

A LIFE EXPOSED

Military invasions of Palestinian homes in the West Bank

Most of us think of our home as a place of safety. As night falls, we shut the door and gather inside with our family, safe in the knowledge that we are protected from the outside world within our walls. 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.

Palestinians living under occupation in the West Bank, however, are constantly vulnerable to arbitrary invasion of their homes by Israeli security forces and the severe, resulting harm. Invasions by the Israeli military into Palestinian homes in the West Bank are an inseparable part of life under the occupation and the system of control over the Palestinian population. Among the variety of practices that characterize Israel's military control over the West Bank, the harm caused by home invasions is particularly severe as it robs individuals, families and communities of the fundamental certainty that their home is their castle.

A home gives its dwellers a sense of identity and security. Controlling what goes on inside it is a fundamental condition of personal liberty, perhaps second only to control over one's body. Forced intrusion by agents of the regime into the home is a severe violation of a person's dignity, liberty and privacy. For this reason, all legal systems that respect human rights place strict limitations on governmental authorities, designed to reduce the use of such actions as much as possible and protect individuals from harm.

Palestinians in the West Bank do not enjoy similar protections. Israel does not limit invasion into their homes to exceptional cases in which there are concrete suspicions against an individual and invading their home is critical to averting the threat they pose. Military law in the West Bank does not require a judicial warrant confirming the necessity of the intrusion in order to invade the private domain. As such, it leaves Palestinians constantly vulnerable to arbitrary invasions into their homes.

Almost every night, armed Israeli soldiers raid homes, wake women, men and children, and carry out different actions inside the homes of Palestinian residents. According to UN figures, these invasions occur more than 200 times each month. Beyond the harm suffered by individuals and families as a result of the intrusion into their homes, this practice effectively serves as a

means to oppress and intimidate the Palestinian population and increase control over it.

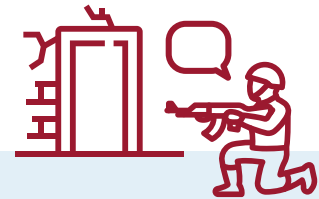
This report is the product of a joint project launched by Yesh Din, Physicians for Human Rights Israel (PHRI) and Breaking the Silence in 2018. It presents the practice of raiding Palestinian homes in the West Bank (excluding East Jerusalem) and its impacts and offers an outline of the provisions within military legislation that regulate and enable it. This legal outline provides the basis for an analysis of home invasions in light of international law, which defines Israel's obligations as the occupying power in the West Bank and helps expose how this practice brazenly violates these legal provisions.

158



testimonies collected by Yesh Din from Palestinian men and women who experienced such invasions.

45



interviews (a sample selected from 80 interviews) conducted by Breaking the Silence with Israeli soldiers and officers substantiated and supplemented knowledge of how these invasions unfold and provided insight on their goals and on the directives given to the soldiers who carry them out.

31



interviews PHRI conducted with Palestinians whose homes were invaded by soldiers helped assess the serious impact invasions have on the mental health of individuals, families and communities.

Military invasions into homes: Main features

01

"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."¹

It is possible to identify four main types of military invasions into Palestinian homes in the West Bank: Searches for money, weapons or other items in the home; arrest of one or more members of the family; "mapping" and documenting the physical features of the house and the identity of its occupants; and seizure for operational needs - for instance, setting up an observation or shooting post in a room or on the roof, or using the house as a hiding place. Although invasions for different purposes diverge in terms of their legal basis and the particular actions carried out during the invasion, they do follow similar trajectories.

The vast majority of these invasions take place late at night or in the hours before dawn: 88% of the incidents documented in the project began between midnight and 5:00 A.M. Israel openly admits that nocturnal invasions are conducted as a matter of policy, even though this modus operandi exacerbates the harm to members of the household. The number of soldiers intruding into the house ranges from a handful (about five) to about 30. The average duration of an invasion, in the cases documented, is roughly about 80 minutes.

The invasion usually begins with shouting and banging on the door, followed by an aggressive, violent entry of armed and sometimes masked soldiers into the home. In about a quarter of the documented cases, soldiers did not wait for the door to be opened by a member of the household, but forced it open by damaging or destroying it. Once inside the house, in most cases, soldiers order all members of the household, including children, to gather in one room where they remain under guard, helpless and unable to move freely (such orders were documented in 88% of the search invasions). In some cases, the soldiers themselves wake up members of the household, including children.

