

Iron Caging the Palestinian Home

Child Home Arrest in Occupied East Jerusalem as Lawfare

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Abstract

The Israeli legal regime in occupied East Jerusalem has increasingly home-arrested Palestinian children, while invoking legalistic welfare discursively reliant on principles of so-called child-protection. While criminologists, legal scholars, and social workers have defined home arrest as a “rehabilitative” alternative to punishment, children’s voices reveal that home arrest is a mundane penal technology used to penetrate a colonized childhood and home. Contextualizing this penal technology within settler-colonial violence, this article reveals how home arrest became an alternative mode of “lawfare,” a legal means of racialized structural violence targeting children. As the voices of children analyzed in this paper illustrate, home arrest invades, cages, and governs the native home and family to ultimately violate, debilitate, and paralyze the home-arrested child’s childhood and future.

Keywords

Palestinian childhood; criminalization, racialization; settler colonial governance; alternative to punishment; lawfare; searing the consciousness; home arrest; unchilding.

Marwan, a Palestinian boy from Jerusalem, was just over 13 years old when he was first home-imprisoned. By the time he was interviewed for this study, at 15 years old, Marwan had been subjected to three arrests. In his words:

Imprisonment at home changed me totally. It made me realize that what teachers, parents, and leaders tell us about the preciousness of children is a big lie. No one asked me what I want, what I think, or how I feel No one asked me whether I did what they accused me of and they had no proof of me throwing stones. All I did was throw the ball high, trying to reach the upper part of the pole, not “throwing a stone,” but no one asked me. My parents apologized to the police, my father promised the judge that I will never do it again, and agreed to help in “educating” me while home-imprisoned. So, I was kept at home for fifty days, and I never went back to being the same Marwan again. If you ask me to explain to you how I see the world now after all those days of home-imprisonment, the world from the Palestinian child’s point of view, in here, in the Old City, I see the world as a police station ... a big prison ... a punishment center, a center for imprisonment.¹

Although the interrogators – as Marwan narrated above – could not produce actual evidence proving that he did in fact throw a stone, the judge, after “considering” Marwan’s age, made the decision to “release” him into fifty days of home arrest. As Marwan put it, “my parents obeyed,” transforming his home and world into a “detention center.”²

Early criminological writings pointed to the “pains of imprisonment”³ and discussed the psychologically, socially, and economically damaging effects of incarceration,⁴ which prompted proposals for community-based “alternatives,” including home arrest.⁵ Home arrest was thus presented by criminology, welfare, and socio-legal scholars as an “age-sensitive” and “child-centered” “alternative to punishment”⁶ aimed at deterring alleged offenders while taking into consideration the age, developmental stage, and rights of the child in the modern state.⁷ Juxtaposing these socio-legal presentations of home arrest with those of Marwan and the many Palestinian children and families that have experienced home arrest in occupied East Jerusalem invites us to rethink this penological practice, while revealing its role in the overall governance of childhood and silencing children’s dissent. It prompts us to grapple with a set of theoretical, methodological, and ethical questions: what psycho-political implications does home arrest have for the child, the family, and the community at large? What are the ensuing penological dynamics of home arrest within the broader context of racialized criminalization, and settler-colonial expansion?

Historically, home confinement as a method of state punishment was applied in order to silence political dissenters. In Palestine, during four hundred years of Ottoman rule and influence, governing policies evolved from early enlightened approaches in the sixteenth century (Sulayman “the law giver” invested heavily in Jerusalem) to more repressive approaches, especially following the Palestinian Naqib al-Ashraf rebel uprising that took place in Jerusalem in the early eighteenth century. The last four years of Ottoman rule in Palestine, Syria, and Lebanon, from 1914 to 1918 during the First World War, were the most brutal, when many Palestinians were

detained, tortured, and publicly hanged. However, unlike the Zionists that came after them, the Ottoman (and British) regimes were not interested in expelling the natives of Palestine in order to appropriate their lands; rather they both used penological policies with the aim to patronize and exploit the subject Palestinian population.

