

# Authority and Responsibility on the Civilian Front

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## Introduction

The recent rounds of escalation in the south of Israel (March 9-16 and June 18-26, 2012) provided a measure of good news: Hamas did not get involved in the first round, and exercised relative restraint in the second; on the Israeli side, casualties were rather limited, despite more than 450 launches from the Gaza Strip on an area populated by one million citizens; a ceasefire was achieved rather quickly; and the Iron Dome system performed quite impressively.<sup>1</sup> However, these episodes exposed several troubling issues concerning the cooperation between the organizations that are involved in managing the civilian front and in particular, the Home Front Command (HFC) and the local governments. Mutual understanding and systemic collaboration are cornerstones for managing a successful campaign on the civilian front. Therefore, it is necessary to detect as early as possible any point of friction that might spell failure in a future wide scale conflict.

The purpose of this article is to analyze the problematic dynamics that emerged in the recent rounds of escalation regarding authority and responsibility on the civilian front in general, and the complex question related to closing of schools during emergencies in particular. The analysis will be the basis for recommendations for building a tighter, more effective, and more inclusive system.

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### Whose Authority, Whose Responsibility?

The question of authority and responsibility is fundamental to any discussion on system management, with profound organizational implications. This is the case also regarding the civilian front in Israel, which is still far from being properly structured from legal, administrative, and practical angles. The State Comptroller's report on the Second Lebanon War of 2006 discussed this issue extensively and critically, stating that "the existing law...diffuses the handling of the home front among several bodies and does not provide complete and coordinated tools for its management during times of emergency. The large number of bodies leads to a *blurring of responsibility and powers*...There is *no central national institution that is responsible* for the overall preparedness."<sup>2</sup>

This unfortunate situation has not yet been amended, which is particularly problematic given the increased terrorist threat that puts the civilians at high risk. The establishment of the National Emergency Management Authority (NEMA) in 2007 and the Home Front Ministry in 2011 did not alter this problematic situation. NEMA operated as a coordinating organ in the Ministry of Defense (until January 2011) and now is with the Ministry of Home Front Defense.<sup>3</sup> However, it does not meet the need for a central body with control and enforcement capabilities on the other agencies operating within the civilian front. In fact, some claim that NEMA contributes to the confusion and ambiguity, and complicates the organizational structure on the government level. Even according to the Minister for Home Front Defense,<sup>4</sup> the new ministry, established primarily out of political considerations, has not fundamentally improved the situation, except perhaps to create a representative ministerial anchor for the government handling of some of the national issues.

The urgency of this question is clear. For almost a generation now, Israel's security challenges have poised the civilian front at the forefront of the conflict. The lack of a body with clear authority and responsibility for the preparedness of the civilian front and its management during a major episode is a severe predicament. By its very nature the civilian front is decentralized, with numerous institutions involved. Many of them are not geared to work together, and occasionally they have built-in conflicts and lack a common operational language and command and control systems. Furthermore, some of them are organizationally and

functionally weak and require major restructuring, such as the firefighting and rescue systems. Reforming and regulating the civilian emergency system is indeed a great challenge that requires urgent implementation.

The severe lack of regulation applies also to the field echelons, where the HFC plays the strongest operational role. This is stated by the present law – especially when the government decides on a “special situation on the home front” – and also stems from its more extensive resources, its broad deployment, and its relative prestige as a branch of the IDF. Following the experience of the Second Lebanon War, the HFC underwent an important change of emphasis, shifting towards broader involvement with the civilian population in closer cooperation with the local governments (e.g., the establishment of the military liaison units to the municipalities). Still, in situations that are not officially proclaimed as emergencies, the HFC’s legal status in connection with the civilians at large and the civil organizations has not yet been defined.<sup>5</sup>

In recent years, the need for a clear formula for the division of responsibility and authority between the Home Front Ministry and NEMA on the one hand, and the IDF and the HFC on the other, has become more acute. More than merely a normative question, it has clear practical aspects: Which of them bears the supreme responsibility for preparing for an emergency and for managing the affairs during a crisis? Who instructs whom, when, and on what subjects? As of now, there is no clear answer to these questions.