In the absence of an obligation, under military law, to obtain judicial warrants approving the intrusion into the private domain, soldiers do not present family members any warrant or other document as to why they are invading the home or who approved the invasion. The soldiers' conduct during the invasions is predicated on aggression, show of force and intimidation. In some cases,

physical force or violence was used (in about a quarter of the documented cases), or threats, including pointing firearms at the heads or bodies of members of the household (30% of documented cases). Use of threats or physical violence is an almost inevitable result of any disagreement or conflict between members of the household and the soldiers. The message relayed to Palestinians is that not only are their homes vulnerable to arbitrary invasion by soldiers without any possibility of resistance, but that their bodies are also constantly vulnerable to harm.

Impact on mental health

02

"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?"²

Home invasions are potentially traumatic events as they involve a sudden, forced intrusion into the victims' private space (much like burglary), along with a real experience of threat and fear of physical harm. In fact, the main issue reported by interviewees who experienced a home invasion was the sense of loss of control - which is the core of the trauma. Loss of control was described both as part of the experience during the home invasion itself and as a lingering feeling after the event.

Adults who experienced home invasions reported post-traumatic stress and anxiety symptoms that could interfere with their functioning and daily life. Reports of reactions associated with hyperarousal (a state in which the body remains on constant alert and has difficulty relaxing) and possibly related sleep disruptions stood out. Symptoms associated with hyperarousal and sleep disruptions were also reported among children and adolescents (from infancy to age 17), along with symptoms of anxiety, increased dependency on parents and aggressive behavior.

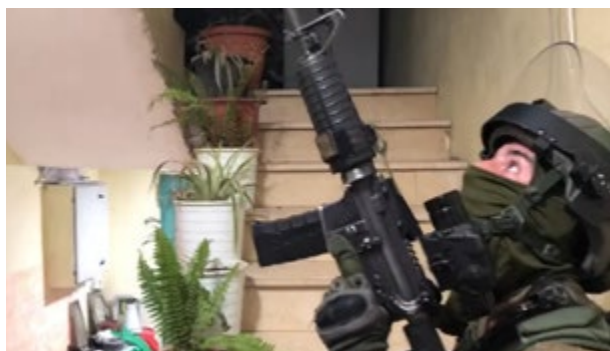
Trauma recovery requires rebuilding a sense of confidence and trust in oneself and one's surroundings by turning to a safe environment. However, the association made between the home

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

2. Testimony collected by PHRI from Hend Hemed, Silwad, January 21, 2019, Yesh Din Case 4348/19.

and the experience of loss of control within it makes it difficult to rebuild trust in it. This difficulty can be exacerbated in light of a possible return of soldiers to the same home. This aggravates the mental harm associated with home invasions, as it makes recovery extremely difficult.

Consequently, home invasions may seriously impede daily functioning and the emotional and mental development of both adults and children. In addition, frequent home invasions in a specific area (a city, village or neighborhood) may also interfere with relationships within society or the community and produce a climate of fear and intimidation.



Soldiers invade the Tamimi family home in the village of Nabi Salah, August 23, 2020. | Photo: From a video shot by Janna Tamimi

Search and arrest: Military law ostensibly provides a legal framework that allows arbitrary use of force against Palestinians.

03

"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."³

Military law takes an extremely permissive approach with respect to allowing Israeli security forces to enter Palestinian homes in the West Bank, contrary to the common approach in any legal system that respects human rights. This approach is clearly expressed in the fact that the Order regarding Security Provisions does not require a judicial warrant for the execution of such an act and allows

any officer to order a home search.⁴ The circumstances in which homes may be searched are defined broadly and vaguely, and they are not confined to instances where an offense is suspected, or where there is concrete, substantiated suspicion. As a result, almost any situation could meet the conditions for approving a military invasion into a Palestinian home in the West Bank.

Likewise, arresting Palestinian residents does not require a judicial warrant and low-level suspicion suffices for approval. These provisions apply to any arrest, whether conducted by raiding a home or any other way. However, arrests during home invasions exacerbate the harm not just to the person being arrested themselves, but to the people around them as well. Whether or not this additional harm is necessary is never assessed by an external actor, allowing widespread use of the practice.