Following the Nakba, and the establishment of the state of Israel, from 1948 to 1966, Zionists imposed military rule and most young Palestinian men within Israeli-controlled areas were arrested and held (many for several years) in detention centers (*mu'taqal*) and many under home arrest.⁸ As Sabri Jiryis in his scholarly work and Fouzi El-Asmar in his personal biography explain, house arrest was used to silence political dissenters.⁹ Central to the military regime was the prevention of the “return” of internally displaced persons and refugees to their villages and towns and maximal confiscation of land. A key tool was the Defence (Emergency) Regulations adopted from British colonialism and used by the Israeli state almost exclusively against Palestinian citizens of Israel and in areas with a majority Arab population. “In the name of security,” these regulations and the appointed Israeli military governors empowered authorities to: declare an area “closed” (which was applied extensively to depopulated Arab villages and towns); prevent any movement in and out of an area; expropriate land (millions of dunums were confiscated between 1948 and 1966); impose curfews in any village (the massacre of Kafr Qassim in October 1956 took place as part of such a sudden curfew); subject specific individuals to police supervision; expel any person from the country (which was almost exclusively aimed at Arabs and “returning refugees”); and place any person under house arrest.¹⁰ When Zionists imposed home arrest as a punitive measure in 1971, France introduced home confinement as an “alternative” for common offenders and the same was done in Italy in 1975.¹¹ The U.S. also followed reforms in punitive policy and home arrest was first put in practice in St. Louis in 1971 as an alternative to punishment and as a measure to prevent the stigmatizing effect of incarceration.¹²

This paper highlights the narrations and experiences of Palestinian children while critically engaging with the politico-legal discourse that brands home arrest as a “child-sensitive,” “protective,” “alternative to punishment.” Invoking children’s voices allows us to pay attention to the complex network of legality, surveillance, and penology operating in tandem with the political ideologies and racial discourses embedded in state policies. Children’s narrations, as this paper will show, go beyond exposing the “pains of imprisonment”¹³ to understanding the regime of settler-colonial governance entailed in home arrest not only as a penal technology, but also as a mode of lawfare that aims at silencing and controlling colonized native communities. Our paper places what is considered to be a rehabilitative “alternative to punishment” within the larger context of settler colonialism in which practices of “criminal justice” are produced. It concludes by showing how home arrest, while utilizing the liberal legal discourses of “age-sensitive” “alternatives to punishment,” operates a slow and hidden structural violence against the native community that cages and dispossesses the home, penetrates and dismembers intimate familial ties, and ultimately unchild the Palestinian child.

Childhood, Settler-Colonial Violence, and the Native Home

Criminologists have criticized incarceration practices by exposing the effect that deprivation of liberty, autonomy, and contact with loved ones, and their resulting psychological damage have on the imprisoned,¹⁴ and suggested home arrest as an alternative to punishment. Yet, as an alternative punishment, home arrest also carries both negative and positive consequences: home-arrested detainees report the importance of maintaining family life and preserving a normal lifestyle¹⁵ away from what Sykes defined as the “pains of imprisonment.”¹⁶ Chamiel and Walsh suggested that although home arrest tends to be a more therapeutic¹⁷ and rehabilitative, rather than punishment-oriented, option, it can bring about what they called “developmental arrest.”¹⁸ But how do we understand criminal justice punitive measures, including home arrest, through the perspective of the colonized?

Over the last fifteen years, scholars have exposed the way in which discrimination and systemic racism shape the state criminal justice system.¹⁹ Criminology as a discipline, Geoff Ward argues, works to reproduce state-organized racial violence. This “disciplinary complicity,” he explains, is a product of the limited scope in which criminologists have sought to identify modes of violence and their failure to recognize structural forms of what Rob Nixon called “slow violence.”²⁰ Slow violence is a reworking of the way in which we generally view structural violence as an unseen, destructive process that “play[s] out across a range of temporal scales.”²¹ According to Ward, this form of violence, in which “harms are more attritional, dispersed, and hidden[.] becomes ‘un-seen’ as it targets those communities that are already systematically criminalised.”²² Most importantly, this violence furthers the “dis-accumulation, collective under-development, and generational disadvantage” of historically oppressed groups.²³ Critical scholars suggest that we must pay attention to the structural political violence that dominates colonized groups,²⁴ generates their dispossession,²⁵ and governs their bodies, land, and spaces of mobility and livability.²⁶ Keeping in mind that colonialism was done legally,²⁷ we have to locate the criminal justice system within larger racializing practices that are guided by the settler-colonial logic of elimination.²⁸

