OPT, and allows it in almost any situation, Israeli law reflects a restrictive approach intended to make it harder for law enforcement agencies to enter the private domain.

Among other differences, in Israeli law, as opposed to military law, a search is ideally conducted in accordance with a judicial warrant given in relation to a predetermined set of offenses, unless there "are reasonable grounds to believe a crime is being committed or has recently been committed at the site."⁹¹ In other words, there is a well-founded suspicion that a crime is currently underway or has recently been committed, and not just any offense but a criminal one.

In the context of home invasions, the existence of two separate legal systems creates **flagrant discrimination between the two populations living in the same geographical territory under Israeli rule**. The prohibition on discrimination is a fundamental tenet of both Israeli law and the various branches of international law. The High Court of Justice addressed the importance and prominence of the right to equality in its jurisprudence,⁹² recognizing a violation of equality as a violation of the constitutional right to human dignity. The application of different legal norms to different populations is a clear and grave violation of the principle of equality before the law.

The prohibition on discrimination is also enshrined in IHL in two articles of the Fourth Geneva Convention. Article 27 stipulates that protected persons must not be subjected to discrimination, particularly not on the basis of religious, racial or political affiliation (let alone in relation to Israeli settlers, who are not protected persons). Article 3 of the Convention establishes the prohibition on discrimination as one of the fundamental principles of the laws of war.⁹³ In IHRL too, discrimination on the basis of race, nationality or citizenship is prohibited. Article 26 of the Covenant on Civil and Political Rights instructs states to ensure equality before the law for all who are under their jurisdiction and prohibits discrimination, inter alia, on the basis of race or national origin.⁹⁴

The International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination as:

[A]ny distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.⁹⁵

Therefore, applying different legal systems to Israelis and Palestinians on the basis of national distinction is wrongful and constitutes a violation of the prohibition on racial discrimination. Articles 3 and 5 of this Convention impose an obligation on

89. Military Justice Act, Section 74 (Hebrew): "A soldier who has looted loot, or who has broken into a house or other place to loot spoils is liable for imprisonment of ten years." For more information on the lack of assimilation of the provisions of international law in Israeli legislation, see: Yesh Din, [Lacuna: War crimes in Israeli law and in court-martial rulings](#), July 2013.

90. The term "racial discrimination" is used here in its broad sense as a term that describes systemic discrimination based on group affiliation. Under this broad meaning, which is the accepted meaning of the term today, it is not limited to describing a discriminatory system that relies on a would-be biological or natural distinction between groups. It may, for example, be used to describe systemic discrimination based on ethnic, cultural, political or other group affiliation.

91. Criminal Law Ordinance, Section 25(1).

92. See for example, HCJ 6698/95 **Kaadon v. Israel Land Administration**, Judgment, 2000.

93. **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Articles 27 and 3.

94. **International Covenant on Civil and Political Rights**, (1966), Article 26.

95. **Convention on the Elimination of All Forms of Racial Discrimination** (1965), Article 1.

states to prevent and eradicate all forms of racial discrimination and segregation and to ensure equality before the law for every person.⁹⁶

The Rome Statute (the constitution of the International Criminal Court in The Hague), following on the International Convention on the Suppression and Punishment of the Crime of Apartheid, defines the crime of apartheid as, "**inhumane acts [...] committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with**

the intention of maintaining that regime."⁹⁷ The existence of two legal systems that apply to two separate national groups, as illustrated in this report in the context of the rules governing entry into the private domain, supports the claim that Israel is committing the crime of apartheid in the West Bank. A full analysis of this offense requires a broad examination of the policies and practices that characterize Israeli control of the West Bank and is, therefore, beyond the scope of this report. Yesh Din has recently published a legal opinion containing a comprehensive analysis of the matter and asserting that Israel is, in fact, committing the crime of apartheid in the West Bank.⁹⁸

96. *Ibid*, Articles 3 and 5.

97. **Rome Statute of the International Criminal Court**, July 17, 1998, Article 7(2)h. See also: **International Convention on the Suppression and Punishment of the Crime of Apartheid**, Article II; See also: Yesh Din, [The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#), June 2020.

98. Yesh Din, [The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#), June 2020.

C.

HOUSEHOLD MEMBERS PERCEIVED AS ENEMIES: BRUTALITY AS A STRATEGY OF INTIMIDATION

"I'm afraid of the soldiers. They don't come quietly. They come in agitated and suspicious and instill fear. I live with constant fear in my heart."⁹⁹

Military invasions into homes are fundamentally different from other military operations in both their objectives and features. Invasions are not usually intended for engaging with an enemy in combat, but rather for policing in civilian situations. Furthermore, they feature interaction with entire families - children, women and men - the vast majority of whom are innocent, and inevitably violate their rights. Despite this, soldiers who invade Palestinian homes in the West Bank do not receive relevant training that reflects recognition of the specific features of these operations. **Israeli soldiers invade Palestinian homes in the West Bank with only one toolbox - the toolbox of soldiers engaging with an enemy.**¹⁰⁰

The harm military invasions inflict on members of a household varies according to the manner in which the invasion is carried out. For instance, a door being forced open and an armed soldier appearing in a bedroom in the middle of the night are more injurious than a knock on the door during the day, followed by waiting for a household member to open. The fact that the soldiers receive no designated training for carrying out these types of actions and are not familiar with clear, binding directives on protecting the rights of household members exacerbates this harm.

Moreover, the manner in which invasions are carried out involves potential for bodily harm, which sometimes materializes. The harm to Palestinians is twofold: On the immediate level, any home invasion is more injurious when coupled with the threat

of violence. More broadly, **the message sent to Palestinian women, men and children, is that not only are their homes vulnerable to arbitrary invasion by soldiers, but that they themselves are also constantly under threat of physical harm.**

When seeking to gain control over what transpires in a house, Israeli soldiers are guided by a strategy of aggression and a show of force designed to create a threatening presence. The idea is to preemptively reduce any resistance from members of the household. A captain in the Air Defense Command referred to this when speaking about the logic behind the order he gave his soldiers to paint their faces before home invasions:

"In my eyes, if someone comes to me in the middle of the night, forget the equipment and the weapon and the helmet and everything, there's an even more threatening element if his face is painted [...] The goal, for me, was to be more intimidating, scarier, and then maybe you get less resistance."¹⁰¹

The soldiers' threatening show of force goes beyond asserting authority and may escalate to verbal threats, threatening use of firearms, beating, pushing and, in some cases, severe physical violence. In 30% of the 128 invasions documented by Yesh Din, family members reported an express threat of violence on the part of the soldiers during or around the time of the invasion. In 25% of the incidents, testimonies indicate that during or around the time of the invasion, soldiers used force or physical violence against a member of the household (about half of the threats were made in cases in which physical violence was also used).¹⁰²

It is important to stress that soldiers do not limit the use of threats or physical force to when they are in danger. When family members do not comply with the soldiers' orders, or naturally respond with crying or screaming, soldiers are more likely to use force to secure compliance or prevent disruptions. Given

99. Testimony collected by Yesh Din from R.S., a woman from Nahhalin, October 1, 2018, Yesh Din Case 4256/18.

100. In this context, it may be added that the fact that the soldiers performing the search belong to an occupying power encourages the perception of the occupants as an enemy to be wary of, which increases the risk. This is a different situation from home searches carried out by police officers who belong to the same civilian community as members of the household they are searching.

101. Testimony collected by Breaking the Silence from a major, Air Force Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51.

102. In 38 cases, family members reported threatening use of firearms (e.g., cocking the weapon or aiming it at their face or body), or verbal threats against them during or around the time of the home invasion. In 32 cases, testimonies revealed soldiers used varying degrees of force or physical violence in or around the time they were in the house. Of these, in four, witnesses reported physical force or violence to force a body search of a woman or girl. In 19, soldiers reportedly pushed or hit one or more members of the household, sometimes with their firearms. In seven cases documented by Yesh Din, testimonies indicated one family member was beaten by one or more soldiers in manner exceeding a single push or several blows. In one case, soldiers reportedly forced a family member who had been arrested to walk on shattered glass, and in another, a family member was shot in the abdomen inside the house.

the circumstances, a plausible reason why physical violence is not more common during invasions is that Palestinians have internalized the threat of violence, meaning there is no need to act on it in most cases.

1. Lack of specific training for home invasions

Israeli soldiers and officers who serve in the West Bank do not acquire basic knowledge about the status of the Palestinian population living under military occupation or their obligations towards it as representatives of the occupying forces. Testimonies collected in 2013 and 2014 by Breaking the Silence indicate soldiers are entirely unfamiliar with the term "protected persons" and what it means.¹⁰³ In practice, the soldiers' approach to the Palestinian occupants of a home during a home invasion is guided, at least to some extent, by their perception of them as a threat. So, for instance, a soldier who described home seizures said that, despite the fact that the family was "innocent, we treat[ed] them as we were taught - as a potential threat."¹⁰⁴

The training soldiers receive evinces a failure to distinguish between invasions of civilian homes and operations involving combat with an enemy. Responding to a question about the training they receive for such operations, some soldiers referred to urban warfare training, a combat method for fighting armed forces within populated areas such as towns and villages. In other words, the core training soldiers receive on home invasions is for operational needs and has absolutely nothing to do with protecting civilians, including innocents, who are in their homes.

Interviewer: In your training as a combat soldier, did you get any training on entering homes in the Territories?

Witness: Physical training, yes, as in they take you to what is called a *lashabiya* [urban warfare training facility] if I'm not mistaken, urban warfare, and you go in, we went in.

Interviewer: But did it touch on entering the Territories, or entering during war?

Witness: Entering during war.

Interviewer: Do they talk to you about the population that's inside, children, where to put the family?

Witness: No, that's not the conversation."¹⁰⁵

"There's preparation in terms of, there's urban warfare, which is like, not exactly preparation, like, it's entering homes while shooting and such. There is no preparation for arresting or searching or anything like that. [...] They prepare you for a war situation, like, entering a house while shooting, shooting in every direction, on the assumption that there are only enemies inside. That's it - nothing beyond that. Like purely operational."¹⁰⁶

In theory, soldiers with designated roles that require participation in home invasions do receive more relevant training (for instance, canine handlers or soldiers trained for searches). In practice, however, this training also focuses on the operational aspects of entering the home, taking control of it and searching it, rather than the status of the population with whom the soldiers come into contact or protecting its rights.



Soldiers during an invasion of the Sharabati family home in Hebron, April 29, 2019. Still captured from a video filmed by The National Association of Human Rights Defenders (HRD), Capturing the Occupation Camera project

Some of the soldiers who gave testimony to Breaking the Silence said their training did address the fact that some of the operations they would be expected to carry out involve encounters with innocents and that it touched on the Palestinian

103. Yesh Din, [Standing Idly By: IDF soldiers' inaction in the face of offenses perpetrated by Israelis against Palestinians in the West Bank](#), May 2015, pp. 56-57.

104. Testimony collected by Breaking the Silence from a first sergeant, Duvdevan Unit, 2005-2008, Testimony No. 53.

105. Testimony collected by Breaking the Silence from a lieutenant, Artillery Corps, 2013-2018, Testimony No. 42.

106. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2011-2014, Testimony No. 35.

population's characteristics or customs. In this context, the topic of managing encounters with women stood out (no specific reference to protecting minors' rights was documented). Still, the testimonies indicate guidance of this type made up a very small part of the soldiers' training and was usually given in ancillary contexts, rather than as an integral part of the process.¹⁰⁷

Interviewer: The training that you do in ALAT [pre-operational deployment training] - is it more tactical, or does it address the people you meet who are in the house and that kind of stuff?

Witness: 90% tactical.

Interviewer: So what does get said about civilians, do you remember?

Witness: "The topic that there are civilians is mentioned. It's not any kind of work on cases and the reactions from people whose home is entered, but more a general understanding that there are civilians in the house, but not something, again, this whole training is something very, very basic and much more like checking something off than actual training. I'm comparing it to any other training, I mean, I don't know, like, capturing a hill, then there's no comparing in terms of the time that gets put into understanding how to do it."¹⁰⁸

2. Routine use of firearms as a tool for intimidation

"When I tried to look for a blanket to cover the children, the soldiers threatened that if I wandered around, they would shoot me."¹⁰⁹

Every soldier invading a house carries a firearm. Without meaningful training on protecting the population, soldiers do not hesitate to use these firearms as a tool for gaining control, for instance, by pointing them at members of the household. The fact that using a firearm in a manner containing an express threat to shoot an unarmed person who poses no danger is

wrongful and may amount to a criminal offense acts as no deterrent. An officer in the Artillery Corps, for instance, testified that although his commanders had instructed him and his peers not to point firearms at people in the house, everyone did.

"When I think about it now, in hindsight, we aimed [weapons]. Like, of course we did. Even my platoon commander aimed actually, and my company commander too. Not to the head, right? But he still pointed his weapon at a human being."¹¹⁰

K.O., 48, from the village of Madama, was sitting with her husband in their garden at around 11:30 P.M., when a group of soldiers arrived. The soldiers approached, calling to her and her husband, "**Ruh al beit! [Go home!]**"

"My husband speaks Hebrew and told them, 'I'm in my home.' The soldier put his gun next to my husband's mouth."¹¹¹

Jawad Abu 'Alia, a 41-year-old man from al-Mughayir who uses a wheelchair, woke up in the hours before dawn when soldiers broke into his house to arrest his son. When Abu 'Alia tried to shout and protest that the soldiers had broken windows and doors, they used their firearms to intimidate him.

"When I saw the state of the windows, I started shouting at the soldiers, "Why are you breaking windows?" Then I discovered they had also broken the front door of the house and another door that leads into the living room [...]. **The soldiers obviously saw that I am paralyzed, and despite this, when I shouted about what was going on, they stuck their guns in my back, which was painful and frightening.**"¹¹²

A testimony from a soldier who commanded house searches in the summer of 2014 reveals how using firearms in a threatening

107. Some soldiers explained that these directives were given in ancillary contexts, such as commander briefings, educational seminars or conversations with an Arabic speaking soldier.

108. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2011-2014, Testimony No. 49.

109. Testimony collected by Yesh Din from S.E., a woman from Beit Ummar, June 9, 2018, Yesh Din Case 4154/18.

110. Testimony collected by Breaking the Silence from a lieutenant, Artillery Corps, 2013-2018, Testimony No. 42.

111. Testimony collected by Yesh Din from K.O., a woman from Madama, July 4, 2018, Yesh Din Case 4182/18.

112. Testimony collected by Yesh Din from Jawad Abu 'Alia, a man from al-Mughayir, September 26, 2018, Yesh Din Case 4247/18.

manner is almost inevitable in situations of conflict and even misunderstanding. The likelihood that these types of interactions might occur increases because the soldiers do not speak the language spoken by those whose homes they invade. **In this context, it is important to note that although in some home invasions, the forces do have Arabic speakers among them, military protocols do not make the presence of an Arabic speaker in these actions mandatory.**¹¹³

"Witness: There were a few children there, a few women, an older man and an older woman. There was one man there. I called everyone to go into one place. [...] Then, I'm like, aiming my weapon at them, so they don't startle me or something like that, and they start speaking Arabic to me, and they try to tell me something; the older man is trying to tell me something, and I don't understand Arabic; there's no one who knows Arabic. [...] They repeat it again and again and again, trying to tell me something and I like don't understand. And it gets frustrating at some point, and I feel that they, that it's not calm, so I tell them to shut up at some point, and I point my weapon at them, so they shut up. [...]

Interviewer: How do you decide what to do in this situation?

Witness: [...] You don't want an altercation. You want it to be as calm as possible and to end quickly. And when they, like, things heat up [...], I decided it wouldn't do me any good, that if I don't understand them, they'd keep talking. I'd better tell them to shut up, and that way, you maintain control somehow, because you don't want there to be a fuss and yelling, [you want it] as quiet as can be, I think."¹¹⁴

The information collected indicates that, in addition to routine use of firearms, in some cases, soldiers and officers use severe verbal threats in response to any resistance or arguments, for instance, when a member of the household complains about what was done to them. It is important to stress that express death threats, while not common, could amount to a criminal offense. Moreover, these threats exacerbate the harm already inherent in home invasions and send a message that the soldiers are free to do whatever they please and that they are not bound by any law or norm that would keep them from causing bodily harm to men, women and even children.

So, for instance, Rami al-Tayah of Tulkarm said that when he became upset with soldiers who were about to confiscate roughly 3,500 ILS they had found in his home, waving the bills in his hand and shouting that the money was not intended for terrorism and there was no reason to confiscate it: "One of the soldiers cocked his weapon, aimed it at me **and threatened to shoot me if I did not give back the money.**"¹¹⁵ A.D. from 'Azzun said that when she tried to object to a female soldier performing a body search on her, the soldier "again threatened to shoot me."¹¹⁶ Rasha Taqata from Beit Fajjar followed soldiers who had arrested his 16-year-old son out of the house to see what they were doing, but they threatened to shoot him if he did not go back inside, and told him, "they had orders to **put a bullet in the head of anyone who got in their way.**"¹¹⁷

3. Violence and physical harm

The absence of a clear distinction between military actions involving combat with an enemy and actions, such as home invasions, that involve encounters with innocents, increases the risk that soldiers would use force. **In about a quarter of the incidents Yesh Din documented, varying degrees of violence were reported,** ranging from shoving, a single or several blows using hands or a firearm, all the way to severe beatings causing actual physical harm. Use of force, and even physical violence,

113. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act", November 18, 2019 (Hebrew).

114. Testimony collected by Breaking the Silence from a first sergeant, Bislamach Brigade (School for Infantry Corps Professions and Squad Commanders), 2012-2015, Testimony No. 45.

115. Testimony collected by Yesh Din from Rami al-Tayah, a man from Tulkarm, June 19, 2018, Yesh Din Case 4167/18.

116. Testimony collected by Yesh Din from A.D., a woman from 'Azzun, November 13, 2018, Yesh Din Case 4294/18.

117. Testimony collected by Yesh Din from Rasha Taqata, a man from Beit Fajjar, November 20, 2018, Yesh Din Case 4337/19.

is more prevalent in the context of arrests, where the conflict between the soldiers and the occupants of the home is sharper and occurred in 37% of the invasions that included arrests documented by Yesh Din (24 incidents).¹¹⁸

To our knowledge, household members are very rarely shot, but in one case documented during the project, a man was shot and wounded in his home. **In two other cases, witnesses reported a dog was used to attack a family member or assist in their violent apprehension.** We note that testimonies indicate that although it is not a widespread practice, the military continues to use canines despite the danger associated with using assault dogs, including possible physical harm to innocents.¹¹⁹

An attempt by a member of the household to refuse the soldiers' directions, for instance, refusing a physical search, often leads to the use of threats or physical force to compel obedience. So, for instance, Hend Hamed from Silwad said that when her 14-year-old son tried to object to soldiers' physically searching his 12-year-old brother, "a soldier grabbed him and started choking him."¹²⁰ In other cases, physical force may be employed to stop behavior soldiers consider to be unwanted, such as shouting. This was the case when 15 soldiers arrived at the home of 19-year-old 'Abd al-Rahman al-Khatib, in Jayus, where he lives with his parents and siblings, to arrest his brother:

"They brought K., my brother (15) to the living room to put his shoes on. My mother fainted, and I started shouting at the soldiers. One of them hit me on the left shoulder with his weapon."¹²¹

The story of Nidal 'Aqel from Kafr Qadum illustrates how an argument between the soldiers and a member of the household could escalate from abusive behavior and threats to actual violence and beatings. On March 23, 2017, at around 1:30 A.M.,

soldiers arrived at 'Aqel's home. They ordered the family to gather in one room and began searching the premises. When he saw a soldier entering with a dog, defying the family's customs and beliefs, 'Aqel sought to prevent this added insult and tried to resist. His demand posed no threat to the soldiers' safety, but that did not stop them from responding with violence.

"I told him [in Arabic]: "We are religious, and according to our religion, a dog is impure, and it is forbidden to bring a dog into the house." But he brought the dog inside anyway. I tried to stop him and told him he absolutely could not bring the dog in.

The soldier told me in Arabic – "Sit quietly, or I'll beat you." He pushed me. Some more soldiers came and put me in the kitchen. They had me stand facing the wall with my hands on the wall. They started kicking my legs. I tried to turn around and block the soldier, but they kept beating me. I stayed in the kitchen for about half an hour while my family was in the living room. [...]

The incident lasted about two and a half hours. The next day, I went to the doctor's office, and I was given painkillers. I had severe pain in the neck from the kicking."¹²²

S.E. from Hebron was severely beaten by soldiers who broke into his home in the early morning hours to arrest his brother. His testimony shows how the aggressive, violent tactics characteristic of the soldiers' behavior during arrest raids can result in severe harm to innocents. Abu 'Eishah, who was in his bed when the soldiers got to him, was no threat to them and clearly unable to resist. Half an hour went by before it became clear the soldiers were not there to arrest him but his brother.

118. These figures relate to 64 home invasions in which a family member was arrested (including six cases classified as invasions which were apparently not originally intended as an arrest raid).

119. For examples of the use of assault dogs in 2018, see: Amira Hass, "Night Raids and Attack Dogs: For West Bank Palestinians, Their Homes Are Not Their Castles", [Haaretz English website](#), June 19, 2018; B'Tselem, [Israeli soldiers raid two homes in Bethlehem and use a dog to attack two people](#), October 2, 2018; [Reprehensible actions by Israeli troops against Palestinians following killing of Rabbi Raziel Shevach: Demolishing a home with inhabitants still inside, strip searching 3 women, setting dogs on 3 residents](#), February 22, 2018. Responding to an inquiry by Yesh Din about a woman who had been bitten by a dog during an arrest home invasion in the town of Idhna in December 2011, the military wrote: "A professional error was made by the force in command of the dog." The response did not address the legitimacy of using a dog in the situation. Letter from the MAGC to Yesh Din, "Your Letter regarding Suspected Assault of Idhna Resident and her Minor Son by a Military Dog", January 29, 2015. For more on the use of assault dogs in other contexts, see also: B'Tselem, [B'Tselem reiterates demand that military cease using dogs to attack civilians](#), June 18, 2013.

120. Testimony collected by Yesh Din from Hend Hamed, a woman from Silwad, January 21, 2019, Yesh Din Case 4348/19.

121. Testimony collected by Yesh Din from 'Abd al-Rahman al-Khatib, a man from Jayus, March 16, 2018, Yesh Din Case 4085/18.

122. Testimony collected by Yesh Din from Nidal 'Aqel, a man from Kafr Qadum, March 23, 2017, Yesh Din Case 3883/17.

"The second time [soldiers came], I was sleeping. [...] At 6:00 or 6:30 A.M., when the soldiers came, the child [18 months old] was here [not in the bedroom], trying to put his shoe on. [...] All of a sudden, seven or eight [soldiers] came up with flashlights. I thought I was in an action movie. They pulled me, and I still only had underwear on. They put me in the corner and started beating me in front of the wife and child. The wife started yelling: "Leave him alone! Leave him alone!" They pushed her and carried on beating me. I spoke Hebrew to them. I asked why they were hitting. I asked him what he was looking for. I asked if he wanted my ID card, but he didn't say anything and just went on hitting. He hit me on the face and the back. Not one person, five or six. One of them lifted me, and the others beat me. I told my wife: Get my ID card, but they continued beating me. [...] All of a sudden, they turned me around and handcuffed me. One of them pulled me outside."¹²³

4. Normalization of violence in the military law enforcement system

Soldiers and officers' use of threats or physical violence against individuals who pose no threat to their lives is a criminal offense under military law. However, given how the military law enforcement system handles soldiers' offenses, **use of force - even outside the broad scope permitted by military law - becomes the norm - a *de jure*, but not *de facto*, departure from the military's self-imposed restrictions.**

As a rule, the military law enforcement system strives to avoid investigating and prosecuting soldiers who harm Palestinians, essentially giving them almost full immunity from punitive action for such harm. Most of the complaints that reach the Military Advocate General Corps (MAGC) regarding soldiers' offenses

against Palestinians (these include cases of death, gunshot wounds and serious property damage) are closed without a criminal investigation, and the vast majority of those that are investigated, are closed with no indictments served against the offenders.¹²⁴

Palestinian victims of soldiers' offenses are familiar with this reality, and their mistrust in the military law enforcement system is a major reason they rarely file complaints. Another is fear that doing so would ultimately hurt them.¹²⁵ The story of Y.S. (23) from Kafr Qadum is just one example of this sentiment. On January 5, 2017, dozens of masked soldiers invaded his parents' home. The officer who was with them accused S. of stone-throwing and refused to listen to his denials. The soldiers later beat him for about forty minutes all over his body. S. said that before the soldiers left the house, the officer told him: "I will kill you yet, but not here. I won't kill you in front of your parents. I'll pick the right time and place." When asked by Yesh Din staff members if he wished to file a complaint, S. said he did not.¹²⁶

Of the handful of cases in which complaints are filed, the vast majority end without prosecution of the offenders. On February 20, 2019, more than ten soldiers invaded the home of Munther Mazhar in the village of a-Doha. Mazhar is blind and suffers from chronic kidney failure and diabetes. The purpose of the raid was to arrest the neighbors' son (20). The soldiers first invaded the neighbor's home, and he tried to convince them not to enter Mazhar's unit because of his medical condition, but to no avail. The soldiers forced their way into the apartment, woke up Mazhar and his wife, and one of them beat Mazhar until he bled, as he lay in his bed. The beating resulted in fractures in Mazhar's chin and left arm. He also suffered back pain. A complaint filed with the MAGC led to a criminal investigation, but the case was closed in November 2019 without an indictment. The suspect claimed Mazhar had tried to grab his firearm, a claim that is incongruent with the accounts given by the other soldiers present and which Mazhar denies. Yesh Din appealed the closure of the investigation and demanded the soldier who beat Mazhar stand trial.¹²⁷

123. Testimony collected by PHRI from S.A., a man from Hebron, July 2018, Yesh Din Case 4150/18.

124. Eighty percent of the complaints received by the MAGC in 2017-2018 were closed without an investigation. Only 0.7% of the complaints resulted in an indictment. See: Yesh Din, [Date Sheet: Law enforcement on IDF soldiers suspected of harming Palestinians - Figures for 2017-2018](#).

125. In 2017 and 2018, Yesh Din documented 34 cases of Palestinians who reported being harmed by soldier offenses but said they did not wish to file a complaint with the Israeli army. Yesh Din, [Date Sheet: Law enforcement on IDF soldiers suspected of harming Palestinians - Figures for 2017-2018](#), p. 5. Among the cases of violence and threats during home invasions documented by Yesh Din, family members received Yesh Din's assistance in filing a complaint with the military in only three cases (Yesh Din Cases 4163/18, 4253/18, 4378/19). Another complaint was filed in a suspected looting of a large sum of money which also involved a threat that family members would lose their work permits (Yesh Din Case 4300/18). At the time of writing, two investigations opened following the complaints have been closed with no indictments filed. Two other complaints are still being processed by military law enforcement officials.

126. Testimony collected by Yesh Din from Y.S., a man from Kafr Qadum, January 5, 2017, Yesh Din Case 3831/17.

"Early in the morning, sometime between 3:30 and 4:00 A.M., I heard sounds from the direction of the living room in my apartment. My wife and I were sleeping in our bed in our bedroom. When I heard the sounds, I asked my wife if it was our kids who had woken up early and were making noise. Before my wife could answer, she started screaming. I didn't understand why, but just then, **someone started hitting me in the face. He held my hand with one of his hands and beat me with his other. I didn't know who it was because I couldn't see him.** My wife kept screaming. I thought the person who was beating me was a burglar, because I got beaten without being told who was beating me and why. I was in shock. I was afraid of the blows to my head. After a few minutes, I heard my wife asking the person who was beating me if he couldn't see that he was hitting a disabled man. The man kept hitting me in the face with his hands, which were covered, maybe with brass knuckles. After my wife told him again that I was blind and disabled, he replied to her with three words in Arabic: "We are from the Israeli army" [...] Then my wife helped me sit up in bed. I ran my hands over my body and noticed I was wet and that my side of the bed was also wet. I realized it was blood [...]."¹²⁸



Munther Mazhar in his home about a week after soldiers raided it, while he was sleeping in his bed and violently assaulted him, February 2019. Photo by Alex Levac

127. Michael Sfarad Law Office (legal advisor to Yesh Din) to Chief Military Prosecutor, "Appeal against Decision to Close MPIU NOIU File 35/19", March 15, 2020.
128. Testimony collected by Yesh Din from Munther Mazhar, a man from a-Doha, February 20, 2019, Yesh Din Case 4378/19. The incident was reported in Haaretz newspaper: Gideon Levy and Alex Levac, "Without Saying a Word, Israeli Troops Beat Up a Blind Man in His Bed", **Haaretz English website**, February 28, 2019.

D.

IMPACT ON MENTAL HEALTH

Military invasions into homes greatly diminish the safe space available to Palestinian families in the West Bank. Due to the psychological and cultural importance of the sense of safety, identity and rest associated with the home, they can undermine mental health. As a general rule, intrusions into private residences by police or military forces, be it in the context of the occupation regime in the West Bank or any other geographic or political context, violate the dignity, privacy and safety of the home's occupants.¹²⁹ Such violations have a deleterious impact on the wellbeing of adults and children alike and could produce post-traumatic stress symptoms in those who experienced them.

From September 2018 to April 2019, a team of PHRI staff members interviewed 20 women and 11 men from 16 families whose homes were invaded by the Israeli military. The purpose of the interviews was to learn about the mental health impacts of these invasions on those who experience them. As part of the process, interviewers attempted to get the broadest possible picture of the interviewees' daily lives by providing an open platform for expression. The research process, from interview design to analysis and assessment, was guided and overseen by the project's steering committee of mental health experts.¹³⁰

The interviews were conducted by a social worker and a field coordinator several months after the home invasion (four months on average), using a semi-structured interview format based on a questionnaire and delivered in Arabic. To avoid potential harm, no children were interviewed directly, but parents were asked about their children's mental health. The 31 interviewees had 41 children among them. All interviews included measures to protect the mental wellbeing of the participants. In addition, measures were taken to ensure reliability and transparency and to reduce social desirability bias (interviewees' tendency to want to please the interviewer).

Participants were selected based on the initial testimonies given to Yesh Din with priority given to families that reported mental

health impacts following the invasion and violence or use of force during the incident. Accordingly, the interviewee group does not constitute a representative sample, and the information collected cannot substantiate quantitative arguments regarding the mental health impact of the invasions. We also stress that this report does not purport to diagnose the interviewees as having any particular psychiatric condition. At the same time, an analysis of the interviews clearly points to post-traumatic stress symptoms among adults and children who have experienced a home invasion and significant harm to their mental wellbeing.

When assessing the impact of military invasions of Palestinian homes in the West Bank, it is important to consider the fact that the victims live under a regime of prolonged occupation. As a result, they are exposed to different forms of direct and indirect violence that may accelerate or exacerbate various psychiatric conditions. Studies done in the West Bank point to a high prevalence of conditions associated with mental distress, including post-traumatic stress symptoms, depression and anxiety. The state of Palestinian mental health services, which are overloaded and underfunded, coupled with an absence of professional development, training and internships, increases the threat to Palestinians' mental health.¹³¹

To grapple with the complexity arising from the multiple factors with potentially adverse effects on interviewees' mental health, we focused on the issues they perceived as directly related to the home invasion experience and which appeared after it (for instance, a threatening memory of the incident itself or fear of it reoccurring). At the same time, it is important to remember that in practice, it is not possible to fully separate the various features of interviewees' lived experiences that impact their mental health.