Judicial review is designed to limit the power of the executive branch to intrude into the private domain. It is an external mechanism that weighs the applicant's interests against the interest of protecting the individual and, as such, presumably prevents abuse of power. The absence of a requirement for judicial review, coupled with the broad, vague definition of the conditions in which home invasions are permissible, give the military a draconian, even despotic, power to use force, leading to arbitrary violations of Palestinians' rights, or, in other words, a violation that is not necessary and not founded on concrete, substantiated suspicions. The granting of such broad, unchecked powers creates a legal lacuna in military law, which means the act is carried out without any legal basis at all.

International law prohibits arbitrary impingement on the rights of individuals living under occupation and establishes that any such violation may be permissible only if it is based on concrete suspicion, serves a proper purpose, and has the narrowest possible effect. The permissive approval system set forth in the Order regarding Security Provisions is a far cry from the standards established by international legal institutions, and it allows arbitrary and disproportionate violations of the dignity and privacy of Palestinians in the West Bank. As such, this permissive system results in the abdication of the duties of the occupying power under international law to ensure public order and safety in the area under its control, a duty that includes preserving normal life for the occupied population and protecting its members' fundamental rights.⁵ These legal provisions fail to meet the requirements set forth in the laws that give the military commander the power to legislate and operate in the occupied territory in the first place. In other words, this law violates norms of a higher order.

3. Testimony collected by Breaking the Silence from a lieutenant, Nachal 932, 2014. For the full testimony, see: Breaking the Silence, Occupying Hebron: Soldiers' Testimonies from Hebron 2011-2017, pp. 40–41

4. Order regarding Security Provisions[Consolidated Version] (Judea and Samaria) (No. 1651), 5770-2009, Section 67.

5. Hague Convention respecting the Laws and Customs of War on Land (1907), Article 43 of the Regulations Annexed to The Hague Convention.

In practice, home invasions do take place in cases where there is only slight suspicion against household members or none at all. In many cases, perhaps most cases, a search ends in nothing, as clearly emerges from testimonies given by both Palestinians and soldiers. Home invasions without any concrete suspicions against household members occur in a number of circumstances, for instance, during routine patrols in the city of Hebron, or when widescale search and arrest raids are conducted in a particular village or area following unusual incidents, demonstrations or “riots”, as well as for the purpose of “mapping” (see below).

Even in cases where there are some suspicions against members of the household, the permissive approach in military law allows for disproportionate use of the power to invade private space for the purpose of search and arrest. In this context, the common practice of nocturnal arrest raids inside homes stands out. Despite the severe harm inflicted on entire families, the military does not limit the use of nocturnal arrests to particularly grave cases, for instance, when the person being sought is a flight risk, but rather, uses these as a routine method. Alternatives, such as a summoning for interrogation, are never seriously considered, even in the case of minors.

“Mappings”

04

“[A soldier] 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.”⁶

“Mapping”, in the sense of creating a map, is a term the military uses for soldiers invading Palestinian homes in the West Bank and collecting information about the structure of the home and its occupants. The official purpose of “mapping” is gathering intelligence. Accordingly, these types of invasions are usually conducted in homes in which no occupant is suspected of illegal activities or considered dangerous.

The harm inflicted by “mapping” invasions is twofold: Like other invasions, they violate the dignity and safety of the occupants. However, these particular invasions also involve the collection of private information about a broad section of the population that is suspected of nothing, against its will. Invading private space and collecting information without reasonable suspicion contradict the fundamental logic underlying the rule of law in legal systems that respect human rights, which is that the regime may not violate the rights of individuals unless they are suspected of an offense or pose a real threat. We must state the obvious here: The very identity of Palestinian residents of the West Bank makes them neither suspect nor dangerous and cannot justify the violation of their rights.

Invasions of Palestinian homes for the purpose of “mapping” has no explicit legal basis either in military law or in the provisions of international humanitarian law. The military presumably considers “mapping” as falling under the laws of war - the legal framework that applies to situations meeting the definition of “armed conflict.” The laws of war do grant the occupying forces extremely broad powers to perform actions required for military purposes. 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.⁷

Despite this, testimonies show that soldiers view “mapping” mainly as a tool for intimidation, “making their presence felt,” and establishing control over the Palestinian population and that, in some cases, the information collected during these “mappings” is never used. Testimonies further reveal that these are routine military operations throughout the West Bank, and sometimes, “mapping” targets are chosen randomly. These testimonies reveal that at least some of the military’s “mappings” are done without any legal basis, even within the broad framework supplied by the laws of war and military law.