As critical scholars have revealed, the modern state-penal incarceration system reorganizes the space and time of the imprisoned subject so as to thoroughly regulate, govern, and discipline his or her bodily and mental capacities.²⁹ That is, state punishment works as a “technology of self” that constructs subject preferences in alignment with the objectives of the political authority.³⁰ This is done through objectifying and subjectifying prisoners into “criminalized” others, marked, surveilled, and completely governed in social life.³¹ Through indigenous eyes, however, as Cunneen and others have argued, we need to understand the colonial state criminal justice system as “a set of racialising practices” that maintain othered groups in spaces of difference and disposability.³² Racialized criminalization contributes to the elimination and dispossession of indigenous lives and spaces.³³

For Palestinian children living in the occupied Palestinian territories, including East

Jerusalem, the mundane violence of occupation penetrates body and life and dominates all spaces of living: schools, neighborhoods, and homes.³⁴ Daily policing, patrolling, strip-searching, and arrests add to omnipresent surveillance through CCTV cameras, military checkpoints, and security personnel, which maintain the reappropriation of native life and land and confine children within a condition of caging,³⁵ criminalization, and unchilding.³⁶ We analyze “unchilding” in the settler-colonial context in which “[t]he bodies of children...become contested politicized objects, and children are transformed into ‘legalized’ instruments that can be used to enact state violence against themselves, their families, and their larger indigenous communities.”³⁷ “Unchilding,” according to Shalhoub-Kevorkian,³⁸ is “an uncompromising practice and ideology whereby violence against Palestinian childhood becomes part of the war machine” and where the deprivation of childhood “operates profoundly through the disruption of the intimate that is embodied in the biopolitical and visceral as well as through the global and local politics of silence, negligence, intervention, and inaction.” That is, by “unchilding,” we are referring to the process through which the legal, political, and military apparatuses of the settler-colonial state objectify the Palestinian child as a security threat that must be constantly surveilled, managed, and targeted. Home arrest, therefore, should be understood within the same context of this colonial governmentality of childhood.³⁹ That is, unchilding goes beyond the confinement of children’s bodies and restriction of their mobility within their own neighborhood, city, and homeland, to penetrating and invading and governing the home-space through the multiple surveillance technologies, including “welfare” modes of intrusion.

Home carries a psychosocial meaning as a space where a person’s subjectivity in relation to the world is developed.⁴⁰ Critical scholars have sought to unravel the way in which social spaces, such as the home, are substantially formed in response to the structural racism and political oppression outside it, making home a political site of survival.⁴¹ The home, for racialized communities, is a place where relations are defined by mutual affirmation and where one can “heal many of the wounds inflicted by racist domination.”⁴² Home, for the colonized, functions as a place of memories, as anthropologist and oral historian Rosemary Sayigh argues, which embraces the role of producing identities, localities, social relations, cultures, and the nation.⁴³ Black feminist scholar bell hooks argues that for the child in the African-American community, the act of homecoming becomes a soothing experience, a place of nurture, where one feels safe from the oppressive experience of racial violence encountered outside the home.⁴⁴ According to hooks, the “home-place” is where the child learns “dignity, integrity of being,” and “faith,” a self-affirming site where Black people “could strive to be subjects, not objects” of racial oppression.⁴⁵ The history of colonial governments reveals the political logic entailed in the involvement of the settler state within the home and family, which is apparent in child-removal policies.⁴⁶ The colonial state’s “welfare” policy was heavily concerned with the lives of native families and informed by racializing notions that viewed these children as threats to be managed through re-disciplining.⁴⁷ Such policies were also avowedly “enlightened” and well-intentioned, promoting the project of dispossession.⁴⁸