1. The traumatic potential of home invasions

Emotional trauma occurs when a person faces a stronger power from which they cannot protect themselves. In a situation like this, the normal human defenses that give people a sense of control over their fate become ineffectual. Traumatic events

129. For examples and more information about home invasions by police or military forces in different historical contexts, see, e.g.: Sharon Pickering, "Women, the Home and Resistance in Northern Ireland," *Women & Criminal Justice* 11(3), 2000, pp.49-82; Cecilia M. Baillie, "War in the Home: An Exposition of Protection Issues Pertaining to the Use of House Raids in Counterinsurgency Operations", *Journal of Military Ethics*, 6(3), 2007, pp. 173-197; Afghanistan Independent Human Rights Commission (AIHRC), *From Hope to Fear: an Afghan Perspective on Operations of Pro-Government Forces in Afghanistan*, 2008; The Open Society Institute and The Liaison Office, *Strangers at the Door Night Raids by International Forces Lose Hearts and Minds of Afghans*, 2010.

130. Members of the steering committee: Dr. Ze'ev Weiner, Psychiatrist; Dr. Kim Yuval, Psychologist; Dr. Fidaa Mughrabi, Psychiatrist; Dr. Jomanah Milham, Psychiatrist.

131. Mohammad Marie et al., "Mental health needs and services in the West Bank, Palestine." *International journal of mental health systems*, 10(1), 2016; Samah Jabr et al., "Mental Health in Palestine: County Report," *The Arab Journal of Psychiatry* 24(2), 2013.

cause deep physical, emotional and cognitive changes as well as changes in memory. They also dissolve the sufferers' sense of security and their basic trust in their surroundings. This creates a sense of alienation that could affect all their relationships.¹³²

Difficult events that throw life off balance and involve fear for one's life, physical or mental integrity, are considered potentially traumatic. Car accidents, robbery, physical or sexual assault are some examples of events that might induce psychological trauma in those who experience them.¹³³

Home invasions are potentially traumatic events, both because they involve a forced intrusion by foreign powers into the victims' private space and the disruption of their control over it (much like a burglary, which is recognized in professional literature as a potentially traumatic event), and because the presence of armed soldiers in the home and the manner in which they conduct themselves within it create fear of physical harm. As stated, some of these events do, in fact, include express threats of physical harm (for instance, a threat with a firearm or a verbal threat) or direct violence.¹³⁴

People who suffer from post-traumatic stress, or PTS, experience fear, anxiety and helplessness as well as hyperarousal, intrusive memories (uncontrollably reliving the traumatic event and the sensations during it, for example, through flashbacks) and difficulty with emotional and physical regulation. Additionally, a person suffering from PTS often tries different ways to avoid things that might remind them of the traumatic event. In addition to the great suffering they cause, all of these could seriously impede the ability to function.

During the interview analysis stage, we examined the possible impact of home invasions on adults separately from children and adolescents. We first addressed the emotions, thoughts and behavior patterns interviewees spoke about and divided them according to PTS symptoms: The general sense of **loss of control**, which is the core of the trauma, along with **hyperarousal, sleep disruptions, emotional blunting and avoidance**. We also addressed symptoms associated with anxiety disorders. We

then used parent reports on emotional and behavioral changes observed in their children after the invasion of the family home in order to assess the possible impact of these events on the mental health of children and adolescents. Finally, we set out to learn about the possible impact home invasions have on relationships within the family unit and on how the family relates to its home and near vicinity.

Loss of control

Everyone strives to have control over the conditions that shape their lives and the factors that affect these conditions. This natural behavior is part of the human survival instinct. When people lose control over the conditions of their lives, they may experience various mental symptoms, including fear over survival and anxiety about the future. The central post-invasion experience reported by most interviewees was loss of control - from loss of control over their personal lives, attended by ongoing fear for their lives and for the lives of their children, to distress arising from their difficulty controlling and planning their future on the family, social and political level.

The loss of control experienced during a home invasion is reflected in how interviewees see the soldiers who invaded their homes. Given their use of violence and humiliation, interviewees described the soldiers as inhuman, or "machines." The victims' perception of the soldiers as inhuman points to their sense of helplessness and powerlessness over the situation, which exacerbates the anxiety involved and increases the likelihood of PTS.

"I see them coming to destroy and wreak havoc. They frighten and terrorize with their face coverings and weapons."¹³⁵

"The soldiers are a machine. They feel no guilt."¹³⁶

"They don't think like human beings. [...] There is no way to talk to anyone among them. They

132. Herman, Judith Lewis. **Trauma and Recovery: The Aftermath of Violence - From Domestic Abuse to Political Terror**, 1R ed., Basic Books, 2015, Chapter 2-3.

133. Australian Psychological Society website, [Trauma](#). Last accessed, January 6, 2019.

134. For more on the military's strategy of creating a threatening atmosphere during a home invasion, as well as the use of express threats and physical violence, see Chapter 3.

135. Testimony collected by PHRI from A.A., a woman from al-Mughayir, August 10, 2018, Yesh Din Case 4249/18.

136. Testimony collected by PHRI from B.H., a woman from Silwad, January 29, 2019, Yesh Din Case 4349/19.

break into homes like animals and don't let the girls get dressed. They don't knock on the door but take it off its hinges and go straight into the room."¹³⁷

"When he saw me looking at my son, he slapped him in front of my eyes. They are not human, and they don't understand what it means to have a child."¹³⁸

The sense of loss of control does not end when the soldiers leave the home. A mother who experiences such a deep sense of helplessness in her parental role carries these feelings for a long time. Thus, the sense of loss of control, which forms an inseparable part of everyday life under the occupation, intensifies due to the invasion of the most private and safest of spaces - the home.

"I cannot provide for the needs of the home, and I have no control over it. I am cast away from my home, and my enemy is inside it, breaking things and hurting my children, and I can do nothing. [...] My home is mine. How can it be that they can remove me from it by the power of their weapons?"¹³⁹

Regaining a sense of power and re-establishing a sense of safety are fundamental elements of post-trauma recovery. However, when the traumatic event is a home invasion, the association created between the victim's home and the experience of lost control could hinder regaining a sense of safety in the same place.

On March 20, 2018, at around 3:00 A.M., soldiers invaded the home of Hi.A. from al-Mughayir, turned it into a makeshift military observation post and remained there until 8:00 A.M. From what she said in her interview with PHRI, it seems that Hi.A. was trying to regain some control by washing the linen

the soldiers had used. At the same time, however, she was well aware of the fact that the house itself constantly reminded her of the event, and because of this, she would have difficulty regaining her confidence as long as she remained there.

"I wish I had the money to get rid of all the blankets and covers the soldiers used, but I don't have the money, and I've had to wash all the linen in the house. I want to leave the house and move to another one, but I don't have the money. [...] I don't buy anything new for the house, because I know they always come to destroy."¹⁴⁰

The presence of a real threat of repeat invasions into the same home may also hinder the family members' ability to regain a sense of safety and make recovery more difficult. A.D., from 'Azzun, whose home was invaded by soldiers about ten different times, spoke of the lost sense of safety in her home.

"They broke things in my house ten times, and each time, they arrested one of my sons. I have no sense of security inside the house. My husband and I sleep in the veranda rather than the bedroom, so we can hear any movement or the sound of dogs and know that the army is here. [...] I keep worrying they will raid the house again. I keep my clothes next to me all night, and I cannot fall asleep after 1:00 A.M."¹⁴¹

The lingering sense of loss of control following a traumatic event can also manifest as diminished ability or motivation to plan the future. Some interviewees spoke specifically about such difficulty, linking it to financial activity. Halah Abu 'Eishah, from Hebron, who had money on her person which soldiers confiscated, said, "Today, I don't want to save anything."¹⁴² Jawad Abu 'Alia from al-Mughayir explained: "When I was finally able to enjoy what I had saved, it was confiscated from

137. Testimony collected by PHRI from Hend Hamed, a woman from Silwad, January 21, 2019, Yesh Din Case 4348/19.

138. Testimony collected by PHRI from I.A., a woman from al-Mughayir, September 26, 2018, Yesh Din Case 4247/18.

139. Testimony collected by PHRI from Hend Hamed, a woman from Silwad, January 21, 2019, Yesh Din Case 4348/19.

140. Testimony collected by PHRI from Hi.A., a woman from al-Mughayir, March 20, 2018, Yesh Din Case 4125/18.

141. Testimony collected by PHRI from A.D., a woman from 'Azzun, November 13, 2018, Yesh Din Case 4294/18.

me, and I was robbed of my dreams. I stopped thinking long term. I stopped planning to do anything."¹⁴³ Both linked their disinterest in planning for the future to the financial harm they suffered when their money was confiscated. Other financial risk factors associated with home invasions may include the destruction of belongings and the arrest of breadwinners.

Hyperarousal and sleep disruptions

Hyperarousal - a state in which the body is on constant alert as if danger could return at any moment, is a typical reaction to trauma. When victims' bodies are on constant alert, and they have trouble relaxing, they startle easily, tend to get irritable and have extreme reactions to unexpected stimulation and to stimulation reminiscent of the traumatic experience. These responses, which are indicative of the emergence of psychological distress, or physiological reactions to things that symbolize or evoke the memory of the traumatic event, illustrate the conditioning underlying PTS.¹⁴⁴ Hyperarousal may also cause sleep disruptions. Sufferers have trouble falling asleep, become more sensitive to external interruptions and wake up more easily than others.¹⁴⁵

All interviewees who spoke to PHRI reported sleep issues after the raid of their home. R.S., whose home was invaded at around 1:00 A.M. by soldiers who broke the kitchen window and arrested her husband in front of her and her young children, spoke about her trouble sleeping and the recurring dreams she has:

"I cannot fall asleep before 1:00 or 2:00 A.M. I start ruminating, and as soon as I hear a noise, I expect the military. Sometimes, not many times, I dream they come to take my husband and he escapes. Now I stay with the thoughts until 2:30-3:00 A.M., and then I calm down a little - once the time they are expected to come passes. This happens the next night too. I go to sleep late. I've gotten used to it. If I do fall asleep, I wake up. I check the time a lot."¹⁴⁶

S.E., from Beit Ummar, also spoke about difficulties sleeping and nightmares.

"I am worried and tense, and even when I sleep, my brain keeps working, and I keep finding myself by the door or the windows. I also have nightmares and frightening dreams. Just today, I dreamt soldiers were breaking into my home. These nightmares have subsided now, after seeing a psychologist, but they have not disappeared."¹⁴⁷

Interviewees linked the habits they have developed and the feelings they experience during the night, which impair their ability to relax and rest during those hours, to their mental state at the time their home was invaded. Many said that encountering triggers that remind them of the invasion evoke the fears and sensations they felt during the original event, particularly at night.

"When I hear noise around the house, I wake up and stay up. For me, the fear starts after 1:00 A.M. and continues until the Muazzin calls for dawn prayers. It is only then that I am certain the night passed safely."¹⁴⁸

"Every car that drives by after 2:00 A.M. wakes me up, and I immediately go stand by the window to see what is going on."¹⁴⁹

Sleep disruptions interfere with sufferers' lives and may impede their ability to function. Additionally, when prolonged, these disruptions could take a heavy toll on physical and mental wellbeing. They can also induce or exacerbate psychiatric disorders associated with anxiety and depression and cause changes in the ability to think, which can disrupt and reduce functioning.

142. Testimony collected by PHRI from Halah Abu 'Eishah, a woman from Hebron, May 4, 2018, Yesh Din Case 4150/18.

143. Testimony collected by PHRI from Jawad Abu 'Alia, a man from al-Mughayir, September 26, 2018, Yesh Din Case 4247/18. During an arrest, the soldiers confiscated the detainee's cell phone and a car.

144. Classic conditioning is a process whereby a neutral stimulus, which had not produced a specific reaction, comes to produce such a reaction after repeatedly appearing close to a stimulus that naturally produces the reaction. Classic conditioning could result in a neutral stimulus producing a response it did not produce in the past.

145. Herman, Judith Lewis. **Trauma and Recovery**, Chapter 2.

146. Testimony collected by PHRI from R.S., a woman from Sinjil, July 5, 2018, Yesh Din Case 4183/18.

147. Testimony collected by PHRI from S.E., a woman from Beit Ummar, June 9, 2018, Yesh Din Case 4154/18.

148. Testimony collected by PHRI from R.H., a woman from Silwad, October 30, 2018, Yesh Din Case 4280/18.

149. Testimony collected by PHRI from S.E., a woman from Beit Ummar, June 9, 2018, Yesh Din Case 4154/18.

Avoidance and emotional blunting

Emotional blunting, or feelings of numbness and distance, is another fundamental feature of PTS. These responses reflect an attempt by those who have experienced trauma to distance themselves from the event or the feelings it brings up. Behaviorally, these attempts can take the form of avoiding situations that could conjure the memory of the traumatic event, as well as abstaining from future actions that might be perceived as risky. All of this is done in order to restore a sense of security and control.¹⁵⁰ Some interviewees described lethargy and talked about changes in daily activities aimed at avoiding encounters with others.

"I feel like I am lazy around the house. I used to like working in the house, tidying it up, but now I don't feel like doing housework".¹⁵¹

"I started avoiding conversations with other people because they would always ask what happened at our place and take me back to that painful event. I stopped going to social events."¹⁵²

Halah Abu 'Eishah described lethargy, as well as hypersomnia symptoms (a sleep disorder marked by excessive sleepiness during the day), which have impaired her day to day functioning. Sleep may be a defense and escape mechanism against the fear and anxiety she experiences. We note that during the invasion of her home, soldiers beat Abu 'Eishah in the pelvic area, to the point where she says she feared for her life: "I said, that is it. I'm going to die. They will kill me."

"I no longer have the energy to do things. I want to go on sleeping. In the past, I would be awake at 6:00 or 7:00 A.M., and now only at 9:00 or 10:00 A.M. I wake up, and I feel tired right away. As soon as I hear there are soldiers, I prefer to sleep."¹⁵³

Avoidance can also be indicative of states of depression, which are observed at high rates in conjunction with PTS, and are marked, in part, by a prolonged pattern of low mood and loss of enjoyment and interest in activities once considered enjoyable.¹⁵⁴ Many interviewees said they felt sadness and spoke of feelings such as misery, melancholy and distress. Some interviewees said they did not want to buy things for the house or fix the items that were broken during the invasion. This avoidance could be an expression of a loss of drive. In this sense too, the fact that the soldiers could return at any moment impedes and delays recovery.

"I'm on constant alert for another raid on the house. That is why I keep the broken things, so they don't break the new things too. The door remained broken, and they can come in whenever they want."¹⁵⁵

"When I think about buying a new object or piece of furniture for the house, I immediately change my mind for fear of another raid on the house and things being broken. The things in the house are dislodged and broken to this day - the closet drawers, the tiles in the bathroom, the mirror - we haven't fixed them."¹⁵⁶

Anxiety

Anxiety is a negative mood that comes with unease and unpleasant alertness. It is accompanied by physiological symptoms such as accelerated heart rate, sweating, tremors, faintness or dizziness, as well as feelings of concern, worry and thoughts that something bad is going to happen. Fear is considered an emotional response to a situation of immediate danger, while anxiety is a response associated with anticipated danger or a perceived future threat. Anxiety disorders are marked by the excessive appearance (e.g. over a long period of time) of behaviors and sensations associated with emotional states of fear and anxiety. They are known to have a high rate of appearance in conjunction with PTS.

150. Herman, Judith Lewis. **Trauma and Recovery**, Chapter 2.

151. Testimony collected by PHRI from A.J., a woman from Hebron, June 23, 2018, Yesh Din Case 4163/18.

152. Testimony collected by PHRI from Sabreen Abu 'Alia, a woman from al-Mughayir, September 10, 2018, Yesh Din Case 4248/18.

153. Testimony collected by PHRI from Halah Abu 'Eishah, a woman from Hebron, May 4, 2018, Yesh Din Case 4150/18.

154. Depression is a mental state that features a prolonged, broad pattern of low mood or loss of interest and enjoyment in activities once considered enjoyable. These are joined by other symptoms: low self-esteem and guilt, sleep disorders, a change in appetite and eating patterns, exhaustion, reduced attention and memory, recurring thoughts about death and significantly impaired functioning.

155. Testimony collected by PHRI from A.A., al-Mughayir, a woman from August 10, 2018, Yesh Din Case 4249/18.

156. Testimony collected by PHRI from Hend Hamed, a woman Silwad, January 21, 2019, Yesh Din Case 4348/19.

Fear or anxiety are normal reactions to a situation in which the armed forces of a foreign military invade a person's home. However, they do not necessarily disappear once the incident is over and may have other expressions - from diminished sleep quality to behavioral changes that interfere with daily life. This section focuses on direct references made by interviewees to continuing feelings of fear or anxiety and to actions they are taking to cope with these feelings.

Some interviewees reported taking steps in preparation for a possible threat. These can also be understood as measures to reduce and control anxiety, and they have produced changes in the family's nightly habits.

"We have been setting the alarm clock for 2:00 A.M. for months now to be ready for another raid. We agreed between us that if one of us hears a noise, they'll wake up the other."¹⁵⁷

"Every night, he [my husband] looks at his cell phone and the news sites to follow the movement of the soldiers. In most cases, he leaves me alone and follows the soldiers' movements."¹⁵⁸

Such behavioral changes could reach the level of over-responsivity, the state of taking precautions that are unwarranted by reality and ultimately impede daily functioning and reduce quality of life. This response is rooted in the catastrophic thinking characteristic of anxiety. An example of this state can be found in the testimony given by I.A. from al-Mughayir, who described constant fear, along with sleep disruptions, behavioral changes and even decisions to alter the physical structure of the house.

"I really don't fall asleep but stay up and walk around with a flashlight to check around the house and my son's apartment, which is under construction and nearing completion. I have

asked for two of my windows to be blocked with cinderblocks because I think soldiers can jump into the house through them. [...]

My husband asked an ironworker to put bars on our doors. The ironworker told him: "It's a home, not a prison." My husband told him: "My wife is constantly afraid and wants to turn the house into her own prison to feel safe." I've heard, from most women in the village, that the soldiers go straight into their bedrooms and that they open their eyes and see a soldier standing over their heads, near the bed. It made me go into never-ending fear and paranoia."¹⁵⁹

In some cases, prolonged anxiety among members of a household might, in fact, correspond to the objective level of threat that soldiers might return to the home, and as such, is not indicative of a mental disorder. However, in these cases too, the persistence of the anxiety itself could negatively impact family members' functioning and mental health. Moreover, home invasions may well lead to excessive fear and anxiety that do not correspond to the level of threat and could be indicative of an anxiety disorder.

Physical reactions to traumatic events

Trauma victims are at high risk of experiencing physical symptoms that have no physiological explanation and could be interpreted as an element of the response to the traumatic event. Two of the interviewees reported such symptoms appeared after the invasion of their homes. Hi.A., from al-Mughayir, spoke of the lasting effect the invasion of her home had on her mental health. She said these emotional reactions had physical manifestations as well:

"I have been suffering from anxiety as a result of the repeated invasions and clashes. I have had blood clots in my leg and fears over the soldiers coming into the house. I always feel pain in my legs. The fear is so great it makes me feel like they hurt my knees."¹⁶⁰

157. Testimony collected by PHRI from Sabreen Abu 'Alia, al-Mughayir, a woman from September 10, 2018, Yesh Din Case 4248/18.

158. Testimony collected by PHRI from Halah Abu 'Eishah, a woman from Hebron, July 2018, Yesh Din Case 4150/18.

159. Testimony collected by PHRI from I.A., a woman from al-Mughayir, September 26, 2018, Yesh Din Case 4247/18.

160. Testimony collected by PHRI from Hi.A., a woman from al-Mughayir, March 20, 2018, Yesh Din Case 4125/18.

A collection of physical symptoms such as these is referred to in professional literature as conversion disorders. These are typically marked by impaired physical functioning that has no physiological explanation, including paralysis, twitching, weakness and narrowed vision. Iman Ekhilil from Beit Ummar is a seamstress who uses both her hands, as well as her feet, in her work. When her home was invaded by soldiers looking to arrest her son, a soldier hit her on the hand. After the incident, she suffered paralysis in an arm and a leg that had not been hit. Ekhilil was unable to work and became unemployed.

"The soldier hit me on the left arm. The bruises are still there. I showed them to the doctor, and he told me it was a serious injury and would take a long time [to heal]. It has not healed yet. But what put me out of work was my right arm and leg, which the doctor said was psychosomatic. Both my arm and my leg have become paralyzed. These problems stop me from going to work. I haven't returned to work to this day. I used to work at a sewing workshop, and you need both hands and legs when sewing, especially the right leg. I cannot work without them. This has greatly affected me. My son's mental state is similar."¹⁶¹

2. Harm to children and adolescents

Children's and adolescents' emotional responses to trauma are shaped by their understanding of the incident and the meaning they ascribe to it, both of which are impacted by their developmental stage. As such, compared to adults, children may have greater difficulty understanding and emotionally containing extreme occurrences, such as threats or violence that comes with bodily harm or property damage.

The parents of 41 children ranging in age from infancy to 17 were interviewed for this report. Nearly all of them spoke of behavioral or emotional changes in their children after the invasion of the family home. Though there are fundamental

differences between the psychological responses of toddlers and typical responses among adolescents, parent reports did indicate some recurring issues, including sleep disruptions, increased dependency on parents, withdrawal and aggressive behavior.

The parents' own distress, both following the home invasion and with regards to other aspects of living under occupation, may impair their capacity to give their children the sense of security that is necessary for the recovery process.¹⁶² Without treatment and recovery, the proper development of children and adolescents who have experienced trauma may be impaired, particularly younger children.

Hyperarousal and sleep disruptions

Like the adults, all children whose parents were interviewed for this report suffer from sleep disruptions, a symptom that, as stated, is associated with hyperarousal. For instance, the mother of A.A., a two-and-a-half-year-old old toddler, said that ever since the invasion of the family home, the child has been waking up from her sleep screaming.¹⁶³ External stimuli, such as the sound of a car, or a loud knock on the door, bring up the memory of the event and evoke the feelings associated with the trauma.

"He [the interviewee's 15-year-old son] doesn't have nightmares, but when I come up to him to wake him up, he gets startled. He sleeps lightly. Any movement or sound wakes him up."¹⁶⁴

"It's worse for my 17-year-old daughter. She doesn't sleep at all and stays close to the windows. When she hears the sound of a car, she gets up. She goes back to sleep at around 4:00-5:30 in the morning because that's when the soldiers usually leave."¹⁶⁵

Hyperarousal symptoms may disrupt the daily lives of children who have experienced a home invasion during the day as well. The mother of three toddlers aged months and two-and-a-half

161. Testimony collected by PHRI from Iman Ekhilil, a woman from Beit Ummar, May 1, 2018, Yesh Din Case 4118/18.

162. A study from 2002 found most Palestinian children feel unsafe, and half of them associate this feeling with the sense that their parents are unable to protect them. Cairo Arafat and Neil Boothby, Secretariat of the National Plan of Action for Palestinian Children and Save the Children, **A psychosocial assessment of Palestinian children**, 2003.

163. Testimony collected by PHRI, children's testimony No. 11.

164. Testimony collected by PHRI, children's testimony No. 12.

165. Testimony collected by PHRI, children's testimony No. 13.

said her children frighten easily and have responded with fear every time there is a knock on the door ever since the invasion of the family home.

"Ever since that day, he [the interviewee's 18-month-old son] gets startled every time there is a knock on the door. [...] They still get startled. Every time I go to answer the door, they get startled."¹⁶⁶

Anxiety and increased dependency on parents

Interviewees spoke of increased dependency by their children following the home invasion. In many of the children, this manifested as having trouble falling asleep and wanting to sleep close to their parents. This dependency may be an expression of separation anxiety, which is marked by fear or anxiousness over being separated from the home or attachment figures. After soldiers raided the room of ten-year-old Y., as he was sleeping in his bed, he asked to sleep next to his mother and avoided staying alone in the dark. Y. may be associating the conditions that were in place when the soldiers arrived at the home (sleeping in his bed in the dark) with the traumatic experience.

"Y. asks to sleep in my bed, and if I refuse, he hides under the blanket and turns the light on."¹⁶⁷

Some parents reported their children exhibited physical symptoms such as abdominal pain and contractions along with reluctance to remain alone at night. These symptoms could be a physical translation of the negative emotions the children feel but have difficulty processing and verbally expressing. An example of this can be found in the testimony of a mother of four boys, aged ten to 14, from a-Nabi Saleh.

"They [the boys] often come at night to complain of stomach aches. They imagine soldiers coming to the house or its surroundings [...]"

The nine-year-old [nine at the time] refuses to sleep alone in his room and asks to sleep in our room. He says he is afraid. The boy has been cowering in his bed ever since the raid."¹⁶⁸

Dependency on parents and the desire to remain close to them could impact children's ability to participate in school and in social activities regularly. Some families indicated difficulty remaining committed to school and even dropping out. For example, the mother of F., a seven-year-old girl, said her daughter's dependency on her after the invasion of the family home impacted her performance at school, among other things.

"She refused to leave me and go to school. Her achievements in school dropped after the invasion of the house, and she started getting tutoring lessons after school."¹⁶⁹

F.'s reaction to the invasion of her family home was the most extreme we documented. According to her family's testimony, F., as noted, a seven-year-old child, attempted suicide immediately after the incident. F.'s mother was assaulted by the soldiers and taken to hospital after they left. The child, who mistakenly thought her mother had died, climbed to the kitchen window on the second floor and was ready to jump out of it. One of her brothers, who came to check on her, saved her life. F. continued talking about the fear and pain of losing her mother for months after the incident. She remained dependent on her mother, cried often, became fearful when her mother was away and refused to sleep by herself.

"When the soldiers beat me in front of F.'s eyes, and I had a nervous breakdown, my husband took me to the hospital, and F. stayed with her siblings at home. They told me they had gone looking for her and found her on the second floor, at the kitchen window, trying to throw herself down. When I spoke to her, she told me she thought I

166. Testimony collected by PHRI, children's testimony No. 14.

167. Testimony collected by PHRI, children's testimony No. 18.

168. Testimony collected by PHRI, children's testimony No. 15.

169. Testimony collected by PHRI, children's testimony No. 16.

had died and wanted to die to join me. I told her I was fine and that I was near her."¹⁷⁰

Aggressive behavior

Post-traumatic symptoms may include behavioral changes following which the affected person becomes prone to irritability or even displays aggression. Some parents reported that their children had angry outbursts, showed aggression towards people around them or broke their own toys. One way to understand these changes is that the violence to which the children were exposed seeped into their world and found expression in their own violent behavior towards people and objects around them. Two-and-a-half-year-old M.S. witnessed her father being arrested and beaten by soldiers. Her mother spoke about her behavior after the incident.

"She breaks her toys and plays violently, and even hits her bicycle."¹⁷¹

Eighteen-month-old J. witnessed severe violence against his father during the invasion of the family's home. The father said:

"My cries as they beat me reached my son in the next room. He is now 18 months old, and he is an irritable, fractious boy. He hits his mother and me and breaks his toys. All of this started after the raid of our house."¹⁷²

3. Ruptured family relations and diminished sense of safety within the home

Traumatic events impede the ability to maintain interpersonal relations, to enjoy a sense of belonging to the community and to believe in one's ability to be a valued member of it. The impairment of basic human relations undermines the sense of self that is built out of these relationships.¹⁷³ This

section of the report looks at examples of the effects traumatic experiences have on interviewees' relationships with their families and communities and the impact this experience has on the meaning they ascribe to their home as well as their sense of safety within it.

A military invasion into a home could undermine the structure of family relations whereby the parents (and in traditional families, mostly the father) are expected to provide safety and protection for the entire family. During an invasion, soldiers assume control over what goes on in the house by giving orders to the people around them, leaving parents weak or helpless. Violence against a parent (in most cases, the father) may exacerbate the sense of loss of control. In these situations, the image of the patriarch, or both parents, as providers of protection and safety, may be broken both in their own eyes and in the eyes of others in the family.

In addition to this, the effects of behavioral and mental changes typical of PTS reach beyond the individual experiencing them. For instance, the irritability of individuals suffering from hyperarousal could easily impact their relationships with those close to them - family or community. R.S., from Sinjil, said:

"I lash out at people, the children, my husband [...] I have become 'heavy.' Everyone tells me I've completely changed."¹⁷⁴

Changes in behavior or habits born of an attempt to control fear by preparing for a threat may also impact familial relationships. Halah Abu 'Eishah from Hebron stopped shutting her bedroom door in order to protect her daughters from soldiers invading their room while they were asleep. This decision meant she and her husband gave up their intimacy.

"I don't shut my bedroom door. My daughters ask me to shut it, but I tell them no way. I have no privacy, and neither does my husband, so that if soldiers come and raid the house, I see them before they go into the girls' room."¹⁷⁵

170. Testimony collected by PHRI, children's testimony No. 16. In the background, it is important to note that shortly before the raid, the mother was arrested by Israeli soldiers while walking in Jerusalem with her daughter. Then too, after the sudden, unexpected separation from her mother, F. developed increased dependency on her. She told her mother: "When you were far away from me, when you were in jail, I thought I was going crazy."

171. Testimony collected by PHRI, children's testimony No. 14.

172. Testimony collected by PHRI, children's testimony No. 17.

173. Herman, Judith Lewis. **Trauma and Recovery**, Chapter 3.

174. Testimony collected by PHRI from R.S. a woman from Sinjil, July 5, 2018, Yesh Din Case 4183/18.

175. Testimony collected by PHRI from Halah Abu 'Eishah, a woman from Hebron, May 4, 2018, Yesh Din Case 4150/18.

Finally, the invasion of private space may also destabilize the connection family members have to the home as a physical place that carries a positive psychological meaning - a safe haven that symbolizes family and the protection of which is culturally and socially valued. And so, along with its positive associations, the home may acquire new meaning linked to the feelings and sensations experienced during the invasion or evoked by fear of another.

"The nights pass without my being able to close my eyes, and I couldn't stay here at home. For a long time, I couldn't sleep at home, and I would sleep at my parents'. They [the soldiers] came and broke down our door. I still haven't been able to process it to this day."¹⁷⁶

"I don't want anyone to sleep over at my house because it is not a safe place."¹⁷⁷

"When they came into the house, they tore off the door with the lock. It affected me very badly, mentally. They violated the privacy and sanctity of the home when we were sleeping. [...]

Their violation of the sanctity of the home is what made me feel that I was subjected to oppression. I swear to God, if they had shot me, it would have been much easier. How can you defile the sanctity and dignity of the home? I live only for my mother and sisters."¹⁷⁸

4. Interim Summary - impact on mental health

According to international law, Israel must uphold the rights of Palestinians living under its control. Protecting their physical and mental wellbeing is undeniably a fundamental element of this duty. **This section shows that Israeli military invasions**

into Palestinian homes in the West Bank have extremely negative effects on the mental health of Palestinian adults and children.

This harm is not predestined. It is the product of a policy that reflects disregard for the real injury military home invasions inflict on families whose privacy is violated, and another breach of Israel's duty to abstain from any unnecessary infringement on the rights of the people living under its control.

