

A Home Front Law for Israel

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The Home Front Law has been brewing in the Knesset for a long time. This law, announced several years ago by Deputy Defense Minister Matan Vilnai as one of his main goals,¹ has encountered numerous obstacles in the legislative process² and is caught between different sectors with conflicting views as to what the law should encompass and where its emphasis should lie. The impasse encapsulates the dilemmas facing the decision makers in Israel on the main issues regarding the growing threat to the civilian front and what comprises the proper response. The recent fire in the Carmel Forest (December 2-5, 2010) demonstrated yet once more Israel's limited deployment potential for extreme emergency cases.

The purpose of this essay is to argue the necessity of the law, analyze what should be included among its central components, and propose a framework for the preparedness of the civilian front. The article aims to be a basis for public debate of the law, and through enhanced public awareness, enable expedition of its passage in the Knesset.

The Necessity of the Home Front Law

Since its establishment Israel has not had a specific law that encompassed the various elements of home front management, even though the civilian front has known major challenges. Already in the War of Independence, the civilian front was the target of direct air assaults and other attacks, and there were heavy losses³ to the civilian population. In 1951 the Civil Defense Law was passed,⁴ outlining the technical means for defense of the population and containment of damages, and setting the legal basis for the Civil Defense Force (CDF). The IDF Home Front Command (HFC) was established on the basis of the CDF following the 1991 Gulf War,

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thereby replacing the previous organizational structure. But it was only later, particularly after the Second Lebanon War (2006), which exposed the weakness of the civil front,⁵ that it became apparent that the threats to the population demand a reconstruction of the system to provide a legally-based updated systemic response. In his report on the failure of the system in the 2006 War, the state comptroller stated:

The present law...divides the management of the civil front among numerous entities, and does not grant them integrated comprehensive tools to manage the challenge in emergency situations. The multiplicity of agencies and the normative vagueness...create confusion as to responsibility and authority, as well as the lack of a common language regarding preparing the civilian front for emergencies and directing it when catastrophes occur.

This issue was ostensibly resolved in 2007 when the National Emergency Management Authority (NEMA) was established and placed (temporarily, for five years) under the aegis of the Ministry of Defense.⁶ NEMA was to serve as the “coordination staff for the minister of defense, and to assist him to implement his supreme responsibility for the civilian front in all emergency situations.”⁷ However, this government decision was not easily implemented and did not solve the primary issue of general and overarching responsibility for the civilian front. The practice indeed positioned the deputy minister of defense, to whom the defense minister delegated his responsibility, in a leading role vis-à-vis the different agencies. But NEMA has been unable to assume the necessary leadership and the primary responsibility over the other agencies. The result is misunderstanding that is often riddled with conflict and tension, particularly between NEMA and the Home Front Command, which continues to be the most conspicuous element in the field. Given its military basis, it enjoys large resources and a favorable reputation, and as such dictates the development of civilian front preparedness.

This problematic situation deserves more attention due to the growing threat to the civilian front in Israel. Suffice it to mention here the assessment of the former director of Military Intelligence, who stated that “in the next round of conflict we will face several fronts, and the conflict will be more difficult than before and with many casualties.”⁸ If so, the critical question is whether the defensive capacities of Israel, both active and passive, are improving in light of the growing threat and are able to narrow the

emerging gap. At least with respect to civilian preparedness, apparently not enough has been done, and the gap between the threat and the response is widening.⁹ With growing external challenges and internal obstacles, the need for a home front law is all the more urgent. Such legislation will grant a normative basis to outline the directions for achieving the necessary preparedness and set the guidelines for organization and deployment of the civilian front. At the same time, the very reason that makes the legal restructuring imperative – the bureaucratic entanglement – is itself the principal obstacle to the legislative process.