This paper critically analyzes the use of “alternative” in referring to home arrest as an “alternative to punishment.” It is based on the voices of children and parents in occupied East Jerusalem who suffered home arrest, juxtaposed with court records, letters, and interviews with social workers, lawyers, and human rights activists, conducted between 2015 and 2020.⁴⁹ The study follows a multi-scalar methodology, which enabled us to connect disjointed accounts, reach children in their spaces, times, and contexts, and describe the meaning of home arrest. Relying on multi-scalar fragments, as constellations of data to connect thoughts, records, and memories from various times, brought together different analytical threads, but was risky at times. To maintain the safety of interviewees, we used pseudonyms and removed identifying details. In staging voices of children as our epistemological point of departure, we hope to push analytical boundaries and read and deconstruct colonial modes of punishment through the eyes of the colonized and occupied.⁵⁰

Punitive Violence at Home: The Legal Aggravation

Despite international and Israeli regulations regarding protection of children and those in custody, the abuse, arrest, and detention by state security forces are facts of everyday life for Palestinian children. A 2017 report by two Israeli human rights organizations, B’Tselem and HaMoked, pointed out that Palestinian children were unprotected following arrest and their parents did not know their condition during arrest and interrogations – in violation of Israeli law.⁵¹ Arrests of children under the age of twelve and interrogation without the presence or, in many cases, knowledge of their parents are routine procedures that render the Juveniles Act, which prohibits such practices, irrelevant when it comes to Palestinian children.⁵² Indeed, over the years, arrests of children have starkly increased⁵³ and more laws have been passed by the Israeli government that legitimize the harsher targeting and sentencing of Palestinian children in the West Bank and East Jerusalem.⁵⁴ In this context, home arrest has become increasingly used as a strategy of the criminal justice system.

The Israeli legal administration has constructed two legal systems that separate Jewish Israelis subject to Israeli civil law from Palestinians subjugated to either martial law or racialized modes of invoking the law.⁵⁵ These racially defined legal distinctions created unequal governance of childhood and expanded the state’s legal capacity to detain and sentence underage Palestinians without recourse.⁵⁶ Palestinian children in occupied East Jerusalem are subject to Israeli domestic law, which incorporates international obligations for the protection of children and the disposition of care, guidance, education, and more. Israel is a signatory to the International Convention on the Rights of Child,⁵⁷ according to which child arrest should be the last resort. This is evident in Article 40’s focus on the “promotion of the child’s sense of dignity and worth” and in Article 37(b), which explains:

No child shall be deprived of his or her liberty unlawfully or arbitrarily.
The arrest, detention or imprisonment of a child shall be in conformity

with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.⁵⁸

Invoking the Youth (Trial, Punishment and Modes of Treatment) Law and the Juveniles Act⁵⁹ is supposed to allow minors from occupied East Jerusalem the prospect of rehabilitation instead of punishment. Yet, as the 2017 B'Tselem report explains:

When it comes to Palestinian minors from East Jerusalem, the safeguards set out in the Youth Law are routinely rendered hollow and meaningless by police officers, prison guards and judges who consider their nominal, technical observance of the provisions puts them in the right.⁶⁰

Over the years, the implementation of laws in occupied East Jerusalem tightened the Israeli authorities' grip over Palestinian children and intensified the criminalization and political punishment of Palestinian minors, as attorney Nisreen Alyan argues, leading to "the effective abolition of alternatives to detention for minors convicted of such offences."⁶¹ The main concern of scholars has been Israel's lack of adherence to international regulations requiring the application of "child-sensitive" alternatives to accused minors; this disregards the pleas of children, parents, activists, and some lawyers not to order home arrest because it in fact produces irreparable harm to the child's life and family's livelihood.