Living under prolonged occupation, the Palestinian public is already at high risk of exposure to potentially traumatic experiences. The mental harm associated with home invasions is singular due to several factors: Firstly, these invasions undermine the sense of safety and control associated with the home. Secondly, a home invasion is an experience that impacts all members of the family, albeit differently. Thirdly, invasions are recurring events that impact many in the community and may be experienced by the same family several times.

Adults who have gone through a home invasion reported a lingering sense of loss of control and helplessness after the incident. Other post-traumatic stress symptoms were reported as well, including hyperarousal, sleep disruptions and avoidance, as well as symptoms of anxiety and a sense of sadness. Symptoms associated with hyperarousal and sleep disruptions were also reported among children and adolescents, along with symptoms of anxiety, increased dependency on parents and aggressive behavior. As a consequence of these issues, home invasions may significantly impair the functioning and development of both adults and children.

The emotional and behavioral responses described here are normal reactions to an abnormal reality in which families - men, women and children - are stripped of their ability to control their closest and most private environment and experience intimidation, fear of harm and sometimes actual violence

Trauma recovery requires rebuilding a sense of confidence and trust in oneself and one's surroundings, in part by relying on relationships with others and growth within the community. Having a safe environment to which trauma victims can return and find help is essential for the recovery process. In

176. Testimony collected by PHRI from Iman Ekhilil, a woman from Beit Ummar, May 1, 2018, Yesh Din Case 4118/18

177. Testimony collected by PHRI from B.H., a woman from Silwad, January 29, 2019, Yesh Din Case 4349/19.

178. Testimony collected by PHRI from 'A.H., a man from 'Einabus, August 9, 2018, Yesh Din Case 4204/18.

a reality of prolonged occupation, when the entire population is subjected to various means of oppression, returning to a protective environment is almost impossible. The reason for this is twofold: first, so many members of the community share the experience of having their bodily or mental integrity threatened, and second, the harm itself could be repeated time and time again. This reality exacerbates the harmful impact home invasions have on mental health, as it makes recovery difficult, if not impossible.

Military home invasions are part of life for many Palestinian residents of the West Bank. These events could unravel

relationships within the community and evoke a sense of distance and indifference, on both the personal and collective levels, including with respect to the future of the community. The outcomes of oppressive actions of this kind are difficult to predict. The harm may weaken the ability of individuals and communities to fight just as much as it could - given other conditions - fuel resistance. Either way, however, these actions do cause significant harm to individuals and communities and may produce feelings of helplessness, fear and anxiety among the entire social group. As such, their potential impact on the affected communities stretches beyond the present and into the future.



Part 2

Arbitrariness and oppression - four invasion practices

A.

HOME SEARCHES

Military invasions of Palestinian homes in the West Bank often include a search of the rooms. This can be the main purpose of the raid or an incidental part of it.¹⁷⁹ The raids are conducted late at night or very early in the morning and can last for several hours. Eighty-seven percent of the incidents documented and classified as search raids took place between midnight and 5:00 A.M., and lasted, on average, almost two hours. In 80%, families estimated the invasion lasted an hour or longer.¹⁸⁰

Searches are mainly carried out by soldiers or Border Police officers, in some cases with ISA personnel present and sometimes with dogs.¹⁸¹ Searches span all rooms including bedrooms, children's rooms, bathrooms and kitchens; opening all drawers and closets including undergarment and linen drawers, pantries and cupboards, sifting through and scattering their contents. In many instances, searches also involve breaking or tearing furniture and upholstery, such as closet doors or sofas. Many searches end with the soldiers departing empty-handed, leaving behind chaos and destruction, while the occupants do not understand why strangers have invaded their private quarters.



Destruction and mayhem following a home invasion in the village of Iraq Burin, March 17, 2016. Photo by Ahmad al-Baz, ActiveStills

On April 2, 2018, at approximately 2:00 A.M., some 20 soldiers arrived at the apartment of Lutfi Ahmad (56) and his wife in the village of Silwad. The soldiers ordered Ahmad and his wife to sit in the living room. This is Ahmad's description of the events that followed:

"I asked them - "Why have you come? What do you want?" The answer was - "Shut your mouth." They presented no warrant or document. Two soldiers with weapons drawn guarded us so we wouldn't move. We couldn't see what was going on. The rest of the soldiers spread out in the 170 square-meter apartment. This went on for two hours and fifteen minutes. During this time, we could hear things falling and breaking, and when I asked: "What are you doing?" They silenced me. My wife and I were helpless while our house was being destroyed. I started picturing the destruction that would be waiting for us when they left, and it was very difficult for me. My wife was in hysterics, and when she shouted, they silenced her too. [...]

At 5:00 A.M., they left completely. The house looked like there had been an earthquake. Everything was broken, the upholstery on the sofas was torn, cupboards and drawers were broken. The kitchen was covered in shattered glass from glasses and plates. There was mud everywhere because it was raining, and they came in with muddy shoes. They didn't take anything, but the damage was immense."¹⁸²

In modern democracies, legislation regulating state authority to search private premises reflects the desire to minimize the unavoidable infringement of rights this involves. An Israel

179. In 57% of the home invasions documented by Yesh Din between March 2018 and May 2019 and classified as arrest raids, family members reported that a search of some type was conducted in the rooms of the house during the arrest (33 of 58 incidents).x

180. Data on the time of invasions are based on 54 incidents documented by Yesh Din between March 2018 and May 2019 classified as search raids (rather than arrest raids, or invasions for other purposes) and for which the estimated time of the soldiers' arrival was provided. Data regarding the duration of the invasion are based on 48 incidents classified as search raids, for which an estimate of the time the soldiers spent in the home was provided

181. Other officials who sometimes accompany searches are representatives of the Civil Administration. Police officers sometimes accompany the search when it is conducted at the police's behest.

182. Testimony collected by Yesh Din from Lutfi Ahmad, a man from Silwad, April 2, 2018, Yesh Din Case 4096/18.

Police Department of Investigations and Intelligence procedure regarding entering a private residence for the purpose of a search illustrates this approach. The procedure's opening remarks note that "a search of a person's home and premises infringes on their liberty and should therefore be used sparingly, and only when the public interest so requires as a result of investigative needs, in order to discover offenders and offenses."¹⁸³

Military law governing the approval and execution of searches of Palestinian homes in the oPt reflects a completely different outlook. It adopts an expansive approach designed to give Israeli security forces an obstacle-free path to invading Palestinians' private spaces and near-complete freedom of operation within them.

This chapter reviews the provisions made in military law (including the few procedures known to us) regarding authorization to search homes and the restrictions placed on Israeli security forces during such searches, and describes how military search raids of Palestinian homes in the West Bank are routinely carried out. The chapter addresses several key differences between Israeli law (including the Israel Police procedure)¹⁸⁴ and military law, demonstrating the flaws and shortcomings of the latter and showing Israel's policy concerning searches of Palestinian homes violates provisions prohibiting arbitrary interference with privacy in IHL and IHRL.

1. A semblance of legality

Absence of judicial oversight

As stated earlier, Section 67 of the Order regarding Security Provisions stipulates the circumstances in which Israeli security forces may enter homes or other premises in the West Bank for a search or other purposes. According to this section, no judicial warrant is required to authorize security forces to invade a private residence. In other words, **there is effectively no preliminary judicial oversight of the decision to conduct a search and the authorization given for it.**¹⁸⁶

Under Israeli law, entry into a home by a police officer or other law enforcement agent for the purpose of a search requires the police to seek and obtain a warrant from a court. Searching without a judicial warrant is the exception to the rule and is reserved for exceptional circumstances.¹⁸⁷ Judicial approval for a search is given based on the evidence and concrete information the police presents and pursuant to the conditions stipulated in the law. **Military law, which does not require judicial oversight that addresses the specifics of the case and the evidence pertaining to it, opens a door for arbitrary use of the power to intrude into the private domain.**

Furthermore, the Order Regarding Security Provisions empowers "An officer or a soldier so authorized by an officer" to approve a search of a Palestinian home in the West Bank. The Order does not specify the rank of an officer who may authorize such a harmful invasion of the private domain and uses the general term "officer," which can apply to a junior second lieutenant just as much as it does to a senior general. Military law also fails to put in place a formal system for the issuance of military orders authorizing such activities, although such a system could theoretically minimize (even if slightly) the risk of arbitrary infringement on individual liberties.

The military responded to Yesh Din's query in November 2019 as follows: "Entry into homes [meaning for a search, as well as for other purposes] is generally approved by the brigade commander, the division commander or the regional commanding general," except in cases of 'immediate need,' when such entry is authorized by an officer or the commander of a force so authorized by an officer."¹⁸⁸ The response did not contain a definition of 'immediate need,' nor did it mention the prevalence of such cases.

Testimonies collected by Breaking the Silence that touched on home invasions, mainly in Hebron, demonstrate that when the law fails to provide clear instructions, such actions could be authorized by junior officers.¹⁸⁹

183. Israel Police, Department of Investigations and Intelligence (DII), DII Procedures, Request to Issue a Search Warrant – Form M-3097 (No. 300.01.066) [henceforth: DII Procedure], published February 1, 2014, Section 1A.

184. In Israel as well as in Israeli settlements and outposts in the West Bank, the Criminal Procedure Ordinance (Sections 23-29) stipulates the circumstances in which a police officer or other person is granted the authority to enter a home or other premises. The DII Procedure is used in addition to the provisions of Israeli law on police home searches inside the State of Israel.

185. See page 19.

186. In some instances searches inside homes lead to legal proceedings against one of the occupants in the military court (which tries Palestinian residents of the West Bank). In such cases a military judge may review the way the search was conducted. However, in a great many instances, home searches do not lead to legal proceedings and therefore there is no occasion for such judicial review. Even when the military court reviews the search procedure, it does so according to the lax standards stipulated in military law. Accordingly, judicial review might address, for instance, how items discovered during a search were processed but not the issue of a warrant (which is not required) for searching a home or the justification for conducting the search.

187. Criminal Procedure Ordinance, Sections 23-25. A request for issuing a search warrant must be submitted on a special form comprised of three sections: application for grant of a search warrant; the judge's decision/search warrant; confirmation of completion/non-completion. DII Procedure, Section 3A(1).

188. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act", November 18, 2019 (Hebrew).

189. For more on home invasions in Hebron, see pp. 74-76.

"When you conduct a search in a Palestinian's home - it's not that you need a court order. You need to want to do it, and then you do it. [...] In Hebron, if you're a Palestinian, I'll enter your house whenever I feel like it, and search for whatever I want, and I'll turn your house upside down if I want to. It's the same when you want to - I don't know, a foot patrol - and you want to rest on someone's roof and scout the area."¹⁹⁰

Seniority aside, the military official authorizing the invasion of a home cannot guarantee that the private domain will be invaded only when it is necessary and justified. This official belongs to the military (as opposed to an external party, whose considerations are separate), has no legal training and lacks a judge's skills and knowledge.

Because there is no obligation to obtain a warrant authorizing a search, soldiers who invade a home are also not required to present the occupants with a warrant or any other form of authorization (for instance, by an administrative official such as a senior commander). Responding to an inquiry from Yesh Din regarding the production of warrants during home searches, the Legal Advisor - Judea & Samaria confirmed this policy, stating that according to the law in the West Bank, "There is no requirement to produce a warrant during a search of premises."¹⁹¹ This directive reflects complete disregard for the fundamental right of the occupants of a searched house to protection from arbitrary invasion of their private domicile, and to at least be provided with some sort of explanation when such an invasion occurs. When soldiers invade a home and fail to present any kind of authorization, members of the household cannot understand the invasion of their privacy as anything other than a random and arbitrary act. This report demonstrates that this is, in fact, often the case.

In none of the cases documented by Yesh Din were the occupants presented with a warrant or any other authorization noting the official who approved the invasion of their privacy and citing the reason for it. On October 30, 2018, at approximately 1:30 A.M. some 20 soldiers accompanied

by dogs came to the Hamed family home in Silwad. Tareq Hammad (23) told Yesh Din:

"They [the soldiers] asked us to all sit in the living room. I asked them - "Why have you come, and what do you want?" They didn't answer me. I asked them if they had a warrant, and they didn't answer me. All the soldiers had their weapons drawn. They spoke very aggressively. They shouted and told us not to open our mouths, but they weren't physically violent. [...]

At around 4:30 A.M., the soldiers left the house, having found nothing and said nothing. They didn't arrest anyone. They didn't take anything. [...] didn't ask anything. They didn't say anything. They came in, ransacked and left."¹⁹²

Soldier testimonies corroborate the fact that the military does not present families with search warrants. **All the soldiers who were asked whether they saw a warrant authorizing entry into a home for the purpose of a search or whether they presented such a warrant to families responded that they were unfamiliar with or did not recall such warrants.**

Interviewer: Have you ever seen an arrest, or mapping or a search or anything where they came into someone's home, and there was a search warrant? Like in the movies.

Witness: No.

Interviewer: You haven't seen?

Witness: Never."¹⁹³

Lack of constraints on home searches

Besides the absence of judicial oversight and the fact that any "officer, or soldier so authorized by an officer" can approve a search, the military's permissive policy regarding the invasion of

190. Testimony collected by Breaking the Silence from a lieutenant, Nahal 932nd Battalion, 2014. Breaking the Silence, [Occupying Hebron: Soldiers' Testimonies from Hebron 2011-2017](#), pp. 40-41

191. Letter from the Legal Advisor - Judea & Samaria (Chief of Operations) to Michael Sfar Law Office (Yesh Din's legal advisor), "Entering houses in Silwad", December 30, 2018.

192. Testimony collected by Yesh Din from Tareq Hamed, a man from Silwad, October 30, 2018, May 23, 2019, Yesh Din Case 4279/18.

193. Testimony collected by Breaking the Silence from a first sergeant, Nahal Reconnaissance Platoon, 2012-2015, Testimony No. 20.

Palestinian homes in the West Bank is reflected in two additional aspects of military law, which produce conditions that allow for infringements on dignity and privacy in nearly any scenario.

1 | Search grounds: Limiting approvals for searches of private premises to cases in which there is substantive suspicion of an offense of minimal severity could protect against arbitrary home invasions by security forces and ensure that such invasions are proportionate. Military law provides no such protection.

The Order regarding Security Provisions defines the circumstances in which searches may be approved in such sweeping and broad terms that it covers nearly any scenario.

The Order lists some general, vague grounds but does not necessarily require a suspected offense as grounds for a search. For instance, searches are allowed if a place has been used in a manner harmful to public order, a phrase that covers a wide range of activities and is subject to interpretation. In addition, the Order stipulates no requirement for reasonable suspicion that one of the activities meriting a search has taken place, citing a less onerous requirement that “there may be reason to suspect” or “there is reason to suspect” such activities in order to permit a search.¹⁹⁴ Failing to restrict authorization to search private premises to instances in which there is real suspicion an offense has been committed leaves Palestinians vulnerable to arbitrary and disproportionate infringement of their rights.

In contrast, Israeli law limits the circumstances in which entering a home and conducting a search may be permitted, requiring an object needed for the investigation or connected to the commission of an offense to be located inside the house, or for an offense to have been “committed or planned against a person occupying the house.” The law also sets a relatively high bar for suspicion in order to authorize a home search: the judge approving the search must be persuaded, based on the evidence presented, that there is “reason to believe” one of the grounds stipulated in the law applies.¹⁹⁵

2| Search scope: According to the Order Regarding Security Provisions, an officer may authorize a soldier to enter and search a home “in general or in a specific instance” and “at any

time, [in] any place.”¹⁹⁶ The absence of limits on the scope of the authorization for the search gives the military a freer hand to invade Palestinian private premises, as the authorization **is not tied to a certain incident or a specific time and place.** In comparison, Israeli law narrows the authority to enter a home strictly to the terms stipulated in the judicial warrant, which is itself granted for a specific case.¹⁹⁷

International law prohibits arbitrary infringements on the rights of the occupied population and determines that such infringement must be proportionate. The UN Human Rights Committee interprets the prohibition on arbitrary or disproportionate infringement set in IHRL as restricting home searches to “a search for necessary evidence.” The European Court of Human Rights has added that infringement of privacy - when it is not grounded in evidence giving rise to concrete and immediate suspicions - is disproportionate.¹⁹⁸

Military law fails to comply with these provisions and, in fact, appears not to aspire to do so. The permissive authorization system the Order regarding Security Provisions puts in place is a far cry from the standards set by international institutions. Granting such extensive, vague and unchecked search powers is tantamount to a lacuna in law, in this case military law, making it difficult to claim that there is any legal authority to search. In fact, security forces encounter no obstacles to arbitrarily searching Palestinian homes in the West Bank. The result is frequent and nearly unfettered use of searches.

2. The search: disproportionate infringement of human rights and near complete prioritization of military considerations

The harm members of the household suffer when the military invades and searches their home can vary depending on how these actions are carried out. For example, the presence of a family member during the search may slightly mitigate the inherent harm. And yet, military law provides no instruction on how the search is to be carried out or how the rights of

194. Order regarding Security Provisions, Section 67.

195. Criminal Procedure Ordinance, Section 23. DII Procedure, sections 3A(4) and 3A(7).

196. Order regarding Security Provisions, section 67.

197. Criminal Procedure Ordinance, Section 24. This means that a judge approves and issues a warrant for entering a certain place based on the circumstances and facts presented. The police procedure also determines that a search warrant may not be used more than once. A search warrant expires 30 days after it is issued. DII Procedure, Sections 3A(8)(C).

198. UN, The Office of the High Commissioner for Human Rights, CCPR General Comment No. 16, Article 17 (Right to Privacy), para 8; for examples of European Court of Human Rights decision, see pp. 25-26, notes 65-68 in this report.

the Palestinian occupants - adults and minors - are to be protected while it takes place. In response to a Freedom of Information application filed by Yesh Din, the military stated it had two sets of directives for the conduct of soldiers during a search raid, relating, in part, to “conduct of the forces during searches in homes, documentation of the search, responses to disturbances,” as well as the stages of a search and how it is carried out. The military refused to provide the contents of these directives, claiming they are classified.¹⁹⁹

Based on the little information that was provided and in light of soldier testimonies, it is reasonable to infer that the directives for military searches of Palestinian homes mainly address operational needs, such as aspects pertaining to soldier safety and the execution of the mission. As a result, invasions proceed in a manner that violates the occupants’ fundamental rights and aggravates the harm caused by the invasion in the first place. If the directives include instructions for protecting Palestinians’ rights, they remain largely undisclosed, precluding any oversight of their implementation. Whether or not they are observed remains at the discretion of whoever commands the search, and there is no possibility to lodge complaints regarding violations.

In comparison, Israeli law, in conjunction with the DII Procedure, contains several provisions for protecting the rights of the occupants of a home during a search.²⁰⁰ One of the provisions in the DII Procedure explicitly addresses the time of the search, stipulating a search may be conducted between 7:00 A.M. and 11:00 P.M., and that a search warrant will not be executed in the presence of children.²⁰¹

Searches in the absence of the occupants

Searches of Palestinian homes in the West Bank are usually conducted in the absence of the occupants, who are normally confined to one of the rooms. In response to Yesh Din’s query, the military stated that “insofar as people are present in the home at the time of entry, and security concerns permitting, a search of the rooms will be conducted in the presence of one of the occupants.”²⁰² This statement could ostensibly be read as faintly echoing two protections clearly stipulated in

Israeli law, which provides that a search will take place in the presence of two witnesses who are not police officers, and that one of the occupants or their representative has the right to be present during the search and receive a list of the items seized upon request.²⁰³

Directives regarding the presence of an occupant during the search could afford protection against theft and reduce (even if slightly) the infringement of the occupants’ privacy and their control of their home, which is entailed in the search. However, words are one thing and actions quite another. Even if such a directive does exist, soldiers who search homes are not familiar with it, and, in most cases, searches are conducted in the absence of the occupants.

“The day of the incident was my son’s wedding day. He and his new wife were in their apartment on the ground floor, and I was home with my wife, two daughters and two sons. At 1:45 A.M. on the young couple’s wedding night, about forty soldiers arrived on foot. [...] I woke up when I heard loud knocking on the young couple’s apartment door. I ran to the window and called out to the soldiers that a young couple lives in the apartment, and this was their wedding night. I asked them not to break the door because I was coming right down to open it. The soldiers didn’t wait and barged in. Some of them had dogs with them. [...]

The soldiers demanded we all go into one room in my apartment. Before we all went up to my apartment, I asked the officer to come along with the soldiers on the search and asked what they were looking for. He did not let me go with the soldiers and refused to say what they were looking for. We went up to a room in my apartment where they gathered all members

199. Letter from IDF Spokesperson to Yesh Din, “Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act”, November 18, 2019 (Hebrew).. According to the response, the provisions concerning searches are referred to as directives concerning “combing and searching Palestinian homes” and “combing for weapons”. Two additional directives for aspects of invading Palestinian homes concern seizing funds for confiscation (see below) and “approving operations in the Judea and Samaria Division”.

200. Criminal Procedure Law Ordinance, Sections 26-28.

201. When searches are not carried out according to these restrictions, the police officer must detail the reasons for this in the search log. DII Procedure, Sections 3E(7) and 3H(8).

202. Letter from IDF Spokesperson to Yesh Din, “Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act”, November 18, 2019 (Hebrew).

203. Criminal Procedure Law Ordinance, Sections 26, 28.

of the family and put a soldier with a weapon drawn at the entrance to guard us. The sounds of objects breaking were heard from the young couple's apartment, and later we saw they had cut the sofa and broken chairs and the young couple's bed. [...]"²⁰⁴

Most searches begin by confining family members to one of the rooms in the house. **In 80% of the documented military invasions involving a search of rooms in the house, no family member accompanied the soldiers during the search.**²⁰⁵ Even when a family member was permitted to accompany the soldiers, in some cases, this permission was granted only following the occupants' explicit request. Yet many are unaware they may make such a request or fear asking. In other cases, family members' requests to accompany the soldiers during the search were denied.

Soldiers and officers who took part in searches of Palestinian homes in the West Bank are well acquainted with the procedure of grouping family members in one room upon entering the house, yet their testimonies suggest that after doing so, they did not permit members of the household to accompany them during the search. When asked directly whether they were familiar with a directive stating that one of the occupants must be permitted to accompany the search, most replied they were not. An officer with the rank of captain explained that the presence of a family member would interfere with the search:

"Interviewer: In a search, when you do the search itself, is there any directive that a member of the family should join you on it?

Witness: No, the opposite. No. [...] **With this business of searching for weapons, you usually separate them. It's also... again, it's the issue of control inside the house. If you take someone and they see you're turning his**

entire closet upside down, then very quickly, arguments and things start that you want... that like you can't contain."²⁰⁶

A soldier who gave testimony to Breaking the Silence explained the practice of unescorted searches: "We wanted our peace and quiet, like, for him to let us work."²⁰⁷ Another soldier serving as a canine handler for an explosives detection dog added: "All the more so when it comes to seeing a working dog. **It's a priority that they don't see** how we work with the dog."²⁰⁸

This may be summarized as follows: despite declarations regarding a desire to protect Palestinians' rights during searches, **the possibility of minimizing infringements of Palestinians' rights by allowing them to accompany soldiers on searches of their homes is set aside in favor of the soldiers' convenience and the preference for a speedy, interruption-free search.**

Property damage

Testimonies given by families whose homes were searched paint a picture of chaos and destruction routinely left behind by the soldiers. In 30% of the documented invasions that included a search (27 incidents), family members described some type of damage to their property. The extent varies, ranging from damaged housewares such as a broken vase or cookware to defaced furniture, such as torn sofa upholstery or broken shelves or drawers, or even destroyed fixtures such as doors, walls or toilets.

Often, the damage is not severe enough to be considered a criminal offense under military law, and after cleaning and tidying, household members are able to put their home back in order. Yet even in such cases, their privacy and dignity are harmed by the very act of destruction soldiers carry out in their home. Many families report havoc left by the soldiers, including, for example, clothes and dishes strewn on the floor, foodstuffs poured or scattered, and dirt brought indoors. In 23% of the searches documented (21 incidents), no property

204. Testimony collected by Yesh Din from Samer al-J'abari, a man from Hebron, June 22, 2018, Yesh Din Case 4162/18. The soldiers searched the house for about 90 minutes. After they left, Samer al-J'abari discovered about 100 grams of gold and thousands of shekels in cash were taken from the young couple's apartment. Samer al-J'abari filed a police complaint about the theft the morning after the incident. About two weeks later, he contacted the Palestinian DCO to find out whether any documentation was provided to show the items were seized rather than stolen, but was told no such document had been received.

205. Witnesses indicated whether or not a family member accompanied soldiers as they walked about the house in 74 instances. Of these, in 59 cases there was no such accompaniment, while in 15 cases there was. In 48 of 55 invasions classified as search raids, soldiers confined family members to one or more rooms.

206. Testimony collected by Breaking the Silence from a captain, 228th Brigade (reserves), 2018, Testimony No.57.

207. Testimony collected by Breaking the Silence from a staff sergeant, Nahal 50th Battalion, 2015-2018, Testimony No. 28.

208. Testimony collected by Breaking the Silence from a sergeant first class, Oketz Unit, 2009-2013, Testimony No. 44.

damage was reported, but family members did mention that soldiers left the house dirty and chaotic. Some families noted that after the soldiers departed, the home looked as though **“there had been an earthquake.”**²⁰⁹

“They put me and my two sons in the entrance to the apartment, and then 20 to 30 soldiers came in with a dog and spread out throughout the apartment. They had a search machine [metal detector], saws and knives. The soldiers started sawing the furniture and turned the apartment upside down. We heard them breaking furniture, floor tiles. They threw everything that was in the closets on the floor. They broke every appliance in the apartment, like the fridge and the washing machine. All the furniture was damaged, especially the leather furniture that was slashed. They scattered the pet food, spilled the water in the jugs, broke potted plants, jam and tomato jars. They inflicted maximum damage. [...] The soldiers didn't find anything. They didn't steal anything either. I'm sick, and I don't know how I'm going to find my medication in all this mess.”²¹⁰



Property damage and destruction after a search of the home of S.A. in the village of Beit Ummar, July 11, 2018. Photo by Yesh Din.

Soldiers who perform searches receive no training on how to carry them out (with the exception of canine handlers for explosive detection dogs). For example, a soldier who participated in search and arrest operations told Breaking the Silence:

“In no uncertain terms, there is zero instruction on what you have to do. You're told: Go look

for something, so you can look for whatever you want, however you want and wherever you want.”²¹¹

Most soldiers learn how to search by practicing with more experienced soldiers. This suggests an assumption that it is unnecessary to provide specific training on how to conduct a search, corresponding with the more general lack of training or preparation for home invasions. “The idea of how to search was clear. [...] Every movie shows it. Like, you come to look for something, then you turn the house inside out searching for it.”²¹²

In such circumstances, the extent of the destruction or disarray the house is left in can change drastically depending on the commanding officer on the ground (who is usually a junior officer).

“Everyone does it more or less according to their discretion, the discretion of the commander on the ground. I can say that when I wasn't the senior commander of the force, there were situations where there was chaos, and if it's, say, a company commander on the ground, or something like that, who feels like showing he has power, [then] that's what it looks like. The house is a complete mess, and no one ever makes sure to tidy up either.”²¹³

The testimony of a soldier who participated in a search raid in a Nablus home demonstrates how in the absence of clear and binding instructions, soldiers are more likely to arbitrarily and unnecessarily damage property.

“And then it gets really crazy, which, in the beginning, it's a craze, everyone is full of motivation to find the weapons. You start tossing every closet, reaching in and just taking everything out, everything that was there. And if it's couches, then you turn them upside down, tear them from underneath to see if they'd hidden something. If you go through the wall, you check to see if

209. Testimony collected by Yesh Din from S.E., a woman from Beit Ummar, June 9, 2018, Yesh Din Case 4154/18. About five soldiers, with dogs, invaded E's home, where she lives with her husband and children aged three to ten. The soldiers remained in the home for three hours and left empty handed.

210. Testimony collected by Yesh Din from A.A., a man from Beit Ummar, July 11, 2018, Yesh Din Case 4174/18.

211. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2012-2015, Testimony No. 46.

212. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2015-2018, Testimony No. 28.

213. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, Meitar Unit, 2013-2016, Testimony No 19.

there's plaster, and if the there is, you break the wall [...] I remember after an hour of searching, you come to a house, some of the guys sat on the couch to rest and drink some water. [...] The whole house becomes this gross mud. [...] And in the end, all we found there was a Hamas flag that was in the closet room upstairs. I think in the garden, there were a few Bruces [ammunition boxes] [...] I think it had a stun grenade that had already been used that was put in there. [...]

At some point, we didn't find anything, and it got very late, after many hours of work, which is very physical, very tough work. Everyone was tired. And I remember that one of the combatants from a more senior team came into the living room, and everyone was sitting there, really irritated that we couldn't find the weapons. You come with a purpose, and suddenly you don't find the weapons. And then I remember him starting to just toss things around just from the frustration. He walks around the living room, and everyone is sitting, and he starts smacking the TV really hard and gets angry that we couldn't find [the weapons]. [...] And then we got out of there, before dawn, without a find."²¹⁴

Unnecessary destruction of property is prohibited under international law and could be considered a criminal offense under Israeli military law.²¹⁵ Still, testimonies indicate soldiers are unfamiliar with directives on preventing damage except the requirement to request the commander's authorization to damage property. In addition, even when Palestinians whose property was destroyed during search raids file complaints regarding the damage, **the military law enforcement system justifies the damage as a legitimate part of the search.** This position is reflected both in the closure of investigations

without indicting soldiers and in decisions not to launch criminal investigations into complaints of property damage in the first place.²¹⁶

None of the criminal investigations launched following property damage complaints filed by Palestinians with Yesh Din's assistance since 2008 concluded with an indictment.²¹⁷ A review of the investigation materials indicates that **the chance a complaint regarding property damage will lead to an indictment of soldiers is infinitesimal.** This is because the investigators generally accept soldiers' and officers' claims that the actions and resulting damage were necessary without question. There are also cases in which investigation files were closed after investigation authorities failed to perform even the most basic action of identifying the military force involved in the incident over which the complaint was filed.



Wreckage and property damage after a search of a home in Balata Refugee Camp, June 17, 2014. Photo by Ahmad al-Baz, ActiveStilles.

Risk of looting

The absence of directives requiring the presence of a household member during the search increases the risk of theft. Theft by soldiers from "protected persons" is considered looting, and it is prohibited under both international and military law.²¹⁸

M.H. of 'Einabus told Yesh Din about a search of her home on the night of July 9, 2014. Soldiers claimed they were searching for weapons but did not find any, and after they departed, the family discovered that a large sum of money and valuable jewelry had disappeared.

214. Testimony collected by Breaking the Silence from a first sergeant, Egoz Unit, 2014-2017, Testimony No. 31.

215. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Arts. 23, 46, **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Art. 33.

216. Unlike police complaints following suspected offences committed by civilians, complaining to the MAGC concerning a soldiers' offense does not necessarily lead to an investigation being opened. For more information regarding the investigation policy see for example Yesh Din, [Date Sheet: Law enforcement on IDF soldiers suspected of harming Palestinians - Figures for 2017-2018](#), section C.