As the main thrust of the new law should address the overarching national responsibility for preparation and the management of the civilian front, it raises several crucial questions that require clear legislative intervention.¹⁰

- a. Which is the responsible organ to direct the civilian front, in routine situations and in emergencies? The government's decision of 2007 to appoint the minister of defense as the responsible party¹¹ is not anchored in legislation, and in fact is not acceptable to many of those involved. Furthermore, its practical meaning is unclear and perhaps also unrealistic, particularly because the same government resolution emphasized that "the other ministries will continue to carry out their responsibilities for the issues under their jurisdiction also in emergency situations."
- b. Relay of information from one organ to the other: this is a serious legal issue regarding who can ask for – and receive – information held by official, public, and private organizations for the necessary deployment in emergency situations.
- c. The allocation of resources for the civilian front: clearly the one in charge of the budget is the most powerful organ. However, in the Israeli case there is no mechanism to regulate the allocation process and oversee planning, prioritizing, and budgeting between the various government ministries. The Ministry of Defense, though rich in resources, has not rushed to allocate the necessary finances from its own budget for the reinforcement of the civilian front. This was apparent from its hesitant approach to the development and procurement of the anti-rocket Iron Dome active system, or the dissemination of the chemical defense personal kits. The other ministries do not act any differently. Consequently, a new approach

is needed to enable the authorized organ to assume its responsibility by being the clear proponent of a national budgeted program for the civilian front.

- d. "Passing the buck": the national police are responsible for internal security, including in emergency situations, unless the government decides to transfer responsibility to the IDF.¹² This process is not grounded in legislation, and it is also unclear under what circumstances it is implemented.¹³
- e. It is necessary to regulate the defense of critical systems and infrastructures.¹⁴ Presently the national responsibility for the safety of what are defined as sensitive installations is shared by a long list of agencies, with no coordinating authority among them. The Ministry of Internal Security has recently demanded the authority for this task.¹⁵ No decision has been made as yet, even though the issue is extremely complex due to the respective ownerships of the critical systems, whose smooth operation is critical to both the civilians and the military, especially in emergency situations. Of particular urgency is the communications network, which due to its essential role in numerous national infrastructures is of the highest national priority.
- f. The legal status of the local governments¹⁶ in disaster circumstances also deserves clarification. Many of those engaged in the management of the civilian front emphasize the role of local governments as the foundation of the system.¹⁷ However, this too is not formally regulated, and the elected mayors are still not legally recognized as responsible for their citizens in an emergency. Legislation should provide the mechanism to grant the mayors with the means and the necessary budget to fulfill this critical task.

While some argue that it is possible to leave the legal situation in its current amorphous state, most agree that a new law is needed to systematically and normatively formulate the responsibilities of the government and its agencies, and regulate the means for their implementation. The challenge now is to translate this broad verbal consent into effective legislation.

What Should the Law Include?

Several drafts of the Home Front Law have been prepared by the Ministry of Defense's legal counsel; such authorship by nature shapes the law's

substance and emphasis to best serve the defense establishment's approach. Yet rather than reviewing particular suggestions proposed in the various drafts, the essay will raise six principal issues that are integral to effective civilian front management.

The first issue concerns the purview of the civilian front law, specifically whether it should deal generically with all kinds of massive disasters, be they natural (such as earthquakes),¹⁸ or associated with hazardous materials (HazMats),¹⁹ or those that are entirely man-made, like war and protracted terror. It might be argued, based on the widely accepted "all hazards approach," that because most disasters have a wide common denominator pertaining to prevention and containment of the damages, the new law should address them all. Moreover, the military will likely be called on to tap its massive resources and serve as the primary first responder in all major disaster scenarios. This is also the case in many other countries. However, the unique Israeli circumstance, in which war and large scale terrorism are clearly the most blatant risk to the civilian front, justifies a specific response to this severe threat. The law should include specific organizational solutions, and define the nature of the state's obligations to its citizens and the necessary response means. The response to other massive hazards should be regulated separately.

