

The Truth according to Breaking the Silence: An Analysis of Testimonies

Author: Avrum Tomer

Editors: Tomer Yahud and Noa Lazimi

June 2018



המכון לאסטרטגיה ציונית הוא גוף עצמאי הפועל למען שמירת צביונה היהודי והדמוקרטי של מדינת ישראל על פי עקרונות מגילת העצמאות. המכון פועל לשמירת זכויות האדם במדינת ישראל ברוח עקרונות החירות, הצדק, היושר והשלום של מורשת ישראל. המכון פועל למען הידוק הקשר בין יהודי התפוצות למדינת ישראל על פי ערכי הציונות. המכון עוסק בעריכת מחקרים, כתיבת תכניות והגשתן, הדרכת מנהיגים צעירים, ייזום כינוסים, סמינרים, סיורים ופעילויות אחרות למען חיזוקה של מדינת ישראל כביתו הלאומי של העם היהודי.

The Institute for Zionist Strategies is an independent non-partisan organization dedicated to the preservation of the Jewish and democratic character of the state of Israel, according to the principles of Israel's Declaration of Independence.

The Institute strives to promote human rights within Israel in the spirit of the principles of freedom, justice, integrity, and peace as prescribed by the Jewish Heritage.

The Institute strives to fortify the bond between the Jews in the Diaspora and the state of Israel, according to the values of Zionism.

The Institute engages in research, formulation and advancement of programs, training of young leadership, organization of policy conferences, seminars, and field study missions, and in other activities to strengthen the State of Israel as the National Homeland of the Jewish People.

בית החברה האזרחית, רח' יפו 224, מיקוד: 94383 ירושלים

224 Jaffa St., 94383 Jerusalem

Tel. +972 2 581 7196

<http://izs.org.il/he/> ; info@izs.org.il

Table of Contents

Abstract	4
Background	7
Introduction	10
Breaking the Silence	20
The Organization's Activity	20
The Organization's Goal.....	22
Methodology	25
Findings	31
1. Identifying Details.....	31
2. Time – when the events in the testimonies took place	33
3. Place – where the events in the testimonies took place	35
4. Classification of the events character or nature.....	37
5. Criticism of the military system vs. criticism of 'bad apples'. 42	
6. Did the IDF commit war crimes against Palestinians?	48
7. Does testimony demonstrate the context and causes to an event?.....	62
Summary	66

Abstract

In recent years, the Breaking the Silence organization has released a series of publications that expose a database of IDF soldier testimonies from their service in Judea and Samara, as well as the various Gaza operations. Based on these testimonies, Breaking the Silence (furthermore referred to as BTS) has concluded that the IDF is in a moral and ethical decline, which is conveyed from the top of the chain of command and continues down to the simple soldier. A decline, they explain, through the continuous existence of the "occupation" policy.

In light of the organization's statements about a systematic moral deterioration of the military system, we have conducted research in which we have carefully examined 100 of the total testimonies presented by BTS – according to select criteria: incident time and location, military layout, described damage type, context, etc., in order to deeply examine BTS' testimonies and the validity of their conclusions.

The research suggests that there is no correlation between BTS' claims and the conclusions suggested by their

presented testimonies. Our research indicates several fundamental problems that impair the validity of BTS' conclusions regarding the IDF's warfare practices and its routine conduct with civilians:

- The choice of incident time and locations follow a deliberate tendency.
- About 71% of total sampled testimonies occurred in the years of the Second Intifada; about 39% of the sampled testimonies from Judea and Samaria were taken from the Yehuda Brigade, and 27% were from the city of Hebron alone, which serves as BTS' activity hub and is characterized by a much higher level of tension between civilian populations than that seen in other places in Judea and Samaria.
- The testimonies' interpretations regard damage type (severe/mild) and the object of criticism (military systems/bad apples) don't take into account the differences of military layout: active warfare versus routine security. It appears that there is a correlation between the active warfare pattern and event type, as the comparison between Gaza and Judea and Samaria clearly show, and therefore, the claim about a

systematic tendency toward the disregard of human life is not an obvious conclusion.

- The testimonies' presentation is done in a manner that provides scarce identifying details (that is, anonymously without a precise date or location). This issue impairs the testimonies' credibility and makes it difficult to verify the content provided.
- In 71% of the total sampled testimonies, there is no attempt to understand the incidents' context, as described.
- BTS claims regarding IDF's grave breaches of the rules of warfare have no solid basis in evidence.
- In conclusion, the research findings reveal an ideological preference by BTS in the manner the testimonies are used to research directed conclusions. BTS lacks the power of conviction in their testimonies to indicate an immoral course of action that permeates the entire IDF activity. It appears that their declarations convey more of a political agenda and less of the reality, as presented.

Background

"The IDF's military doctrine during the operation, as reflected by the testimonies, raises questions regarding the ethical norms that guide IDF conduct in general, and throughout the operations in Gaza, in particular. From all the testimonies that reached Breaking the Silence, a very disconcerting picture arises about the way IDF forces were instructed to operate during combat in Gaza. The operation, which was conducted under a policy determined by the most senior commanding ranks who instructed the soldiers' conduct, casts grave doubt on the IDF's ethics."

(taken from the Protective Edge Testimonies publication).¹

In recent years, the activities of the NGO "Breaking the Silence" (henceforth "BTS") have aroused great controversy and resentment. There are those who support the organization's activities, while many criticize them for differing reasons: that the organization's political objectives are wrong, that its objectives drive its methods

¹"**This is How We Fought in Gaza Soldiers**" testimonies and photographs from Operation "Protective Edge" (2014), Breaking the Silence, 2015, p. 23, available at: <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf>

and conclusions, that the "testimonies" it brings are unreliable and even concocted, that the sources of its funding are inappropriate, that it focuses illegitimate efforts abroad which do not further its claimed mission, that it legitimizes and even encourages the BDS movement, that it refuses to cooperate with the IDF even to achieve its own asserted goals, etc.

Thus far, we are unaware of any studies which offer a detailed and in-depth analysis of all the testimonies, in order to examine the essence behind BTS' claims. Most research conducted to date have not dealt with examining the testimonies' content and the connection between the testimonies and BTS' messages. However, they focus on the political and social effect of the testimony project from psychological, sociological, and philosophical aspects². In addition, other research has relied on BTS' testimonies as a part of a larger body of research that does not focus on the testimonies themselves³. The common aspect of these two types of research is the lack of criticism on the

² See for example, Katriel, T. & N. Shavit (2013) **"Speaking Out: Testimonial Rhetoric in Israeli Soldiers' Dissent."** *Versus: Quaderni di Studi Semiotici* 116: 81-105. Prof. Eran Halperin and Prof. Tamar Saguy, **BtS Influence Worldwide: No harm – Benefit**, ynet, 23.12.2015.

³ Tal Nitzan (2006), **The Limits of the Occupation: The Rarity of Military Rape in the Israeli-Palestinian Conflict.** *MA diss., Hebrew University of Jerusalem, Israel.* Michal Givoni, (2011). *Witnessing/Testimony. Mafte'akh*, 2, 147-169.

testimonies' value and on the message interpretation, as produced by BTS members.

This article brings the research findings, in which the characteristics of 100 sample testimonies from BTS publications were examined. For the need of this research, the testimonies were analyzed according to select criteria (that will be detailed and expanded later on) in order to check the testimonies' essence in matters of significant versus insignificant details, quality versus quantity, concrete versus abstract ideas, and to examine the suggested conclusions from the incidents themselves and the resulting phenomena as described. Despite the research's limited scope, the resulting findings from a significant number of testimonies which were carefully analyzed, may tell us about BTS' activity quality and assist us in finding the IDF's strong points and weak points in matters of military ethics. In addition, the research can provide tools to decision makers in the State of Israel to repair faults in the IDF's activities and improve Israel's image.

Introduction

The public debate regarding the para-parliamentary organization BTS' activities has reached its peak in the past two years, ever since the organization published their report of testimonies from Operation Protective Edge, which took place in Gaza in 2014.

In the beginning of its efforts over a decade ago, the organization had already managed to become one of the most influential organizations on Israeli Policy in general, and on the character of IDF activities, in particular. However, it wasn't perceived at the time as an extreme left organization, but as an organization which aims to make the IDF maintain moral warfare ethics. For example, in the year of its establishment (2004), BTS held an exhibition in the Knesset for three weeks, followed by its representatives who voiced their opinions in the Education and Cultural committee; this was done in a session initiated by the committee's chairman, Former MK Ilan Shalgi of the Shinui party, that was defined as "apolitical" before it began⁴. Nevertheless, as the years passed the

⁴ Education and Culture Committee, 5.07.04.

organization moved the majority of its activities to those outside Israeli borders, and accordingly, its messages became more extreme. In this way, it found itself under strong public controversy. It appears that in the past two years, there has been an escalation in terms of the public's attitude toward the organization, the public's criticism to which the organization has been exposed, and resulting attempts in general to make it weak and chastened in the political sphere.