217. In 2008-2016, Yesh Din assisted Palestinians in filing 13 complaints to military authorities regarding property damage during search raids and eight complaints regarding property damage and suspected looting, which led to investigations by the MPCID. None of these investigations concluded with an indictment. Regarding three additional complaints involving property damage filed in 2012 and 2017, military authorities decided not to open an investigation. Of four additional complaints handled by the DPI, investigations were not opened in two cases.

218. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Article 47; **Rome Statute of the International Criminal Court (1998)**, Article 8(2)(b)(XVI); **Military Justice Act 1955**, Section 74: "A soldier who has looted or broken into a home or any other site with the intention of looting shall be sentenced to ten years' imprisonment." The Military Justice Act applies to soldiers during their mandatory military service and during reserve duty. It also applies to prisoners, detainees and prisoners of war held in military custody.

"The soldiers gave an order to bring everyone who was in the house, including the son M. [age 30] and his sister I. [age 21], who were sleeping on the upper floors. We were all brought into the living room, and the soldiers told us to put our hands up. We stayed that way for about five minutes. My husband was taken to the bedroom. Four or five soldiers stayed in the living room, and the rest spread out in the house. Some went upstairs, and we heard the sounds of breaking. They searched everywhere in the house. It took about an hour and a half, two hours.

[...]

At around 5:00 A.M., when the soldiers left the building, I went around the house and saw there was mayhem and destruction in the bedroom on the top floor too. The soldiers checked the walls in the house by banging on them with hammers. They left us a ruin, not a home. [...] There were about 5,000-6,000 ILS in the bedroom closet that we were saving for Ramadan. That money was gone. I couldn't find the gold jewelry that was in a box in the bedroom either: six gold bracelets I'd bought in Nablus and Jordan as gifts for my son's engagement, a chain with gold coins and two gold rings. The jewelry is worth about 3,000 Jordanian Dinars. [...] The entire time the soldiers were in the house, they wouldn't even let us go to the bathroom. This was the first time soldiers broke into our house. I was very worried and very scared."²¹⁹

According to the military's policy, suspected looting triggers an investigation automatically, and the MAGC does seem to open

investigations in such instances. Nevertheless, as in all military investigations concerning offenses by Israeli soldiers against Palestinians, the majority are concluded without an indictment. From 2008 to 2018, Yesh Din assisted Palestinians in filing 34 complaints to the Military Police Criminal Investigations Division (MPCID) and the Department of Police Investigations (DPI) for suspected looting or suspected looting and property damage during home invasions. Thirty-three investigations opened in these cases concluded without an indictment. One complaint is still under investigation.²²⁰

A review of the investigation files in cases of suspected looting, including theft of money, gold or other valuables, indicates many of the cases are closed after investigators fail to obtain evidence tying the security forces involved in the search to the crime. Yesh Din also documented instances in which cases were closed after failing to identify the forces involved in the incident. This particular failure is noteworthy because it reflects both the ineptitude of the military investigation system and the absence of basic documentation procedures that could have eliminated instances in which it is impossible to track which soldiers entered a certain house on a specific date.²²¹

Such incidents are especially prevalent during large-scale search operations carried out in neighborhoods or entire villages because the army does not methodically document all the homes invaded by soldiers.²²² For example, an investigation of a complaint regarding alleged looting during a search in 'Awarta on March 13, 2011 (during the course of a large-scale operation in the village after the murder of the Fogel family in the settlement of Itamar) revealed no documentation of the soldiers' invasion of the home in question was available. In response to the request for documentation of the incident, a captain in the Shomron Regional Brigade wrote to the MPCID investigator:

219. Testimony collected by Yesh Din from M.H., a woman from 'Einabus, July 9, 2014, Yesh Din Case 3140/14. M.H. decided not to give testimony to the MPCID about the incident for fear it would hurt her family.

220. Eight complaints filed to the MCPIC addressed incidents of suspected property damage and looting, and 24 complaints addressed incidents of suspected looting. Two additional complaints concerning suspected looting were investigated by the DPI and the investigation files were also closed without an indictment. See also Yesh Din, [Date Sheet: Law enforcement on IDF soldiers suspected of harming Palestinians - Figures for 2017-2018](#).

221. For further information regarding the pattern of investigations closed after MCPID or DPI investigators fail to locate offenders see: Yesh Din, [We were unable to locate the perpetrator": The failure of Israel's law enforcement system to investigate and prosecute military and police personnel who committed criminal offenses against Palestinians in the West Bank](#), December 2018. For example, an investigation of suspected looting resulted in closing the file due to failure to locate the soldiers who participated in the search raid, see pages 5-6.

222. It is noteworthy that military law does not require documentation of an entry into a home. Israeli law also does not instruct the police to document searches, however the Israel Police's DII Procedure establishes that a search must be documented in a log (search report) and that copies of the request for a search warrant, indicating the judge's decision, must be filed in the respective police units' central file and in the relevant investigation file. Also, records noting completion of the search and a copy of the search log are transferred to the court secretariat. DII Procedure, Section 3D(3) and 3E(4).

Apparently (very likely), their house was searched as part of the operations we had conducted - but we did not arrest them. I do not have exact follow up information about that. After the incident in Itamar, all the houses in the village were searched - more than 700 house searches."²²³

When Israeli security forces seize cash or valuables from homes in order to confiscate them,²²⁴ they are required to file a seizure report documenting the items seized and the reason for the seizure.²²⁵ Despite these explicit procedures, Yesh Din has documented many incidents in which soldiers seized cash and other items and failed to leave the owners with a receipt or document attesting to the seizure of property.

Failure to provide a receipt may create a situation in which household members do not know whether items they are missing were looted or officially confiscated, in which case an appeal can be filed. Yesh Din contacted the military about this matter in November 2015; the MAGC responded that following incidents where forces did not follow the procedure, procedures would be reiterated.²²⁶ But years after this response, Yesh Din continues to record incidents in which Palestinians do not receive a receipt for items taken from them. In 18 of the home invasions Yesh Din documented, money or vehicles were confiscated. Soldiers provided a receipt documenting the seized property in just 14 of these incidents.

3. Unchecked use of authority to invade the private domain

Military home invasions involving a search are frequent and widespread. They are carried out even when there is

no concrete suspicion or when suspicion is weak and are sometimes intended as a measure of deterrence, intimidation or punishment. And so, Israel's policy on using search powers adopts the permissive approach military law takes with respect to invading the privacy of Palestinian residents of the West Bank. Widespread use of search raids – including when there is no substantive, concrete suspicion – violates the prohibition on arbitrary interference with private life, the family and the home stipulated in international law and IHRL. Moreover, its extensive use demonstrates how military invasions of Palestinian homes in the West Bank have come to serve Israel as a means to control, intimidate and oppress the Palestinian population there

An extremely low bar of suspicion

The military uses the permissive legislation on invading the private domain to conduct searches **in cases in which there is no concrete suspicion regarding the home**. This is manifested in two types of military home invasions that may include searches: searches conducted by soldiers during mapping operations and searches of homes in Hebron during routine patrols. In the first instance, soldiers search a home even though there is no concrete suspicion regarding the structure or its occupants, as evidenced by the fact that the express purpose of such actions is to gather intelligence on the building and its occupants rather than a search based on suspicion. In the second instance, routine military patrols in Hebron may include random raids on homes, during which soldiers might perform a superficial search of the house.²²⁷

With this, analysis of the outcomes of search raids shows that military policy leads to searches in homes when there is **very limited suspicion**. Usually, Israeli soldiers who search Palestinian homes are given the mission of searching for weapons. Additional goals may be confiscating (seizing) property, technological equipment or political materials. Yet the gap between the declared purpose of the search and what happens on the ground is wide.

223. MPCID Sharon-Shomron District File 290/11. Yesh Din Case 2379/11.

224. Cash may be seized from Palestinians in the West Bank pursuant to an Order for Seizure of Goods issued under Sections 74, 84 and 120 of the Defence (Emergency) Regulations (1945) and Section 61 of the Order regarding Security Provisions. These sections address, among other issues, funds involved in an offense or used for the commission of an offense, funds owned by a person who committed certain offenses, and funds that are the property of what has been defined as an unlawful unauthorized organization. There have been cases in which money seized (during a search of a home or in other contexts) was returned to its owners after review. For example, in September 2017, a decision was made to return seized property to owners in 35 of 110 property seizure orders signed in 2014. A letter from the IDF Spokesperson to HaMoked: Center for Defence of the Individual – “Your letter regarding procedures for seizing property belonging to residents of the Occupied Territories pursuant to the Defence (Emergency) Regulations, under the Freedom of Information Act”, September 17, 2015 (Hebrew).

225. Two procedures instruct forces to document seized property, details regarding these procedures were made public following a petition filed by HaMoked: Center for Defence of the Individual. We do not possess their full accounts, only quotes of certain sections in them as appeared in the State's response in HCJ 3174/16, **HaMoked: Center for Defence of the Individual v. the Military Commander in the West Bank Area**, response on behalf of the respondent, January 5, 2017.

226. Letter from the MAGC to Michael Sfarid Law Office (Yesh Din's legal advisor), “Re: Procedures on for documentation of seizure of goods and suspected looting by IDF forces”, February 3, 2016.

227. For more information on home invasions referred to as “building mapping” see pp. 64-74. For further information regarding random home invasions in Hebron see pp. 74-76.

Our information suggests that in most cases, soldiers leave the searched home empty-handed. In 64% of the incidents documented as search raids (35 incidents), family members noted that the soldiers left their home empty-handed; in 16 incidents, soldiers confiscated money or vehicles belonging to the family, and in three incidents, innocuous items were taken. An actual weapon confiscation was documented in **only one case**.²²⁸

Soldiers who participated in searches of Palestinian homes noted that often - and even in most of the incidents they took part in - the search yielded no results. For example, a soldier who took part in dozens of search raids of homes in Hebron defined as weapon searches was asked whether he could recall an instance when weapons were discovered during a search. He replied: "We never did."²²⁹

"I think that most of the time, we didn't find weapons. Even in places where they told us there are probably weapons. In places where they told us [there were] suspected weapons, I think we never found weapons. I remember one time we found a magazine; sometimes we found pictures of people with weapons, kids with weapons and such. We confiscated it."²³⁰

Weapon searches are not clearly defined missions, and therefore confiscating objects such as knives, pocketknives and clubs may depend on the judgment of the soldiers and their commander (generally a junior officer). In one incident documented by Yesh Din, pruning shears were confiscated from a home, possibly after they were identified as a potential means of inflicting harm.

"Witness: Anything that's a knife, even if it's a kitchen knife - is confiscated, for that matter, it's either suspected, or you verify it with the homeowners. [...] There was one time when we found a pocketknife in the children's room.

That's something that gets confiscated right away. You say – a pocketknife in the children's room, it's not supposed to be there. [...]

Interviewer: Is there a chance you would come to your commander with the pocketknife you found in the children's room, and he'll say: "No [confiscation], it makes sense that a kid would have a pocketknife?"

Witness: I don't want to generalize; it completely depends on the commander. I can say, for myself, as a commander, that in the beginning, I would congratulate the soldier, tell him well done and proudly show it to the platoon commander, and after a while, I might actually let it go or say: What does this pocketknife have to do with anything? Give it back to the kid."²³¹

Clearly, a search that fails to yield results does not necessarily indicate a low bar of suspicion. However, the fact that so many do could suggest **that even when searches are allegedly based on a specific suspicion, the bar of suspicion required for approving such actions is very low.** This begs the question of what additional purposes military home invasions involving searches serve other than their professed objective.

Deterrence, intimidation or punishment

In the aftermath of exceptional incidents, such as attempted or fatal attacks on Israeli civilians or soldiers by Palestinians or attempts at such attacks, the Israeli military routinely launches large-scale search and arrest raids. During such operations, the military relies on the permissive legislation on invading the private domain in order to search a large number of homes regarding which there is no specific suspicion. These operations terrorize entire communities, and it is reasonable to believe that in at least some instances, they are also meant as a means of deterring and even punishing the assailants' community.

A prime example of this is the sweeping searches of Palestinian homes in the summer of 2014, conducted as part of the military

228. In the three incidents in which innocuous items were taken, soldiers took: a small saw and small pruning shears; a military-style jacket; a spent stun grenade. In the incident in which a weapon was confiscated, money was also confiscated from the family. In three out of the incidents in which no possessions seem to have been taken or confiscated, families reported suspected looting of money.

229. Testimony collected by Breaking the Silence from a staff sergeant, Nahal 50th Battalion, 2015-2018, Testimony No. 38.

230. Testimony collected by Breaking the Silence from a staff sergeant, Duvdevan Unit, 2005-2008, Testimony No. 53.

231. Testimony collected by Breaking the Silence from a staff sergeant, Artillery Corps, Meitar Unit, 2013-2016, Testimony No 19.

operation known as “Brother’s Keeper.” According to media reports, during the first eight days of the operation, the military invaded over 1,000 homes and detained approximately 370 Palestinians.²³² Another example is the extensive military operation in the village of ‘Awarta following the murder of the Fogel family in the settlement of Itamar in 2011. During this operation, hundreds of homes in ‘Awarta were searched, many men and over 100 women from the village were detained, and the village was declared a “closed military zone.”²³³

Actions designed to apprehend offenders who committed murder or seize the weapons they used undoubtedly have a legal and moral basis. However, had military law limited the military as Israeli law limits the police with regards to the circumstances in which it may enter and search homes and with respect to the specifics of an individual search, sweeping raids in which dozens or hundreds of homes are searched would not be possible. A murder committed by a resident of a certain town in Israel would not result in systematic, uninhibited searches of hundreds of houses and apartments in that town. However, the murder or even attempted murder of Israelis by Palestinians in the West Bank is followed by operations in which **Israeli security forces exploit their sweeping powers and invade homes that have no connection to the offense. This sows fear and, in some cases, constitutes collective punishment of an entire community for the actions of individuals.**

The testimony of a soldier who took part in a large-scale search operation in villages in the Hebron area in April 2014 supports the theory that there is a punitive element to such military operations:

“There was a terror attack during Passover of officer Mizrahi (a terror attack in which Chief Superintendent Baruch Mizrahi was murdered near the Palestinian village of Idhna). It was in our area. And then, oh man, as soon as there was a terror attack – weapons searches in every village. [...] And then you enter for a good few hours, “There was a terror attack – we’re going to turn your houses upside down.” No one expects to find any weapons in some house in Bani Na’im. It’s like “You’ve carried out a terror attack, now you’re going to pay for it.” Simple as that. There are going to be arrests, there are going to be searches.”²³⁴

Smaller-scale search and arrest operations are conducted after incidents that did not result in fatalities, such as shooting or throwing rocks at roads. For example, according to B’Tselem’s documentation, on August 15, 2018, approximately 20 soldiers accompanied by an ISA officer and two dogs raided ten homes in the village of ‘Azzun, and performed intense searches in several houses. During several of the invasions, soldiers made explicit threats related to stone-throwing by village youths. For instance, during the invasion of Rashid and Khawlah Radwan’s home, soldiers had the family sit in one room, and according to Rashid (the father): “The ISA guy started accusing Yihya [the couple’s 16-year-old son] of throwing stones. He threatened him that he’d arrest him, or that the next time he was caught throwing stones, he’d simply be shot.”²³⁵ The combination of raiding several homes that same night and threatening youths supports the hypothesis that one of the raid’s objectives was deterrence or sewing fear in the community in order to influence the actions of a few individuals

“They’ll deal with us with an iron fist”: searching homes as part of a campaign of intimidation over a protest tent

In late April 2011, a protest tent was set up in the village of ‘Izbat a-Tabib in reaction to the planned construction of a new separation wall near the road connecting the village to the town of ‘Azzun. The military wanted the tent removed and addressed its demand to Bayan Tabib, then head of the village council. According to Tabib’s testimony, one officer

232. A joint letter sent by several human rights organizations, including the Association for Civil Rights in Israel (ACRI) Yesh Din, PHRI and Breaking the Silence, following military operations underway at that time noted: “it seems that the actions taken and their extent do not serve a security need that could justify the harm that they have caused.” Joint letter to the Minister of Defense and the Minister of Public Security, “Re: Harm to the Palestinian population and collective punishment in Operation Brother’s Keeper”, June 22, 2014.

233. Nir Yahav, “The past month in ‘Awarta: arrests, interrogations and fear”, [Walla news website](#), April 17, 2011 (Hebrew). Correspondence between an MPCID investigator and a captain in the Shomron Regional Brigade regarding a complaint of suspected looting during a search in ‘Awarta at the time reveals that after the murder, more than 700 homes were searched and that the units that carried out the searches entered each home more than once. MPCID Sharon-Shomron District File 290/11. Yesh Din Case 2379/11.

234. First Sergeant, Nahal 932nd Battalion, Hebron, 2014. Full testimony available on Breaking the Silence website: [There was a terror attack and now it is payback time.](#)

235. B’Tselem, [“Israeli soldiers raid Palestinian village of ‘Azzun at night, entering homes, threatening and intimidating families and their children”](#), October 22, 2018.

told him that if the tent was not taken down, the soldiers would “shut down the village and make trouble in the village, enter homes and ransack them. He [the officer] explicitly threatened that they would cause mayhem in the village and said he was willing to arrest me personally.”

The second night after the tent was set up, at about 4:00 A.M., a large military force invaded the village. Soldiers took down the tent and raided three homes in the village, including Tabib’s. The soldiers escorted the occupants outdoors (including nine children between the ages of 18 months and 17, and three international activists) and searched the homes intensively, causing property damage. Tabib recalled, “The commander who entered my home told me they would deal with us with an iron fist if we set up the tent again and organize protests.”

Following Tabib’s complaint, the MPCID opened an investigation into the incident. The testimonies of officers involved in the search suggest that it was part of an intimidation campaign because of Tabib’s involvement in organizing the protest and because he hosted activists who participated in it at his house. A DCO officer who had been in touch with Tabib said in his testimony that the decision to search the home was made due to Tabib’s involvement in “creating the provocation” (referring to the protest tent) and that he was not aware of “relevant underground activity, such as concealing weapons or terrorists in his home.”

The commander of the Ephraim Regional Brigade, who gave the order to search, said he ordered a “sweep” of Tabib’s home in order to document the left-wing activists being hosted there, and that the forces took photos of the demonstrators because he wanted to “show the governor of Qalqiliyah what his deputy was up to in his free time.” Two additional officers in charge of the mission could not say what the purpose of the search was and whether they had searched for anything specific.

In January 2014, Yesh Din was informed that the MAGC had decided to close the investigation. An appeal filed on Tabib’s behalf, demanding those responsible for the search be prosecuted on offenses of exceeding authority and misconduct, was rejected by the chief military prosecutor. The MAGC noted that the search was based on the alleged presence of suspected offenders in Tabib’s home, explaining that Tabib and the activists hosted in his home were suspected of violating a closed military zone order and obstructing a soldier by setting up the protest tent. It also claimed that the activists were involved in “disturbances of the peace.” Despite these claims, it is noteworthy that the soldiers did not arrest anyone in the house.²³⁶

The order to search Tabib’s home does fall within the sweeping authority granted by military law. This is precisely why the search of his home illustrates how the **broad and vague conditions stipulated in military law allow using home searches to threaten and punish Palestinians, even when they clearly pose no real threat, severely violating their rights**. It is important to note in this context that international law prohibits the use of threats or intimidation against civilians under occupation and requires penalties be imposed only with due process.

4. Interim summary - home searches

Military law does not require impartial review (by a member of a judicial instance) of the anticipated benefit of a home search in juxtaposition to the harm it will cause in order to authorize a search, nor does it limit this authority to instances in which

there is a concrete and founded suspicion. In practice, Israel makes wide use of this tool, including against homes regarding which there is a very slight suspicion or none at all. This is a breach of the provisions of international law and IHRL, which

236. Letter from the office of Adv. Michael Sfard (Yesh Din’s legal advisor) to the Chief Military Prosecutor, “Re: Appeal of the decision to close MPCID Sharon and Shomron case 223/11,” July 24, 2014; Letter from Chief Military Prosecutor to the office of Adv. Michael Sfard (Yesh Din’s legal advisor), “Re: Your appeal of the decision to close MPCID Sharon and Shomron case 223/11”, December 4, 2014. Yesh Din case 2397/11.

prohibit arbitrary interference with private life, the family and the home. The few restrictions military law imposes on conducting such searches reflect the fact that Palestinians are stripped of protection, and their rights are violated under the guise of actions taken to further “the rule of law.”

The broad authority to search private premises effectively increases the number of Palestinians who are harmed by Israeli security forces invading and searching their homes. Given this reality, directives designed to protect the occupants from further infringements on their rights are even more significant. Yet the manner in which these actions are carried out reflects the absolute prioritization of operational needs, and even the soldiers’ momentary convenience during the invasion, over minimizing the infringement on the rights of household members. Failing to assign proper gravitas to protecting rights leads to disproportionate, persistent and systematic violation of the dignity of Palestinian women, men and children whose

homes are invaded and searched. Rights derived from the right to dignity are also violated, including the inviolability of the body, respect for privacy, protection of the home and private life, protection of property, and protection of customs and religion, which are all enshrined in international law and IHRL.

An analysis of the circumstances in which soldiers invade and search Palestinian homes indicates the army employs this harmful practice as a measure of intimidation and deterrence against individuals and communities, and at times even as collective punishment for the actions of a few. Thus, searches of Palestinian homes serve as a means of control and oppression of the Palestinian population in the West Bank. Such use of home invasions violates the provisions of international law, which prohibits the use of collective punishment, intimidation or terrorization against a population living under occupation in general, and the use of intimidation to deter individuals from resisting the military regime in particular.

“She demanded we take everything off, even our underwear” - physical searches as a violation of bodily autonomy

In 24% of the documented home invasions, soldiers performed some type of physical search on several family members (31 cases). Women were subjected to a physical search in 22 of these incidents (with girls under the age of 18 searched in three of the 22). Physical searches may be a pat down over the person’s clothing or a strip search with all or some of the clothing removed. In these cases, women are usually required to undress, sometimes to their underwear, and sometimes even underwear must be removed.

Full or partial strip searches are most commonly performed during raids aimed at seizing funds, apparently to locate money women keep on their person.²³⁷ Other physical searches might be undertaken to ensure the occupants of the home (or those of them who are subjected to such examination) do not pose a threat to the soldiers. In the latter case, the cause for the search is induced by the invasion itself as this is what generates the alleged threat to the soldiers. Physical searches are not limited to individuals who are under suspicion (such as persons suspected of carrying money the soldiers seek to confiscate or the person they seek to arrest), but may be performed on any of the other household members.

Most women and girls are searched by female soldiers in a secluded area of the home (such as the bathroom or a closed room). Still, a testimony collected by PHRI revealed a case of a physical altercation with a woman over money she kept on her person. Two male soldiers beat the woman and tore off her clothes to force her to hand over the money.²³⁸

Palestinian women and men whose homes are invaded by soldiers lack any effective means to resist a physical search despite the increased harm it causes. Women’s attempts to resist strip searches lead to confrontations, which can involve threats and even use of force, ultimately coercing the intrusive search.

237. In five cases in which the physical search of women involved a demand to strip, money or objects were confiscated during the invasion. An additional case in which three women were strip searched during a raid conducted in order to seize money was documented by B’Tselem. B’Tselem, [“Reprehensible actions by Israeli troops against Palestinians following killing of Rabbi Raziel Shevach: Demolishing a home with inhabitants still inside, strip searching 3 women, setting dogs on 3 residents”](#), February 22, 2018.

238. Testimony collected by PHRI from Halah Abu ‘Eishah, a woman from Hebron, date unknown, Yesh Din case 4150/18.

"The girls and I were taken into a room on the bottom floor, and the [female] soldier demanded we strip and then searched us. She demanded we take everything off, even our underwear. In F's (33) wallet, the soldier found 2,000 ILS, which is her seamstress salary from the sewing workshop. The soldier then turned to me and demanded I strip. I took all my clothes off. I had no money on me. A. (14) refused to strip, and the soldier cuffed her, pushed her and took her clothes off, and didn't find anything on her either."²³⁹

Any physical search is a violation of privacy and bodily autonomy. This is especially true for searches involving a tactile or visual examination of a person's naked body. Yet military law makes no distinction between different types of physical searches. The Order regarding Security Provisions gives general license to search "any person" present where a search is permitted and any person there is "reason to suspect" possesses an object the Order permits security forces to seize.²⁴⁰ In comparison, Israeli law distinguishes between searches that involve "a visual inspection of the person's naked body" and the collection of samples, which are referred to as an external search, and searches of a person's body or personal effects.²⁴¹ The law permits performing an external search only on a suspect (a person reasonably suspected of having committed an offense), and this too, only under certain terms that include, inter alia, requesting the suspect's consent.²⁴²

The lack of distinction in military law between different types of physical searches coupled with the broad authority to perform a search both of premises and of persons exposes Palestinians to additional and disproportionate harm by searches on their person. Military policy concerning physical searches infringes on Palestinians' privacy and bodily autonomy - mostly concerning women - in their homes. This is demonstrated by the testimony of Inas Jarar of Birqin taken by B'Tselem regarding a strip search she endured during a soldier's raid of her home on February 8, 2018.

"To my surprise, she [the female soldier] insisted that I remove my underwear, too. I did as she said and she searched the clothes I had taken off. I stood there stark naked, and she ordered me to turn around. I felt broken and humiliated. I wished I could die, so I wouldn't have to experience another second of this."²⁴³

239. Testimony collected by Yesh Din from I.R., a woman from Yatta, May 31, 2018, Yesh Din Case 4156/18. The soldiers confiscated the money they found while physically searching family members.

240. Order regarding Security Provisions, Section 68.

241. Israeli law defines an external search as including taking imprints and samples, as well as "a visual examination of the person's naked body, including photographing it." At the same time, the law makes separate provisions for an "internal search" which entails more invasive examinations. Criminal Procedure Law (Enforcement Powers - Bodily Search and Obtaining Identification), 1996, Terms. Israeli law also makes separate provisions for physical searches that are not internal: "A search of a person's body, clothes or personal effects, which does not meet the terms of an external or internal search under the Criminal Procedure Law," Criminal Procedure Ordinance (Arrest and Search) [New version] 1969, Section 22A.

242. Criminal Procedure Law (Enforcement Powers - Bodily Search and Obtaining Identification), Section 3.

243. B'Tselem "[Reprehensible actions by Israeli troops against Palestinians following killing of Rabbi Raziel Shevach: Demolishing a home with inhabitants still inside, strip searching 3 women, setting dogs on 3 residents](#)," February 22, 2018.

B.

MAPPING

Mapping - in the sense of creating a map - is a term the military uses for operations in which soldiers invade the homes of Palestinians in the West Bank in order to document and collect information about the structure and its occupants. Documentation may include photographing the house, the occupants (including minors) and the occupants' ID cards, recording ID numbers or other information such as phone numbers, and sketching the layout of the rooms and entrances.²⁴⁴ These actions entail an additional violation of privacy on top of the rights violations caused by any military home invasion – as mapping involves the coerced collection of private information regarding the house and its occupants. During mapping raids, like other types of invasions, Israeli security forces do not present household members with a warrant or any type of authorization, and they generally do not provide an explanation for why they are entering the home.

The description of mapping practices provided later in this report is based mostly on testimonies Israeli soldiers and officers gave to Breaking the Silence, in which they spoke about being sent to perform this task. Yesh Din's staff documented 18 incidents in which Palestinians described actions that could be interpreted as mapping during the invasion of their homes. These include photographing family members or the rooms in the house. It is difficult to obtain detailed testimonies from Palestinians regarding such incidents because, among other reasons, generally, people whose homes are invaded by soldiers cannot know for certain what the reason for the raid is. They also have difficulty providing a full account of the actions forces carried out during the raid because, in many instances, they were confined to a room while soldiers were in the house (except in cases in which soldiers photographed family members). Still, it is fairly clear that mapping operations are extremely common in the West Bank, as evinced by the fact that over the years, Breaking the Silence has collected hundreds of testimonies



Documentation of a mapping raid which included photographing children in the Da'na family home in Hebron, February 24, 2015, at 3:10 A.M. Stills captured from [a video published by B'Tselem](#).

244. This chapter addresses mapping when the declared goal is collecting information about houses and families without specific suspicions, as detailed below. This report does not address the practice of mapping the homes of suspects in preparation for possible demolition. Examples for the second type of mapping which will not be addressed here: "IDF maps home of Israeli teen's suspected killer", Reuters, **Ynet**, October 2, 2019; Israel prepares to demolish homes of Palestinian suspects in soldier's murder, **Haaretz English website**, August 12, 2019.

concerning mapping operations, as they are routinely and frequently conducted throughout the West Bank.

Mapping operations apparently proceed according to military orders and a Central Command procedure, which the military refuses to make public because they are classified.²⁴⁵ And yet, the military's response to an application B'Tselem made under the Freedom of Information Act stated: "The goal of 'mapping structures' in Judea and Samaria is reconnaissance for various reasons according to a substantiated military need. Criteria for the designation of villages and homes for mapping are selected and applied according to orders and instructions issued by the commanders in light of situation and intelligence assessments and according to the operation order approval protocol."²⁴⁶ The military claims mapping is a combat activity and that such operations "are not undertaken randomly, unnecessarily or based on extraneous considerations. These are combat operations, approved by the chain of command and designed for a legitimate purpose."²⁴⁷

Like other types of military home invasions, mapping operations are usually carried out late at night or in the early morning. The body of testimonies provided by soldiers and Palestinians depicts routine mapping operations as follows: soldiers knock on the door, shout and usually wait until a family member opens the door. After entering the home, soldiers request ID cards from the occupants and record their personal information. In most cases, the forces also make a drawing of the layout of the home, its rooms and entrances. In some instances, family members or rooms are photographed as well. When mapping requires the soldiers to walk around the home (for example, in order to draw the rooms and entrances), they gather the family members in one room or separate the women from the men and guard them. Marshad Karaki of Hebron told Yesh Din about two mapping operations in his home just a few months apart. He described the first invasion:

"In the last week of Ramadan this year, about ten soldiers came into the house at around 1:15 A.M. They had a female soldier among them

and a dog. Some of them were masked. The soldiers knocked on the door, and I went outside to open and asked what the problem was [...] The soldiers said they wanted to know who lived in the house. They demanded to see everyone's ID cards. They were armed to the teeth. The soldiers put all the men in the living room and demanded each of us hold his ID card in his hands. They took photos of us with a camera, not a phone - each and every one with the ID card open in his hands. No explanation was given as to why they entered our home specifically, and they didn't have a search warrant. The officer who commanded the soldiers was polite and said this was a routine search. Compared to him, some of the soldiers behaved brutishly. They yelled at the children."²⁴⁸

A soldier who gave testimony to Breaking the Silence described a routine mapping operation:

"You enter with a knock on the door, "everyone living in the house come here." When you're in the house - you take down as many details [as you can], like, how many rooms there are, how many people are in the house, how many boys, how many girls, as much as possible. Another one [soldier] is in charge of making sure the whole house, all members of the household, gather in one spot, and you make sure everything is cool with them."²⁴⁹

The stated purpose of mapping is reconnaissance - collecting detailed information about the population and the homes in places that are mapped. A soldier who gave testimony to Breaking the Silence said the purpose of "mapping" as he understood it was to create a database "so that if they happen to find the people in the house suspected of something, to have weapons, [who] need to be arrested, then they can pull

245. Letter from head of the Legal Advisor - Judea & Samaria Operations and Human Rights Division to Michael Sfar Law Office (Yesh Din's legal advisor) "Re: Your Letter on behalf of Yesh Din concerning military exercises in villages", July 13, 2015. Letter from IDF Spokesperson to B'Tselem, "Re: Your letter to the IDF Spokesperson regarding IDF orders for mapping structures", September 3, 2015 (Hebrew).