The second issue concerns the national responsibility. In the draft prepared by the Ministry of Defense, the overarching responsibility for the home front lies with the minister of defense. Ostensibly, there is a solid basis to continue the present arrangement and grant it a legal status. The Defense Ministry is in fact the largest and best endowed governmental organ; it controls, perhaps not completely, the Home Front Command, the entity that is best equipped to provide the first response for the civilian front. However, this approach should be evaluated carefully. In the years since the ministry of defense assumed responsibility for the civilian home front, a number of problems have surfaced. The Defense Ministry was not successful in attaining primacy, not to speak of control, over the other ministries involved in disaster management. It has not created the necessary cooperation between the various agencies, let alone between the two reporting to it, HFC and NEMA, which are engaged in ongoing competition, particularly around the issues of responsibility and authority. Yet most of all, it has not granted the civilian front the priority it needs and deserves. It might even be suggested that the Ministry of

Defense has maintained the IDF's traditional priorities, as conceived by its General Staff, and does not represent the interests of the HFC in particular and those of the civilian front in general. Therefore, perhaps, a more updated concept²⁰ should be adopted, to position the interests of the civilian front more auspiciously. If the responsibility for the civilian home front is transferred to the Prime Minister's Office, it might better serve the current and future needs and challenges. The prime minister can delegate the overall responsibility for the civilian front to a minister in his office, who by law should be granted special authority and a position of seniority vis-à-vis the other ministries.²¹

The new law should address the crux of the responsibility at the national level and must focus on: overall strategic planning; formulation of the standards for civil defense; coordination of preparedness and management activities at the national level; management of the earmarked budget for the civilian front; and supervision over the state organs. NEMA might be the chief national organization to carry out these missions, particularly in routine times and preparation for disasters. In times of actual emergency the national level will assume responsibility and define strategy on issues such as information dissemination and massive evacuation of inhabitants, prioritization and allocation of national resources, and coordination between the state controlled systems.

The National Emergency Management Authority: NEMA must be part of the new law and reassigned to the Prime Minister's Office, but this will not suffice. In order to establish its primacy and ensure its capacity to fulfill the scope of its duties effectively, NEMA should be granted the clear mandate and organizational authority, particularly when it faces other government ministries, the local governments, and additional organs that share the duties of the civilian front. Beyond its role as the staff of the minister for the civilian front, NEMA should serve as the senior executive organ to direct, coordinate, and supervise the operations on the state level. NEMA's senior position must be grounded in the new law, so that its directing role is clear when it interacts with other entities. Any vague formulation will dilute its standing and will perpetuate the current confusion.

The Home Front Command: The HFC is undoubtedly the largest and most conspicuous professional organization in the Israeli civilian front system. Its legal position is based on the 1951 Civil Defense Law, which

was updated several times. However, because of the vagueness of the HFC authority versus that of other bodies, particularly NEMA and the national police, it is imperative to define its position, responsibilities, and relationship with the others. HFC should serve as a provider of services and act in accordance with the directives of the political leadership, on the national (the government) and local (mayors) level, notwithstanding its being a military organ.

The fifth issue is responsibility at the local level. If in peace time the national government has the primary responsibility for preparing the civilian front for disasters, the situation changes dramatically in times of crisis, when the center of gravity should move to the local arena, under the supervision of the local government.²² Even in a small country, any emergency situation requires focused multi-tiered management around the scene of operations, in accordance with the severity of the event and its impact on the inhabitants and the local infrastructure. In these cases there is no substitute for clear and united leadership by the person who heads the local government, together with his staff and emergency teams, which are trained in the municipal machinery. They should be assisted by all other first responders, among them the HFC units,²³ the police, Magen David Adom (the Israeli Red Cross), and the firefighters. Obviously, the system must be prepared in advance, a process that should be directed by the mayors. Much progress has been made in Israel in many municipalities, but much remains to be done. Under the new law the government and NEMA should be instructed to supervise the progress in preparing the local communities and invest the necessary funds and other resources to achieve the required state of readiness. The new law must also require that the local governments indeed deploy according to the designated standards²⁴ and that those assigned to assist in peace time and in emergencies have the means to do so.