The majority of the public's references to the organization's claims, however, deal with the materials it publishes in a few ways:

1. Questioning testimonial credibility, whether due to lacking identifying details, biased interpretation of the events reported, or lacking references made to the various event contexts depicted in the testimonies; these all result in presenting the testimonies as out-of-context.⁵
2. Viewing the lack of BTS cooperation with the IDF and various enforcement agencies strengthens the

⁵ For one representing example see: <http://www.mako.co.il/pzm-soldiers/Article-2c8326f491e2d41006.htm>.

suggestion that the organization doesn't aim to correct and preserve the IDF's warfare ethics, but rather, BTS is interested in achieving its own political gain by continuing to emphasize the IDF's immorality.⁶

3. Accusing the organization of slandering Israel because it directs the majority of its activities abroad in order to create international pressure on Israel. According to NGO Monitor's reports, between September 2012 and June 2015, BTS has held at least 47 events, exhibitions, and talks in Central and Northern Europe, and in the United States⁷. Many Israelis interpret this as surrendering the public debate within Israel, therefore neglecting the battle to enact change within the framework of Israeli democracy.⁸

The fact that the organization relies on many budgets from foreign countries adds more fuel to the fire and

⁶ So said, for example, former Minister of Defence, Moshe Yaalon, in 2015: "If BTS people were really concerned about our morality as we are, they would have worked directly with the IDF." Available at: <http://www.haaretz.co.il/1.2798125>

⁷ Available at: <http://www.haaretz.co.il/1.2798125>

⁸ Available at: <http://www.news1.co.il/Archive/003-D-119685-00.html?t=144217>

portrays the organization as mercenary for foreign interests within the state of Israel.⁹ Although organization members declare everywhere that all purposes are to benefit Israel and come only from ethical motives, even BTS supporters find it difficult to back them up when the organization acts in a disgracing manner abroad toward the IDF and Israel. Even in a public support advertisement given by former Brigadier General Amiram Levin, one of the most senior supporters of the organization among retired security officers, a caveat was added: "The IDF must encourage BTS and like-minded organizations to voice their opinions fearlessly in the IDF and Israeli society (and only there)."

4. Harm to sovereignty: The attempt to harness world powers to force political decisions does no less than harm Israeli sovereignty and democracy.¹⁰ Recently,

⁹Available at: <http://www.haaretz.co.il/news/politics/1.1272935>. Sometimes, even BTS supporters find it difficult to endorse the organization's activity overseas. For instance, in a public support ad published by General (Ret.) Amiram Levine, one of the main BTS supporters among the retired military officers, the following reservation was added: "The IDF must encourage BTS and their like to voice themselves without fear in the ranks of the IDF and the Israeli society (and only there). Available at: <http://news.walla.co.il/item/2916816>

¹⁰Available at: <http://mida.org.il/2017/04/25/ת-שחותר-הגרמני-הכסף-ובצלם-הגרימני-שחותר-ת-25/04/2017>

BTS added insult to injury by embracing a new defense line, which they were forced to voice abroad after no one listened to them while they worked in Israel. However, just a few years after the organization was established (2004), the organization had performed several slander campaigns abroad. Adi Arbel, Project Manager at the Institute for Zionist Strategy, testifies that in 2008 BTS held a conference in which Jewish students world-wide explained to organization representatives how BTS activities on campuses create an atmosphere of anti-Semitic incitement. It is impossible to forget how one student tearfully described her fear of going around campus with any identifiable Jewish paraphernalia during a BTS campus visit.

5. Dependency: the connection between the organization and foreign countries is symbiotic. BTS receives vast amounts of money arriving from European governments which wish to apply political pressure on Israel via Israeli organizations that pretend to present themselves as apparent NGOs.

This research does not seek to discuss these aspects, though some sections are also relevant to these discussions. However, the presentation of the public's main criticism contributes to understanding the motivation and trigger for conducting this research. From the critic's voices, there is an apparent feeling of confusion among the Israeli population. This confusion derives from a close familiarity with the IDF that causes the perception of high ethical standards, whereas the public hears BTS' claims of unethical IDF conduct, depicted in almost demon-like traits. One of the factors that increases this confusion is related to the lack of tools and ability to examine and subsequently confront the organization's claims. This limitation creates a cognitive dissonance, which is usually resolved in one of two ways: either by accepting BTS' claims automatically, mainly by the organization's supporters, or rejecting them outright, as happens with opponents of the organization. The research's contribution is primarily in deepening the public's conversation by providing tools for in-depth examination of BTS testimonies.

In light of this, the primary aim of the research is to examine how BTS' testimonies validate the organization's conclusions about the IDF's moral conduct, as conveyed in various statements and declarations. In order to realize this goal, we will rely on a few premises that must be emphasized. First of all, that the examined testimonies do convey reality as presented. From this stance, we would like to closely examine the essence of these testimonies about IDF actions, about its morality, and whether it reconciles with international law. Another premise is that the testimonies are taken from friction or combat settings that exist in the context of a broader reality that must be understood when coming to read the testimony. In addition, while checking the testimonies and the various incidents and details provided, we will analyze the significant versus insignificant components.

In order to do so, we will examine the testimonies as they are presented by BTS while referring to various criteria as will be detailed later, which will enable us to answer the following questions:

First, how much can we rely on the testimonies' credibility? Does the testimony material provide us with sufficient information that enable us to find a clear-cut conclusion?

Second, what are the goals and the motivations that drive the organization as can be concluded from the testimonies and whether and how they color the testimonies' presentation?

The answers to these questions will allow us to understand whether, in light of the numerous testimonies collected by BTS, there is no other way but to reach their conclusions as well. One such conclusion is in the existence of the IDF's and Israeli society's moral decline, formulated by the organization as follows:

"Cases of abuse towards Palestinians, looting, and destruction of property have been the norm for years, but are still explained as extreme and unique cases. Our testimonies portray a different, and much grimmer picture in which deterioration of moral standards finds expression in the character of orders and the rules of

*engagement, and are justified in the name of Israel's security."*¹¹

Elsewhere, the organization claims that out of all personal testimonies a wider picture is exposed and clearly indicates on courses of action for the IDF'S mainstream policy in Judea and Samaria:

"Contrary to the official Israeli position, which portrays the IDF's activities in the Territories as fundamentally defensive and intended to prevent harm to Israeli civilians, the soldiers' testimonies describe the policy on the ground as an offensive one which includes expropriation of territory, tightening control over the civilian population, and instilling fear."¹²

Based on the testimonies collected in various locations throughout the years, the organization claims that it is possible to decisively conclude that IDF actions are systematically leading toward the demolition of the Palestinian society and preventing any possibility of

¹¹ BTS official website.

¹² **Occupation of the Territories: Israeli soldier testimonies 2000-2010** (referred to as **Occupation of the Territories**), Breaking the Silence, 2010, page 5. Available at: https://www.ngo-monitor.org/pdf/bts_book2011.pdf

Palestinian independence¹³, as well as within the IDF's rules of engagement, values like purity of arms and human life have diminished¹⁴.

¹³ Ibid, p. 14.

¹⁴ Press release: **How We Fought in Gaza 2014**, Breaking the Silence website, 3.5.15. Available at: <http://www.shovrimshatika.org/inside/tzuk-eitan-press/>

Breaking the Silence

The Organization's Activity

The majority of the organization's propaganda and publicity has gradually moved abroad, with all testimonies and materials translated into foreign languages and distributed in parliaments of foreign countries, mainly in Europe. The organization's representatives are mainly hosted in forums and conferences by various countries and organizations, including those who are hostile to Israel. In October 2015, for example, the organization's representative gave a lecture tour in Scotland to the Friends of Palestine at the SNP party and MAP organizations; the former supports the Palestinian right of return and the BDS campaign, while the latter was involved in an anti-Semitic incident. In May 2015, the former CEO of the organization appeared before the Left Wing Parties coalition in the EU (GUE/NGL). This coalition and its members call for a complete boycott of the state of Israel and has met personally with BDS leader Omar Barguti. In October 2013, Avner Gvaryahu appeared in the "sub-committee of the clear rights of the

Palestinians" in the UN, whose members are Iran, Malaysia, Iraq, Syria and Pakistan, along with other countries that do not recognize Israel as an independent state. The Palestinian representative asked at the end of the lecture to "hold more talks like this, especially in the US." the lecture was first broadcasted on Iranian TV under the title "Israeli War Crimes." In 2013, a representative of BTS participated in an event with Open Shuhada Street in South Africa, an organization that – unlike in previous years – made it clear in 2016 that it supports BDS.¹⁶

Another significant activity which the organization undertakes in Israel, in addition to the collection of testimonies, is providing many tours in Hebron to groups of organizations and country representatives from Israel and abroad¹⁷. BTS has also visited certain schools and distributed materials to the students which adhere to the spirit of the organization's goals¹⁸. Recently, the organization's activities in schools was forbidden by law –

¹⁶ All the examples are taken from NGO Monitor.

¹⁷ Available at: <http://www.shovrimshatika.org/tours/2>

¹⁸ Available at: http://www.mako.co.il/news-israel/education-q4_2016/Article-6dbcf1038bc851004.htm

though it's too early to know how this law will be enforced, if at all¹⁹.

The Organization's Goal

According to the heads of BTS, the organization was established due to the cognitive dissonance experienced by many soldiers (between the reality experienced in the occupied territories and Israeli society's indifference and silence, versus this reality). This is why the organization sees great importance in voicing "the voices of these soldiers, in order to bring the Israeli society to acknowledge the reality it itself has created."²⁰ However, the organization doesn't find it sufficient to only bring forward the silenced voices of the soldiers, but declares its prominent goal is its "...endeavor to stimulate public debate about the price paid for a reality in which young soldiers face a civilian population on a daily basis and are engaged in the control of that population's everyday life. Our work aims to bring an end to the occupation."²¹ Meaning, the organization declares that its aim is clearly

¹⁹ Available at: http://www.mako.co.il/news-israel/education-q1_2017/Article-e472aab54ae7951004.htm

²⁰ From BTS official website: <http://www.shovrimshatika.org/about/organization>

²¹ Ibid.

political: creating a public discussion aimed at withdrawing the Israeli forces from Judea and Samaria.

As we will see in the testimonies, a change has occurred through the years within the organization's claims and goals. At first, the organization claimed that IDF soldiers and commanders were conducting themselves unethically with regards to the Palestinian population, which is the result of a moral decline within Israeli society following the reality of the years' long occupation. Later, the organization has moved to principally making fundamental claims about the IDF's systematic policy as an arm of the government itself. This turn is expressed in the organization's declaratory statements at the beginning of the documents with which our research deals. In the documents from 2009, which brings forward testimonies from Cast Lead, the organization declares that its general goal is to expose the ethical toll of the occupation and it uses this document in particular to indicate "the ongoing moral deterioration of the society and the army."²² However, in a document from Protective Edge in 2014,

²² **Soldiers' Testimonies from Operation Cast Lead, Gaza 2009**, Breaking the Silence, June 2009, page 5.

the organization put at the center of its attention the military's policy issue: "While the testimonies include pointed descriptions of inappropriate behavior by soldiers in the field, the more disturbing picture that arises from these testimonies reflects systematic policies that were dictated to IDF forces of all ranks and in all zones.²³" what leads to bringing up "questions regarding the ethical norms that guide IDF conduct in general, and throughout the operations in Gaza, in particular. "²⁴. In addition, in a 2011 document that brings forward testimonies from soldiers who participated in the IDF's engagements in Judea and Samaria, the organization does not claim that IDF soldiers are morally corrupt, rather it indicates that the IDF's engagement patterns and the Israeli government's authorities deviate from only providing protection into working toward a political policy that aims to demolish Palestinian society and restrain the option for Palestinian independence²⁵.