246. Letter from IDF Spokesperson to B'Tselem, "Re: Your letter to the IDF Spokesperson regarding IDF orders for mapping structures", September 3, 2015 (Hebrew).

247. Letter from head of the Legal Advisor - Judea & Samaria Operations and Human Rights Division to Michael Sfar Law Office (Yesh Din's legal advisor) "Re: Your Letter on behalf of Yesh Din concerning military exercises in villages", July 13, 2015.

248. Testimony collected by Yesh Din from Marshad Karaki, a man from Hebron, June 2019, Yesh Din Case 4506/19.

249. Testimony collected by Breaking the Silence from a first sergeant, Homefront Command (Search and Rescue), 2014-2017, Testimony No. 14.

out of the database what this house looks like and plan in fact how we're going to like cover it."²⁵⁰ Similarly, another soldier said that the "function [of mapping], on paper, is to map each house and say who lives in it, so the Shin Bet knows about every house, little by little, who lives there, so they have the information."²⁵¹

Prior to a mapping raid, soldiers are usually briefed on several individual homes in the city or village they are to invade. In some cases, several teams walk around a certain village or neighborhood at the same time, each responsible for a defined group of homes.

Less frequently, soldiers are not briefed on which homes should be mapped and instead are sent to map an area or a village. A soldier who spoke about mapping said that sometimes the objective is to "cover" all the houses in a village during one night or over the course of several consecutive nights:

"Mapping is when you zero in on a village or a string of villages [...] It means you grab a few villages, take their maps, aerial photos with house numbers, and distribute them inside the battalion [...] so the whole village is covered like that, and the objective is at night, or over several consecutive nights, to enter all the houses and map what they look like on the inside [...] After, this is usually sent to sector intelligence, say Hebron intelligence, Shomron intelligence or whatever, and they use it for operations if and when they have a wanted person to catch in house X, so if we happen to have mapped the house, then they have the layout of the house from inside say."²⁵²

Conducting reconnaissance, which the military considers a "military need," does not signify an individual is suspected of involvement in illegal activities. Descriptions of the practice and the testimonies of soldiers who performed it indicate that mapping is generally carried out in homes of **people who**

are not suspected of any offense, and that such mapping is undertaken routinely as part of general reconnaissance, rather than necessarily as a result of a concrete suspicion against the occupants of the home:

"[...] Every team would get a target inside some village and would go map it. Now, this usually means a raid in the middle of the night, sneaking into the village. And in this village, there would be a house you'd get, and this house was by definition uninvolved [Palestinians not suspected of terrorism]. **They would tell us in advance that they are uninvolved, people who aren't actually involved in terrorism, innocents to use a euphemism, but everyone without exception was always a potential threat.**"²⁵³

"During mappings we enter a home without any prior intelligence, **there's no wanted [person] (for interrogation), nothing to do with any hostile terrorist activity** or danger. You enter a house just to check, and you map the house - how many rooms there are - and move on to the next house."²⁵⁴

"But it was **totally arbitrary; I could choose whatever house I wanted**, like checking the wind, when you lick your finger and put it up to see where the wind is blowing. There was no guidance. They told us they wanted us to do as many mappings as possible in principle because that's how the Shin Bet and the IDF get information about what the house looks like."²⁵⁵

Testimonies also indicate that in some cases, mapping is repeatedly performed in the same areas and homes, increasing the harm to families whose homes are repeatedly invaded.

250. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2015-2018, Testimony No. 28. The full testimony is available on the Breaking the Silence website: "[Mapping' is the most disgraceful thing in the world](#)".

251. Testimony collected by Breaking the Silence from a first sergeant, Egoz Unit, 2014-2017. Testimony No. 31.

252. Testimony collected by Breaking the Silence from a soldier in Kfir Brigade, Hebron Area, 2008, "[Mapping is when you sit on a string of villages](#)" (Hebrew).

253. Testimony collected by Breaking the Silence from a first sergeant, Duvdevan Unit, 2005-2008, Testimony No. 53.

254. Testimony collected by Breaking the Silence from a captain, Hebron Area, [An easy way to explain it to the soldiers](#).

255. Testimony collected by Breaking the Silence from a major, Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51.

"Mappings are also repetitive. It's not like you've done one house, and you'll never go there again. It's something where the IDF makes sure the situation is still the same. If it said two months ago that there were five people there, let's check it's still the case. Again, that's what they say. I don't really know why you have to go back to a house you've already been in, but let's say it's imperative."²⁵⁶

1. Demonstrating the military's presence and creating a sense of persecution as an implicit goal

Although the overt purpose of mapping is reconnaissance, testimonies raise questions about the value of the information collected in this way and expose other purposes, first and foremost, demonstrating the military's presence to tighten control over a certain area.

Soldiers who gave testimony to Breaking the Silence did not know whether information collected during mapping operations was saved at all, and if it was – how; nor could they recall using such information during home invasions conducted for other purposes. These testimonies raise doubts about the claim that mapping is undertaken for genuine military intelligence needs that meet the terms set out in international law. A soldier who served in Hebron in 2008 said he deleted photographs taken with his camera during a mapping operation after asking his commanders what to do with them and receiving no response.

"I distinctly remember we had to do some mapping, take pictures of people, take pictures of residents. And I actually took pictures of people with my own camera, and ID cards, you take down all the details, and later, when I was asked what to do with this stuff, I asked the officers, and they basically said: Listen, we have no idea. I waited a few days, about a week, and then I deleted the pictures."²⁵⁷

An intelligence officer with the rank of captain claimed mapping "has no significance for intelligence purposes unless it is requested. **There's no value in routine or random mapping.**" According to this officer, although the information the military or the ISA have is not as detailed as the information obtained by mapping, "it isn't used that widely either."

When asked to nevertheless clarify the logic behind mapping operations, the officer explained that like other actions, these operations are undertaken for the sake of having the soldiers operate on the ground and demonstrate their presence to the Palestinian population:

"[In] most of the cases I know, mapping is one of the actions we do to show the people above that we're creating work. That we're working, that we have a grip on the area.

[...] I periodically went to the brigade. We were shown a graph that compares the different battalions, which one did the most checkpoints [flying checkpoints for checking vehicles], which did the most mapping, which did the most village patrols, which did the most creative actions that break the routine. They showed us graphs, and there was this unspoken competition over who could do the most of these.

[...] and so we go back to the expression **"demonstrating presence."** When the brigade commander sits and looks at a map of his entire sector with pins in every spot there was a checkpoint, and the whole map is covered in military activity over the past week, he knows we that they (the Palestinians) felt us. He knows it can't be said that we don't have a grip on the area."²⁵⁸

Numerous other testimonies collected from soldiers and officers also suggest that one of the distinct goals of mapping is what the army refers to as "demonstrating presence," creating a climate of intimidation and "instilling a sense of

256. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, 2013-2016, Testimony No. 19.

257. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2007-2011, Testimony No. 43.

258. Testimony collected by Breaking the Silence from an intelligence officer with the rank of captain, Testimony No. 11.

persecution" in families and communities whose homes the soldiers invade:

"I think, for the system, it serves two purposes. One, it serves gathering intel on buildings and people. Two, **it produces fear and terror and this whole business of demonstrating presence, which we were required to do** - not just to be there, but to be seen. So, just like you go into a village so they see you're going into the village and you're not afraid, and to show them you're here, the same effect, in different form, happens when you allow yourself to enter homes every night, or every other night, or every week, even families that didn't do anything and have nothing to do with anything."²⁵⁹

Interviewer: You didn't [pass the drawings and pictures] to the intelligence officer?

Witness: No. My impression was that they don't give a shit about it, excuse the expression. In my opinion, the effect of mapping is different. It's to **place psychological pressure** on Palestinians: go into their homes, wake them up in the middle of the night, and **instill in them this sense of persecution**.

Interviewer: At what point did you realize that the mapping materials weren't being used?

Witness: During the second mapping, when I realized there was no regulated procedure for what we were doing. I understood that it's bullshit and that the primary purpose of the mappings is like I said, to place pressure on the population to create a sense of persecution."²⁶⁰

In certain cases, mapping is used to deter individuals from participating in events such as protests, stone-throwing or clashes with soldiers, and even to push a community to put pressure on some of its members.²⁶¹

A soldier who took part in mapping operations near Bethlehem said he was sent to map in areas where there had been incidents the military refers to as "disturbances of the peace" or "riots." These include stone-throwing during protests or clashes with the military. During the raids, while confirming family members' personal information, the soldiers checked those present against a list of household members they had brought, and if a young male (roughly 15-20 years-old) who appeared on the list was not physically present, the soldiers knew they had to stop and question the family members regarding his whereabouts. According to the soldier, this was done because these young males are considered "a problematic demographic," meaning they participate in riots. This soldier was under the impression that the main purpose was to create deterrence, instill a constant sense of threat among civilians and produce pressure against "rioters" within the community:

Witness: I think that in fact, **the main purpose is deterrence**, and as I said, that's something they say: We have to **create deterrence in the area**. There are riots every day now, and that's not cool, so part of the attempt to calm things down is to create deterrence and say: the IDF is here. We're here, and we can come into your house at any time. [...] [this deterrence is aimed at] the population, the guys doing the riots and the population in general, for it to prevent these riots, the grownups. [...]

Interviewer: You go into random houses?

Witness: Absolutely, it's totally [a game of] eeny, meeny, mini moe. Like, there's not a shred of intel in mapping."²⁶²

'Abir Shtiyeh of Madama told B'Tselem about a raid of her home on May 13, 2015. Shtiyeh said that before leaving, a soldier told her husband that if the school children continued throwing stones at the road, the soldiers would return to harass the residents.

259. Testimony collected by Breaking the Silence from a major, Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51.

260. From a testimony collected by Breaking the Silence from a lieutenant, Artillery Corps, 2015, Testimony No. 58, full testimony available on the Breaking the Silence website, "[They would stand there in the middle of the night, each one holding their ID card and we'd photograph them](#)".

261. In addition to testimonies collected for this project, in 2011, Nariman and Bilal a-Tamimi, volunteers with B'Tselem's camera project, documented a **soldier invasion into a home in a-Nabi Saleh in the middle of the night**. This invasion was part of a mapping operation the military conducted in the village, during which the soldiers demanded every boy aged ten or older be woken up and then took photos of them. Over the course of January 2011, at least four such operations were carried out in the village.

262. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, 2013-2016, Testimony No. 19.

“Six or seven soldiers came inside. They asked for our identity cards. We gave them the cards and they wrote our details down on a piece of paper and told us to get the kids. My husband said they were asleep and would be very frightened if we woke them. The soldier said he didn’t care and that he wanted to see the whole family. After we woke the children, the soldiers searched the house and took pictures of it. Then they went outside, walked around the house and called for my husband. After they left, [my husband] told me that they had taken him to the sheep pen and taken photographs of the whole area around the house. When the soldiers left, they told him that if the pupils in the village school continue to throw stones at the road leading to Yizhar, they would come to disturb the villagers every night.”²⁶³

Another soldier spoke about mapping, including photographing the family, being used as a deterrence measure in villages after stone-throwing incidents. His testimony indicates that after his battalion identified recurring stone-throwing at military vehicles from a black car, his company was sent on nightly patrols of villages in the Nablus area.

“[...] We really combed that entire village. It took hours, street by street [...] **The concept was to scare, to intimidate** [...]

[...] **The bigger mission was to instill a sense of persecution in the Palestinian population. That’s not my phrase, it’s a phrase that actually appeared in presentations and briefings.** That was the bigger framework, and inside it, in the framework of the company’s initiative, just to try and scare the stone-throwers from the black car [...].”²⁶⁴

An officer with the rank of lieutenant spoke about mapping a home or two chosen at random in the village of Harmalah

after Palestinians infiltrated the nearby settlement of Tekoa. The occupants of the homes selected for invasion were not suspected of any involvement in this or in any other incident. The officer said the battalion commander explained that these invasions were designed to get a message across to “them.” Sending a message to the village community through innocent people, in fact, amounts to a collective threat and the use of those innocent individuals to convey it.

“Witness: One time, there was an infiltration into a settlement, Jewish Tekoa, probably from a village called Harmalah, which is across the road. We went there with the tracker and looked for the tracks. There was nothing. Then the battalion commander went to the front command squad, at the end of the incident, and said: Look at masuah [a digital map system] and choose four structures and map them. We ask him: why? He says, so they know that if they’re going to do stuff like that in our area, **it’s not something we’re going to just let slide, and this operation is actually going to get a message across to them.** Somewhere, this instinct of payback burned in me a little too. We chose a house or two, just randomly. We went there, to Harmalah; it’s across the road, and they also throw stones at the route from there sometimes. We came to the house, surrounded it, went inside, woke them up. I think it was at 2:00 or 3:00 A.M. We went inside to map the house. I’m thinking, as I’m doing it, that there’s something a little crazy about it; these people have nothing to do with what happened in Tekoa. These are people who’ve done nothing that we woke up in the middle of the night. It’s a bummer.

Interviewer: How did you choose the house?

Witness: An area we’ve never been to before, by chance, we got to a house of two Jordanians who were living there. They didn’t even have children. They had nothing, no one who might have thrown stones or committed any crime in there.”²⁶⁵

263. B’Tselem website: [Soldiers enter 20 Palestinian homes near Nablus late at night, unjustifiably intimidating the families and disrupting their lives](#), June 24, 2015.

264. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2011-2014, Testimony No. 54.

265. Testimony collected by Breaking the Silence from a lieutenant, 2014, Testimony No. 59.

Testimonies given by two soldiers reveal an additional purpose for mapping operations: **mapping for training practice**. The two soldiers said they had participated in mapping operations carried out in order to train reservists on this practice or retrain a battalion nearing a return to active duty in the West Bank after a long absence.

“We went, a platoon, into a village in the [Jordan] Valley area, a village that wasn’t considered problematic, and they told us this too, a village considered “an okay village.” What I was told, as a commander, was that we were doing this operation to practice, more than the operational need for this intel. **Given it was a village without any problems, it was purely for practice training.** That’s what we were told. [...]

The covert purpose, which they told me, as a commander, was training practice. The purpose they told the soldiers, which was the open purpose, was to gather intel on the village [...].”²⁶⁶

Officially, the army denies mapping is used to train soldiers and claims that “mapping structures as a type of exercise or practice is absolutely prohibited.”²⁶⁷ And yet, the soldier’s testimony indicates he was explicitly told the mapping was practice, and this was not his subjective interpretation.

2. Invasion of privacy and collection of personal information

The harm caused by mapping is twofold. First, like any military home invasion, the family’s privacy and sense of security are violated, and its daily life is disrupted when foreign soldiers invade its home in the middle of the night, sometimes remaining in it without supervision, searching even its most private areas. For example, an officer with the rank of major described his experiences during a search of a Palestinian home in the village Idhna:

“The person who opened the door for us was a woman, I think in her thirties, and it turned

out that other than her, there were two or three small children in the house. The oldest must have been 10, and I’m exaggerating, three, four, five, six, somewhere around there, just her and the kids. “Where’s your husband?” Her husband is a fashion designer, and he’s trying to sell his collection in Jordan right now, and she’s alone with the kids in the house, and her husband is a fucking fashion designer who’s trying to make a living by trying to sell what he’s making in Jordan. And there’s half a company raiding his house in the middle of the night with small children who are sitting and crying hysterically, with two soldiers standing next to them while the rest are mapping the house. And I just wanted to die. I just wanted to like, die. [...]

Because the Shin Bet wanted information that might serve it one day, and probably won’t; for the sake of demonstrating presence, and for all these things, like, again, in the end, I don’t know what their views are and what their mentality is, but it’s a house that wasn’t on anybody’s radar, with a fucking fashion designer, his wife, and little kids I have no doubt will grow up, each one of them, to hate us, and I completely understand why. We created something that isn’t connected to an objective perspective or anything in this family. They, psychologically, this thing will stay with them their whole lives, just like it stayed with me.”²⁶⁸

Second, mapping inherently involves the forced collection of private information about civilians - photographs and details regarding the layout of their house.

“[...] We would start asking them questions: where does dad work, what kind of car does he have, what do they do, where do the children study, where do they work, do they throw stones, and all kind of things like that. And then one of the soldiers would sketch the structure of the

266. Testimony collected by Breaking the Silence from a first sergeant, Homefront Command (Search and Rescue), 2014-2017, Testimony No. 14.

267. Letter from IDF Spokesperson to B’Tselem, “Re: Your letter to the IDF Spokesperson regarding IDF orders for mapping structures”, September 3, 2015 (Hebrew). We note that the military is not making a sweeping denial that training takes place inside Palestinian villages in the West Bank, but does claim it attempts “to minimize the inconvenience it may cause” to residents. Letter from the Legal Advisor - Judea & Samaria to Michael Sfarid Law Office (Yesh Din’s legal advisor), “Re: Your letter regarding IDF training in Palestinian villages”, April 28, 2014.

268. Testimony collected by Breaking the Silence from a major, Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51.

house in a notebook, where the rooms are, who lives where, and the last step was to photograph them. They would stand there in the middle of the night, each one holding their ID card and we'd photograph them."²⁶⁹

A testimony given to B'Tselem by Nayef Da'na, a resident of Hebron, indicates the collection of information may include photographing minors and demonstrates how this practice harms children:

"The soldier ordered me to wake up the whole family. My wife tried to persuade the soldiers not to wake up the children. She explained that they were all small and would be scared to see the soldiers, but the soldier insisted that we wake them. My daughter Butul, who is seven, woke up and stood by the door of her room. She was very frightened. I calmed her down and woke my sons 'Udai, 13, and Qusai, 12. I did not wake up my sons Suhaib, who is 10, or Tammer, who is two-and-a-half. The soldiers took 'Udai and Qusai into the living room. One soldier asked them for their names and then photographed them. He also photographed me and my wife Dalal. My children were really scared, especially Qusai. After the soldiers left our home, Qusai started to cry."²⁷⁰

The information in our possession precludes a determination as to whether and how personal information concerning thousands

of people is saved. Do security forces have a database where they store the information? And if so, is the information sufficiently secured? Who has access to it? Is it properly monitored? Even if the information is properly stored and secured (in some cases, as mentioned, the information is not saved at all), systematically collecting information about individuals who are not suspects in any offense is an additional infringement on Palestinians' right to privacy and creates a climate of fear and intimidation. Palestinians do not know what the army might do with the information it collects, and from their perspective, their private information could be used against them.

Marshad Karaki's home in Hebron was invaded for mapping twice in less than three months in 2019. In both instances, family members and all the rooms in the house were photographed. Karaki shared his profound fear concerning the possible use of the photographs with Yesh Din's field researcher.

"One of the soldiers was a Bedouin, and one was tall and blond. He started taking pictures of all of us, including the women who came out to see what was going on. I protested that they were taking pictures of the women too, and all the rooms in the house. The commander replied that they were taking pictures without authorization, without reason, and without consent - just like that! The women were very frightened. I tried again, like the previous time, to explain that taking pictures of the women violates our dignity and disrespects our tradition. I'm very worried about what the pictures of the girls might be used for in the age of modern technology."²⁷¹

269. Testimony collected by Breaking the Silence from a lieutenant, Armored Corps, 2015, Testimony No.58, full testimony available on the Breaking the Silence website, "[They would stand there in the middle of the night, each one holding their ID card and we'd photograph them](#)".

270. B'Tselem, "[Masked soldiers enter Palestinian homes in Hebron in dead of night, order residents to wake their children, and photograph the children](#)", March 29, 2015. 265. Testimony collected by Breaking the Silence from a lieutenant, 2014, Testimony No. 59.

271. Testimony collected by Yesh Din from Marshad Karaki, a man from Hebron, about a soldier invasion of his home on August 21, 2019, Yesh Din Case 4506/19.

3. Illegal practices

Home invasions for the purpose of mapping demonstrate how, in a reality of prolonged occupation, the Israeli military blurs the distinction between actions designed to protect against enemies and those designed to retain control over the population and oppress civil resistance to it, even when such resistance does not include militarized action. This obfuscation results in severe violations of Palestinians' rights. In addition, testimonies regarding the use of this practice indicate that at least in some cases, it is undertaken without legal authority, even within the broad scope of the laws of occupation and military law.

The military presumably considers the power to enter Palestinian homes to carry out mapping as emanating from its power and duty to maintain public order and safety in the occupied territory, as stipulated in IHL.²⁷² Two different legal frameworks grant the Israeli military the power to take action to uphold public order and safety in the Occupied Palestinian Territories: one applies to non-combat, civilian affairs such as protests (even those considered to be disturbances of the peace or riots and even ones that include stone and Molotov cocktail throwing). The other applies to incidents that fall under the terms of armed conflict. The laws of war grant the occupying forces extremely broad powers to perform actions required for "military need." However, these broad powers apply only in situations or needs that fall under the definition of armed conflict. They do not apply to situations that are better described as law enforcement or maintenance of public order.²⁷³

The broad powers provided for in the laws of war ostensibly give the Israeli military legal authorization to conduct mapping

operations in the homes of Palestinians who are not suspected of any offense. However, this authority is restricted to conditions in which the need for mapping may be justified as arising from the challenges of armed conflict. Any need that cannot be justified in this manner is governed by the more restrictive legal framework of law enforcement for the purpose of maintaining public order.

The military has no legal authority to perform mapping operations when their purpose is related to law enforcement or the maintenance of public order, and such actions are entirely illegitimate. Given that international law prohibits arbitrary infringement on rights and requires ensuring any such infringement is proportionate,²⁷⁴ it is highly doubtful that any instance of mapping could be considered legal under international law if the purpose of this action falls under the legal framework of law enforcement. Invading the private premises of persons who are not suspected of any offense and collecting information about them contravenes fundamental tenets of human rights protection. According to these principles, state authorities may not infringe on the rights of individuals unless they are suspected of involvement in or commission of an offense, or because they pose an immediate threat. Even then, action may be taken only with proper scrutiny to ensure there is justified cause and evidence to support it. The mere identity of Palestinian residents of the West Bank makes them neither suspect nor dangerous and cannot justify the violation of their rights.

Furthermore, while military law does grant (expansive and permissive) authority to enter homes for the purposes of searches or arrests in the context of "law enforcement," it provides no authorization for the routine practice of mapping - invading homes without any concrete suspicions in order to collect information.²⁷⁵ **In the absence of legislation that**

272. The military did not address mapping in its response to the Freedom of Information Application regarding home invasions, which requested details of the orders, procedures and commands concerning all the types of raids. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act", November 18, 2019 (Hebrew). We therefore have no definitive knowledge of the military's stance as to its authority on the issue of mapping. Article 43 of The Hague Regulations, which is considered the fundamental guiding principle for the actions of an occupying power and the relationship between ruler and resident in occupied territory, stipulates that other than security, the main considerations that may guide the occupying power in exercising its governmental powers and authorities is the benefit of the local population and the principle of preservation. According to the accepted interpretation of this article, the occupying power must govern the territory as a trustee, while striking a balance between maintaining security and facilitating the continuation of civic life for the local population, which is the beneficiary of the occupation regime. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Article 47; **Convention (IV) relative to the Protection of Civilian Persons in Time of War** Geneva (1949), Article 43. 273. See, e.g.: The Public Committee to examine the Maritime Incident of May 31, 2010 - The Turkel Commission, Second Report: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law (February 2013), pp. 68-69. For more see also: HCJ 3003/18 Yesh Din v. Chief of Staff, (Hebrew), April 15, 2018, paras. 36-46.

274. See section B.2 and section E.1 of this report.

275. The few comments made by military officials regarding these operations indicate a possibility that the military considers some of them to be search operations. In any case, given that mapping is undertaken in instances when the occupants of the home are not suspected of any offenses, this claim is unacceptable. In response to a letter from Yesh Din's legal advisor, the Legal Advisor - Judea & Samaria wrote: "In Judea and Samaria generally, and in the Samaria Regional Brigade particularly combat operations are conducted for the purpose of searching and collecting information on structures in the Judea and Samaria area (sometimes called 'mapping of structures'). The goal of 'mapping structures' in Judea and Samaria is reconnaissance for various reasons according to a substantiated military need [...]" Letter from head of the Legal Advisor - Judea & Samaria Operations and Human Rights Division to Michael Sfarid Law Office (Yesh Din's legal advisor) "Re: Your Letter on behalf of Yesh Din concerning military exercises in villages", July 13, 2015 [emphasis in original].

clearly stipulates the conditions in which these operations are permitted, insofar as they are undertaken for a purpose linked to the legal framework of law enforcement, they are conducted without authority and are unlawful.

For the sake of comparison, Israeli law and police procedures do not authorize law enforcement agencies to enter private premises in order to collect general intelligence information. Such authorization would belie the precept that the state may not surveil innocent civilians, collect information about them and violate their privacy without warrant. Police carry out reconnaissance using other means and only in connection to suspicions regarding involvement in or commission of a specific offense. Normally, the police and the ISA do not systematically collect information about the citizenry, and no Israeli citizen would imagine their home being invaded by security forces and personal information about them being collected - including those living in the West Bank (settlers). Unlike the latter, Palestinians, who also live in the West Bank, do not have similar peace of mind. For example, Jewish residents of Hebron can rest assured their homes would not be invaded for the purpose of mapping, while the homes of Palestinian residents of this same city frequently are.

The testimonies presented here regarding the routine practice of mapping in the West Bank paint a clear picture: These operations are not reserved for exceptional and rare cases in which the use of such harmful measures may be legally justified under the broad powers the laws of war grant the occupying forces. The testimonies show, inter alia, that in some cases, homes subjected to mapping are not selected beforehand with guidance from intelligence officials but are chosen arbitrarily, like a game of “eeny, meeny, miny, moe.”²⁷⁶ The testimonies further suggest that the practice is also employed in response to incidents the military considers “disturbances of the peace” or “riots,” such as stone-throwing, against families who are not subject to any concrete suspicion.

The use of mapping operations in response to incidents the military considers as disturbances of the peace is entirely unlawful: first, because protests - including those involving stone-throwing - are incidents the response to which falls within the legal framework pertaining to law enforcement rather than armed conflict;²⁷⁷ second, because testimonies suggest that

mapping is used as a means of intimidation and deterrence, defying the prohibition international law places on collective punishment and the use of means intended to intimidate or terrorize the occupied population.

Forced intrusion by the military into the private domicile of a family that is suspected of nothing is an injurious practice that has a detrimental impact on children and adults’ mental health. A soldier from the Duvdevan unit described the distress experienced in homes invaded for mapping or searching:

“You go into the house, and panic starts. The parents get angry and confused, and the children cry and often pee their pants; you actually see them peeing their pants. Screaming, crying, and you have to get them to quiet down as fast as possible [...] And, you like find yourself either yelling at children or trying to calm children down, or you order the parents to shut their kids up. It was always a super stressful, super complicated situation [...] but you see, again and again, every time you enter a house, whether it’s an arrest or mapping, what it does to the kids.”²⁷⁸

In addition to the severe mental health repercussions, the invasion of private space and the collection of personal information by agents of the regime involved in this practice make it **a gross violation of innocent civilians’ right to privacy, security and dignity**. As such, even if the military’s contention that mapping is undertaken in order to collect information “according to a substantiated military need” were valid,²⁷⁹ **our information indicates that this is a distinct and extreme case of arbitrary, disproportionate use of force by the regime.**

Violation of the aforesaid rights may be considered permissible when the benefit outweighs the harm and when no less injurious alternatives are available. However, in the case of the routine, brutal invasion of Palestinians’ privacy without proper consideration for the harm it inflicts on thousands if not hundreds of thousands of people, many of them minors - **the violation is clearly disproportionate.**

276. See quote on page X from a testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, 2013-2016, Testimony No. 19. see p. 69.

277. The Turkel commission made a distinction between, “internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and “direct participation in hostilities”. Second Report, p. 110.

278. Testimony collected by Breaking the Silence from a first sergeant, Duvdevan Unit, 2005-2008, Testimony No. 53.

279. Letter from head of the Legal Advisor – Judea & Samaria Operations and Human Rights Division to Michael Sfard Law Office (Yesh Din’s legal advisor) “Re: Your Letter on behalf of Yesh Din concerning military exercises in villages”, July 13, 2015.

This is doubly true if the information collected during mapping raids is not saved and when the purpose of the raid is not reconnaissance, but, as many soldiers and officers describe, practice, deterrence or demonstrating presence. Moreover, mapping raids performed in order to demonstrate the military's presence or produce deterrence may amount to a violation of the prohibition on intimidation and terrorization set out in international law.

In conclusion, the broad framework of the laws of war ostensibly provides limited authority to conduct mapping operations when there is a military need to collect concrete intelligence in order to counter an enemy as part of an armed conflict. It does not authorize use of this practice to address "disturbances

of the peace," protests or criminal offenses, all of which are governed by legal norms pertaining to law enforcement. The testimonies we collected indicate that the military's use of mapping, which includes invading private domiciles without any concrete suspicions against household members, is **arbitrary and disproportionate, and in at least some cases, lacks any legal authority**. Legality aside, a practice that sees military forces routinely invade the homes of hundreds of innocent people while causing severe harm to civilians living under Israeli rule is morally reprehensible. The expansive use of the laws of war reveals the injustice that results from a reality of prolonged occupation in which the occupier may - in certain conditions - treat the occupied population as an enemy.

"In Hebron, if you're a Palestinian, I'll enter your house whenever I feel like it"²⁸⁰ Hebron as the exception that proves the rule

Over 200,000 Palestinians live in Hebron.²⁸¹ The part of the city designated as H2 is subject to full Israeli security control. It accounts for approximately 20% of the city's total area and contains all of the Israeli settlements. Approximately 33,000 Palestinians and several hundred Israeli settlers and yeshiva students live in this part of Hebron.²⁸²

The Israeli military uses the physical proximity between the Israeli settlement compounds and Palestinian homes as reason to routinely apply extreme measures against Hebron's Palestinian residents,²⁸³ in both the public and private domain.

In public spaces, soldiers and Border Police officers carry out patrols, set up flying checkpoints and inspect passersby and vehicles at random, sometimes using violence. Hebron remains the only Palestinian city (except East Jerusalem) where Israeli security forces maintain a constant presence in public areas as well as exclusively Palestinian residential areas. A system of dozens of checkpoints and barriers installed by Israel prevents or restricts Palestinian residents' access to their homes, and only Jews are permitted to use main roads in the Old City of Hebron.

The perpetual disruption of Palestinians' lives in the city also takes the shape of recurrent invasions of their private spaces. Compared with the rest of the West Bank, Palestinian residents of Hebron suffer more intensely from military invasions into their homes and privacy, and some practices are unique to the area. Hebron homes are invaded at all hours of the day and night. Low-ranking Israeli soldiers invade homes daily as part of routine patrols. In addition, military seizures of roofs or sections of houses and mapping raids are significantly more frequent in Hebron than elsewhere in the West Bank.