The final issue concerns budgeting. Today there is no central budget earmarked for civilian front needs. Each of the ministries allocates the funds separately and with no coordination. The result is that the minister responsible for the civilian front (presently the minister of defense) has neither control nor influence on the allocations of the other agencies that he is supposed to coordinate. If there is any meaning to the notion of overall responsibility for the civilian front, then this arrangement must be changed drastically. The new law should ensure the direct influence

of the responsible minister – as suggested here, the minister in the Prime Minister's Office – over all the budgets related to the civilian front and their balanced, calculated, and prioritized distribution, according to one integrated national strategic plan. Such a pattern is not common in the Israeli bureaucracy, and will likely face some sharp criticism and opposition. However, a mechanism will have to be found²⁵ in order to allow meaningful leadership of this crucial field.

Conclusion

The disagreements, not to say the bureaucratic conflicts, over the issues relating to the responsibility for the civilian front threaten the very enactment of the new law. Even within the defense establishment there are obstacles to an agreement on the right formula, especially with regard to the position of the ministry versus NEMA and HFC and their interface. Some members of the Knesset Foreign Affairs and Defense Committee suggest that the present difficult situation might lead to private legislation that diverges from the government's approach. At the very least the controversy should not lead to diluted legislation, which would preserve the present vagueness on the issues of responsibility and authority. Between an ambiguous formulation and the possible postponement of the law's enactment until the decision makers understand its full significance, the latter is preferred. If the new law does not set substantial improved norms of the highest standards for the preparation and management of the civilian front, it is best if it is not passed.

It is not only necessary for the law to be formulated clearly in order to create a new systematic and normative reality; it is also important that its authority is enforced over those involved. It must set the concrete mechanism and processes to ensure that all the agencies will act in strict adherence to its spirit, components, and articles.

Whether or not the new law is passed, the most important leverage for improvement of the civilian front is a cultivated understanding about the supreme centrality of the civilian front in the national defense agenda. The periodic dramatization of the threat to the Israeli home front is insufficient. The government must prioritize and invest accordingly in order to narrow the gap between the threats to the civilian front and the strategic response, and this must be achieved before the next conflict.

Notes

- 1 Matan Vilnai, "Maximizing Civilian Preparedness," in Meir Elran, ed. *The Civil Front*, Memorandum No. 99, Institute for National Security Studies, 2009, pp. 9-14.
- 2 In a conference on the preparedness of the civilian front at INSS in July 2007, MK Zeev Boim, chairperson of the subcommittee for the Home Front in the Knesset's Foreign Affairs and Defense Committee, expressed doubts on the capacity to advance the legislation. Deputy Chairperson MK Zeev Bielski said: "We lost the hope to advance the Home Front Law as a government law; the only way to promote the subject is via a private draft." Jonathan Lis, "Due to Budget, only 60% of the People Will Receive Protection Kits," *Haaretz*, October 29, 2010.
- 3 See Moshe Naor, *In the Front of the Rear: Tel Aviv and the Mobilization of the Yishuv in the War of Independence* (Jerusalem, 2009), and Mordechai Bar-On, Meir Hazan, eds., *The Civilian Society in the War of Independence* (Ramat Ef'al, 2010).
- 4 See in the HFC website: http://www.oref.org.il/sip_storage//FILES/0/690.doc#_Toc150834608. Since its enactment the law underwent numerous updates, which did not alter its original essence. Recently the Knesset approved in a first reading a new update to the law. See: Draft of Law, the Government: Civil Defense Law (Update # 16), 2010.
- 5 State Comptroller, "The Deployment of the Civilian Front and its Functioning in the Second Lebanon War," Jerusalem, 2007.
- 6 Government decision #1577, April 15, 2007.
- 7 <http://www.rahel.mod.gov.il/AboutUs/Documents/Decision%20B43.pdf> – Government decision B/43, December 19, 2009.
- 8 Jonathan Lis, "IDF Intelligence Chief: Israel's Next War Will See Heavy Casualties," *Haaretz*, November 2, 2010.
- 9 According to *Yisrael HaYom*, November 9, 2010, the HFC depicted updated scenarios for emergency to the local governments, including the losses and damages expected in a general war. It indicated that the threat to the center of the country is not less than to the north or the south.
- 10 On the organizational aspects, see Knesset Foreign Affairs and Defense Committee, "Structuring the Civilian Front in Israel," 2nd Report of the Commission for the Examination of the Preparedness of the Civilian Front in Emergency Situations, February 2007.
- 11 Government Decision #1577, April 15, 2007.
- 12 The legal advisor to the defense minister in a lecture at INSS, July 4, 2010.
- 13 In a book published by NEMA on the Basic Doctrine for the Operation of the Civilian Front in Emergency Situations (Temporary), April 2010, p. 21: "The overall functional responsibility (for emergency in the civilian front) is divided between the police, which are responsible in the entire territory of Israel, and the IDF, which has functional responsibility in the territorial