²³ **Protective Edge**, p. 16.

²⁴ *Ibid*, p. 23.

²⁵ "This volume describes the IDF's principal methods of operation, as well as the policies of the Israeli authorities who control the Territories. Though the soldiers' descriptions are limited to their personal experiences, an evaluation of the entire body of testimonies published here exposes the principles of Israeli policy in the Occupied Territories" from **Occupation of the Territories**.

Methodology

In order for the sample to represent all BTS testimonies as much as possible, we have chosen 100 testimonies. Half of them were taken from the book “Occupation of the Territories: Israeli Soldier Testimonies 2000-2010”²⁶, in which most of the testimonies deal with events that happened in Judea and Samaria. The other half came from two documents consisting of testimonies from the two major Gaza Strip military operations, Cast Lead (2009)²⁷ and Protective Edge (2014)²⁸.

The book “Occupation of the Territories” is divided into four parts:

1. Intimidation of the Palestinian Population – “Prevention”
2. Control Expropriation and Annexation – “Separation”
3. Administering Palestinian Civilian life – “The Fabric of Life”

²⁶ **Occupation of the Territories**, Breaking the Silence, 2010. Available at: https://www.ngo-monitor.org/pdf/bts_book2011.pdf.

²⁷ **Cast Lead**, Breaking the Silence, June 2009. Available at: http://www.breakingthesilence.org.il/wp-content/uploads/2011/02/Operation_Cast_Lead_Gaza_2009_Eng.pdf

²⁸ **Protective Edge**, Breaking the Silence, 2015. Available at: <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf>.

4. A Dual Regime – “Law Enforcement”

From the first part, which is the longest of all parts, we have sampled the first 20 testimonies; from the remaining parts, we have sampled the first 10 testimonies. In total, we sampled 50 testimonies out of 183 that exist in the book (27.3%). Similarly, we have sampled the first 25 testimonies from the Cast Lead testimony collection and we did the same for the Protective Edge testimonies. It may be noted that when the books are examined carefully, it appears that the order of testimonies is completely random, and it is therefore impossible to identify a pattern or particular order according to which the testimonies are organized – whether chronologically, geographically, by the nature of testimony, or its severity. Therefore, we did not refrain from taking samples from the first testimonies of every part or collection, with the reasoning that they faithfully represent all remaining testimonies.

The BTS organization provides short, methodic statements on the testimony's manner of collection in the introduction to its publications. In the collection called "Occupation of the Territories", the organization writes

that all its published testimonies were collected by former soldiers and were verified prior to publication²⁹. In the Cast Lead collection of testimonies, they assert that "All the testimonies we publish undergo meticulous research, including cross-checking facts with additional eye-witnesses and/or the archives of other human rights organizations which are also active in the field"³⁰. Additionally, the organization declares in one of its publication introductions that all testimonies are from anonymous, first-person, eye-witness accounts³¹.

In the next stage, we chose to segment the collection of testimonies sampled by a few different criteria in a way that would enable us to get a broader picture, and consequently, reach various conclusions. Every criterion is, in fact, a certain type of question with which we approached the data for examination. And based on these questions, we have divided the research sections as follows:

²⁹ **Occupation of the Territories**, p. 4 and in Protective Edge, p. 16: " The testimonies underwent a meticulous investigative process to ensure their veracity".

³⁰ **Cast Lead**, p.2.

³¹ **Occupation of the Territories**, Ibid.

1. **Identifying details** in the testimony – whether they were provided, in what scope they were provided, and what kind of details they were.
2. **Event timing** on which the testimony was given (the testimonies report only the years when the event occurred) and the **location** of the event, if reported.
3. Whether the military setting in which the event took place was combat or a routine security measure.
4. **Testimony categorical classifications**, including: negatively impacting or risking human lives; physical harm; property damage; disrupting freedom of movement, employment, and routines (for example, entering the homes of uninvolved civilians); humiliation; and irregular rules of engagement (when the testimony does not include a specific result of the engagement). Some of the testimonies given more than one classification.
5. Whether the testimonies demonstrate **problems in the orders**, per se, as part of military methodologies or whether it describes situations where soldiers or commanders **deviate from military order** – therefore, the problem isn't the system, but rather the

individuals who deviate from the system's rules, regardless of the amount. A small portion of the testimonies lacked sufficient information and it wasn't possible to confidently decide if it was the former or the latter; in the majority of the testimonies, however, this was possible to determine.

6. Whether the testimonies describe events with an **intentional outcome** or rather an **unintentional action**. Here also, this was not clear for a small portion of testimonies, though for the majority this was possible.
7. Whether there is a **concern for breaking international warfare laws** (this was the most complicated question in the research). We will discuss this question as much as possible, in light of the testimonies.
8. Whether there is an attempt to understand the **context**, the operational and systematic aspects, and the reasoning behind the situations, in which the event took place - or whether the testimony was written strictly from the narrow prism of the witness' point of view.

Throughout this paper, we will compare the testimonies given regarding military action in Judea and Samaria with the testimonies given on the activities in Gaza according to these parameters, in order to distinguish between the characteristics of IDF operations in Judea and Samaria versus Gaza as they are depicted in the testimonies.

Findings

1. Identifying Details

All testimonies in BTS' publications are anonymous. The organization website does bring video clips with testimonies from soldiers who expose themselves, but this is not so in the written publications, that are addressed here. The collection "The Occupation of the Territories" mainly deals with Judea and Samaria. The reader is provided with the witness' unit name, in most cases which brigade (Paratroopers, Givati, Engineering Corps, etc.), or the regiment (Nachson, Shel Dag, etc.) to which the witness belongs. The testimonies reference the place, region (Hebron, Ramallah, Nablus, etc.), and the year in which the incident takes place, without a more specific date. This information seemingly increases credibility, but because it is very difficult to track the events themselves with this general data it is subsequently difficult to understand the general situation and hear more perspectives; the information, therefore, does not serve its purpose.

Testimonies from Operation Cast Lead are given without any particular information at all, except for what can occasionally be deduced from the testimony itself. In testimonies from Operation Protective Edge, there is great variety regarding the information focus. In some of the testimonies, the unit name is given – as is done in the publication “The Occupation of the Territories” – but in many testimonies, it is given as “armored forces” or “infantry”, data that is essentially lacking in significance or meaning. In addition, most testimonies provide the place name but in a non-focused way, e.g., “northern part of the Strip” or “Gaza City”. The exception to the rule is Deir-El-Balah, a fairly small town in the center of the Gaza Strip, in which primarily armored forces operated. There are quite a few testimonies from this town that are very similar in character, but it is impossible to know how many soldiers gave these testimonies. Also, in Protective Edge testimonies, the rank of the witness is given in many cases – apparently to emphasize that there are also officers among the witnesses – however, in the introduction to the testimonial collection for Protective Edge, it is written regarding the witnesses that “a quarter of them are

officers, up to the rank of Major”, but in the text of all testimonies we see that 19 testimonies give the officers the rank of Lieutenant and 3 have the rank of Captain (it is not possible to know how many officers there are, as there is no other information given apart from the rank to know whether or not different people are speaking).

2. Time – when the events in the testimonies took place

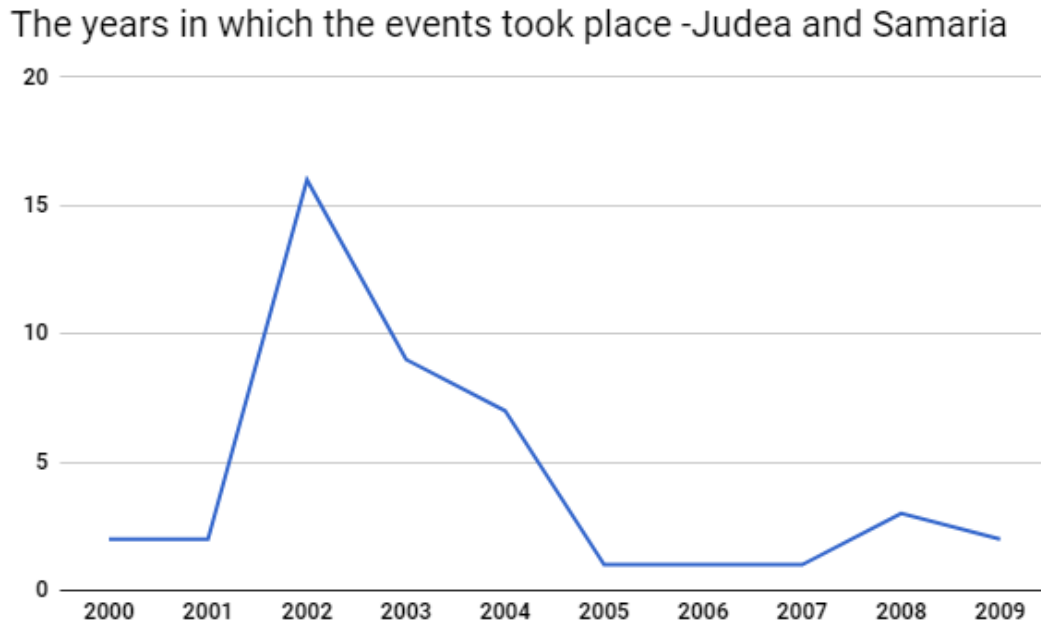
Figure one presents the layout of events reported only for the testimonies from Judea and Samaria³², according to the years in which they took place.³³ As we can see, most of the testimonies describe events in the years 2002-2004, the years of the Second Intifada, in which Israeli-Palestinian aggression reached a new peak. During that time, more than 1100 Israelis were killed and 8000 were wounded. The year 2002, which is distinctly represented in the figure, was also the peak year of this Intifada – both in terms of the number of terror attacks, deaths, and injuries, and also the intensity of the IDF’s reaction as they

³² All figures provide segmentation according the testimonies analyzed in the research.