The situation in the lower levels is no clearer. Ostensibly, policymakers agree that the local governments should be regarded as the “cornerstones” of the civilian front.<sup>6</sup> However, in practice, it is not clear what the legal, operational, and organizational meaning of this statement is. According to the State Comptroller, the Second Lebanon War revealed a gloomy picture: the local governments’ level of preparedness and readiness for emergencies was very low.<sup>7</sup> Five-and-a-half years later, the State Comptroller reached similar conclusions. In December 2011, he noted again that “the division of responsibility between the Ministry of the Interior [which is responsible, on behalf of the government, for the functioning of local governments], the HFC, and NEMA in preparing local governments for emergencies has still not been settled in a binding and unambiguous manner.”<sup>8</sup>

The question is, to what extent do the mayors have the legal authority – with all that this implies from a legal, organizational, and budgetary standpoint – for managing their cities and residents during an emergency? Legally,<sup>9</sup> the mayor has no operational powers and control beyond the municipal apparatus itself, and as the head of the local National Economy Emergency System.<sup>10</sup> The Municipal Law addresses the subject of emergencies in a marginal way. It states merely that “the municipality has general authority to carry out . . . any act required to protect . . . public health and confidence in it,” but it does not specify the powers and the means to implement this.

Another question is, how interested are mayors in taking upon themselves the responsibility of leading the system in preparations for and during an emergency, which is known to be a complicated and politically risky task? Even if the answer is positive, there are doubts as to whether the other agencies such as the Israel Police, Magen David Adom, and the HFC are willing to operate under the command and control of the mayors. In order to carry out such an innovative approach, a new doctrine would have to be adopted, to be implemented through a long and difficult process.

The practical answer to the question of the ability, willingness, and readiness of the mayors to assume authority and take responsibility in emergencies is neither clear nor uniform. It depends on many factors, including the robustness of his/her leadership, as well as the political, economic, and organizational strength of the particular municipality. The municipal sector in Israel is not generally perceived to be very effective even in regular times.<sup>11</sup> In recent years quite a few municipalities have made significant progress in assuming increasing responsibility for emergencies, and consequently have enhanced their preparedness by allocating resources to this purpose from their independent budget. Nevertheless, many others are still not interested in or not capable of dealing seriously with emergency issues as required, with some mayors occasionally play a duplicitous game in this sensitive field.

### **Closing of Schools: A Case Study**

The decision to open or close schools in high risk situations is an extremely sensitive issue, particularly in the general context of the campaign against terror, when national interest calls for maintaining the routine as

long as it is possible. The opening or closing of schools affects not only the schools and the students and teachers themselves, but also large parts of the public. When schools are closed, many parents prefer to stay at home, which brings about wide scale absences from the workplace. This has a strong bearing not only on the economy, but also on the public attitude and resilience in the sensitive context of repeated security challenges stemming from protracted terrorism. Hence, a decision on this issue requires serious deliberation and an understanding of the wide socio-political picture. It must take into account local as well as national considerations, especially in a context of protracted attack against more than a few towns.

During the March 2012 terror attacks, the school issue was raised after five days of attacks when the schools were closed. The southern mayors, in cooperation with the HFC, decided that it was time for the region's school system to reopen for the 207,000 students.<sup>12</sup> However, as sporadic rocket attacks continued,<sup>13</sup> a disagreement arose between the HFC, which maintained it was possible to hold classes in these circumstances, and a number of mayors, led by the mayor of Beer Sheva, who insisted that schools should remain closed. Consequently, attentive to the wishes of their constituencies and pursuing a policy of caution,<sup>14</sup> these mayors announced their decision to keep the schools closed.<sup>15</sup> Against the backdrop of these differences, the HFC made an official announcement that "based on intelligence and the state of shelters . . . schools can be reopened . . . [However,] the mayors have the authority to be stricter than the HFC's instructions" (i.e., not to open schools).<sup>16</sup> The result was that schools were indeed closed in several towns, including the three largest cities, despite the HFC call.<sup>17</sup> Sometime later the disagreement was formally addressed by the National Tax Authority, which announced that residents of the south who missed work during the periods in dispute are entitled to compensation for their absence. The Finance Ministry thus recognized the legitimacy of the mayors' decisions on this issue.

During the round of attacks in June, the same situation repeated itself,<sup>18</sup> when the mayor of Ashkelon announced his decision not to open the schools.<sup>19</sup> In this round, the role of the parents' associations was especially prominent, which might indicate a trend toward further weakening of HFC authority on this issue.