"[I]t's just people walking into your home at 5 PM. [...] it was simply an order to walk around there and enter houses [...] [In] every house you go up, enter the house, walk around the roofs."²⁸⁴

280. Testimony collected by Breaking the Silence from a lieutenant, Nahal 932nd Battalion, 2014. Breaking the Silence, [Occupying Hebron: Soldiers' Testimonies from Hebron 2011-2017](#), pp. 40-41 (Hereinafter: **Occupying Hebron**).

281. State of Palestine, Palestinian Central Bureau of Statistics, **Preliminary Results of the Population, Housing and Establishments Census 2017**, p. 78.

282. United Nations Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory, **The humanitarian situation in the H2 area of the Hebron city - Findings of needs assessment**, 2019 (hereafter: OCHA oPt, **H2 area**), p.2.

283. For further reading about Hebron see, B'Tselem [Playing the Security Card Israeli Policy in Hebron as a Means to Effect Forcible Transfer of Local Palestinians](#), September 2019.

284. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2016, **Occupying Hebron**, p. 48.

"Witness: We had to do three or four patrols every day, for security checks. You have Zion [route], the Jaabri neighborhood, above the Tomb [of the Patriarchs]. We would go, enter the neighborhood, and every time there was this thing where they asked us to go up on as many roofs as possible. [...]

Interviewer: And how many of these houses did you enter and go up to their roofs?

Witness: Dozens, dozens."²⁸⁵

The homes selected for a raid are often chosen by soldiers or junior officers entirely arbitrarily.

"Interviewer: And how do you choose which homes you enter?

Witness: Completely randomly. Really, completely randomly. [...] I, as the commander [with a rank of first sergeant] would hand in an evening plan before going out on patrol, and I would decide randomly."²⁸⁶

The presence of settler compounds in the middle of Palestinian neighborhoods in Hebron directly affects the soldiers' conduct and exacerbates the harm caused to Palestinians. Soldiers take over roofs to use as observation posts on weekends, holidays and even during private events held by the settlers. In addition, Palestinians whose homes are adjacent to settlers' homes are at higher risk of harm and invasion of privacy.

Hazem Abu Rajab, who lives with his family in a section of a building that Israeli settlers have been attempting to take over since 2012, told Yesh Din that in January of 2019, that soldiers invaded his home more than 20 times.

"It's not new. It happens every time the soldiers come into the house. They didn't ask about money, and I think the entry is just harassment, to drive us out of the house."²⁸⁷

In April 2019, OCHA oPt published a study focused on the areas adjacent to the Israeli settlements in Hebron and areas where the military denies or restricts Palestinian movement, areas where approximately 7,000 Palestinians reside. The study found that between October 2015 and the summer of 2018, Israeli soldiers invaded 75% of Palestinian homes located in these areas. In 97% of the cases, family members reported that their home was subject to a search raid, which included threats and intimidation; in one-third of all cases, a family member was physically assaulted. In 44% of the cases, families reported that the military took control of a roof or another part of the home. In one in five families, the military detained at least one child.²⁸⁸

In Hebron, home invasions are undertaken to demonstrate the presence of the Israeli military in Palestinian neighborhoods and create a "control mechanism."²⁸⁹ Soldiers who served in the city said the mission was to "show the Palestinians

285. Testimony collected by Breaking the Silence, Givati Rotem Battalion, 2013, **Occupying Hebron**, p. 45.

286. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2018, Testimony No. 60.

287. Testimony collected by Yesh Din from Hazem Abu Rajab, a man from Hebron, January 31, 2019, Yesh Din Case 4352/19. Abu Rajab lives in a building Israeli settlers have been trying to take over since 2012. In March 2018, the High Court of Justice dismissed a petition by settlers who took up residence in the structure asking they not be evicted until ownership of the building is clarified. In August 2019, a group of settlers reoccupied the building. For more details about the legal struggle over the building, see: Yotam Berger, "Jewish Settlers Reoccupy Hebron Building After Israeli Authority Rules in Their Favor", **Haaretz English website**, August 28, 2019.

288. OCHA oPt, **H2 area**, p. 6.

289. Testimony collected by Breaking the Silence from a captain, **Occupying Hebron**, p. 43.

there's someone ruling over them"²⁹⁰ and "to increase the sense of persecution."²⁹¹ In this context, the blurring of public and private space in the city is particularly stark, with both being completely vulnerable to prolonged military presence.

"The security concept [...] is that you have to be everywhere at any given moment. The Palestinians have to get up in the morning, go to school - see a soldier. On the way back, they see a soldier. Maybe there was a raid while the guys, the kids were at school, and at night, when they arrested your uncle or something. [...] The security concepts regarding private and public space fully overlap."²⁹²

Because of the unique characteristics of military activity in the city, Hebron is not a test case for Israeli soldiers' invasions of Palestinian homes. At the same time, military activity in Hebron does clearly demonstrate the arbitrary nature of these invasions and the fact that their purpose is to intimidate and oppress the occupied population.

290. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, **ibid.**, p. 68.

291. Testimony collected by Breaking the Silence from a first sergeant, Nahal Reconnaissance Battalion, **ibid.**, p. 46.

292. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2007-2010, Testimony No. 43.

C.

ARRESTS²⁹³

Israeli security forces often arrest Palestinians in the West Bank by invading their homes at night. This practice is not limited to cases in which the individual sought poses a special risk or tries to avoid capture, but rather a method routinely used without examining alternatives. Palestinian children, women and men are arrested in their homes on a wide range of suspected criminal offenses, as well as “security offenses” of varying gravity.

Of the home invasions for the purpose of arrest documented by Yesh Din, 95% took place between midnight and 5:00 A.M.

The families estimated that the soldiers remained in their homes for anywhere between 20 minutes and several hours, averaging at an hour. In some of the documented cases (about 57%), the house was searched as well.²⁹⁴

Arrests are used by state authorities to restrict personal liberty. Unlike imprisonment, an arrest is not punishment but rather a stage in the criminal proceedings meant to enable the authorities to uphold the rule of law. As a rule, this measure is designed to enable law enforcement agencies to interrogate suspects and prevent them from obstructing justice or committing other offenses. Because of the inherent infringement on individual liberties, in democracies, grounds for arrest are limited and clearly defined.

Night invasions of homes are difficult, traumatic experiences that affect the lives of all members of the household. That is why choosing this method exacerbates the harm entailed in arrests, especially when the persons detained are minors, or when minors are witness to the arrest. Therefore, use of this measure should be further restricted.

"On the 14th of this month, July 2019, at 3:00 A.M., we were asleep. Suddenly, we heard loud banging on our front door. Soldiers came in, immediately split up and spread out in the house, on all the floors. They put all of us, including the children, in the living room – this room we're sitting in now. Unfortunately, my seven-year-old brother was at home, too. Since then, he's been very angry that they took S. [the witness' 23-year-old sister, who has an 18-month-old child]. He can't let go of it and keeps asking why they took S., why they arrested her. He's very scared. [...] There were many soldiers, maybe 30 inside the house and more around it, outside [...].

They interrogated her [S.] alone in a room. From the living room, we could hear them dragging her out of the room, in order to lead her out of the house and put her in a jeep. We heard S. resisting and asking for a chance to say goodbye to us, but they refused. S. was in her prayer clothes when the soldiers came into our house. When they took her away, she was still wearing them. They didn't let her change. My brothers asked the soldiers to let them say goodbye to her, but they wouldn't let any of us out of the room. The soldiers pointed their weapons at my brothers so they wouldn't move or get up. They handcuffed S. and dragged her out of the house. My parents cried, we cried. My brothers were angry and insisted that they let us say goodbye to our sister. An officer brought S. into the living room. We all encouraged her to be strong and take care of herself. S. looked scared. She was shaking, with her hands tied and wearing flip-flops. She said: "Look after my

293. This chapter centers on arrests carried out through home invasions and does not address other issues relating to the arrest of Palestinians in the West Bank. For more information on the harm caused to Palestinian minors and adults during their detention and in legal proceedings, see a variety of reports on the subject, such as B'Tselem, [Minors in Jeopardy - Violation of the Rights of Palestinian Minors by Israel's Military Courts](#), March 2018 (hereinafter: **Minors in Jeopardy**); Military Court Watch, [Monitoring the Treatment of Children Held in Israeli Military Detention](#), Annual Report, June 2019; and [Addameer - Prisoner Support and Human Rights Association](#). For a comparison of the Israeli and military legal systems applying in the West Bank throughout the stages of criminal proceedings, see the Association for Civil Rights in Israel (ACRI), [One Rule, Two Legal Systems](#), October 2014.

294. The figures on the time of the invasion are based on 58 arrest raids documented by Yesh Din from March 2018 to May 2019. The figures on the length of the invasion are based on 44 incidents for which Yesh Din received estimates as to their length.

295. Testimony collected by Yesh Din from Jihad Albadan, a woman from Tekoa, July 14, 2019, Yesh Din Case 4483/19.

daughter for me.” They didn’t let her put shoes on. When they took her outside, we wanted to accompany her, but the soldiers aimed their guns at us and said: “Go inside.”²⁹⁵

In the absence of precise figures, we estimate that arrest raids make up a large part of all military invasions into Palestinian homes in the West Bank. According to B’Tselem figures, in the first five months of 2019, at least 1,189 Palestinians were arrested throughout the West Bank, 144 of them minors.²⁹⁶ This translates to an average of 238 people a month and about 55 a week. Many of the arrests are carried out by invading homes at night.

In this chapter, we analyze the practice of home invasions for the purpose of arrest, examining the laws, procedures and (known) orders guiding the military’s conduct. It is important to recall that this report does not address the grounds for the arrest, any additional harm caused to detainees after being taken into custody, or the subsequent legal proceedings in their cases. Rather, it centers on the practice of invading Palestinian homes. Accordingly, this chapter focuses on the invasion and the arrest and examines the harm they cause to household members collectively and individually.

1. Lack of judicial review invites arbitrary violation of rights

According to the Order regarding Security Provisions, “a soldier is authorized to arrest, without an arrest warrant, any person who violates the provisions of this Order or whom there is room to suspect of having committed an offense under this Order.”²⁹⁷ Israeli security forces do not need a judicial warrant to arrest a Palestinian, nor does military law specify the grounds for deciding on an arrest, requiring only a low-level suspicion

to justify such a decision. Arrests are permitted when “there is room” for suspicion that a person has violated the Order, and “reasonable suspicion” is not required.²⁹⁸

While arresting Palestinians in the West Bank does not require a judicial warrant, military law does require that an “arrest order” be issued, before **or after** the arrest, by a commissioned police officer, who is external to the military but part of the law enforcement mechanism. This officer has the power to issue an order for the arrest of a person on suspicion of having committed a security offense or other offenses.²⁹⁹ As the arrest order can be issued subsequent to the arrest, security forces may arrest a person without a warrant, and even without a police order, if there is room for suspicion that the individual violated the Order regarding Security Provisions. In addition, as the time allotted for issuing an arrest order retroactively and the time allotted for bringing a detainee before a military judge are identical, meaning that even without an arrest order issued by a police officer, the military can hold a detainee for many days.³⁰⁰

Moreover, as a warrant is not required, a decision to arrest a Palestinian in the West Bank does not undergo judicial review until the individual is remanded in custody. Judicial review of the decision to deny personal freedom is an important safeguard used in all legal systems that cherish individual liberties. Without it, unnecessary and arbitrary arrests are made possible. The risk of rights violations is higher for Palestinians given the broad, permissive definition of the circumstances (grounds and degree of suspicion) in which an arrest can be authorized. As noted, the necessity of the arrest is not judicially reviewed until the detainee appears in military court for a remand hearing, at which point, it is usually the need to extend the detention that is reviewed, rather than the original reasons for it.³⁰¹

Israeli law, which applies in Israel and in the settlements, recognizes the importance of judicial review for protecting

296. The figures relate to December 29, 2018 to May 25, 2019. For further details, see: B’Tselem website, [#Occupation365 – Updates from the West Bank routine](#). According to B’Tselem, a monthly average of 5,778 Palestinian prisoners and detainees were held by the Israeli Prison Service and the military in 2018. For further details, see: B’Tselem website, [Statistics on Palestinians in the custody of Israeli security forces](#).

297. Order regarding Security Provisions, Sec. 31(a). An arrest order is issued by a commissioned police officer – before or after the arrest – and is usually carried out by soldiers. The police officer is authorized to order the arrest of an individual on suspicion of having committed security offenses or other offenses. It is important to note that the arrest order does not substitute an arrest warrant. In other words, Israeli security forces may arrest Palestinians on the suspicion they committed an offense without a judicial warrant.

298. Order regarding Security Provisions, Sec. 31-30.

299. Order regarding Security Provisions, Sec. 30: “An arrest warrant under this article shall be executed by a soldier.” Sec. 31 (c2) (c3).

300. Ninety-six hours for a suspected security offense and 48 hours for other suspected offense, for adults. Order regarding Security Provisions, Sec. 31 (c) (c1) (c2) (c3).

301. The deadline for bringing a detainee before a military judge changes according to the detainee’s age and the suspected offense (security related versus non-security related). With respect to security offenses, an adult detainee can be held for 96 hours to eight days before a court hearing; a minor aged 16-17 (“a minor who is at least 16 but younger than 18”) can be held for 72 hours to 6 days; minors aged 14-15 (“young adult”), 48 to 96 hours; minors aged 12-13 (“juvenile”), 24 to 48 hours. With respect to regular, non “security” offenses, adults and minors aged 14 to 18 may be held for 48 to 72 hours; minors aged 12-14, 24 to 48 hours (Order regarding Security Provisions, Secs. 1, 31, 32).

individual liberties and limits the circumstances in which a person's freedom can be curtailed. The law stipulates that, as a rule, arrests must be made with a warrant issued by a judge who has reviewed evidence presented by the police and concluded there were sufficient grounds for an arrest and reasonable suspicion that the conditions permitting arrest have been satisfied.³⁰² An arrest without a judicial warrant is an exception that Israeli law reserves for narrow grounds with enough gravity and urgency to forgo application to the court, therefore allowing a police officer to carry out the arrest.³⁰³

The provisions of military law discussed here pertain to any arrest, whether carried out via home invasion or not. However, they have two layers of added meaning in the context of arrests in the home. First, the harm inflicted by arrests carried out via home invasion is twofold, as they affect both the individuals arrested and the people around them. The necessity of this added harm is not brought for external judicial review, allowing unlimited use. Even if, in certain cases, the nature of the suspicions against the detainee compels the military to take such extreme action, clearly not all arrests of Palestinians in the West Bank meet this criterion. It is even safe to assume that most do not.

A testimony given by an officer with the rank of captain to Breaking the Silence demonstrates how this permissive approach in military law enables arbitrary arrests by invading homes, harming entire families. Undoubtedly, this testimony does not represent routine or prevalent use of home invasions as a means for carrying out an arrest. It does, however, offer a disturbing example of what can result from the lack of restriction on arrests in military law. The officer describes a night raid on a home and brief detention of several family members, carried out primarily to train soldiers. This is a clear example of disproportionate harm to the population, prohibited by international law, as military training can by no means justify the harm caused to the family.

"Witness: We were in the South Hebron Hills. A trainees' company commander (a commander for a company of combatants in training) arrived for a weekend in the area. He wanted, on the instructions of his battalion commander, to

train his soldiers [...] In area C (areas in the West Bank under Israeli civilian and security control) we didn't need to ask for authorization from anyone.

Interviewer: You decide at the battalion level?

Witness: Yes. A company commander arrives in the area and requests that we give him houses to make arrests. We gave him a few houses in [the village of] a-Ramadin to make arrests in. At first the objective was to arrest someone, to enter houses that we have a tiny bit of intelligence information about. [So they] sat with a scout who looked at houses in Ramadin. They asked her which house is suspicious, she pointed to a few houses and told us about suspicious conduct. [...] It was clear to both the company commander and to us that there is nothing here. He entered, made an arrest. The arrest ended with [them] taking everyone out of the house, interrogating them, putting them on the Wolf (armored transport vehicle) and then releasing them. [...] All the men. The women and children were outside. It was simply training practice, up to the [use of] zip ties. At the Wolf the practice ends and they are brought back. A real sense took root that these are not human beings. Obviously we can arrest them, [but] we're also humane so we'll release them along the way."³⁰⁴

Second, from the perspective of the detainees and their families, the fact that no arrest warrant, arrest order or any other authorization is presented during the incident means the invasion of the home and the arrest are arbitrary and depend on the power and whim of the soldiers. The grounds for the arrest and the authority that determined it was necessary remain unknown. In contrast, Israeli law stipulates that a person making an arrest must identify themselves to the suspect, immediately notify the suspect that they are under arrest, and clarify the grounds for the arrest as soon as possible. The law also requires the person making the arrest to provide the

302. Criminal Procedure Law (Enforcement Powers - Arrests) 1996. Sec. 4, 13. Police National Headquarters Ordinance 14.01.34, Sec. 7(a)2.

303. Criminal Procedure Law (Enforcement Powers - Arrests) 1996. Sec. 23(a).

304. Testimony collected by Breaking the Silence from a major, Hebron area, 2010. The full testimony is available on the Breaking the Silence website, [A real sense took root that these are not human beings](#).

detainee with a copy of the arrest warrant, except in unusual circumstances.³⁰⁵ If these requirements are not met, the detainee is not considered to be in legal custody, and, according to police ordinances, is free to escape and practice self-defense as if the arresting officer were an assailant.³⁰⁶

No judicial warrant, arrest order or any other order authorizing the home invasion was presented to the family in any of the cases documented by Yesh Din in which soldiers raided a home for a planned arrest. Not only did the soldiers fail to present documentation - in most cases, but they also do not provide a verbal explanation for the invasion and the arrest. This amplifies the uncertainty experienced by the families. When asked whether the forces would tell the families why they were invading their homes, a captain in the Armored Corps simply replied: "Of course not."³⁰⁷ An officer with the rank of major with the Air Defense Command told Breaking the Silence:

"You don't explain to them what's going on; you tell them what to do. Those are two different things. You tell them where they have to be and ask them questions such as who's here, is there anything here, is there anyone here, who else is here, stuff like that. If it's an arrest, you take whoever you have to. But you don't explain anything to anyone [...]."³⁰⁸

A.R. from the village of Tell spoke to Yesh Din about the conduct of the soldiers who arrested his son, noting their refusal to explain the invasion:

"As soon as I opened the door, about ten soldiers barged into the house. Their faces weren't covered. One of them was an officer. He didn't identify himself. They didn't have

a warrant, and they provided no explanation regarding the purpose of entering the house. [...] After the search, they told me they were going to arrest my son M. [who is 19]. I asked why. They didn't answer, didn't give an explanation and didn't leave a warrant."³⁰⁹

2. Harm to innocent family members

The only instruction in the Order regarding Security provisions concerning the rights of detainees and their families relates to the obligation to notify the detainee's family and lawyer of the arrest and the detainee's whereabouts.³¹⁰ Military law is silent on the manner in which arrests should be carried out, and the result is violations of the dignity and sometimes bodily integrity of detainees and their relatives during military arrest raids.

By comparison, Israeli law shows how legislation can try to minimize (or at least reduce) harm to detainees during their arrest. The law and the relevant Police Ordinance stipulate that "the arrest and detention of a person shall be conducted in a way that ensures maximal protection of the individual's dignity and rights."³¹¹ The law further states that force may be used against detainees only when there is concern that they may flee, cause bodily harm or damage property.³¹²

Arrests by home invasion harm not only the detainees but their family members, who are also affected by the soldiers' intrusion into their homes. The soldiers' aggressive conduct exacerbates this injury. The proportion of cases in which soldiers forced open the door or used violence was higher in arrest raids compared to the total number of cases documented by Yesh Din (for further information on use of violence, see p. 34-36). **About 35% of military invasions for the purpose of arrests documented by Yesh Din began with the door being forced open, damaged or destroyed.**³¹³ In these cases, the

305. Criminal Procedure Law (Enforcement Powers - Arrests), Sec. 24.

306. Criminal Procedure Law (Enforcement Powers - Arrests), Sec. 24. Police National Headquarters Ordinance 14.01.34, Sec. 2(g)

307. Testimony collected by Breaking the Silence from a first sergeant, Armored Corps Reconnaissance Platoon, 2006-2011, Testimony No. 32.

308. Testimony collected by Breaking the Silence from a major, Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51.

309. Testimony collected by Yesh Din from A.R., a man from Tell, March 6, 2018, Yesh Din Case 4071/18.

310. Order regarding Security Provisions, Sec. 53(a) and 53(b). Sec. 54 allows deferral of notice regarding the arrest of a person.

311. Criminal Procedure Law (Enforcement Powers - Arrests), Sec. 1(b). Police National Headquarters Ordinance 14.01.34, Sec. 2(c).

312. Criminal Procedure Law (Enforcement Powers - Arrests), Sec. 10(a). Israeli law also stipulates that notice of the detainee's arrest and whereabouts be given to the family immediately, unless the detainee requested otherwise, and to the lawyer whose details the detainee provided or to a lawyer from the Public Defender's Office. These duties are also clarified in the police order. Criminal Procedure Law (Enforcement Powers - Arrests), Sec. 33. Police National Headquarters Ordinance 14.01.34, Sec. 4(c), 5(a)4 and 6(c).

313. The figure is based on 57 arrest raids, regarding which Yesh Din obtained information on the way the soldiers entered the house. In 18 cases, soldiers reportedly forced open or broke the door. In one case, the force reportedly tried to force open the door but stopped when the family opened it. In another case, the force reportedly broke a window in the door.

act of entering the house alone causes property damage, and perhaps worse, undermines the occupants' sense of security.³¹⁴

“Interviewer: When you go into a house, do you knock on the door?”

Witness: You kick it. You knock on the door, break in quickly and spread out in the rooms with a scope aimed at the head of every person. “Yalla, good morning.” All kinds of means were used, shouting, explosives, breaching explosives. Dogs were used, ladders were used, entry through windows. We knew how many people were in the house that day; we knew its layout. You go inside the house; you see four people sleeping in the living room on mattresses and another one in the next room. You grab the one you're looking for, check everyone's IDs; you don't want them to know which one you're looking for either. That night, with the 17-year-old – he doesn't understand Hebrew when you talk to him, but when you shout, he understands everything, every word.³¹⁵

Even when the troops don't force open or break the door, the invasion is violent and aggressive. This is how an officer with the rank of lieutenant described the first moments of an arrest in which the family opened the door: “[They] open the door a bit, [you] knock it to hell - ‘Hi guys, we're here.’”³¹⁶ Once inside, the soldiers round up the occupants and look for the person they came to arrest.

Testimonies indicate that there are no permanent, binding directives on protecting the rights of the detainees or their family members during the invasions. No instructions exist, for instance, on allowing detainees (even those who do not

resist and pose no threat) to say goodbye to their families, get dressed or put on shoes. Some detainees are able to do so, and some are not. This means that the commanding officer's personality or even his particular mood can dictate how badly the entire family is affected

“In arrests, or various other kinds of entries into homes, it's a question of mood, how the commander shows up, whether he's in a combative mood that day or shows up in a good mood. It changes the picture for everyone taking part in the arrest.”³¹⁷

The testimony of B.H. from 'Azzun, whose two sons were arrested and released the following day, illustrates how violence towards family members can be part of an aggressive arrest raid and what can happen when soldiers are not directed to protect the rights of detainees and their families.

“At 1:55 A.M., I heard stun grenades exploding in the neighborhood, outside our house. We woke up, and then we heard knocking on the front door. They also banged on the door with a kind of big hammer we call a “Mahdi.” We opened the front door. **One of the soldiers came up to me and pushed me with his weapon, and I fell down. I think there were maybe 30 soldiers in the house.**

[...]

They didn't have any paper [warrant]. Some of the soldiers were masked. Others had black paint on their faces [...]. I could hear dogs outside. They put us all in the living room, and

314. This chapter focuses on the most common method of arrest, in which soldiers knock on the door or break it down and then invade the house and locate the wanted person. Some arrests are carried out differently. For example, the method known in military parlance as “pressure cooker”, in which forces surround the house and pressure the wanted person to come out in various ways, which sometimes include gunfire and even use of heavy machinery to demolish the house. See, for example, Shay Levy, “World Experts in Urban Areas: How the IDF Fights in Alleyways”, Mako, June 17, 2014 (Hebrew).

315. Testimony collected by Breaking the Silence from a first sergeant, Armored Corps Reconnaissance Unit 401st Brigade, Nablus Area, 2010. The full testimony is available on the Breaking the Silence website, [When you shout, he understands everything](#) (Hebrew).

316. Testimony collected by Breaking the Silence from a lieutenant, Artillery Corps, 2013-2018, Testimony No. 42.

317. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2012-2015, Testimony No. 46.

five soldiers guarded us. They didn't let us get up, drink water or go to the bathroom. We sat on the couches.
[...]

They arrested the two boys, M. and Mh. They handcuffed and blindfolded M. They took them both to the police station in [the settlement of] Kedumim, and they were released the next day. They took them away without giving them a chance to say anything or take any clothes with them.”³¹⁸

In addition to violence and physical force, home invasions for the purpose of arrests can include threats towards the occupants. Testimonies indicate that the military and the ISA sometimes resort to extreme intimidation, including death threats, towards family members during the invasion or soon after, if the target of the arrest is not located.³¹⁹

Using intimidation as a form of pressure is a wrongful, unlawful practice that aggravates the harm already caused to families and communities in any arrest carried out through a home invasion. Threats that put relatives in a position where they are ostensibly responsible for bringing in their family member blur the line between that individual (who is supposedly wanted on suspicion of personally committing an offense) and this person's relatives (who are not suspected of anything). This kind of intimidation sends the message that the Israeli army is an omnipotent power that acts arbitrarily and is not subject to legal norms.

“Before he left, the officer said to me: “If you don't turn your son in within 24 hours, we'll

give him back to you as a corpse.” I believe he meant it. I said to him again: “Give us a formal summons, and I'll bring him in, not like this, like a street gang.” He said, again: “I'm here to arrest him, and that's that.”³²⁰

3. Violation of children's rights

Article 3 of the Convention on the Rights of the Child (CRC) states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”³²¹ The child's best interest, one of the four key principles of the Convention, encapsulates the unique circumstances of childhood. The needs, rights and wishes of children must be protected because they are constantly developing. Only when they reach adulthood can they independently and fully protect their own interests.

Hundreds of Palestinian minors are arrested every year in the West Bank.³²² In many cases, soldiers invade their homes in the dead of night, when the entire family is asleep. Arresting minors is necessarily detrimental to their wellbeing. When using this measure, as in every other stage of criminal proceedings, the authorities must ensure full protection of the minors' rights, including special practices that take into account their young age, their developing skills and their needs.³²³

Military law, however, does not include a special order directing the military or its law enforcement system on how to treat minors and demonstrates an approach that fails to properly acknowledge the importance of distinguishing minors from adults in criminal proceedings, including during their arrest. Only a handful of sections in the Order Regarding Security Provisions

318. Testimony collected by Yesh Din from B.H., a woman from 'Azzun, May 15, 2018, Yesh Din Case 4139/18.

319. In eight of the arrests Yesh Din documented, the person the soldiers intended to arrest was not home. In six of these cases, a military or ISA officer threatened a family member during or soon after the invasion that if the wanted person did not turn themselves in, or was not brought in by a relative, they would be killed.

320. Testimony collected by Yesh Din from Hamzah Tamimi, a man from a-Nabi Saleh, April 29, 2019, Yesh Din Case 4433/19. About 15 soldiers invaded Tamimi's home at around 2:00 A.M., looking to arrest his 19-year-old son, M.

321. Convention on the Rights of the Child (1989), Art. 3.

322. The age of majority under military law was raised from 16 to 18 only in 2011, with the change applying only to some matters (Order regarding Security Provisions, Sec. 136). With respect to arrests, military law divides minors into three age groups: “child” – a person under 12 years of age; “juvenile” - a person of the age of 12 and older yet under the age of 14; and “young adult” - a person 14 years of age and older yet under the age of 16; “minor” – a person 16 years of age and older but under the age of 18 and “adult” – a person 18 years of age (Order regarding Security Provisions, Secs. 1, 31 and 32). Children (under the age of 12) do not bear criminal liability for their actions (Order regarding Security Provisions, Sec. 201). Nevertheless, children under the age of 12 are sometimes arrested and released after several hours with no official investigation launched against them and no indictment filed. See, for example, B'Tselem, [“Israeli soldiers forcibly seize 9-year-old Yazan Idris at his elementary school, Hebron”](#), March 21, 2019.

323. Ministry of Justice, Committee for the Examination of Basic Principles in the Field of Children and Law and their Application in Legislation, Report of the Subcommittee on Minors in Criminal Procedures, February 2003 (Hebrew).

address the issue of minors in criminal proceedings.³²⁴ None of them relate to the way in which the military forces must act when arresting a minor. Israeli law, which applies to Israeli minors in the West Bank as well, adopts a very different approach recognizing the importance of the special protections afforded to the rights of minors in legal proceedings. This approach is embodied in the existence of a separate law instructing law enforcement agencies on the treatment of minors.³²⁵

As with adults, arresting Palestinian minors in the West Bank does not require a judicial warrant, but only an arrest order issued by a commissioned police officer. Consequently, there is no judicial review of the decision to arrest the minor or the choice to do so by invading his family's home, which increases the harm to both the minor and the family.

The military claims there is special supervision of minors' arrests, as they require authorization by a "senior legal official" in the military prosecution.³²⁶ Yet this argument does not change the fact that minors are arrested in home invasions (and by other means) without judicial review. Any such official, as senior as they may be, is part of the military law enforcement system. Their decisions are influenced by their position within the military prosecution; they have no judicial training (not as a judge, and certainly not as a juvenile judge); and they cannot be considered independent or impartial. Therefore, authorization by such an official cannot be considered judicial review or an appropriate substitute.

The fact that military law provides no protections for minors during their arrest, coupled with the way these arrests are carried out, results in violations of the minors' dignity and in

repeated breaches of the special protections to which they are entitled under international law, and especially the CRC.

Arresting minors in nocturnal invasions is the method; no alternatives are considered

Despite the negative repercussions arresting children and adolescents at night may have on the detainees and their families, many arrests of Palestinian minors at home are carried out in the middle of the night. About 42% of the participants in a DCIP study of minors' arrests from 2012 to 2015 were arrested at home between midnight and 5:00 A.M.³²⁷ According to Military Court Watch, about half of all arrests of minors are carried out at night.³²⁸

Israeli law recognizes the importance of avoiding the detention of children in general, and particularly at night, in two ways. First, it requires summoning a minor suspected of committing an offense for interrogation and stipulates that a decision to arrest is to be avoided if the purpose of the arrest can be achieved with a lesser infringement of the minor's freedom.³²⁹ Second, it establishes that as a rule, minors should not be interrogated at night, which impacts the hour of the arrest.³³⁰ Additionally, the Police Ordinance explicitly states that a planned arrest or detention of a suspected minor be carried out during the day, with the exception of unusual circumstances and permission from an authorized commissioned officer.³³¹

Palestinian minors in the West Bank are not afforded similar protections. First, **military law imposes no limitations on the time of day in which minors may be arrested or interrogated.** To the best of our knowledge, there is no military protocol prohibiting or restricting night arrests of minors. On the

324. The section entitled Special Provisions regarding Youths and Young Adults sets a shorter timeframe for issuing an arrest warrant for a "young adult" than for an adult (Order regarding Security Provisions, Sec. 31). The section concerning juvenile adjudication stipulates an obligation to notify the parents of the minor, or another close adult, of the minor's arrest, as well as an obligation to inform the minor of the right to consult a lawyer prior to interrogation. The section also stipulates an obligation to notify a lawyer whose information was provided by the minor (Order regarding Security Provisions, Sec. 136a, 136c). Following harsh criticism by Israeli and international human rights organizations, including Yesh Din and several UN commissions regarding the violation of minors' rights in the military court system Israel applies in the West Bank, Israel has introduced several changes in recent years to reinforce the protection of minors' rights in this system. See, e.g.: Yesh Din, **Backyard Proceedings: The implementation of due process rights in the military courts in the Occupied Territories**, December 2007. For more on the arrest of Palestinian minors in the West Bank and the changes made in military law and procedures, see, e.g., B'Tselem, **Minors in Jeopardy**, HaMoked: Center for the Defence of the Individual, **Childhood in Chains: The Detention and Interrogation of Palestinian Teenagers in the West Bank**, April 2018, (hereinafter: **Childhood in Chains**); DCIP (Defense for Children International – Palestine), **No Way to Treat a Child: Palestinian Children in the Israeli Military Detention System**, April 2016 (hereinafter: **No Way to Treat a Child**).