³³ The Gaza strip testimonies are taken at large from Operations Cast Lead and Protective Edge which took place in 2009 and 2014 respectively.

attempt to subdue the terror organizations. From 2005 onwards, terror intensity has reduced significantly, as have the number of testimonies collected by BTS from soldiers on the ground. BTS does have testimonies from Judea and Samaria that take place after 2010 but it is evident that most of its efforts were directed at illuminating the IDF's activities in Gaza, focusing on the two big operations, Cast Lead (2009) and Protective Edge (2014).

Fig. 1.



3. Place – where the events in the testimonies took place

It is also important to analyze the testimonial distribution geographically. We divided the testimonies according to the territorial brigades in which they occurred, where every territorial brigade has at least one Palestinian city which serves as an operation hub for the IDF (e.g., Hebron in Palestinian City of Jehuda, Nablus in Shomron, Ramallah in Binyamin, Tulkarem and Jenin in Menashe, Kalkilia in Ephraim, and Bethlehem in Gush Etzion).

As seen in fig. 2, the Jehuda Territorial Brigade has concentrated much more attention from BTS in comparison to other regions. This is not surprising, considering that BTS focuses a major part of its activity in Hebron, located within the Jehuda Brigade's territory. Approximately 70% of all testimonies from Jehuda refer to Hebron itself, whereas the city alone provided more testimonies (around 27%) than each of the other Territorial Brigades individually. This is also the only city that BTS devotes separate and consecutive testimonial

collections throughout the years³⁴, in which it performs tours on a regular basis³⁵. Although Hebron is the only settlement in which Jews and Arabs live next to one another, a fact that creates a high-drag coefficient between the two populations, BTS endeavors to present the city as a representative case for the entire Israeli Occupation: “Hebron is a microcosm of the military control mechanism in the entire West Bank; the lesson we learn from this city, we may and should implement on the whole mechanism”.³⁶

Fig. 2.

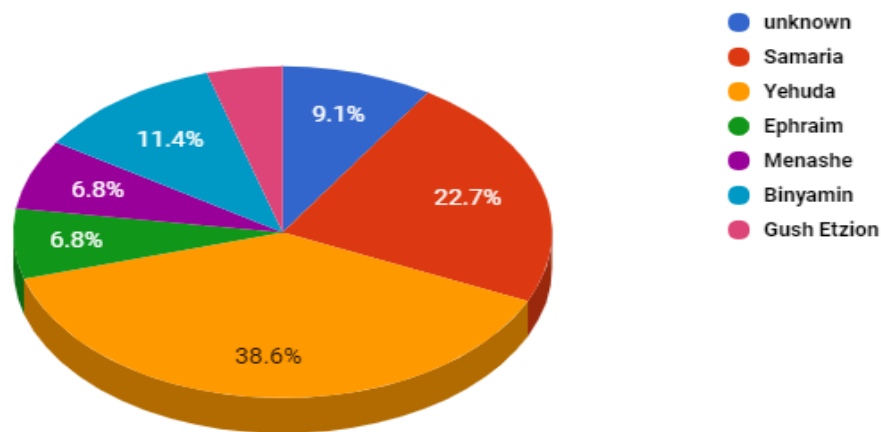
³⁴ The different documents of the organization are focused on Hebron and presents testimonies from years 2001-2004, 2005-2007 and 2008-2010. Available at:

<http://www.shovrimshatika.org/testimonies/publications>

³⁵ BTS website, <http://www.shovrimshatika.org/tours/3>.

³⁶ Yehuda Shaul, one of the organization's founders and currently director of foreign relations, Walla, October 2015. Available at: <http://news.walla.co.il/item/2901926>

Where the events took place (territorial brigade)



Unlike the Judea and Samaria testimonies, there is no report of a particular location in many testimonies from the Gaza Strip. Most of the testimonies from Cast Lead do not report a location at all, while Protective Edge testimonies state that events took place either in the Northern Gaza Strip or in Gaza city. The exception is Deir-El-Balah from the Strip center, which is the source of a significant portion of the testimonies (17%) which apparently came from the same force (armored infantry and armored corps) and depicted the same reality from various perspectives.

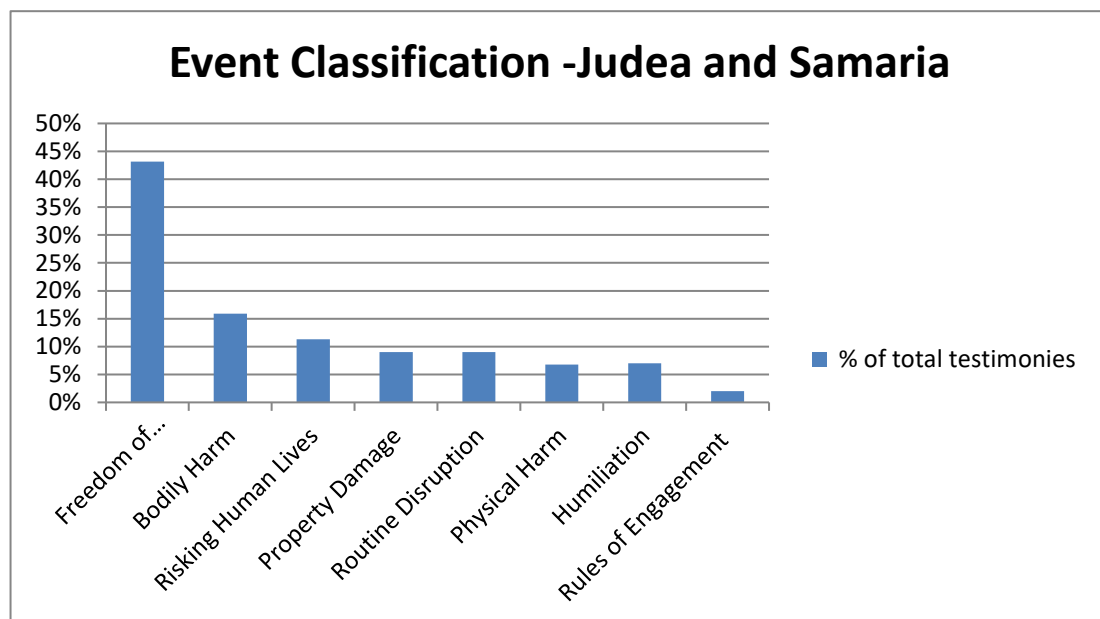
4. Classification of the events character or nature

The vast majority (88.6%) of the testimonies in Judea and Samaria discuss events that occurred during routine

security measures without firearm use, e.g., checkpoint routine, suspect inspections, entering and mapping homes, etc. When examining details closely regarding the nature of events reported, it is clear (fig. 3) that the most common issues reported involve various Freedom of Movement and Employment disruption situations, compared to all other issues (43%). The other common classifications are Physical Harm, e.g. violence towards a detainee (16%); Life Endangerment, e.g., the “neighbor procedure” (16%); Property Damage (9%); Disruption of Routines, e.g., mapping homes and interfering with the inhabitants (9%); Bodily Harm (7%); Humiliation (7%); and Irregular Rules of Engagement (2%).³⁷

³⁷ It may be noted that because some testimonies were classified to more than one category, the percentage total in the figure exceeds 100.

Fig. 3.



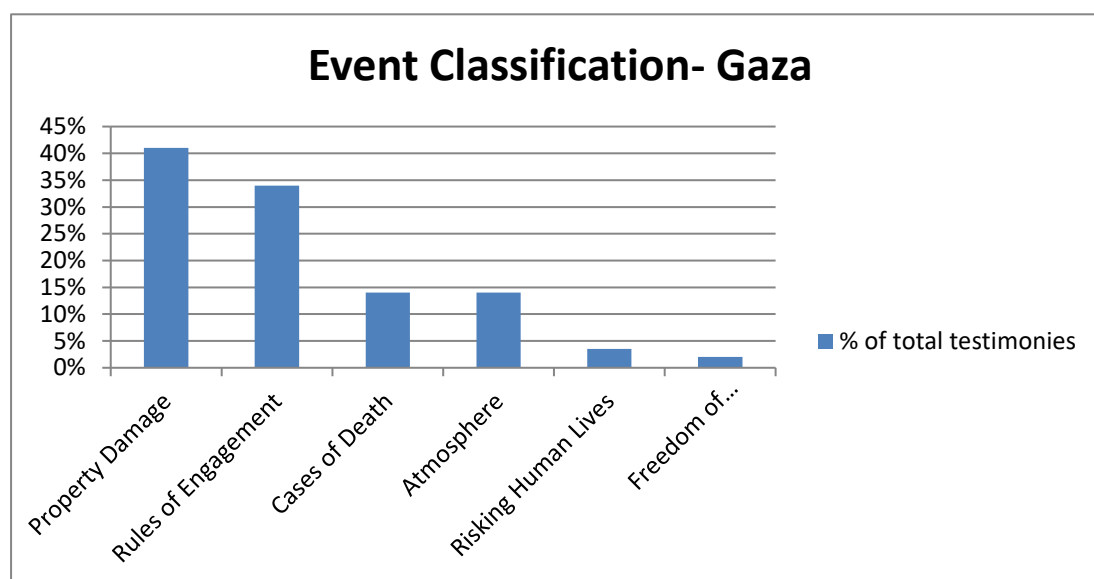
In Gaza, the testimonies' classification is completely different (fig. 4) due to the fact that a vast majority of the events (98%) occurred during combat and not during routine security measures. The Freedom of Movement and Employment classification, which is dominant in Judea and Samaria, disappeared almost completely (2%); instead, we see Property Damage (41%) and Irregular Orders of Engagement (34%) at the top of the list³⁸. The Rules of Engagement classification includes testimonies in which it is described that the orders were given only to

³⁸ The "**Fire engagement orders**" includes testimonies that show that the orders were only given to the soldiers (and in many cases weren't executed and changed in the course of the action), alongside with testimonies in which the orders were executed but there is no indication of a clear outcome caused by the firing.

the soldiers (and quite a few times were never implemented or changed mid-operation). There are also testimonies in which the orders were implemented during the military operation, but no clear firefight outcome is described. Unlike Judea and Samaria, there were not any testimonies from Gaza under the Bodily Harm, Routines Disruption, and Humiliation classifications, as contact between soldiers and civilians was quite rare in the Gaza Operations – unlike in Judea and Samaria. Another category, “Atmosphere Testimonies”, appears only in the testimonies from Gaza and include descriptions of military conversation between combat soldiers themselves or between commanders and combat soldiers, introducing " controversial religious and political interpretation"³⁹ according to the organization.