brigades. The transfer of the responsibility from the police to the IDF will be proclaimed in cooperation between the Minister of Defense and the Minister of Internal Security." And, "The functional responsibility for the operation in the arena of event is granted to the IDF or the National Police in accordance with the relative advantage (accessibility or professionalism), and hence will be limited only to the arena of the event or the time of the event."

- 14 HFC, Department of Population, Civilian Defense in the National Infrastructure Organizations, March 2008.
- 15 Amos Harel, "Ministry of Internal Security Wants to Secure Sensitive Installations," *Haaretz*, June 24, 2010.
- 16 HFC, Population Department, "The Doctrine of Civilian Defense in the Local Governments," May 2007.
- 17 Deputy Defense Minister Matan Vilnai: "The central issue is to strengthen the local governments." General Yair Golan, HFC Commander: "The municipality is the basic formation in emergency." Lectures at the INSS conference, "The Preparedness of the Civilian Front," July 4, 2010.
- 18 Currently, the responsibility for preparations for earthquakes lies with the Ministry of National Infrastructures, through a steering committee established in 1999 that serves as the staff for a ministers' committee and the coordinator between all government ministries and other relevant organizations. See <http://www.mni.gov.il/mni/he-il/NaturalResources/Earthquake/>.
- 19 The responsibility for HazMat is in the Ministry for the Environment. See HazMat Law, 1993, article 1, 16/c-2 (A): http://www.sviva.gov.il/Environment/Static/Binaries/law/homarim01_1.pdf.
- 20 This issue was discussed in the past in numerous committees; some recommended that the Ministry for Internal Security offers the proper model.
- 21 There are those who doubt the capacity and political clout of a minister in the Prime Minister's Office to coordinate and manage such a central issue. However, the crux is assigning the responsibility to the prime minister and his office. The model can vary, for instance, to grant the executive responsibility to the director general of the Prime Minister's Office.
- 22 See NEMA, booklets and files for the local authorities, <http://www.rahel.mod.gov.il/ActivityAreas/Pages/Booklet.aspx>.
- 23 Special HFC units were established for this purpose. See: HFC, Population Department, Unit Book, The Liaison Unit for the Local Authority, November, 2008. The Liaison Unit is to "assist the local authority in executing its missions in emergency situations... to assist it in the preparation stage."
- 24 Some rightfully argue that a benchmark is needed to measure the rate of preparedness of the municipality for emergency. NEMA is supposed to initiate such a step, which will make the municipalities meet the standards, and to supervise its enforcement.
- 25 For instance, the minister will have a central role in designing and planning the overall budget for the civilian front and supervising its implementation, while the specific budget items may remain within the various ministries.