These instances bring to the fore questions that are at the heart of this analysis: who has the responsibility? Beyond the theoretical question, what would happen if there were similar disagreements in cases of a mass disaster, such as an earthquake, the release of hazardous materials, or missile attack with chemical warheads? Who would then take the difficult decision? Who is the one to decide on a mass evacuation when required? Who would implement such a wide scale decision?

On the face of it, the Ministry of Education and the HFC presumably have the authority to order schools to close, certainly during a declared emergency (which was not the case in the instances discussed here, defined by the HFC as “a time of attack”). This is by virtue of the Ministry of Education’s overall responsibility for the entire school system on the one hand, and the HFC’s status,<sup>20</sup> which grants it, in a “special situation on the home front,” the authority to order schools closed...on the basis of military and security considerations.”<sup>21</sup> These assertions are also anchored in a directive of the Ministry of Education<sup>22</sup> and in the HFC’s instructions for “time of attack,” distributed in August 2011.<sup>23</sup>

In other words, despite continuous attempts to foster an atmosphere of cooperation with the local governments and grant them a central role in disaster management, the HFC still considers itself to be the organization who leads the system in emergency.

Several lessons emerge from this case study. First, as of now, and this is not expected to change in the future, the mayors’ position is stricter and takes fewer risks than the HFC’s. There was not a single instance when the HFC instructed schools to be closed and the mayors opted for the option to open them. Presumably they are not expected to take upon themselves any risk that might even remotely jeopardize the safety of the students, notwithstanding the other considerations.

Second, the gap on this issue between the HFC and the mayors was first exposed during Operation Cast Lead (2008-9) and has widened since. It reflects primarily the mayors’ political need to publically demonstrate their concern for their residents, along with a measure of defiance toward the government and its extension with the IDF, which allegedly is not doing enough to prevent the launching of rocket fire on the civilian population.

Third, the mayors are neither a monolithic group nor do they have a uniform position, even concerning the issue of preparing for emergencies.

The differences between them stem from the variety of their approaches to political issues, the strength of their towns, and their own sense of leadership. Naturally, some mayors take their responsibility as far as preparedness is concerned more seriously than others, who lack the capacity to adequately assume the proposed role of “cornerstone” in the civilian front.

Fourth, there is generally a reasonable degree of cooperation and direct and open discourse between the mayors, as a group and as individuals, and the HFC, NEMA, and the Home Front Defense Ministry. The HFC prides itself with heralding the local governments as central players in the civil defense system, an attitude that is manifested both in the HFC’s internal instructions and its continuous dialogue with them. The actual degree of operational cooperation depends to a large extent on the individuals involved, on both sides of the fence.

Finally, the real challenge is to prepare for extreme situations that are more serious than those that took place in the south since Operation Cast Lead. In such severe cases, there will not be enough time for deliberations, consultations, and differences of opinion. The severity of the emergency might necessitate difficult and quick decisions that are liable to require high risk taking and strategic national considerations. Who will make the decision in such situations? It is apparent that the national government has the supreme authority over the strategic domain. It is also clear that the HFC will carry out the government’s decisions to the letter. But what will be the role of mayors in such sensitive situations? How much influence will they exert on the decisions in the local domain? This remains an open question.

## Conclusion and Recommendations

There is an urgent need to define clear boundaries of authority and responsibility for the organizations that work on disaster management in Israel, before the existing vagueness turns into chaos. In accordance with whatever strategy is selected, the relevant bodies should be granted the means and tools to carry out their responsibility. The present situation cannot continue, even if there are those whose interests are ostensibly served by the ambiguity (this is apparently one of the reasons why this issue has not yet been dealt with). Whatever approach is taken, it has to be based legally, even though legislature in itself will not suffice for a



serious process of constructing an efficient and effective administrative system for the civilian front.

Several essential measures are absolutely needed to change the present unwarranted situation. Although some of those have been suggested in the past, none have yet been fully implemented.