Court decisions to put children under home arrest rhetorically frame their decrees as conforming with international and domestic regulations, supposedly lessening violations of the child's liberty. But rather than showing the "good will" and "sensitivity" of the punishing state, the parents, human rights activists, and lawyers interviewed stressed the far-reaching harm done to children under home arrest. Their positions were well argued by 15-year-old Salim, who framed home arrest as "*maghmagha qanuniya*" (legal aggravation):

Maghmagha qanuniya ... they want to step on us and on our future... through "law"... Here I am in home arrest until further notice ... and not imprisoned at my home ... Rather at a relative's house ... my father is not allowed to visit ... and I pity our relatives who have become wardens ... controlled like myself by Israel ... and the legal manipulation I am in isolation far from my world, my school, and my parents and sisters ... I went out to take a walk...the judged decided to call it "escape"... *maghmagha* [aggravation] I tell you ... slow torture ... on weak fire Home arrest is...*shalal* [paralysis] ... it is to paralyze us And here my future is being lost. All this and my eyes are open ... and my heart is suffering.⁶²

Home arrest, as Salim shows, grants the state the power to manipulate the law and silence his acts of resistance to military occupation. Interviews also revealed how children were picked up in their neighborhoods, mainly on their way to school, and how their release, without even going to court, was conditioned on home-arresting them for ten days or more. In utilizing this image of "benevolence" towards the child,

parents and children pointed to the psychological harm, disruption of normal familial and school life, and destructive financial burdens (fines, losing work days, legal fees) resulting from home arrest.

Home arrest involves a complex, ambiguous procedure and, as respondents explained, often arbitrary arrangements by the criminal justice system that enhance legal manipulations and expand the state's arbitrary interventions through sentencing, limiting movement, and affecting the financial state of the family. Detention for interrogation reasons can last ten to twenty days before an indictment and further detention,⁶³ continuing up to six months until a verdict is reached.⁶⁴ Prolonging sentences before the indictment in home-arrest cases is not considered actual detention and hence the actual time of detention can continue for longer than ten days even before indictment. Further, days spent in home arrest while court dates are continuously postponed are not counted as prison time or in the overall sentencing of the child, leaving the court with the frequently used option to impose additional, actual prison time beyond what was officially ordered.⁶⁵ The random proscriptions and unpredictable sentencing entailed in the legal procedures also interfere with the "coming of age period" of the child. While the interests of the child embedded in international legal discourse focus on the possibility of rehabilitation and the return of the child to the normal life cycle, these legal procedures function to produce an extreme form of what Chamiel and Walsh call "developmental arrest," as the criminal justice system arbitrarily hinders educational and psychosocial possibilities.⁶⁶ Home arrest also has been found to increase school dropout rates, isolate children, and narrow their social encounters, permitting the state to cause irreversible damage to children's lives. Parents, children, and lawyers explained that the shock of arrest, the need to protect the child, and the fear of the state's additional punishments prompted them to accept plea bargains.

The uncertainty and ambiguity that the military-legal occupation inflicts on children and families in East Jerusalem is part of the regime of mundane and structural violence that disrupts familial life; dismantles children's education, rehabilitation, and development; and unchild them. The multiple ambiguities and randomness through which the criminal justice system handles the legal procedures of home arrest produce multiple prolongations of sentencing and various uncertainties about the present and future. Children experience these ambiguities and uncertainties as cyclical violence, causing emotional, psychological, and developmental harm. We can see therefore how the legal system allows the state to invade and violate the child's life. The "maghmagha" is a racialized mode of ruling by law to intimately punish, surveil, intimidate, and fragment the native's community. It demonstrates a legally sponsored, slow unchilding at work, contributing to the broader military-political context that inhibits child development and cages childhood.