325. Youth Law (Trial, Punishment and Modes of Treatment) 1971.

326. MAG Corps response (in IDF Spokesperson response) in: B'Tselem, **No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing**, July 2011, p. 65, see the full response on the [B'Tselem website](#).

327. DCIP, **No Way to Treat a Child**, 25.

328. Military Court Watch, Fact Sheet. Last accessed January 19, 2020.

329. Youth Law 9f(1); Police National Headquarters Ordinance 14.01.05, Sec. 14(a).

330. Minors may not be interrogated at night according to the following specifics: minors under the age of 14 – from 8:00 P.M. to 7:00 A.M.; minors aged 14 and up - from 10:00 P.M. to 7:00 A.M. Youth Law, Sec. 9(10) and 9(4); Police National Headquarters Ordinance 14.01.05, Sec. 22.

331. Police National Headquarters Ordinance 14.01.34, Sec. 13b(11).

332. See, also, p. 12. According to a Ministry of Justice report, many arrests of minors are based on intelligence, are pre-planned and are carried out in the minors' home, sometimes at night. According to the state, this is because data show that soldiers entering Palestinian towns and villages during the day causes disturbance of the peace and unnecessary risk to the troops and the residents. See Ministry of Justice, **Palestinian Minors in Military Justice System**, para. 24.

contrary: the military presents nocturnal arrests as a deliberate policy regarding both adults and minors,³³² even though many of the minors are not suspected of grave offenses, and in many cases, their interrogation begins hours after they are taken into custody and focuses on actions they carried out long before. According to DCIP, most minors who are ultimately indicted are charged with stone-throwing.³³³ This means that many night arrests are not a response to an urgent, immediate need that could justify the use of this injurious practice.

Second, **the military uses arrests (often at night, at home) as a default and does not consider alternatives.** Following harsh criticism by Israeli and international human rights organizations,³³⁴ in February 2014, the commander of the Central Command announced a pilot project to summon some of the Palestinian minors wanted for interrogation in writing or by phone, instead of arresting them at night.³³⁵ Summoning minors for interrogation can significantly reduce the potential harm caused to them and their families by the sudden intrusion of armed troops into their homes at night.

Despite this announcement, from 2014 to date, the pilot has been implemented in only a handful of cases. According to figures the military provided HaMoked: Center for the Defence of the Individual, from mid-2016 “few summons have been issued” according to this procedure; even before that date, only several dozen such summons had been documented.³³⁶ The military has admitted to difficulty providing figures on the implementation and results of the pilot - regarding both the number of summons issued and the number of minors who came in for interrogation after receiving one.³³⁷ This conduct

indicates a lack of good will and the absence of genuine efforts to come up with an alternative for night arrests.

In addition, absurdly, **written summons are often handed to minors by invading their homes at night.**³³⁸ Yesh Din documented one incident in which a 14-year-old was handed a summons for interrogation during a night invasion of his home in the village of Tekoa, and even though he went in the next day as ordered, troops invaded the house the next night to arrest him. His mother, J.A., told Yesh Din:

“On October 13, 2018, at 4:00 A.M., four jeeps with soldiers drove up. They knocked on the door. My husband went downstairs and opened the door. There were about 20 soldiers. They asked about Z. [14 at the time] and told us he was wanted. They put us in the living room, including Z. They told us he had to go to Kfar Etzion for interrogation. [...] They showed us a “summons for interrogation” [...]. The next day, Z. went with his father to the military base in Kfar Etzion. They told them the officer wasn’t in. They took down the phone number and said the officer would call, but he didn’t, and they came back home.

On the night between October 13 and 14, at 4:00 A.M., soldiers came again. They knocked on the door, and my husband opened. There were about 20 soldiers [...]. They took Z. and

333. B’Tselem, **Minors in Jeopardy**, p. 21; DCIP, **No Way to Treat a Child**, p. 51.

334. See, e.g., UNICEF, **Children in Israeli Military Detention**, February 2013.

335. Yonah Jeremy Bob, “New IDF Pilot: No More Night Arrests, Suspects to be Summoned for Questioning”, Ma’ariv Online, February 18, 2014 (Hebrew).

336. Letter from IDF Spokesperson to Hamoked: Center for the Defence of the Individual, “Re: Your application under the Freedom of Information Act to the IDF Spokesperson regarding Summoning of Palestinian Minors for Interrogation Pilot Project, January 30, 2018. According to military figures, in 2015, at least 29 summons were issued and 13 were issued in the first half of 2016. According to figures reported in Israeli daily Haaretz, summons were issued in only 12% of the cases. See Neta Ahituv, “Endless Trip to Hell’: Israel Jails Hundreds of Palestinian Boys a Year. These Are Their Testimonies”, Haaretz English website, March 16, 2019.

337. See on the HaMoked: Center for the Defence of the Individual website: [Correspondence with IDF Spokesperson regarding arrests of Palestinian minors, under the Freedom of Information Act](#).

338. Military Court Watch, **Children in Military Custody - A report written by a delegation of British lawyers on the treatment of Palestinian children under Israeli military law**, September 2014.

tied his hands with zip ties [...]. Y., my nine-year-old son, cried and said: 'Mom, don't let them take me.' They were in the house for about 20 minutes altogether. They had a summons for interrogation form".³³⁹

No implementation of the few existing procedures on protecting minors

Palestinian minors are arrested much the same way as adults in the West Bank. The few procedures that do exist are not enshrined in legislation and address only limited aspects of arresting minors. Also, they are either completely ignored or only partially followed. More importantly, **even if there are some procedures specific to arresting minors in the West Bank, soldiers and officers are not aware of them.** Soldiers who were asked specifically if they were familiar with directives on arresting minors responded they were not.

Interviewer: Were there instructions on arresting minors, different instructions, something else to think about?

Witness: No."³⁴⁰

An officer with the rank of captain told Breaking the Silence that the age of the detainee (child included) has no meaning "operationally speaking."

Witness: The age was always a factor that I was less interested in, because it has no operational significance as far as we're concerned. [...] I guess we did [arrest minors]. It's not something we dwelled on. You get an order; you go execute [...]

Interviewer: Do you know if there's an age, what the age is that actually, you're not allowed to arrest?

Witness: I don't know any orders on this issue.

[...] It wasn't in our discourse either. Our discourse is technical. How do I get to the location and arrest him."³⁴¹

The purely operational or technical perspective on the arrest of minors sheds light on the military's approach to the issue of arresting children and adolescents: The child's best interest is nowhere on the agenda and, in practical terms, the arrest proceeds almost exactly as the arrest of an adult.

The testimony of a soldier who took part in the arrest of a 16-year-old boy reveals how aggression and violence are part and parcel to arrests, even in the case of minors, and illustrates that for soldiers, conduct during the arrest of minors is not substantively different from conduct during the arrest of adults or older youths.

Witness: I was at an arrest of a 16-year-old youth who apparently threw stones. I don't remember exactly why we arrested him. It was in the center of Nablus. [...] There was the moment when we took him [the youth], he wasn't wearing shoes so his brother had to put them on him while he was handcuffed. It was two Shin Bet officers, they were pretty violent, mostly verbally, very aggressive. They pushed him up against the wall, didn't let him put his shoes on himself, only let his brother put his shoes on for him [...]

Interviewer: Was there another procedure because of it [meaning the detainee's age]? Did one of the parents have to accompany him?

Witness: No, nothing of the sort. When he came down, he really screamed to his mother. You're actually taking a 16 year old from his home. The entire family was pretty shocked. The mother cried, the kid cried a lot. We had to take him downstairs with eyes covered, each of us on either side of him because he couldn't walk alone."³⁴²

339. Testimony collected by Yesh Din from J.A., a woman from Tekoa, October 14, 2019, Yesh Din Case 4285/18. Another excerpt from this testimony is presented on page 89.

340. Testimony collected by Breaking the Silence from a sergeant first class, Oketz Unit, 2009-2013, Testimony No. 44.

341. Testimony collected by Breaking the Silence from an intelligence officer with the rank of captain, Testimony No. 11.

342. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2012, Nablus Area. The full testimony is available on the Breaking the Silence website, [You're actually taking a 16 year old from his home](#).

In recent years, military officials announced several directives on the rights of detained minors. Of these, the most relevant for the arrest itself relates to a requirement to provide the parents with a “notification of arrest and interrogation of a minor,” introduced by the commander of the Central Command in 2013. The notification form is written in Hebrew and Arabic. It lists the reasons for the arrest and where the detainee was taken and provides a phone number for inquiries. The following instructions are printed on the form: “This form must be filled out on the arrest of every minor under the age of 18.” The instructions also indicate that “one copy should be signed by a relative and left with them.” The form is meant to reduce the uncertainty and the sense of arbitrariness surrounding the arrest (particularly of a minor, whether it is carried out at night or not).³⁴³

Although these forms are occasionally provided to the families, the military does not fully implement the procedure. None of the families of the 26 teenagers who were arrested in their homes in 2017 and gave testimony to HaMoked: Center for the Defence of the Individual were told where their children were taken and how they could get in touch with them until their release.³⁴⁴ Of the arrests of minors documented by Yesh Din, in eight cases in which adolescents aged 14-17 were arrested, the families were given no notification of arrest or any other document. In eight arrests of youths aged 14 to 17 and in one more incident in which the age of the detainee is unknown, the family was given the notification of arrest form. Extensive research conducted by DCIP, which included the collection of affidavits from 429 minors arrested between January 2012 and December 2015 (at least 42% of whom were arrested in their home), showed that in 88% of the cases, parents were not told why their children were arrested or where they were taken. The minors themselves are also often not given any information about their arrest. Many said that as they were being taken from their homes, no one explained to them why they were taken or where. The reason for the arrest was divulged only during interrogation.³⁴⁵

On March 29, 2019, at around 2:00 A.M., a military force invaded the home of A.S. from Kifl Haris to arrest her 16-year-old son. A.S. told Yesh Din the family was not told where the son was taken, and she was not given a chance to say goodbye to him. She also said the arrest was violent.

“I managed to get halfway down the stairs, and I heard I. screaming. I started crying. I was afraid for A. A female soldier pushed me back with her gun. Then I saw the soldiers taking A. out of his room. They didn’t let me hug him and didn’t let his siblings say goodbye to him. I heard him telling the soldiers, “I just want to say goodbye to my mother.” Two of them grabbed him tightly with their hands, and forcefully pushed him outside, and the rest of the soldiers followed them out. [...]

After they left, I found out one of the soldiers had threatened my son A. [18] while the others were beating I. in the room because A. was worried about his brother and wanted to see what they were doing. So, one of the soldiers really shoved him on the chest with his gun with a force that pushed him down on the chair.

The soldiers were in the house for about forty minutes and didn’t search it. They gave us no explanation whatsoever why they were taking I. or where they were taking him. It wasn’t for a few days until we found out he was at Megiddo Prison.”³⁴⁶

Other procedures on the arrest of minors were mentioned in a report released by the Ministry of Justice in 2014. According to the report, the Legal Advisor - Judea & Samaria issued directives that minors are to be blindfolded only if necessary for security reasons and that handcuffing of minors would be subject to the discretion of the commander of the arresting forces.³⁴⁷ These directives are also not implemented in practice. Twenty-six out of 29 teenagers who gave testimony to HaMoked: Center for the Defence of the Individual said they were blindfolded during their arrest and all of them said their hands were put in zip ties. In many cases, handcuffing was prolonged and extremely painful.³⁴⁸ The earlier and more extensive study undertaken by DCIP yielded similar findings, with 97.7% of the minors saying their hands were tied during the arrest and 88% saying they were blindfolded.³⁴⁹

343. Israel Ministry of Justice, The Legal Counselling and Legislation Department (International Law), **Palestinian Minors in Military Justice System**, 5.8.2014, para 22.1

344. HaMoked: Center for the Defence of the Individual, **Childhood in Chains**, p. 2.

345. DCIP, **No Way to Treat a Child**, pp. 29-30.

346. Testimony collected by Yesh Din from A.S., Kifl Haris, a woman from March 29, 2019, Yesh Din Case 4460/19.

347. Israel Ministry of Justice, **Palestinian Minors in Military Justice System**, para 22.2.

348. HaMoked: Center for the Defence of the Individual, **Childhood in Chains**, p. 2.

349. DCIP, **No Way to Treat a Child**, p.30.

Finally, similarly to adult arrest, there are no permanent, binding directives on allowing minors to say goodbye to their family or take anything. This is left to the discretion of the forces conducting the arrest. Testimonies provided to HaMoked:

Center for the Defence of the Individual in 2017 by 26 minors who were arrested at night in their home indicate that, in most cases, the soldiers did not allow the youths to say goodbye to their families, take a jacket or put on shoes.³⁵⁰

Night arrests as part of the military's collection of measures designed to deter and pressure the community

The broad authorization military law provides for arrests allows using nocturnal home invasions that include arrests as part of the military's collection of measures designed to deter or put pressure on the community. Although the main harm inflicted on families and communities in these cases does not necessarily stem from the invasion of their home but from the arrest and the threat involved, the invasion of the family's privacy presumably amplifies the sense of threat.

One such example is the raid on the village of Deir Nidham on the night of August 1, 2019, during which the military hung threatening flyers and carried out arrests. The flyers, addressed to residents of the village and signed by a Captain Omri from Ramallah ISA, say, in Arabic [translation by Yesh Din]:

"Following numerous stone-throwing incidents, tire burning and riots, we have begun taking measures to address these disturbances, including the closure of the road and several actions against rioters that will begin shortly. We consider the riots in this village to be an extremely grave, life-threatening matter that is harmful to you and all residents of the area. Village residents must take responsibility and put an end to this immediately and stop the children and youths who are carrying out the riots in order to live quietly."

Fadel Tamimi, an imam at the village mosque, who spoke to residents, told Yesh Din:

From conversations with people in the village, I gathered the soldiers entered about 90% of the houses in the village. In every house they entered, they asked for the ID cards of the sons and the fathers. They took photos of the sons and fathers and their ID cards [...] The soldiers had a list. If one of the children on this list was at the house, they arrested him and his father [...] By around 5:00 A.M., they had arrested 15 boys already. Then a large armored car came, and the men and boys were put in the truck and taken to a nearby military camp [...] The soldiers who interrogated them threatened the men that if their sons continued making trouble, they would close the entrances to the village [...] At 7:30 A.M., they released everyone.³⁵¹



Soldiers arresting children and adults in the village of Deir Nidham during an extensive arrest raid, in which flyers were posted in the village, August 1, 2019. Photo: Deir Nidham Villige Council

350. HaMoked: Center for the Defence of the Individual, **Childhood in Chains**, p. 2.

351. Testimony collected by Yesh Din from Fadel Tamimi, a man from Deir Nidham, August 1, 2019, Yesh Din Case 4498/19.

In a handful of cases documented by Yesh Din, threats implying collective liability or punishment were made during the arrest of an underage family member. In these situations, too, the nocturnal home invasion is both a way of making the arrest and a tool for threatening the people close to the detainee and holding them responsible. J.A. said that when soldiers came to her home to arrest her 14-year-old son, an officer who was with them introduced himself as the person “in charge of the village.”

“He [the officer] asked us [the child’s parents]: ‘Why do you let your children throw stones?’ We replied that our children don’t do that. He said they had clear orders to make our village quiet and that if the stone-throwing continued, he would use violence.”³⁵²

4. Interim Summary - arrests

Arrest raids make up a significant portion of home invasions into Palestinian homes in the West Bank. Given that military law applicable in the West Bank does not require a judicial warrant to perform an arrest, only an arrest order issued by a commissioned police officer, these types of invasions are also carried out without any external judicial oversight. This, coupled with the broad, vague definition of the grounds for arrest under military law, opens a door for arbitrary invasions into homes that harm both the detainees and the people around them. It is important to note that no arrest of a Palestinian in the West Bank requires a judicial warrant. However, when these arrests take place using home invasions, their harm is amplified.

The military’s policy on nocturnal arrest raids ascribes negligible importance to protecting the rights of detainees and their family members, even when they are minors. Moreover, the military does not limit the use of nocturnal arrests to particularly

grave cases or to instances when it might be said there is no other way to apprehend the person in question, but rather, uses these as a method. Alternatives, such as a summoning for interrogation, are never seriously considered, even in the case of minors.

It could ostensibly be argued that the arrests, and the invasions that come with them, are carried out pursuant to the occupying power’s obligation to maintain public order and safety. However, the sweeping use of arrests, combined with the fact that a great many of them are made during nocturnal invasions, does lead to the conclusion that the military disproportionately uses not only arrests (the justification for which is not being considered within the scope of this report), but also the injurious tool of home invasions, which affect not only the detainee but the entire family, adults and children alike. The result is routine, widespread violation of the rights of the Palestinian population.

“A face mask is military swag. It’s like, cool. What, it’s like you’re some kind of ninja”³⁵³

In about half the invasions documented as part of the project, soldiers entered the homes in question with their faces covered. For the soldiers, covering their faces is an attempt to look like a combat soldier “in the movies” or disassociate themselves from the situation. For the Palestinian families, it is one more element that amplifies the terror and violence.

In the vast majority of cases, covering faces during home invasions has no operational logic. It is not used for camouflage, and there is no military need for it. A major in the Air Defense Command told Breaking the Silence: “The object wasn’t camouflage or stuff like that. The object was to make an impression.”³⁵⁴ Another soldier said, “You’re walking in the middle of a village with street lights [...], it’s not a stakeout in the middle of nowhere where you want to be invisible.”³⁵⁵

352. Testimony collected by Yesh Din from J.A., a woman from Tekoa, October 14, 2019, Yesh Din Case 4285/18.

353. Testimony collected by Breaking the Silence from a first sergeant, Armored Corps Reconnaissance Unit 401st Brigade, 2010-2013, Testimony No. 12.

354. Testimony collected by Breaking the Silence from a major, Air Defense Command, 2000-2014 (including reserve duty), Testimony No. 51

355. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, 2002-2005, Testimony No. 50.

Among the soldiers, some said covering their faces was no more than a game, a ritual, or even just swag that looks good on social media:

“It’s fucking commando shit [...] It’s more this cool, childish thing;”³⁵⁶ “For the military swag, [...] It also looks better in pictures, when you post a picture [showing] - we went to do arrests and you’re all covered like that. Soldiers love it. [...] I think for Instush [Instagram].”³⁵⁷ “Painting your face was like this ritual. I don’t know if it came from above, or we just decided [to do it] because we wanted to feel really combat.”³⁵⁸ “It wasn’t some kind of order or protocol or anything like that. [...] It gives a feeling, gets you in the mindset.”³⁵⁹

Others noted that the sense of dissociation and anonymity created by covering their faces helped them carry out the task they were sent to do:

“When you put a facemask on, it makes you anonymous [...] It’s easier for you to do the things the occupation asks you to do [...] if it’s using more violence, more aggression. [...] You create a layer, a buffer between you and the person which, like, gives you freedom.”³⁶⁰ “To disconnect anything that’s like, emotional, meaning, I’m not a human being; I have a mask on; I’m a soldier; I’m something else.”³⁶¹ “It’s easier when you know the person can’t recognize you. It takes the humanity out of you for a second [...] It makes it psychologically easier if you’re already aware how messed up what we’re doing is.”³⁶²

More support for the conclusion that face coverings do not serve a military need can be found in the fact that it is usually done on the soldiers’ initiative rather than ordered by commanders, and, with rare exceptions, the military does not provide the soldiers with the coverings. In addition, only some of the soldiers are masked, and even they sometimes remove the covering while in the house. A.S. from ‘Urif said about 20 soldiers invaded her house, but only five or six of them were masked. I.H. from Hebron testified that during a search of his home, soldiers removed the face coverings they had on when they entered.

Interviewer: Would you go in with face coverings?

Witness: Yes.

Interviewer: Was that a directive?

Witness: No.

Interviewer: Did the deputy battalion commander go in with a face covering?

356. Testimony collected by Breaking the Silence from a first sergeant, Nahal 932nd Battalion, 2011-2014, Testimony No. 16.

357. Testimony collected by Breaking the Silence from a first sergeant, Paratroopers 101st Battalion, 2015-2018, Testimony No. 15.

358. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, 2002-2005, Testimony No. 50.

359. Testimony collected by Breaking the Silence from a first sergeant, Artillery Corps, Meitar Unit, 2013-2015, Testimony No. 22.

360. Testimony collected by Breaking the Silence from a first sergeant, Armored Corps Reconnaissance Unit 401st Brigade, 2010-2013, Testimony No. 12.

361. Testimony collected by Breaking the Silence from a first sergeant, Maglan Unit, 2013-2015, Testimony No. 18.

362. Testimony collected by Breaking the Silence from a sergeant first class, Oketz Unit, 2009-2013, Testimony No. 44.

363. Testimony collected by Yesh Din from A.S., a woman from ‘Urif, May 9, 2019, Yesh Din Case 4437/19.

364. Testimony collected by Yesh Din from I.H., a man from Hebron, June 22, 2018, Yesh Din Case 4173/18.

Witness: No.

Interviewer: And the soldiers?

Witness: Those who wanted to.³⁶⁵

Interviewer: Was there a directive to come with face coverings?

Witness: No. It's also not something the military supplies; it's stuff combatants bring from home."³⁶⁶

Although masking serves no military purpose, some of the soldier testimonies indicate it is beneficial to the strategy of terrorizing Palestinian families. A soldier from the Egoz unit told Breaking the Silence: "I think it's just meant for instilling fear in them."³⁶⁷ In fact, testimonies from Palestinians whose homes were invaded by soldiers show that encountering masked soldiers does exacerbate the fear and harm, especially for children.

"I went into their room [the children's room] and found them standing in the middle of the room, terrified, shocked, with tears in their eyes. They were horrified by the sight of the masked soldiers with their weapons drawn."³⁶⁸

"It was really scary that they came into the house in the middle of the night with weapons, faces covered, dogs in the yard and everyone walking around in the yard. Thoughts go through your brain. It had a terrible impact on the girls, and for what? Why do they do a search like that on the whole family and the neighbors? If there's information - they should just go for the information."³⁶⁹

365. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2012-2015, Testimony No. 46.

366. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2015-2018, Testimony No. 36.

367. Testimony collected by Breaking the Silence from a first sergeant, Egoz Unit, 2014-2017, Testimony No. 31.

368. Testimony collected by Yesh Din from Atar Shahrur, a woman from Silwad, April 2, 2018, Yesh Din Case 4095/18.

369. Testimony collected by Yesh Din from Luay Abu 'Aram, a man from Yatta, February 25, 2018, Yesh Din Case 4072/18.

D.

SEIZURE FOR OPERATIONAL NEEDS

A fourth type of home invasions is instances in which the military uses the private homes of Palestinians for its needs, as part of routine operations in Palestinian urban and rural space. In these actions, the home, or part of it, is temporarily seized by the military (in some cases there is a seizure warrant) and, for hours or days, access to it is limited and movement inside is controlled by soldiers. In military jargon, these types of invasions are sometimes called “straw widow,”³⁷⁰ and they have no connection to members of the family, their actions or items they keep in the house, but rather to the structure itself or its location, which makes it useful from a military standpoint.

Witness: A straw widow is when you go into an Arab family’s home without prior notice. You say, ‘I’m going to live in your house for the next little while - I’ll tell you exactly how long.’ [...] Sometimes it’s two days, sometimes more, sometimes a little less. You send them to find some arrangement somewhere, and you take over their house, turn the house into some kind of base [...]

Interviewer: What does it mean to turn the house into a base?

Witness: It means that the balcony is now an observation post. It’s a place where soldiers are posted now. [...] They’re used to it, try to be nice to the soldiers. I’m assuming somewhere

deep inside it scares them [...] You barge into a family’s home, people of all ages, old people and children [...]

Interviewer: And what happens to the family?

Witness: They find a way. Sometimes you keep the family in the house, and then they have to ask you for permission to go eat or pee.³⁷¹

"On Tuesday, April 10, 2018, at 1:45 A.M., we were all asleep. I heard knocking on the door. I got up and woke up my daughter. My husband woke up too and went over to the window overlooking the street and opened it. Soldiers jumped inside through the window, grabbed my husband and covered his mouth with their hands. Seven soldiers came in through the window. Some of the soldiers were masked, and some weren't. They had a lot of equipment and weapons. They didn't present any document [...] two kids were still sleeping. They woke them up. [...]

When the soldiers came in, they were violent. They took everyone’s cell phones [...], put me, my husband and the kids in the north room, and two soldiers sat at the entrance smoking. We sat in the room from 2:00 A.M. to 9:00 A.M. Anyone who wanted to come out of the room and go to the bathroom was frisked. I didn't want to be frisked, so I didn't go to the bathroom. The youngest, A., wanted to go to the bathroom. My husband went with him, and then the soldiers

370. For examples and further descriptions of such incidents, including ones from the turn of the millennium (the second intifada), see Breaking the Silence website, [search in text testimonies - straw widow](#).

371. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, Hebron, 2008, [I'm going to live in your house](#)" (Hebrew).

frisked him, and one of the soldiers went with him, sat at the entrance to the bathroom, waited for my son to come out, and escorted him back to the room where we were staying. [...]

The whole time we were shut in that one room, and two soldiers guarded us. The other five were sleeping in the living room and the porch. One of the soldiers who were guarding us asked my husband for cigarettes and also coffee. He sat smoking and drinking coffee. We were scared. Mostly, the little one, who's five years old and had been woken up by the soldiers, was scared."³⁷²

The military does not collect figures on operations in which the military takes over a home fully or partially and cannot say how many such operations have taken place in recent years. An application under the Freedom of Information Act sent to the military asking for figures on the number of orders issued for operational seizures of homes received the following response: "The regional brigades issue, renew, extend or apply on an ad hoc, local basis, a great number of seizure orders [meaning military seizure orders, see section 2 of this chapter]. Many are issued for extremely short durations, and in many cases no information regarding the various orders is collected, kept or made accessible."³⁷³

1. Purposes of military seizures of Palestinian homes

Testimonies from Palestinians whose homes were taken over by soldiers, as well as testimonies from soldiers who participated

in such operations, suggest several reasons why the military might take over Palestinian homes in the West Bank.

One such reason is **observation or seizure of strategic points in the area**. In these cases, it is usually the roof or some other part of the building that is seized. Often these seizures happen in homes located near a road where stone-throwing or similar incidents had occurred, and the aim is to secure the route or avert the threat to those traveling on it.³⁷⁴ In other cases, the military turns roofs into observation posts to provide security for special events, such as events during the Jewish holidays at the Tomb of the Patriarchs in Hebron.³⁷⁵

Some of these seizures of a roof or other part of a house are intermittently repeated for months on end, severely disrupting the families' lives. So, for instance, in July 2016, Yesh Din contacted the Legal Advisor – Judea & Samaria in the matter of the Shehadeh family from the town of Huwarah. Soldiers intermittently took over the two top floors of a building housing the family business and apartments for days and nights at a time for a period of about 18 months. The two floors the soldiers occupied were in the final stages of construction at the time. According to the family, many soldiers were in the building throughout the day, while military jeeps brought them supplies during the day and night. The family's account reveals the site had turned to a makeshift army base during this time, with soldiers resting there during the day and going out on operations in the area. Every time the soldiers came in or out, family members had to open the door for them.³⁷⁶ In another case, a family from Hebron told Yesh Din in September 2018 that since the beginning of that year, soldiers had intermittently taken over the roof of their building, which houses three families, and used it as an observation post, particularly on weekends and Jewish holidays.³⁷⁷

372. Testimony collected by Yesh Din from A.A., a woman from al-Mughayir, April 10, 2018. Yesh Din Case 4127/18.

373. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act" November 18, 2019 (Hebrew). (Emphasis added)

374. So, for instance, in June of 2016, soldiers took over the roof of a multiplex belonging to the D. family in the town of Huwarah near Nablus. The roof was used intermittently over several days, with the soldiers disrupting the family's life as they came and went through the house. The very fact that a large group of soldiers remained on the roof which is part of the family's private space was disruptive in itself. Responding to an inquiry from Yesh Din about the reason for the seizure, the military said it was a response to "terrorist incidents against Israeli vehicles traveling on Road 60," which included, inter alia, stone-throwing and metal pellet shooting, following which, the military made a decision "to use several structures in the village of Huwarah and its vicinity for operational presence, observation and security, with an emphasis on using roofs and unoccupied spaces." Letter from the Legal Advisor - Judea & Samaria to Michael Sfar Law Office (Yesh Din's legal advisor), "Re: Response to your letter regarding recurrent soldier takeover of roof in the village of Huwarah", December 7, 2016; Letter from Michael Sfar Law Office (Yesh Din's legal advisor) to Legal Advisor – Judea & Samaria, "Re: Recurrent soldier takeover of roof in the village of Huwarah", June 16, 2016, Yesh Din Case 3637/16.

375. Testimony collected by Breaking the Silence from a soldier, Nahal 50th Battalion, 2009-2012, Testimony No. 48; Testimony of a soldier, Nahal 50th Battalion, 2007-2010, Testimony No. 43. See further example in the quote ending in footnote 398.

376. Letter from Michael Sfar Law Office (Yesh Din's legal advisor) to Legal Advisor – Judea & Samaria, "Re: Soldier takeover of roof in the village of Huwarah", July 4, 2016. Responding to Yesh Din's inquiry about the Shehadeh family and the D. family whose roofs were used by soldiers, the military said that structures in the Huwarah area were taken over in response to "terrorist incidents against Israeli vehicles traveling on Road 60," (see supra note 374), Yesh Din case 3652/16.

377. Letter from Michael Sfar Law Office (Yesh Din's legal advisor), "Re: Soldier takeover of house in Hebron", October 24, 2018, Yesh Din case 4243/18.