First, all aspects regarding authority and responsibility must be anchored in law. Although legislation in Israel may not be sufficient to create facts on the ground, it is likely to serve as a solid basis for constructing the system, as long as it unambiguously defines the necessary frameworks and relations between the various organs and provides a clear, unequivocal answer to two fundamental questions. One, which is the responsible organ – or what is the chain of authority – for preparing the civilian front for emergency scenarios and mass disasters, man-made (war, terror, missiles, and hazardous materials) and natural (earthquakes, large scope fires, and so on)? Two, which is the responsible element – or what is the chain of command – for managing the scene of a mass disaster? Yet another decision has to be made as to who is responsible for the recovery processes that follow a large scale emergency. The Home Front Law proposed several years ago has failed so far to come to fruition.

Second, the status and powers of the official organs and the interface between them should be defined in precise language: the government as a whole (the prime minister and the Ministerial Committee on National Security), the Ministry of Defense, the Home Front Defense Ministry (with other relevant government ministries), NEMA, the IDF, the HFC, and other agencies such as the Israel Police, the national Firefighting and Rescue Commission, Magen David Adom, and others. There should be an accepted, clear, and unequivocal legally based structure that defines their operational relationships, to specify who instructs whom, under different circumstances. A viable solution to the present entanglement could be the establishment of a ministerial position within the Prime Minister's Office, which will not only coordinate but also lead.

Third, the operational relations among the first responders and the local governments should also be defined by law. Beyond legislation, the future structure has to be widely accepted and practiced on a continuous basis. In order to facilitate the real upgrading of the municipal role, the government should allocate the necessary funds and lead a rapid process



of in-depth structuring, training, and maintaining the less powerful municipalities, so that they too can take on the mission. Such an effort would have a constructive impact on the local governments' capabilities during normal times as well.

Fourth, the voluntary organizations of the civic society have to be integrated fully, according to their missions and capacities, in the general effort to enhance societal resilience. It is imperative to provide them with the mechanisms to express themselves and to optimally manifest their role through ongoing dialogue and joint exercises.

But legislation by itself is not sufficient: the organs authorized by the long awaited law must be responsible for constructing the response system in such a way that they can stand up to the unique needs and the anticipated challenges. This is a formidable mission, but the apparent needs make it an immediate necessity. There is some room for optimism in the fact that the Prime Minister recently (albeit belatedly) took the reins and is now holding frequent home front preparedness meetings with the designated national bodies. Given Israel's unparalleled situation, there is no other option but for the Prime Minister to be personally involved in the process of designing the necessary guidelines for the civilian front. The test will be in keeping this initial momentum and creating the required long term processes that would result in strengthening the preparedness of the civilian front.

## Notes

- 1 Uzi Rubin, "'Iron Dome' vs. Grad Rockets: A Dress Rehearsal for an All-Out War?" BESA Center Perspectives Paper No. 173, July 3, 2012.
- 2 State Comptroller's Report, "Preparedness and Performance of the Home Front during the Second Lebanon War, 2007, "Main Findings, and also pp. 3-4, "The Normative Basis for Handling the Home Front" (emphasis added).
- 3 NEMA was established by resolution number 43/b of the Ministerial Committee on National Security on December 19, 2007, <http://www.rahel.mod.gov.il/AboutUs/Documents/Decision%20B43.pdf>.
- 4 Minister Matan Vilnai in September 2011 at the INSS annual conference on the preparedness of the civilian front. See Meir Elran and Alex Altshuler, eds., *The Complex Mosaic of the Civilian Front in Israel*, Memorandum No. 120 (Tel Aviv: Institute for National Security Studies, 2012).
- 5 This problematic situation did not fundamentally change even after the passage in March and August 2011 of amendments 15 and 16 to the original Civil Defense Law of 1951, <http://oknesset.org/vote/4050/>.