³⁹ Cast Lead, P. 5.

Fig. 4.



As we have seen, comparing testimonies from routine security activity in Judea and Samaria to testimonies from the fighting in Gaza show that the price the civilian population paid in Gaza is much higher than the one paid in Judea and Samaria. If in Judea and Samaria the main harm is to the freedom of movement and employment, in Gaza many families lost their homes and all their property, and many were killed or injured as a result of the entry of IDF into urban areas not under its control in the wake of rocket attacks from terrorist groups close to the civilian population. The relative calm in Judea and Samaria in those years, and as a result, the decline in the amount of testimonies, only underlined the distinction between the

price of control and the price of invasion, which is immeasurably higher.

5. Criticism of the military system versus criticism of 'bad apples'

The two following figures (5 and 6) are connected to each other as they are related to all testimonies from Judea and Samaria and Gaza. The first question is, does the testimony describe an event in which actions were calculated and intentional or rather unintentional actions? The second question is, does the testimony reflect an apparent problem with the orders themselves or violations of orders by soldiers? As said above, we could not find answers to both questions in every testimony, but in most of them we could. In 80% of the testimonies, it is possible to know whether it is a deliberate action, and in 72% of the testimonies it's possible to know if the testimony reflects a problem with the orders or a deviation from the orders. We would like to emphasize that the two classifications have nothing to do with the event's severity – a severe event can be intentional or unintentional, be performed under orders or via order violations.

The outcome is unequivocal: a vast majority of the testimonies describe an incident which occurred intentionally and in accordance with orders. 73% of the testimonies (91% when unknown motives are deducted) describe incidents resulting from intentional actions, whereas in 63% of the testimonies (again, 91% if unknown motives are disregarded) incidents occurred as a result of disregarding orders. This means that relatively few testimonies deal with events in which a military unit or a single soldier caused an outcome in which he wasn't even interested, e.g., shooting an innocent bystander due to pressure or surprise. Accordingly, very few testimonies describe insubordinate units or soldiers that acted against orders, e.g. using the "neighbor procedure" (after it was forbidden in 2005) or instigating violence towards detainees.

Fig. 5.

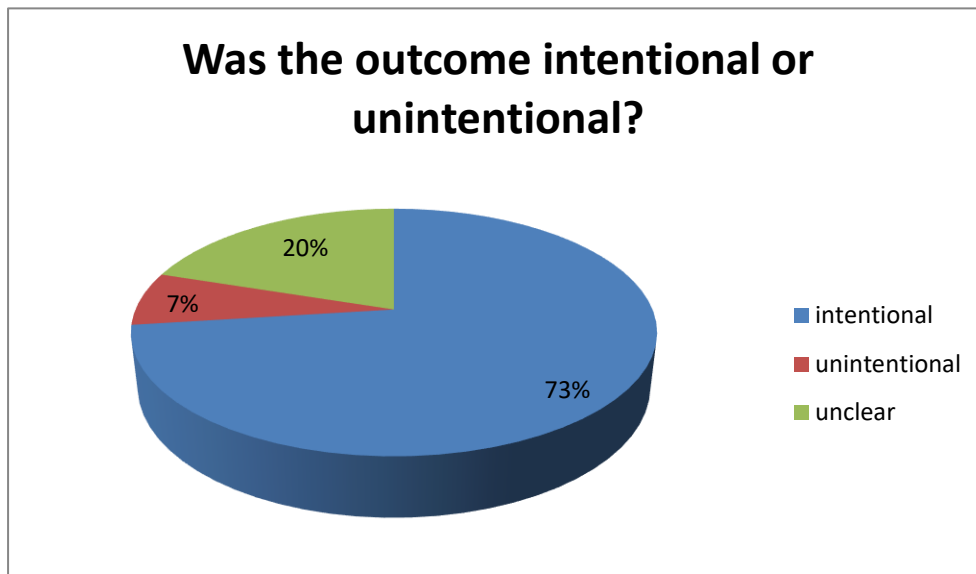
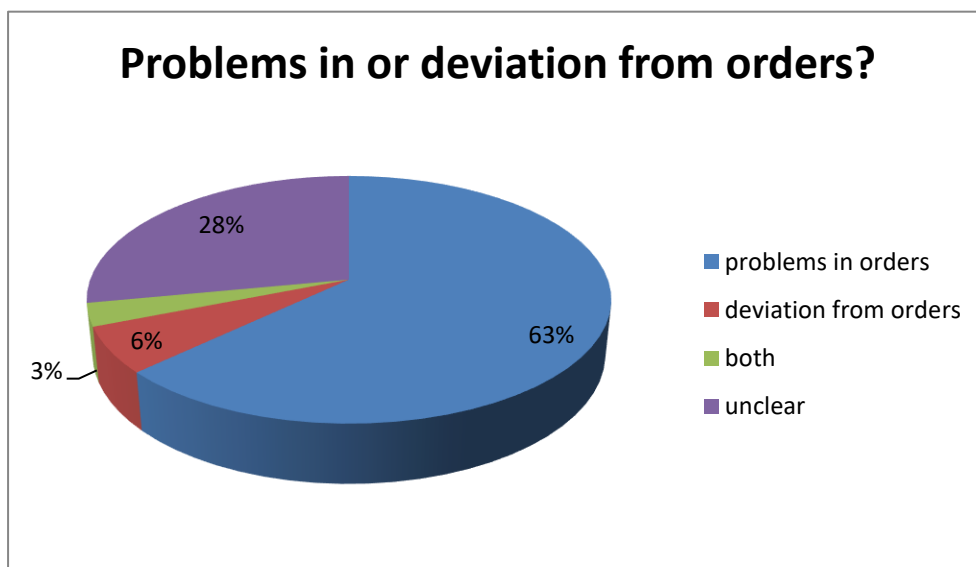


Fig. 6.



The conclusion that arises from these findings is that BTS' main criticism is on the systematic method of action perpetrated by the IDF during combat events and routine security measures, and less on the IDF's inability to control and prevent the outcome of irregular events. Their critique focuses less on the morality of particular soldiers who are situated in an impossible reality that corrupts them and causes them to commit crimes against the population. Therefore, their main criticism is directed at the military system itself, including the commanders who lead their soldiers into situations that do not comply with warfare ethics. This conclusion matches the organization's declarations, as provided in their publications, which we have shown above: in earlier publications, like "Cast Lead", the organization declares that its conclusions indicate a moral decline which is the price paid for controlling Judea and Samaria. However, in later publications, such as "Protective Edge" and "Occupation of the Territories", the organization brings forward other voices that focus on criticizing the IDF's systematic policies which fundamentally contrast with moral and justice values. After examining the data, we can deny a

correlation between what is suggested by the testimonies and what is concluded in the publications regarding the IDF's moral activities. This conclusion hints at the organization's intervention with political agendas and motivations through which they interpret and analyze the testimonies, thereby weakening their claims.

Although the two questions are similar in nature and a deep analysis of their answers results in similar findings, there is an important difference to note: when Gaza and Judea and Samaria are analyzed separately, it is revealed that the vast majority of reports of accidents are taken from the Gaza Strip, while the vast majority of disobeyed orders reports come from Judea and Samaria. It can be assumed that this difference is due to the division between routine security measures and combat settings. Routine security measures in Judea and Samaria are characterized by daily friction between the Palestinian residents and soldiers, and the Sisyphean and crushing routine which may cause soldiers or units to act against orders and act violently or disproportionately to a situation. Even from reading the testimony collections, it is difficult to convince the reader that these irregularities occur often. At

any rate, the challenge of maintaining discipline is much more difficult in routine security measures versus combat situations, though human errors are more likely to occur in a combat setting in which the threats are greater and rules of engagement are therefore more lenient. There is also great armament use in many areas in which innocent bystanders can be found.

After close examination of the data, we reveal a picture that denies the claim about a general immoral conduct by the IDF. As we have shown above, the nature of the incidents matches the combat settings: If many deliberate incidents had occurred in Gaza only, it could be said that the IDF acted systematically in an immoral manner during combat, and also if there were many accidental incidents in Judea and Samaria, it could be said that the IDF's routine conduct is negligent and insensitive to human rights. However, the data suggests a more plausible image: the IDF's routine conduct in Judea and Samaria is not negligent, however, it is natural that soldiers occasionally ignore the rules. Of course, we should hope that the number of these incidents should decrease and should be handled severely. Additionally, it is natural that in warfare

as seen in the Gaza Strip, that orders to engage in a fire fight would be more lenient, and therefore human errors would be made. Despite all the above, no one disagrees that we are morally obligated to prevent these kinds of incidents from happening in advance, and to address them after the fact.