Moreover, actions that are taken due to military need are also subject to the principle of proportionality, which requires a balance between the harm expected as a result of the military action and its anticipated, concrete, direct benefit. In other words, even when there is a real military need, the military must strike a balance between the benefit gained by “mapping” and the harm it might cause.

6. Testimony collected by Yesh Din from Marshad Karaki, Hebron, August 21, 2019, Yesh Din Case 4506/19.

7. 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, petition (Hebrew), April 15, 2018, paras. 36-46.

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 actions designed to retain control over the population and oppress any civilian resistance to it, even when such resistance does not include militarized action. This obfuscation results in severe violations of the rights of Palestinians. It is an immoral and frequently unlawful practice, both because there is often no justification to treat the mappings as wartime actions and because of the severe, disproportionate impingement on the rights of Palestinians.

05 Seizure for operational needs

“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 [...] 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.”⁸

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 it is controlled by soldiers. These invasions 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. In some of these seizures, soldiers display utter disrespect for the space they have invaded. Examples include sleeping in household members’ beds, using the washrooms and leaving them filthy, and even expelling bodily waste in stairwells or on rooftops.

The power to execute such a seizure comes from the laws of occupation under international law, which allow the occupying forces to requisition private property for urgent, imperative military needs.⁹ Taking over the homes of innocent people and using them for genuine security purposes may be unavoidable in some situations. Still, the Israeli military makes frequent use of this measure in cases that do not involve imperative, urgent military needs, and does so disproportionately.

Home seizures frequently occur without giving proper weight to the severe harm they inflict on the family and without the military seriously considering less injurious alternatives. So, for instance, seizing a Palestinian home to provide security for a settler Bar Mitzvah celebration or a musical performance does not constitute an imperative military necessity, but is rather a patently illegitimate act and a clear breach of international law.

06 Home invasions as a tool for deterrence, intimidation and collective punishment

“It produces fear and terror and this whole business of making [our] presence felt, which we were required to do - not just to be there, but to be seen to be there. 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.”¹⁰

Home invasions ostensibly have a purpose such as searches, arrests and even intel-gathering (mappings). However, soldier testimonies reveal additional purposes for these actions, first and foremost, creating deterrence and intimidation to increase military control over the population.

Using home invasions for these purposes is particularly evident in mappings. Testimonies given by soldiers and officers reveal that a key objective of these actions is what the military calls, “making its presence felt” and “creating a sense of persecution,” in other words, disrupting Palestinians’ daily lives and sense of safety in order to instill in them the sense that the military is on the ground and in control, thereby stubbing out any attempts at resistance or protest before they happen. Additionally, cases of mappings used in the context of incidents such as stone-throwing, clashes with the military and participation in demonstrations, in order to discourage the community or individuals within it from taking part in such incidents, have been documented.

8. Testimony collected by Yesh Din from Ghazi Shehadeh, Huwarah, June 26, 2016, Yesh Din Case 3652/16.

9. Hague Convention respecting the Laws and Customs of War on Land (1907), Articles 52 and 23(g) of the Regulations Annexed to The Hague Convention. These articles prohibit seizing property or requisitioning services from the population of an occupied territory, unless “imperatively demanded by the necessities of war.”

10. Testimony collected by Breaking the Silence from a captain, Air Force Air Defense Artillery, 2000-2014 (including reserve duty), Testimony No. 51.



Soldiers invade the Tamimi family home in the village of Nabi Salah, August 23, 2020. | Photo: From a video shot by Janna Tamimi

Similar use of home invasions as a deterrent is made in search and arrest raids conducted in response to stone-throwing or attacks and attempted attacks on Israeli soldiers or civilians. Invading homes without concrete suspicions against any of the occupants is an element of military action designed to deter and sow fear in the community, and in some cases, collectively punish an entire community for the actions of individuals.