- 6 Home Front Commander Maj. Gen. Eyal Eisenberg in September 2011 at the INSS annual conference on the preparedness of the civilian front. See *The Complex Mosaic of the Civilian Front in Israel*.
- 7 State Comptroller's Report, "Preparedness and Performance of the Home Front during the Second Lebanon War, 2007," p. 96.
- 8 State Comptroller's Report, "Report on Local Governments," December 2011, see pp. 3-89.
- 9 The Municipality Law of 2006 (new version) states in clause 248 (a) that "the municipality will do everything necessary to prepare the economy for an emergency and to run it at the same time, except for recruiting manpower and equipment to which different statutes apply, with all of this subject to the instructions of the minister responsible for operations in the relevant area and in accordance with a plan approved by the government or a party authorized by the government."
- 10 National Economy Emergency System Headquarters, *Planning, Organization, and Operation in the Local Government: General*, December 2004.
- 11 There has been relatively little confidence in the employees of municipalities and local governments compared to other sectors in the public service, with only religious services ranked a bit below them. See Eran Vigoda-Gadot and Shlomo Mizrahi, "Public Sector Performance in Israel," Working Paper no. 6, Center for Public Management and Policy, University of Haifa, 2006.
- 12 Yanir Yagna, Gili Cohen, and Barak Ravid, "Routine Slowly Returning to South after Four Days of Rockets," *Haaretz*, March 14, 2012.
- 13 A Grad rocket in Netivot injured one person, and some twenty people were treated for shock. In addition, twelve rockets and mortars fell in open areas. The following day, schools were in fact reopened in southern cities. However, on March 14, more rockets were fired on Ashdod, the Eshkol and Ashkelon Coast regional councils, Beer Sheva, and Netivot. These rockets were intercepted by the Iron Dome system or landed in open areas. Gili Cohen and Yanir Yagna, "Iron Dome Intercepts Rocket Fired by Gaza Militants at Israeli City," *Haaretz*, March 15, 2012.
- 14 In the southern towns in which schools were open, some 70 percent of the students went to school.
- 15 The cities in which schools were closed on March 15 were Ashdod, Ashkelon, Beer Sheva, Gan Yavne, Kiryat Gat, and Kiryat Malachi.
- 16 Yanir Yagna and Gili Cohen, "Rocket Fire on South Continues; Several Cities Keep Schools Closed," *Haaretz*, March 16, 2012.
- 17 Thus, the mayor of Beer Sheva decided that the city would return to normal only when the situation had quieted down completely. "So long as missiles are fired at Beer Sheva . . . the children won't return to classes," he said. "Some municipal leaders don't use their discretion; they simply do what the Home Front Command recommends. We do things differently." He noted that missiles were still being fired on Beer Sheva, adding, "I'm not willing to accept that as routine." Ibid.

- 18 On June 6, the parents' committee of the Maagalim elementary school near Netivot decided that since the school was not protected, they would not hold classes. A. Binder and Agencies, "Escalation in the South: IDF Attacks in Gaza, Four More Rockets Fired," *nrg*, June 20, 2012.
- 19 N. Brenner, "130 Rockets so Far: 'Children Aren't Sleeping at Night,'" *Ynet*, June 21, 2012.
- 20 Thus, it was determined that "a directive on holding or canceling classes in some locations or nationally will be given by the minister of education according to a government decision and in coordination with the IDF, but any directive or instruction officially published in the media during an emergency on behalf of the IDF spokesman or the Home Front Command, applies immediately to educational institutions as well, and it is not necessary to wait for special instructions from the school system." "The Supreme Authority for Education during Emergencies and the National Economy Emergency System Headquarters," *Planning, Organization, and Operation in the Local Government: Education*, 2004, p. 3.
- 21 Ibid.
- 22 "The educational system will act to hold classes during emergencies in all educational institutions in accordance with the possibilities and the changing conditions, and as a result of various emergency situations, unless the IDF/Home Front Command in the geographic area of responsibility determines otherwise, and orders the closure of educational institutions and the cancellation of classes." Ministry of Education, Director General's Circular, "Safety, Security, and Emergencies," March 2004, [http://cms.education.gov.il/EducationCMS/applications/mankal/arc//sd7bk5\\_4\\_6.htm](http://cms.education.gov.il/EducationCMS/applications/mankal/arc//sd7bk5_4_6.htm).
- 23 A "time of attack," according to amendment number 15 (2011) to the Civil Defense Law, is "the time in which an attack is taking place in a certain area, from its start or from the time of the alarm, whichever comes first, and until the all-clear signal, or until twenty-four hours have elapsed since the start of the attack, whichever comes first; if several attacks have taken place in a period of twenty-four hours, the counting of the aforementioned twenty-four hours will start with the first attack." When a "time of attack" occurs, the home front commander is authorized to decide the defense policy, and by virtue of this policy, to give the necessary directives to the population. The directives can be for a particular type of person or the entire population, and they include every provision necessary for saving or preserving human life or property.