6. Did the IDF commit war crimes against Palestinians?

Following the Breaking the Silence report on Operation Protective Edge, the jurist Eyal Gross wrote:

*“Until now, the number of civilians killed in Gaza and pictures of the destruction left behind by the IDF have cried out to heaven. But now, the chilling testimony that appears in Breaking the Silence’s report completes the picture of the soldiers’ behavior and the orders that, according to this testimony, they were given [...] these testimonies constitute breaches of the laws of war.”*⁴⁰

More space than what is provided here is necessary to appropriately address the question of whether the IDF has

⁴⁰ Aeyal Gross, **Probe Gaza Rules of Engagement, Israel - or Face the ICC**, Haaretz, 4.5.15.

committed war crimes according to the testimonies collected by BTS⁴¹. It is clear why this is a complicated issue: defining incidents or deeds as “war crimes” or “violations of human rights” is a matter of interpretation. There is no unequivocal red line distinguishing an appropriate action and a war crime, but there is a gray area in which questions like, “does the legitimate cause of warfare justify actions and its collateral damage?” and “was there a possibility of preventing harm to innocent bystanders if an alternative action was chosen, such that does not take a high toll of human lives and not disrupting the mission?” arise. Analyzing short testimony excerpts does not allow proper examination of these questions, however, we made it difficult for ourselves by asking if there is concern about breaking warfare laws in light of the testimonies. This means that we have included cases that dwell in grey areas under the potential war crimes category.

Before that, we would like to address the issue of Gazan bombardment, which is relevant to both large-scale

⁴¹ For further reading on this subject, read Pnina Sharvit-Baruch: **"UN Human Rights Council Report on Protective Edge: A Critical Analysis"**, INSS.

operations and the majority of IDF war crime claims in the international arena which referenced these attacks heavily⁴². Hamas itself demanded that Israel be brought to trial for committing war crimes⁴³ and even relied on BTS' testimonies in order to justify the demand⁴⁴.

The basic tension that exists in every battle, and especially in combat occurring in civilian areas, is between the purpose of battle and the rights of non-combatants. The purpose of war is "the right to compel submission of the enemy with the least possible expenditure of time, lives, and money"⁴⁵. However, it is clear that civilian non-combatants should not be a target of military action, though they sometimes can be found within combat vicinity and subsequently hurt. We also know that Hamas in the Gaza Strip uses civilians, including women and

⁴² Available at: <https://www.wsj.com/articles/u-n-both-israel-and-palestinian-groups-may-have-committed-war-crimes-1434973611>

⁴³ Available at: <http://felesteen.ps/details/news/138662-محكمة-قادة-الاسراع-في-حماس-تدعو-للإسراع-في-محكمة-قادة-الاحتلال.html>

⁴⁴ Following the publication of the UNHRC inquiry committee report on Protective Edge operation in Gaza, Hamas terror organization has released the following statement: "The report ignores the explicit confessions on war crimes the Israeli soldiers and officers made during and after the aggression, in which they stated they had received direct instructions to target civilians. Many soldiers affiliated to the Israeli organization of "Breaking the Silence" confirmed such Israeli orders." Available at: <http://hamas.ps/en/post/82/hamas-s-reflection-on-the-report-of-the-independent-commission-of-inquiry-on-the-2014-gaza-aggression>.

⁴⁵ M. Greenspan, **The Modern Law of Land Warfare**, Berkeley, 1959, pp. 313-14

children, as human shields, as well as mosques, hospitals, schools, and other civilian facilities in order to damage the IDF's international legitimacy. This tension creates a military dilemma between firing from a distance and placing soldiers deep within the war zone. Technological innovations in the field of firefighting and intelligence enable long-distance strikes in a more surgical manner, however, it is not possible to completely avoid harm towards civilian non-combatants. If this is so, what is the required level of caution that soldiers should use and to what extent does the army have to risk its combatants in order to reduce to harm to civilians? The laws of warfare do not address these issues sufficiently.

Michael Waltzer⁴⁶ writes in his book "Justified and Unjustified Wars" that there is a list of rules through which it is proper to check if a military action is acceptable:

⁴⁶ A Jewish American philosopher who discusses many fields: Ethics and morality in times of peace and war, social justice, nationality, tolerance and similar issues. Waltzer's perception, as one of the most influential thinkers about war ethics in our time, is accepted in the IDF as well as in many foreign armies.

“It is permitted to perform an action that is likely that its outcome will be bad (killing non-combatants), as long as the following four rules are followed:

- 1. The action itself is good, or at any rate not bad, meaning it serves our needs as a legitimate act of war.*
- 2. The direct result is morally or ethically acceptable – for example, destruction of military supplies, or killing enemy combatants.*
- 3. The purpose of the one performing the action is good, meaning he strives only for the acceptable outcome. The bad outcome isn't one of his goals, nor is it a device to reach his goal; and being aware of the bad aspects involved in his action, he looks for ways to reduce it and takes the responsibility of paying its toll.*
- 4. The good outcome is good enough to compensate for causing the bad outcome.”⁴⁷*

Before we go to examine BTS' testimonies, we would like to first place them in a broader picture of the IDF's

⁴⁷ **Just and Unjust Wars: A Moral Argument with Historical Illustrations**, Basic Books, 1977.

firefighting management policy. Unlike the harsh criticism made by the UN's report on the IDF's conduct during Protective Edge, which included an accusation of war crimes⁴⁸, a report published by the High-Level Military Group (HMLG) organization⁴⁹ reached an entirely different conclusion. The report stated that the IDF's warfare practices during Protective Edge met the wartime ethics standards, and in some instances, they exceeded these standards⁵⁰. Furthermore, a document published by the Jewish Institute for National Security of America (JINSA) in June 2015 indicated fundamental flaws in the UN report regarding its evaluation of Israel's conduct during Protective Edge and praised the IDF for its course of action, considering the complicated circumstances that characterize hybrid warfare⁵¹. The IDF's firefighting management policy during the two operations in the Gaza Strip (which were claimed as war crimes) included quite a few actions which focused on

⁴⁸ Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16119>

⁴⁹ The High Level Military Group (HLMG) consists of military leaders and officials from NATO and other democratic countries exploring the challenges of the 21st Century warfare.

⁵⁰ See the report's conclusions: <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>

⁵¹ Available at: http://www.jinsa.org/files/AnalysisOfTheU.N.Report_ProfCorn.pdf

reducing harm to innocent bystanders – some say there was excessive caution in comparison to similar wars around the world. Leaflets were distributed throughout the targeted location as well as voicemail messages left to landlines. These alerted recipients of an impending attack and called upon the civilians to vacate the neighborhood; most civilians complied with this. In addition, many times before buildings were bombarded, the IDF launched small warning volleys known as “knocking on the roof” (firing small shells that were destined to indicate to residents that they should evacuate their homes immediately before a bombing)⁵². In rare occasions when IDF soldiers met enemy combatants, they were not read as enemy combatants though they remained in the combat zone after many warnings were given; the IDF soldiers instead ordered the enemy combatants to relocate to neighboring areas where there was no battle taking place. It is important to understand that these warning actions took a significant toll on the element of surprise, as enemies could prepare themselves for the IDF’s entrance to

⁵² Despite the fact that the Ministry of Internal Affairs has published a statement against this procedure: "We call the civilians not to cooperate with these messages and not leave their houses while conducting themselves peacefully." (Ynet, 10.7.14).

neighborhoods that received warnings. Additionally, there is no doubt that the entrance of a regular army to urban warfare against irregular or semi-regular forces without using massive firepower is an almost impossible mission that plays into the hands of the enemy.

There are additional points to be considered when examining the justification of bombarding an urban territory, e.g., whether the local population supported or were under captivity of the enemy combatants; whether the population had sufficient time to evacuate the area; and whether precautions were taken after battle commenced, when there was indication that non-combatants were found in the battle zone. When you examine and compare the warfare in Gaza to similar combat settings in other locations world-wide, as in Vietnam⁵³, it appears that the IDF used excessive precaution and took all means to prevent harm to innocent civilians.

Now we will return to BTS' claims. It is unclear whether and on which criteria BTS relied on when declaring that violations of rules of warfare were committed. It seems

⁵³ Walzer, Ibid.

that the reference to precautions (excessive precautions, according to the generals) used by the IDF, such as means that security experts like Lord Richard Denate and Klaus Neumann offered, former heads of Chief of Staff for the British and German armies, respectively⁵⁴, were found to be irrelevant by BTS. Even the BTS testimonies do not contain a single testimony which suggests contrary aspirations or an aspiration that does not meet the four rules mentioned above. From reading the testimonies and publications by BTS in the media, one can conclude that moral warfare – in their perception – is such that every bullet and every shell are fired as a response to a positively identified, concrete threat, eliminating any risk that non-combatants will be hurt⁵⁵. This requirement is not anchored in any acceptable combat norm and suggests a lacking understanding of battle strategy and warfare.

The organization's press release following the publication of testimonies from Operation Protective Edge suggests a

⁵⁴ For more biographies of the organization members: <http://www.high-level-military-group.org/biographies.html>

⁵⁵ This is the way Dana Golan, former BTS chairman, have described the Tapping the Roof procedure in the European Parliament in June 2015, claiming the IDF doesn't make sure all people who are supposed to be home are leaving it after the alert bomb. Available at: <https://www.youtube.com/watch?v=kIRVZ7xtVDk>

strong desire to present the IDF's firefight policy as war crimes:

“The testimonies expose a harsh image that relates to the IDF's operational fighting guidelines. The testimonies indicate, among other things, an indiscriminate shooting policy that results in damage and murder of hundreds of innocent civilians; transferring incorrect information to ground forces that the operations are being carried out in areas that are free of civilians. While in fact innocent civilians were present; unprecedented orders to open fire were freely and easily given; 1000's of non-precision artillery shells were fired into residential neighborhoods”⁵⁶.