This practice may amount to a violation of the prohibition on collective punishment (the punishment of a person or a group of people for an offense they did not commit themselves) set out in international law as well as the prohibition on intimidating and terrorizing people living under occupation. Moreover, invading homes for deterrence is at complete odds with ICRC commentary on the Geneva Convention, which clarifies that intimidation must not be used to dissuade people from resisting military rule.

Wholesale prioritization of military need over reducing rights violations

"We never talked about entering homes during training [...] Nothing is said about how to communicate with the population, how to go into a home in an area that is not a combat zone. Absolutely zero training on service in the Territories."¹¹

Unlike wartime actions, military invasions into homes take place in the wider context of an area with a civilian population – innocent

children, women and men - that is held under military occupation. Despite this, it appears that the military does not make a clear distinction between combat action engaging an enemy and home invasions. Soldiers and officers receive no designated training on conduct vis-à-vis Palestinian civilians or the protection of their rights. The result is that Israeli soldiers invade Palestinian homes in the West Bank with only one toolbox - the toolbox of soldiers engaging with an enemy.

The manner in which invasions of Palestinian homes in the West Bank are carried out reflects an absolute prioritization of operational needs, or even the convenience of the soldiers who are invading the home at that moment, over minimizing the impingement on the rights of the home's Palestinian occupants. This precedence is reflected in the protocols the military follows during home invasions, which automatically impinge on rights, most prominently, the practice of confining family members to a single room.

The secondary importance the military ascribes to protecting Palestinians' rights when intruding into their homes is reflected in the absence of binding, publicly accessible directives on protecting these rights, such as directives intended to prevent arbitrary damage to property. It is also reflected in soldiers and officers' lack of familiarity with directives concerning the protection of minors when their homes are invaded or when they are arrested. Without such directives, the extent to which the rights of household members are violated varies according to the personality and whim of the commander on the ground.



Soldiers invade the Tamimi family home in the village of Nabi Salah, August 23, 2020. | Photo: From a video shot by Janna Tamimi

11. Testimony collected by Breaking the Silence from a staff sergeant, Nachal Brigade Battalion 50, 2012-2015, Testimony No. 46.

Systemic discrimination on the basis of ethnicity

08

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 military law by virtue of which an invasion of a Palestinian family's home takes place. This is the case despite the fact that both settlers and Palestinians live in the occupied West Bank, sometimes just hundreds of meters from one another.

Unlike military law, Israeli law takes the approach that law enforcement agencies should have difficulty entering civilians' private spaces. A clear example of this gap can be found in the dramatic disparity between military law provisions on the power to search a person's home (as described above) and the provisions of Israeli law on the same power. Israeli law stipulates that searches should be conducted according to a judicial warrant issued on the basis of evidence and concrete information that point to substantiated suspicion and in keeping with a limited list of offenses. Searches without a warrant are permitted in rare cases, for instance, when there is a substantiated fear that a crime is underway at the site.

The prohibition on discrimination is a fundamental principle of both international and Israeli law. The existence of two separate legal systems in the West Bank produces blatant discrimination on a national-ethnic basis between two populations living in the same territory under one rule. Applying a different legal system to Israelis and Palestinians on the basis of national distinction means inequality before the law and constitutes a clear violation of the prohibition on discrimination on the basis of nationality set forth in international human rights law. Moreover, the presence of two legal systems and the systemic discrimination this produces can also be identified with the crime of apartheid. This observation is supported by the fact that this dual legal system is not a standalone questionable practice, but one of many practices designed to establish and perpetuate a regime of Israeli domination and oppression of Palestinians.

A Life Exposed

09

The Israeli practice of invading Palestinian homes in the West Bank and the procedures governing it strip Palestinian residents of their right to live free, safe and secure in their own homes. It leaves them exposed to the constant threat of harm by armed soldiers who represent a military regime that controls them against their will. This policy severely violates the rights of adults and children, harm their health and contravenes the provisions of international law concerning the protection of individuals and communities from arbitrary violations of their dignity, liberty, privacy, customs and bodies by the occupying forces.

The consequences of this practice go beyond any separate instance of harm caused to an individual or a family. The ever-present threat of possible invasion makes this policy a violent, oppressive tool that serves as a central element in Israel's system of control over the Palestinian population. These invasions are part of the lived experiences of many in the West Bank, producing a general climate of fear and intimidation. As such, their potential impact on Palestinians stretches beyond the present and into the future.