Another reason for an operational seizure was documented in cases in which soldiers invaded homes at night and remained in them until morning, apparently using the home **as a base for launching an operation** in the village in the morning hours. For instance, on two different nights in March and April of 2018, soldiers invaded two homes in the village of al-Mughayir. The soldiers arrived at the homes sometime between 2:00 and 4:00 A.M., remaining in them until eight or nine in the morning. According to testimonies collected by Yesh Din, soldiers slept on beds in the home using the family's linen even as family members were confined to one of the rooms under guard. According to one testimony, the soldiers left the house in the morning and got into clashes with youths from the village, with the latter throwing stones and the former firing tear gas at them. From what some of the families were told, and from the soldiers' actions in the morning, it is possible to deduce that these invasions were undertaken in response to suspected stone-throwing by village youths on the nearby road. Taking over the homes for the night was part of an operation aimed at confronting stone-throwers. The father of the family living in one of the affected homes said this was not a standalone incident and that "soldiers have come at midnight and left at 8:00 A.M. many times."³⁷⁸

Similarly, a soldier who gave testimony to Breaking the Silence recalled incidents in which soldiers carried out a 24-hour operation in a certain area, during which they took over a roof of a local house for the night and slept there.

"You go up, say, in the evening, do a patrol, and get to this roof and then spend the night there, do another patrol during the day and leave. Say 24 hours the platoon is in Beit Fajjar, goes through the entire village. [...] It's just for the sake of spending more time in Beit Fajjar."³⁷⁹

2. Violation of rights and desecration of the private domain

Homes may be taken over for operational needs during the day or night, depending on the purpose of the invasion and the use

made of private space. It appears, though, that invasions that are part of an "initiated operation" by the soldiers are carried out late at night or in the early hours of the morning. These types of invasions last longer than others, although the duration varies widely as a result of the range of features characteristic of such invasions.

Restriction of movement

In at least some of the cases, during a takeover of a house, or part of it, the soldiers limit the movement of family members in their private space - whether by restricting access to the specific area they seized (for instance, the top floor of the house), or by confining the family to one room with soldiers guarding, as often seen in other invasions. However, unlike other invasions, in these cases, family members' movement may be restricted for much longer than an hour or two, during which time soldiers are free to use the house without any supervision while the family members require the soldiers' permission to go to the bathroom or drink water in their own home.³⁸⁰ J.D. from al-Janiyah told Yesh Din that soldiers took over his rooftop twice in the span of several days. During these invasions, he, his wife and their seven children were confined to the living room and were not allowed out.

"[...] At around 10:00 A.M., I was home as usual. The whole family was home. I heard loud knocking and shouting in Hebrew: "Bring the keys to the door." I opened the door and saw four-five masked soldiers with their weapons pointing at me. [...] They were very aggressive and said: "Shut up." [...]

They gathered us in the living room and shut us in, wouldn't let us leave. My daughter asked to go to the bathroom, and they told her: "Uskut," shut your mouth. One soldier stood by the door, and the rest walked around the house searching. They went up on the roof too. There were soldiers outside too. We stayed like that from 10:00 A.M. to 3:00 P.M. In the end; they did let us go to the bathroom after we asked repeatedly.³⁸¹

378. Testimony collected by PHRI from H.A., a man from al-Mughayir, March 20, 2018, Yesh Din Case 4125/18.

379. Testimony collected by Breaking the Silence from a sergeant, Nahal 50th Battalion, 2016-2019, Testimony No. 26.

380. See testimonies on page 92-93, footnotes 371 and 372.

381. Testimony collected by Yesh Din from J.D., a man from al-Janiyah, February 9, 2018, Yesh Din Case 4075/18.

[...]

Four or five days later, the same group of soldiers came back to the house, maybe around 11:00 A.M., noon. We were all home. They banged on the door again. I opened. It was the same four soldiers with weapons drawn. They gathered us in the living room again [...] This time, they stayed maybe for an hour and a half and climbed the roof too. After an hour and a half, they locked us in the living room and left the door locked with the key on the other side [after they left]. The living room has another exit, so we managed to get out and open from downstairs. [...]

Every time the soldiers enter my house is traumatic for me, for me and for my wife too. My youngest, who's 10, has become problematic, irritable, scared [...] I don't want them to go through frightening experiences and get anxiety".³⁸²

An officer who commanded a house seizure in Turah a-Sharqiyah on February 15, 2017, explained that separating the soldiers from household members is part of the operational logic. In the incident, about 20 soldiers took over the top floor of a house at around 4:00 A.M. After they entered, the soldiers confined the homeowner and his mother to the living room on the first floor.

"As soon as we entered, we searched the house. I don't exactly recall if he [the homeowner] came with us. We stayed on the second floor of the house [...] The homeowner stayed downstairs, I think. Two soldiers guarded him downstairs. We said we were staying there for the night, for a few hours [...] **We didn't let him go up to the second floor. It's not operational[ly sound] for him to be with us.**"³⁸³

In the winter of 2016, soldiers took over a house Y.S., from the town of Ya'bad, was building next to his own home. For ten days (December 25 to January 3), soldiers came to the new house, which was still under construction, every day and remained there during the night. They also used Y.S.'s yard, forbidding family members from entering or exiting their home, violating their freedom of movement and disrupting their lives. Y.S. described those days as follows:

"They would stand in the front yard and stop us from going in and out, beginning at 6:00 P.M. and until 6:00 A.M. the next morning. If I happened to be out before they came, they would not let me go inside. That whole time, the soldiers slept in the new house I'm building. I would go out to pray at around 4:00 P.M. and come back at 7:30 P.M., and they'd refuse to let me into my own house. I would call the Palestinian DCO, and the Palestinian DCO would call me back half an hour later, telling me I could go in. [...] I couldn't go in and out without coordinating with the DCO until January 3, 2016."³⁸⁴

Use of the house for soldiers' needs

When a home is invaded in order to make use of all or part of it for a relatively long time, the question of boundaries in terms of using the space and the objects in it becomes more poignant. When soldiers are in the house for many hours, mundane questions like where they sleep, where and what they eat, where they go to relieve themselves, and what state they leave the premises in once they are finished, have to be answered. Nevertheless, there seem to be no detailed, clear and binding orders designed to ensure minimal harm to the home and use of furniture, food and other items inside it.³⁸⁵ Testimonies reveal that even if directives are in place, their status and the consequences for breaking them are unknown. It also appears that there is no monitoring of their implementation. It seems that it is ultimately the forces on the ground that decide how to treat the home and its occupants.

382. Testimony collected by Yesh Din from J.D., a man from al-Janiyah, February 14, 2019, Yesh Din Case 4101/18.

383. From investigation material in MPCID Sharon Shomron File 235/14. The investigation was opened following a complaint filed by the homeowner with Yesh Din's help, Yesh Din case 3058/14 (emphasis added).

384. Testimony collected by Yesh Din from Y.S., a man from Ya'bad, October 24, 2016. Yesh Din Case 3511/16.

385. A request for the military to list what guidelines, directives, instructions or orders are in place with respect to soldiers' conduct during invasions into Palestinian homes received an evasive response stating, in general terms, that the dignity and privacy of household members must be respected and any harm to them and their property should be minimized. Letter from IDF Spokesperson to Yesh Din, "Re: Your Letter concerning Entry into Homes in the Judea and Samaria Area under the Freedom of Information Act", November 18, 2019 (Hebrew).

An officer who commanded a home seizure said that the soldiers slept on the floor and refrained from using furniture and other household items. However, according to the same officer's testimony, he ordered this conduct "in keeping with the spirit of the IDF," not because of a specific protocol:

"[...] Those who slept, slept in a room we designated. [...] They slept on the floor. That's an instruction. I instructed it in keeping with the spirit of the IDF. Also, from what I saw, they didn't touch or use anything, no items or food from the house itself. They were briefed on this before. Every IDF soldier knows about it."³⁸⁶

Whether or not such directives do exist, testimonies from Palestinians whose homes were taken over by soldiers indicate that there are cases in which furniture and other items in the house are used. In addition, in some cases, after a long stay in the house or part of it, soldiers leave the premises dirty. For instance, when soldiers took over homes in al-Mughayir, some slept on sofas and beds in the living room and bedrooms, while the families themselves were confined to another room. Some witnesses reported bathrooms being used and left filthy:

"[...] The rest of the soldiers spread out and lay down in our bedroom and living room. They also used the bathroom and left it disgustingly filthy."³⁸⁷

In two cases of a long-term intermittent takeover of a roof or part of a building, Yesh Din received testimonies indicating that soldiers expelled bodily waste where they were, rather than in the bathroom, or repeatedly left garbage behind.³⁸⁸ In the case of an intermittent takeover of two floors of a building in Huwarah (described above) spanning 18 months, the Shehadeh family

told Yesh Din that in the beginning, soldiers expelled bodily waste in the stairwell and on the roof, until a member of the family was forced to build a bathroom at his own expense:

"For a year and a half now, soldiers have invaded the two top floors of the building. They come and go as if the building were their own [...] Little by little, more and more soldiers invaded the building. They are present in the building 24 hours [a day]. Military jeeps bring food and water during the day and night. The place has become a base full of officers and soldiers. Until two months ago, they defecated in the stairwell and on the roof and made them dirty. Because the situation was unbearable, my brother decided to install a bathroom for them on the roof, with our personal money. We called a plumber, who installed a toilet system, including toilet paper."³⁸⁹

In the case of a roof in Hebron that was taken over repeatedly over the course of 2018, household members reported that in addition to expelling bodily waste, the soldiers damaged the plumbing by throwing waste into a sewer pipe.

"I was sitting at home in the middle of the day, and I heard a noise from the roof that was keeping me from sleeping. I went up to the roof and saw the soldiers playing with some wood sticks that were there. I asked them to stop making noise. They said they would stop and that they were sorry.

That night, after dinner, we wanted to clean the house. We discovered the sewer was clogged up, and water was backing up through the

386. From investigation material in MPCID Sharon Shomron File 235/14, Yesh Din 3058/14.

387. Testimony collected by PHRI from H.A., a man from al-Mughayir, Yesh Din Case 4125/19

388. Letter from the Michael Sfar Law Office (Yesh Din's legal advisor) to Legal Advisor – Judea & Samaria to , "Soldier takeover of roof in the village of Huwarah", July 4, 2016; Yesh Din Case 3652/16; Letter from Michael Sfar Law Office (Yesh Din's legal advisor) to Legal Advisor – Judea & Samaria, "Re: Soldier takeover of house in Hebron", October 24, 2018, Yesh Din Case 4243/18.

389. Testimony collected by Yesh Din from Ghazi Shehadeh, a man from Huwarah, June 26, 2016, Yesh Din Case 3652/16.

drains. We went downstairs and found all the sticks the soldiers had played with pushed into the sewer pipe, along with bottles of coke and empty chip bags - everything they had left after they ate.”³⁹⁰

Failure to present orders

In some cases, homes or parts of buildings are taken over pursuant to a military seizure order. These orders are issued by virtue of the occupier's power to temporarily seize private property for military needs (see section 3 of this chapter) and are signed by a senior officer such as a division commander.³⁹¹

Despite this, to our knowledge, these orders are rarely presented to the families whose private spaces the military takes over. All of the Palestinians who reported a takeover of their home or parts of it said no order was presented to them upon entry. Presenting orders is not part of the military's operational home invasion protocol, just as it is not part of the protocol during other types of invasions.

One of the purposes of presenting an order is to show that soldiers are not taking over a house on a whim, but that they have permission and authorization to do so. The failure to show a seizure order for all or part of a house creates uncertainty for the occupants and fear that the invasion of their home and disruption of their lives is arbitrary.

A.K., whose home in Turah a-Sharqiyah was taken over by soldiers for several hours in February 2014, told the MPCID (during the investigation of the incident) that after the soldiers entered his home, he asked the officer “if he had an order or anything like that?” The answer he received was, “stay out of it.” The officer himself addressed the use of orders when entering homes during his own interrogation, confirming that he was not aware of any protocol that requires presenting families with an order: “I don't show an order. You never

penetrate a house with an order, not in an arrest and not in an entry into a home. I'm not aware that there is a need to show an order.”³⁹²

In two cases in which Yesh Din inquired with the army about the reason for the takeover, copies of the orders were retroactively provided. A seizure order for a specific location (the roof of a home in Huwarah) states that “the property will be seized for urgent security needs, i.e., observation and security” for Road 60. The order also specifies a limited duration for the seizure and notes that the persons who own the property or have possession of it may file an application for user fees and/or compensation.³⁹³ Similar orders are presumably issued in other cases as well. It is likely rare for Palestinians whose homes were taken over by soldiers to file such applications, which precludes them from knowing whether their homes were taken over lawfully, pursuant to a seizure order and whether they can request compensation for any damage caused.

3. Unjustified violation of the private domain - disproportionate use of seizures

The power to seize Palestinian homes in the West Bank for extended durations is drawn from the laws of occupation under international law, which allows the occupying forces to requisition private property for **urgent, imperative military needs**.³⁹⁴ The military commander (the commander of the Central Command, in this case) may issue a seizure order pursuant to these powers. A seizure order does not affect ownership of the property but temporarily expropriates usage rights, transferring these to the military, until the urgent, imperative security need subsides.³⁹⁵ In seizure operations, the grounds for soldiers' entering a home and remaining in it are military, or security needs related to the physical location

390. Testimony collected by Yesh Din Suzanne Jaber, a woman from Hebron, September 21, 2018, Yesh Din Case 4243/18.

391. An example is the orders issued by the division commander for purpose of house takeovers in Huwarah in 2016. Letter from the Legal Advisor – Judea & Samaria to Michael Sfarid Law Office (Yesh Din's legal advisor), “Re: Response to your letter regarding recurrent soldier takeover of roof in the village of Huwarah”, December 7, 2016.

392. From investigation material in MPCID Sharon Shomron File 235/14, Yesh Din 3058/14.

393. Letter from the Legal Advisor – Judea & Samaria to Michael Sfarid Law Office (Yesh Din's legal advisor), “Re: Response to your letter regarding recurrent soldier takeover of roof in the village of Huwarah”, December 7, 2016. Yesh Din Cases 3652/16 and 3637/16.

394. **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land**, The Hague (1907), Articles 23(7), 52. These articles prohibit seizing property or requisitioning services from the population of an occupied territory, unless “imperatively demanded by the necessities of war.”

395. This is the same power used by the military to seize privately owned Palestinian land throughout the West Bank, which it then uses to build army bases, declare training grounds (firing zone), build the separation fence, make security provisions for settlements and more. In the past, this power was also used to seize land to build settlements. Between 1969 and 2014, the military issued about 1,150 seizure orders, 868 of which were still valid in 2018. The total area covered by these seizures amounts to 101,380 dunams. For more, see: Kerem Navot, [Seize the Moral Low Ground - Land seizure for “security needs” in the West Bank](#), December 2018.

of the house rather than suspicions (even the vaguest) against its occupants, who are entirely innocent.³⁹⁶

Home seizures for purposes that do not amount to urgent military needs

Testimonies given by both soldiers and Palestinians indicate there are cases in which the military takes over homes without a distinct military need, contrary to the provisions of international law. For instance, in certain cases, especially in Hebron, the military takes over Palestinian homes in order to secure special events during Jewish holidays, private celebrations and on weekends. Soldiers have said they seized rooftops in order, for instance, to provide security for a concert by Israeli singer Shuli Rand at the Tomb of the Patriarchs,³⁹⁷ as well as a wedding and a Bar Mitzvah at the same site. In some cases, the private premises of Palestinian residents of Hebron are expropriated in order to make way for Israelis who do not live in the area to attend these events.

“There was a wedding or a Bar Mitzvah at the Tomb of the Patriarchs in Hebron, and we were sent to provide security. For hours and hours, we hung out on the roof of a family home [...] And I think we didn’t let the family up on the roof, and there was laundry there and stuff, it’s part of the house [...] Nine hours to do security for a Bar Mitzvah or something for a few Jewish settlers from the nearby settlement. I’m telling you that this was really the most routine thing you could think of.”³⁹⁸

A concert or a private event such as a Bar Mitzvah or wedding do not fall within the scope of the term military need in any way, let alone constitute an urgent, imperative military need for which international law permits the seizure of one or more family homes. **A seizure for reasons that do not amount to such military need is a breach of international law and is therefore unlawful.**

Violation of the proportionality principle

The principles of international law instruct that even when violating the rights of residents of an occupied territory can be justified, the harm should be **proportionate**. According to the principle of proportionality under international law, acts taken to meet a military need are permitted so long as the harm they cause does not outweigh their benefit and so long as there are no other less injurious means for achieving the required result. The Israeli High Court of Justice has ruled that putting up military outposts and bases falls within the scope of the term “military need” for purposes of seizing privately owned Palestinian land in the West Bank. The court did, however, add a reservation noting, “a condition for this is, as stated, that there is, indeed, an imperative military need **and that the military goal is proportionate to the action taken.**”³⁹⁹

There may be situations in which the act is legitimate under the principles of international law, but the examples given above raise concern that at least in some cases, the military uses its power to take over Palestinian private premises disproportionately. In other words, **the military does not resort to taking over homes only when no other less injurious means of fulfilling whatever military need is being pursued are available, nor does it give proper weight to the harm such a takeover inflicts on innocent people.**

Invasions of Palestinian homes and prolonged presence by military forces inside them violate not only the occupants’ rights to dignity and privacy, but, as demonstrated in this chapter, also their freedom of movement, and often damage their property as well. The right to health is also severely violated. Prolonged invasions have been described by Palestinians subjected to them as frightening events that induce a great deal of stress and anxiety as they unfold.

The testimony given by H.A. about the nightly occurrences in his home in al-Mughayir, which (along with other houses in the village) was repeatedly used by soldiers the night before they set out to clash with village youths, illustrates the severe violation of the family’s privacy, dignity, freedom

396. Inside Israel, the Land Seizure in Emergencies Law enacted in 1949 allows authorities empowered for this purpose to seize property, land or structure, for security needs for as long as the state of emergency continues (Israel declared a state of emergency shortly after its establishment and has not canceled it since). As far as we are aware, no use has been made of this law to seize property in general and homes in particular inside Israel in recent years. (Land Seizure in Emergencies Law enacted in 1949).

397. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2009-2012, Testimony No. 48.

398. Testimony collected by Breaking the Silence from a first sergeant, Nahal 50th Battalion, 2007-2010, Testimony No. 43.

399. HCJ 24/91 **Rahman Timraz v. IDF Commander in the Gaza Strip**, judgment, February 17, 1991. The petition in this case was filed against the military’s plan to seize a structure owned by the Palestinian petitioners which bordered on an army base fence in Jablaia in the Gaza Strip. The military was planning to demolish the structure to facilitate moving the military base fence. (Emphasis added).

of movement and normal life. When the soldiers are in the house, the families must convene in one room, under guard, and they are also required to keep the fact that there are soldiers in their home a secret, all of this in an intimidating, violent atmosphere.

“We were gathered in the living room together with A. and G. [two men from the village the soldiers encountered on the street and forced to come into the A. family home for the night]. The older girls started screaming and crying because they understood what was going on. One of the soldiers asked me to help him get the house to quiet down. [...]

The baby started crying again [...] My wife brought the baby, and the soldier told her to get him to quiet down whatever way she could. She told him the baby wanted to nurse and that she couldn't nurse him so long as the soldier was there. There were nine soldiers in the room. Some of the soldiers left after I argued with them. [...] One of the soldiers brought a cover and told me in Arabic: We'll stand by the door and make sure to hide the woman. My wife put the cover over herself and nursed the baby. [...]

About five soldiers remained in the house. That was the scariest moment. We were indescribably stressed. At that time, the front door was closed, and my brother came to call me to head to work. There were soldiers behind the door, and they wouldn't let me speak. My brother wondered and started asking: Are you home? He didn't know there were soldiers at my house. He tried to open the door. My wife yelled: Go to work; there are soldiers here. Right away, they took us back to the living room. A soldier hit her on the neck with the butt of his rifle. She kept talking, and another soldier

came, pointed his gun to her head and hit her with the barrel.”⁴⁰⁰

While house seizures for operational needs inflict severe harm, there are doubts as to whether **alternatives are properly considered, if at all**. It seems implausible that the only course of action available for addressing stone-throwing on a road or major traffic route is to repeatedly use the homes of innocent people as a rest stop and staging area for soldiers preparing for clashes with village residents. On the face of it, this seizure was not needed in order to address an immediate, specific danger but formed part of an operation designed to prevent or reduce a future threat. Therefore, the goal sought could presumably have been achieved by other means, such as entering the village early in the morning.

Another example of how the military trivializes the disruption of Palestinians' lives and the violation of their rights caused by prolonged invasions into private premises can be seen in the case described above of the home in Huwarah, where two floors were taken over and turned into a makeshift military base where forces prepared for operations. Responding to an inquiry from Yesh Din about this takeover, the military stated, among other things, that due to considerations of proportionality, the soldiers used two unoccupied floors in the building with a view to minimizing the harm.⁴⁰¹ Still, this takeover did not last a day, or two or even a week - which would have aligned with a concrete, urgent military need and complied with the requirement for proportionality. Instead, it stretched, intermittently, over about 18 months, with the building used for more than observation and security by a limited group of soldiers.



Soldiers on the rooftop of a family home in a-Lubban a-Sharqiyah. April 27, 2019. Photo by Yesh Din.

400. Testimony collected by PHRI from H.A., a man from al-Mughayir, with respect to the soldier invasion of his family home on March 20, 2018, which lasted until the next day. Yesh Din Case 4125/19.

401. Letter from the Legal Advisor – Judea & Samaria to Michael Sfarid Law Office (Yesh Din's legal advisor), "Re: Response to your letter regarding recurrent soldier takeover of roof in the village of Huwarah", December 7, 2016, Yesh Din Case 3652/16.

In conclusion, the military's power to **seize homes for operational needs** is derived directly from international law. Nevertheless, the legitimacy the laws of occupation lend to this practice is rooted in their underlying premise, which is that occupation is a short term, temporary regime. As such, the laws of occupation are designed to create a temporary mechanism for military rule, rather than a system of governance over civilian life for more than fifty years.

Taking over the homes of innocent people and using them to maintain security may be unavoidable in some situations. However, implementation on the ground shows the military makes frequent use of this measure in cases that do not involve imperative, urgent military needs and does so disproportionately.

As noted above, at least in some cases, the takeover of a house or part of a building is done with a military seizure order signed by a senior officer who authorized the operation.

Nevertheless, this chapter illustrates that the military does not always make sure that the purpose of the seizure is, in fact, critical to security. Operations such as seizing a Palestinian home to provide security for a settler Bar Mitzvah celebration do not fulfill an imperative military necessity but are rather patently illegitimate acts and a clear breach of international law. In addition, home seizures frequently occur without giving proper weight to the severe harm they inflict on the family whose home is being overtaken by soldiers, sometimes for long durations, and without seriously considering alternatives that are less injurious to Palestinians and their rights. These are the conditions that must be met to satisfy the requirement of proportionality the military must uphold under international law. Failure to consider these raises concerns that at least in some cases, the operational seizure of Palestinian homes in the West Bank is disproportionate, and consequently, a violation of international law.



Conclusion

CONCLUSION

Invasions by Israeli soldiers into Palestinian homes in the West Bank rob men, women and children of the basic sense of safety they feel inside their home and instill in them a sense of vulnerability and the feeling that they are ruled by an almighty power they cannot control. The impact of an invasion stretches beyond the night on which children are jerked awake, adults are seen in their nightwear, armed soldiers shout, families are forced to wait in a room under guard and drawers, cupboards or doors are broken. An invasion has a lasting impact on household members' mental and physical health, on their ability to function and on relationships within the family. The harm caused by the repeated and widespread use of this measure affects not just the individual or the family but ripples through relationships and affects the sense of security in the entire community. As such, military home invasions have become an effective tool for oppressing the Palestinian population and preserving control over it for so many years.

Any invasion by the sovereign into a person's home is a violation of their dignity and liberty. Invasions by Israeli military forces into Palestinian's homes in the West Bank, which are a routine, daily affair, are even more injurious as the soldiers represent an occupying power rather than the authorities of a state or state-like entity household members identify with or have representation in. These operations are part and parcel to the routine of occupation. They are not reserved for extreme cases in which a person is under concrete suspicion and invading their home is the only way to avert the threat they pose. They are carried out every night and can reach more than 200 homes each month.⁴⁰² Every Israeli soldier who served in the occupied West Bank is familiar with these invasions. Not only that, but testimonies collected from soldiers and officers reveal that the military sees many of these invasions as a way of "demonstrating its presence," in other words, providing a constant reminder of the presence, control and might of the Israeli military as the occupying power.

The manner in which these invasions are carried out reflects a policy that prioritizes military-operational needs or even the momentary convenience of the soldiers involved in the raid over respecting the rights of the occupants and minimizing their violation. This policy is also reflected in the training, or lack thereof, received by soldiers and officers who carry out invasions. As a result, military home invasions involve a systemic breach of the occupier's duty under international law

to treat members of the population under its control humanely, protect their rights and avoid unnecessary violations of their dignity, privacy, bodily integrity or customs.

During an invasion, members of the household are stripped of control over their private space and freedom of movement inside it. They are vulnerable to violations of their right to determine when and how their bodies will be seen by strangers, subjected to the threat of violence and property damage, as well as disrespect for their customs and ways of life. The pervasiveness of these invasions, in combination with the way they are carried out, dispossess Palestinian families of the basic sense that their homes are safe havens.

The severity of the harm inflicted by military home invasions is reflected in their devastating impact on the mental health of Palestinian adults and children. Home invasions are potentially traumatic events as they involve a forced intrusion into the victims' private space (much like burglary), along with a real experience of threat and fear of physical harm. Adults who have endured a home invasion reported a lingering sense of loss of control and helplessness after the incident, as well as symptoms of post-traumatic stress and anxiety, most notably, hyperarousal and sleep disruptions. Symptoms associated with post-traumatic stress and anxiety were also reported among children and adolescents (from infancy to age 17). These included hyperarousal and sleep disruptions, anxiety, increased dependence on parents and cases of aggressive behavior.

This report addressed four types of home invasions (search, arrest, mapping and seizure for operational needs) and analyzed whether they comply with the provisions of international law and the principles of Israeli constitutional law. This examination included an analysis of the legal framework for these invasions and how they are carried out in practice.

Although international law does not expressly forbid invading the homes of protected persons in an occupied territory, it does require the occupying power to strike a balance between the need to maintain public order and safety and the severity of the harm the action causes. The law also requires that actions that could potentially violate rights be taken only when necessary and not arbitrarily.

A home invasion **for the purpose of search or arrest** may be legitimate under certain conditions as a necessary measure designed to enforce the law and protect the public from harm. However, the provisions of the law and the orders pursuant

402. This information is based on figures collected by OCHAoPt. For details see supra note 14 and the paragraph referring to it.

to which such invasions are undertaken fail to protect the Palestinian population from arbitrary infringements on its rights. This is reflected chiefly in the absence of a requirement for judicial authorization (a judge's warrant) for a home invasion under military law and the fact that this law allows such invasions in almost every scenario. The **search** powers military law grants security forces are so broad, vague and unchecked that they create a serious lacuna in law, meaning it would be right to say that the law gives no search powers at all. Despite this, the military makes extensive use of invasions into Palestinian homes. So, for instance, homes are searched even when occupants are under no suspicion, or under general, unsubstantiated suspicion, and arrest raids are carried out routinely without considering less injurious alternatives.

The legal power to take over homes for **military needs** is drawn directly from the laws of occupation within international law. Still, the military uses this measure for purposes that cannot be considered a military need in any way and often does so disproportionately, meaning without assessing how exigent the need is compared to how severe the injury would be and without considering alternatives. In such cases, home seizures for military needs are a clear and direct violation of international law.

The official goal of home invasions for the purpose of **mapping** is to collect intelligence on the Palestinian population or Palestinian residential structures. These invasions are invariably conducted without concrete suspicions against members of the household. The harm caused by these invasions is twofold: they violate the occupant's privacy and liberty, like other types of invasions, but they also involve the collection of private information about a broad section of the population that is suspected of nothing, against its will. Military legislation, with the expansive powers it grants, does seem to narrowly permit mapping operations when there is a true military need to collect intelligence meant to aid in facing an enemy during armed conflict. As such, mapping invasions carried out to counter protests, "demonstrate military presence," enforce the law or create deterrence (for which the military can find solutions in laws regulating law enforcement) are not permitted under either military law or international humanitarian law. While the military may consider these as operations carried out under the laws of war, we maintain this is an immoral and illegitimate practice both because many of the mappings cannot be justifiably considered as combat action and because of the severe violation of Palestinians' rights.

The report reveals that many home invasions lack any legal basis whatsoever, meaning they are a prohibited breach of any

and all law. While some invasions might have been legitimate, military law - the legal framework that enables them - does not offer sufficient protection for Palestinians. The immediate effect of this is the frequent, nearly unrestrained use of the power without considering less injurious measures or weighing the severity of the harm.

The legislation governing home invasions and the manner in which it is applied are so arbitrary, and the harm they cause is so severe that Palestinians are effectively stripped of all protection and left perpetually vulnerable to violation of their privacy by the sovereign. All of this gives rise to the grave conclusion that the invasion policy is tainted by substantial and severe flaws that call into question its very legitimacy.

The laws of occupation, which provide the basis for some of the legal arrangements that enable military invasions into Palestinian homes in the West Bank, are designed to create a temporary mechanism for military rule rather than a system of governance over civilian life for more than fifty years. The long duration of the occupation casts a shadow over all the purportedly temporary arrangements instituted as part of it. But there is further significance to this, which stems from the fact that the West Bank has a permanent dual legal system that applies different laws to different people according to national origin - Palestinians living under Israeli occupation and Israeli settlers (citizens of the occupying power) who enjoy the protections of Israeli law.

The two legal systems - Israeli law and military law - are fundamentally different. They reflect a substantively different approach to individual liberties and seek different goals. **Military law reflects an expansive approach designed to make it easier for security forces to enter the private domain of Palestinians living in the oPt, and allows it in almost any situation.** Israeli law, on the other hand, reflects a narrow approach designed to make it difficult for law enforcement agencies to enter civilians' private domain. **This type of dual legal system is a feature of apartheid, a regime of systemic discrimination and domination by one racial group over another.**

The military cites searches, arrests, operational seizures and even mapping for reconnaissance as reasons why soldiers invade the private domain of Palestinians in the West Bank. In reality, however, the military also uses these practices as part of a collection of measures designed to instill fear of harm by the Israeli military among the Palestinian public, and as such, help preserve control over it. The information collected for this

project demonstrates that home invasions may be carried out for purposes that include what the military calls “demonstrating presence,” in other words, activities designed to showcase the military’s power to operate, disrupt life and intimidate. The military also seems to be using this measure for deterrence, and maybe even for collective punishment.

Invading the private domain for such purposes defies the basic tenets of due process and protection from arbitrary harm. Individuals and families are harmed by the invasion of their homes, not because of some specific suspicion against them, but in an attempt to influence their future conduct or the conduct of the entire community. Such use of home invasions violates the provisions of international law, which prohibits the use of collective punishment, intimidation or terrorization

against a population living under occupation in general, and the use of intimidation to deter individuals from resisting the military regime in particular.

Palestinians living under occupation in the West Bank are constantly exposed to arbitrary invasion of their homes by Israeli security forces and the severe resulting harm. Legally, the provisions that set the conditions for these actions and the manner in which they are carried out result in a violation of international law and produce systemic discrimination on the basis of nationality. Politically, these invasions are added to a slew of measures the Israeli military uses as part of the system of control and oppression of the Palestinian population.

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