This press release is only based on speculation because not a single testimony succeeds in demonstrating the connection between the order for opening fire and “the murder of 100's of innocent civilians.” Few testimonies mention soldiers because during operations they did not encounter Gazan residents:

⁵⁶ Available at: <http://www.independent.co.uk/news/world/middle-east/from-what-we-knew-that-area-was-supposedly-devoid-of-civilians-the-testimonies-of-israeli-soldiers-10223374.html>

Question: *“During the time that you were there did you see an armed Palestinian?”*

Answer: *“None, I did not see a single live person other than the fellow members of my unit and some artillery units”* (testimony 2, Protective Edge).⁵⁷

The BTS organization does not analyze in which IDF actions the uninvolved civilians were killed. It is possible that they were killed in the course of targeted assassinations of terrorists and rocket launchers, or in returning fire to sources of fire in which civilian populations were found, or in an attempt to prevent the kidnapping of soldiers in crisis points of the fighting, both in the battle for Sajaya and in Rafiah in the attempt to kidnap Hadar Goldin. There is no doubt that civilians who did not heed the army's warnings were killed in the artillery fire, Breaking the Silence does not have any information regarding the number of people killed in this artillery fire, alternatively they may have it but do not share such.

⁵⁷ P. 24.

BTS has not managed to bring forward testimonies of deliberate harm to innocent people during Operation Protective Edge. Therefore, there are numerous testimonies (2, 3, 8, 13, 17, and 22) that depict orders of engagement having been given, which are very lenient and do not take innocent civilians into consideration at all. However, we have not found testimonies in which these orders were executed. In testimonies that describe encounters with uninvolved civilians (for example, 4 and 13), it is obvious that they were not harmed but only evicted or received clarification that they should vacate the location. There is no doubt that an ordinary person reading the collection gets the impression that innocent people were killed without discretion, despite the fact that this impression is baseless apart from the wording and a generalized feeling arising from the wording itself.

In Operation Cast Lead, we have found two testimonies in which innocent civilians were injured (3 and 13), however, there was no claim that this was done deliberately or as a result of anything other than fear of threats. Many testimonies, like Protective Edge, describe orders to open fire that do not consider non-combatants (7,

8, 9, 10, 11, and 12), but testimony 13 describes how the orders to open fire change immediately after non-combatants were found in the homes:

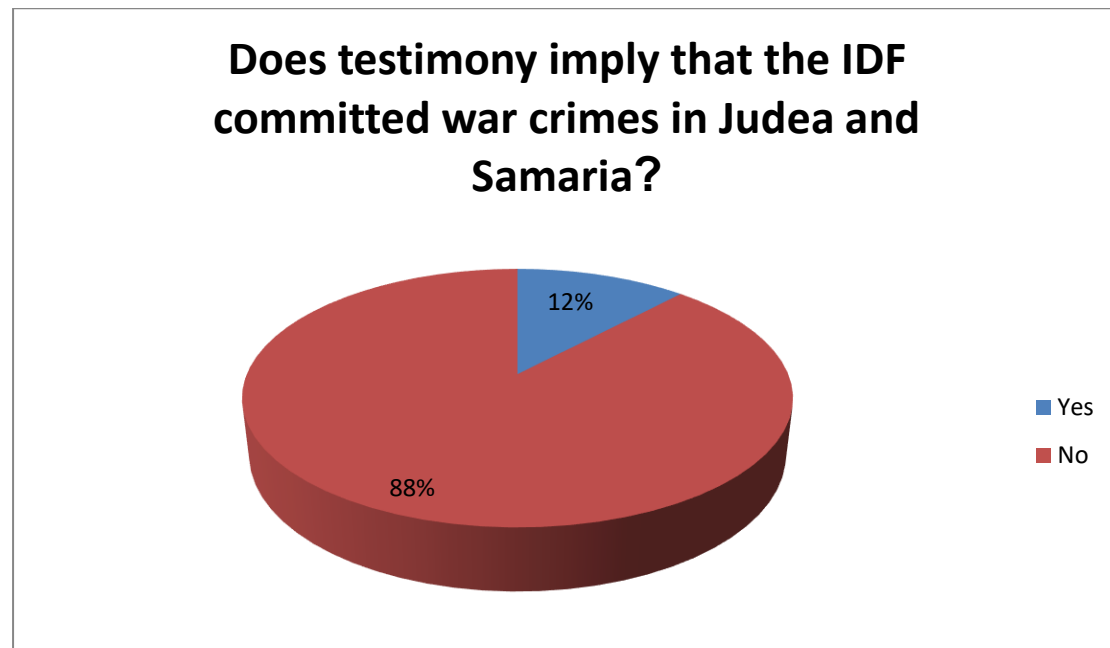
"When it was entered with gunfire, then the procedure changed and there were more searches. There was a family inside the second house so we didn't go in with gunfire. We yelled at them to get out, banged on the door. As soon as that first one was killed, I think he was an elderly man, the policy was changed and it was more searching and less opening fire."

Following all this, upon examining the sample testimonies we have found a few that may describe a war crime – as long as BTS depicted what happened accurately and did not hide relevant details, e.g. testimony number 14 in Cast Lead depicts injuring an innocent person without operational need; due to the fact that there are few details about this testimony, it is difficult to determine if this event was examined by the military advocate after the operation and if examined, what was the investigation's outcome?⁵⁸ There are a few testimonies from Judea and

⁵⁸ Generally, we have not found in BTS reports any reference to following the legal authorities or IDF actions to improve the situations.

Samaria that raise a concern of war crimes, e.g. testimonies 7, 8, 9, and 11 in the collection “Occupation of the Territories”; these testimonies describe respectively, abusing a detainee, using a detainee as a human shield, dismantling dangerous ammunition near uninvolved persons, and harming innocent bystanders during operations in Nablus (testimonies were taken from years 2000-2002 and should have been reviewed by the military advocate – it is possible that this was done). In all the testimonies we reviewed, we have not found a testimony of an event that occurred after 2003 in which there is a likely concern for a war crime having been committed, except for the Cast Lead testimony mentioned above.

Fig. 7.



7. Does testimony demonstrate the context and causes to an event?

By and large, the credibility of testimony increases or decreases in accordance with the clarity of the picture presented to the reader – was information given regarding what preceded the event described in the testimony, are the objectives which the unit or soldier wanted to achieve in the event clear and to what purpose they were meant to serve in the larger scheme of things. To the extent that testimony related to the army's *modus operandi* – what

caused the army to act in such a manner, in the event that it deals with an error – are there mitigating circumstances, or alternatively, aggravating ones?

Based on our analysis, in 71% of testimony there are no attempts to understand the context of the event in which the testimony relates, this only exists in 28.6% of testimony.

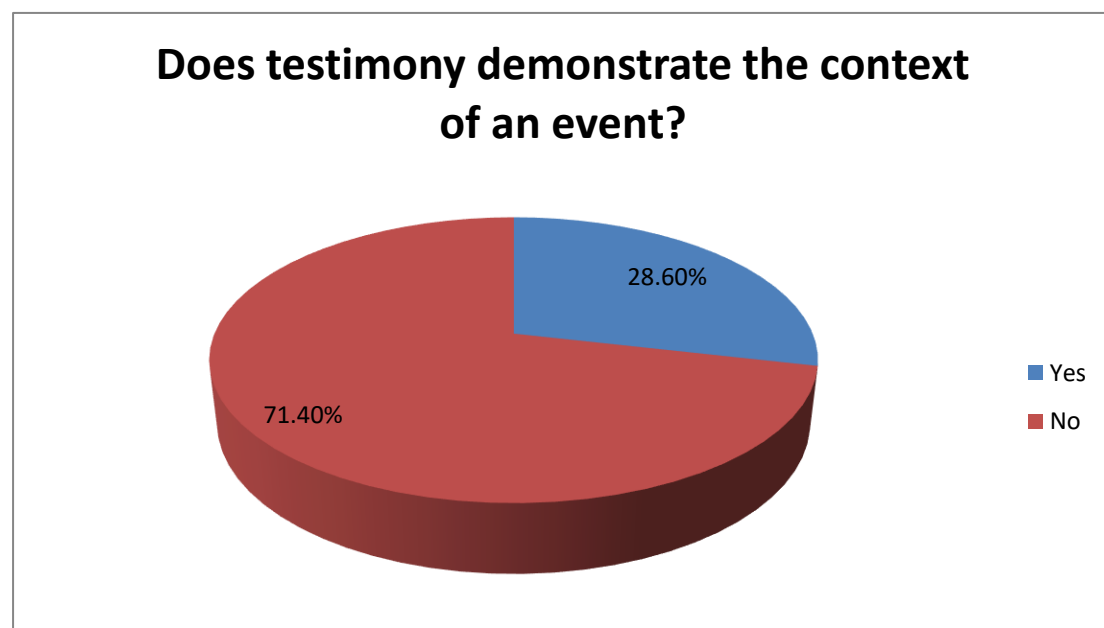
Examples are many. In the "Occupation of the Territories" (testimony no. 10), an operation is described in which an arrest order was exchanged with an assassination directive in the midst of the operation. The person giving the testimony from the Sheldag unit admits that he does not know what caused the change, however he assumes that the company commander gave the order to assassinate. He also hints, without any basis, that he was dealing with "someone thirsty for blood", even though a range of operational reasons could be raised to justify this change which are neither given to the soldiers during the operation nor afterwards. Together with the assassination target, three other terrorists were neutralized; however the person giving the testimony assumes that they were innocent

because the operation's objective was to kill one terrorist. Even an overview of the terrorist history of the three others in the newspaper the next day did not persuade him: "I know that the Shabak makes jokes about how many John Does we have killed". It is clear that this statement is far from indicative of the importance of assassinating terrorists.

In testimony 9 from the "Cast Lead" testimony collection, the soldier says *"There were really absurd incidents during our stay there. One day we sat and had our afternoon coffee. Suddenly the battalion commander's tank, five meters away from us, fired a shell into a building. Why did he shoot? I don't know why. Perhaps he received an alert, maybe not. I wasn't on radio. It looked groundless to me, more of a "wakeup call" for the company."* This testimony is not exceptional, many times soldiers interpret situations without having the tools to do so – other than gut feelings. The stress of battle in later processing of combat experience may cause a soldier to fill in information gaps with baseless data.

As mentioned, Many testimonies from operations Cast Lead and Protective Edge refrain from describing the context to the event described in the testimony. As we saw above, many testimonies from these two operations relate to the vast damage which was caused by the munitions used by the army. However, only few testimonies make mention of the fact that the army distributed flyers and put in additional efforts in order to distance the civilian population from the battle grounds, nevertheless many of the testimonies that relate to the orders for opening fire, which were apparently very lenient, fail to mention this and send the message that the IDF was indifferent to wholesale collateral damage.

Fig. 8.



Summary

"Breaking the Silence" was established in light of the moral injustices created, according to their opinion, by the Israeli occupation in Judea and Samaria. The Organization claims that giving voice to the silenced voices, through the testimonies' collection, brings forth the conclusion that the occupation creates an impossible reality which leads to dismissing human rights values. Therefore, the Organization aims to stop the repression that exists in Israeli society regarding the implications derived from Israel's control of the "Occupied Territories". However, the Organization doesn't find this aim sufficient; over the years, the claim that dominates their efforts is that the entire Occupation Policy, on a systematic level, is conducted and driven by perceptions that dehumanize Palestinian civilians. The apparent conclusion in light of this is that this situation must be stopped at any cost – including by turning to the help of foreign countries.

In this research, we have identified a few fundamental problems in the testimonies present in BTS' publications: biased choice in scenes of friction and objects of criticism,

lacking identifying details required to validate the testimony's content, as well as lack of context. These problems harm the credibility of the testimonies and the validity of the conclusions suggested by the testimonies regarding the IDF's conduct in the soldier and commander levels, as depicted in the testimonies.

Though our research accepted all sample testimonies as truthful, it is worth mentioning a testimony given by no other than BTS' spokesperson, Dean Issachroff, which has been recently proven false by the State Attorney⁵⁹. In April this year Issacharoff confessed to the camera about kneeling a Palestinian in Hebron during an arrest. His case was later closed due to a lack of evidence.⁶⁰

Our research shows that there is lacking correlation between BTS' claims and the testimonies themselves, as they are analyzed in this report. These gaps are created possibly as the result of an ideological bias.

The research findings indicate several faults that may significantly impact the general picture painted on the

⁵⁹ <http://www.ynet.co.il/articles/0,7340,L-5043901,00.html>

⁶⁰ Available at: <http://www.ynet.co.il/articles/0,7340,L-5043901,00.html>.

IDF's warfare norms and its current conduct with civilian populations:

- **Critical examination of the testimonies shows how the change and extremization in the organization's claims are reflected in the choice of scenes and objects of criticism shown in the testimonies:** while in the first years the testimonies focused on the IDF's actions in Judea and Samaria, the Organization has moved over the years to a focus on the IDF's conduct in the Gaza operations. Additionally, the vast majority of testimonies indicate incidents that occurred deliberately, under orders, and not products of "bad apples" in the ranks. The clear meaning of these findings is that BTS targets its criticism to the systematic course of action by the IDF, as such that it reflects a moral rot at the base of the IDFs actions. As a result, this undermines the basic legitimacy of the IDF's goals.
- **The findings show how the Organization's methodology, in choosing the time and location of scenes depicted in testimonies, is conducted in a way that helps build a narrative which is not**

supported by the content of the testimonies. These findings undermine the testimonies' credibility and the general presentation they create. The Organization has chosen to collect many of its testimonies during the peak period of the Second Intifada in which the intensiveness of the IDF's actions, along with the general tension felt by the Israeli public, had reached extremely high levels. Nevertheless, it appears that after the quantity of terror attacks lowered, and as a result, the quantity of testimonies given to BTS about moral norms deviations reduced. In addition, the Organization chooses to focus its main efforts on collecting testimonies from the city of Hebron and presenting it as a representation of the entire occupation. While it is well known that Hebron is a hub with a high-friction factor, compared to any other locations with active IDF involvement, which creates much more complicated situations for the soldiers operating there. It is obvious that these choices of time and place are not innocent and that they were made purposely to present a much grimmer and

problematic picture than the general IDF actions in Judea and Samaria.

- **The problem with the credibility of BTS testimonies is not only the choice of testimonies, but also in the style of presentation.** BTS is very scare on the details given in the testimonies, this fact is problematic for two reasons: it limits the ability to check the testimonies and verify their credibility, and apart from that, it limits the ability to truly estimate the scope of the depicted phenomenon. These reasons are not trifling, and they indicate the weakness of BTS' testimonies in depicting the occupation's true reality.
- **Another essential element missing from the testimonies is the context of the given events.** Knowing an incident's details without familiarity with the broad context surrounding the incident is almost meaningless because only context provides the incidents with the necessary circumstance framework, atmosphere, and consequences, which are essential for a true analysis. The lack of context therefore reflects, again, BTS' wish to present as

many testimonies as possible to prove their claim about the immoral injustice from the occupation. This desire overcomes a detailed, meticulous, and critical analysis of the testimonies.

These and other insights bring us to undermine the conclusions that BTS derive out of their testimonies. Our findings undermine BTS conclusions, directly and indirectly. Our research suggests that the dramatic and overwhelmingly conclusive findings by BTS, in relation to the scope of the described phenomena, are weakened when taking the Organization's bias regarding the testimony choice and presentation into consideration, as we have shown about the time and location of the testimonies. This is the indirect manner of undermining. Beyond this, a critical analysis of the testimonies suggest that one can also undermine BTS' interpretation methods directly, as well as the conclusion derived as an absolute consequence of their methods. First of all, as we have shown in section four from the analysis of the event types, the conclusion that it is the occupational reality that causes harm to human rights and Palestinian life is undermined. Comparing the testimonies from the current security

activities in Judea and Samaria with the Gaza operations, we learn an opposite lesson from that which BTS would like to give. It is clear that the price paid by civilians in the Gaza Strip, from which the IDF withdrew in 2005, is much higher than the price paid by Judea and Samaria's civilians the same year and those before. The relative calm in Judea and Samaria since 2005, reflected also in the few testimonies collected from the area since that time, only deepens the gap between the price of the IDF's control and the price of their intrusion – which is much higher.

Another point that can be undermined in BTS' conclusions came out in our analysis after examining the objects of criticism. In addition to neglecting the incidents' context, BTS usually gives the testimonies in a way that does not consider the special aspects of where the scene takes place. In contrast, we have shown that when examining the Judea and Samaria and Gaza locations separately, it appears that the vast majority of exceptional testimonies provided in the sample – where the event occurred accidentally – are taken from the Gaza strip, while the vast majority of testimonies showing a deviation from military orders occur in Judea and Samaria. Although this

presentation does not undermine the problematic aspects of these specific incidents, it still cancels BTS' claim that there is an immoral course of action perpetrated by the IDF as a whole. It appears that there is a correlation between the combat settings and the event type: it seems that one may discuss an atmosphere of disregarded human life and honor in the current security actions by the IDF that lead to many accidental incidents, but mainly deliberate deviations from regulations. As opposed to this, most incidents caused by human error occurred in the Gazan combat settings - in which human errors are much more likely to occur.

As a general summary of the findings so far, we can say that Breaking the Silence is unsuccessful in using the testimonies to base their claims on the IDF's control of Judea and Samaria via immoral activity and increasing disregard for human life and Palestinian rights.

Finally, our research has devoted an entire chapter to the claims that the IDF has committed grave breaches of the laws of war. BTS has decided in recent years, whether consciously or by necessity, to highlight the IDF activity

in Gaza in both operations. The Organization's testimonies, and more so - the Organization's representatives' interpretation of the testimonies that claim the IDF committed numerous breaches of the laws of war in both operations, have placed international pressure on Israel which sometimes hurt Israel's ability to improve its achievements against Hamas as a result of the fighting⁶¹.

Our analysis above shows that there is no basis for BTS's interpretation of various testimonies that the IDF has committed grave violations of the laws of war, even if it were possible to count on their reliability. The IDF did indeed use many munitions in the Gaza Strip where tremendous damage was caused and many lives were taken, including those who were not involved in the fighting. In light of the BTS testimonies it cannot be said that the IDF did not invest every effort toward minimizing damage to non-combatants. Non-use of remote fire in this fight would have caused abandonment and

⁶¹ See for example: **IDF Actions in Protective Edge – Update 14** (28.7.11), Meir Amit Intelligence and Terror Information Center. Available at: <http://www.terrorism-info.org.il/he/20688/>

disproportionate risk to IDF soldiers - which the laws of war do not require.

Breaking the Silence's testimonies deal quite a bit with the IDF's use of fire but do not provide concrete evidence of mass killing of innocent civilians, as BtS tries to make us think. The testimonies indicate large-scale destruction caused by the bombings, and it is conceivable that they harmed quite a few civilians, but actually it follows from the testimonies that an overwhelming majority of the civilians had listened to the warnings and left the neighborhoods where the fighting took place. Similar to the testimonies from Judea and Samaria, the ones from Gaza also provide evidence of some deviations from commands or immoral actions which should have been handled after investigation. But here too - this was not the goal of BTS, which firmly refused to cooperate with the military in clarifying the various events, but as said above - sweeping de-legitimization of the nature of the IDF's fighting in the operation.

To conclude, the analysis of 100 sampled BTS testimonies indicates a significant gap between the documented data

and the conclusions that the Organization presents regarding the conduct of the IDF in Judea and Samaria and Gaza. BTS' claims about increasing disregard for human rights in the military system do not correspond with our research findings, and fail to take into account the complex situation that Israel is in. Whether we like it or not, the IDF will not be able to turn its swords into ploughshares in the foreseeable future, and it will be required to use force in civilian areas where terrorism takes root. The IDF must continue to ensure purity of arms and treat appropriately any case where it is harmed, and if there is need - to use for this purpose civilian organizations whose mission this is. Currently, Breaking the Silence has distanced itself far away from this mission and it is difficult to see how the IDF can use the organization, whose objects of criticism are overseas, as too its sources of income, and whose political objectives direct its activities.