Un-homing the Home: Home Arrest as "House Demolition"

In interviews, home-arrested children discussed home arrest as part of the larger military occupation – a military occupation of the home. Home, as children portrayed

it, was a place where one could escape the outside militarized reality of constant policing, targeting, and fear. Interviews with children revealed how the everyday, moment-by-moment encounter with the familial and intimate space of the home had been transformed. In imprisonment, punishment is carried out through a certain determination about the spatial distribution of bodies over cells; in home arrest, the familial psychosocial space of the home is the cell in which the child is locked down and proscribed from movement outside of it. Home arrest, as will be shown, reproduces for the child the psycho-spatial conditions of military occupation and violent imprisonment within the home.

Children shared their experiences of the invasiveness and arbitrariness of the way in which military inspections were conducted throughout their arrest period. Ahmad told us:

They would only come at 5:00 a.m. They would wake up my parents and siblings, enter my room to wake me up. I began to wish for prison The tears were in my eyes when I saw my grandmother shaking, and she has diabetes. They would terrorize her. I was always worried about her.⁶⁷

The arbitrariness of military inspections added further layers to state legal punishment through caging the home. Inspections legitimize military presence within the home-space, while, as children respondents shared, staging the officers as mediators and rationalizers of the state's collective penal practices, which penetrate the safe boundaries of home. Furthermore, simultaneously being imprisoned and physically present in one's community creates layers of seclusion, as Ahmad, 16, described:

When my father was imprisoned, we all felt so deprived of his presence ... my siblings and I used to really miss him ... he was our hero. I have been imprisoned at home for the past four months and the occupation managed to isolate me from my friends, from the spaces I used to like, my school, and my mosque, but because I am home, I don't feel I am missed I don't sense my value See ... they rule us while at home.⁶⁸

In home arrest, the presence of family and friends comes to signify the child's isolated position, depriving the home of its sense of warmth and "self-affirmation." Amjad, 16, expressed the consequences that this had on his perception of home, extending beyond confinement:

I am under home arrest ... which is house demolition This is how I become a non-human and not a child ... outside the equations of human life ... animal life ... and not in a cage ... worse I opened the window. I reached out with my hand to feel the rain ... and it was satisfying for a moment I played with the rainwater ... and every time it rained, I would stretch my hand outside ... for freedom And then came the settler ... he informed the police I am under home arrest where I'm not allowed to reach my hands out ... and they bombed us with fines that need years to be paid.⁶⁹

When expressing his frustration with being arrested at home, Amjad described home arrest as part of the state's practice of "house demolition," a method of collective punishment used by the settler state against Palestinians.

Na'il, who is 15, reiterated the pain of being excluded from the world that his siblings participate in daily and how trying to glance at the outside is met with the fear of punishment:

I used to open my eyes, watch my siblings getting ready to go to school, while I am imprisoned at home. My days and nights were mixed. I was confused ... can you believe that all I wanted is to watch the sunshine? I left home one early morning to go to the roof, but the neighbor caught me, yelled at me with much anger. She feared the military will invade our homes again, break the furniture, and arrest more people She told me, "Go bury yourself in your home."⁷⁰

To be buried at home signifies how spaces of death maintained by the state are extended into the home. As the home transforms into a punitive institution of suffering, it becomes a space of un-freedom (a cage) and, even worse, a space of dehumanization and death. It is not surprising then that Saed, 14, associated his familiar objects with the military, stating: "I started hating my bed The feeling is that the military, down here ... controls my bed ... my bed cover They come to check whether I am home, and remove my bed cover."

The different perspectives of these children show that the transformation of the home-space, in accordance with the penal technology of home arrest, denotes the occupation of home. Whether it is the home-space's penetration by state military (the invasion), seclusion (the raising of the walls around the house), destruction (the demolition), or dispossession (dehumanization), Palestinian children shared how home arrest legally reproduced the same regime of spatial entrapment, caging, and criminalization in the occupied spaces of their land. This caging creates a paradox in which home becomes a space of constant intimidation that the child longs to escape, while this fear is exacerbated by constant anxiety of the securitized space outside, which is always penetrating the inside. The effect of this invasion of the inside by the outside through home arrest is that there is no space for the child to be free from the occupation, amounting ultimately to what Amjad experienced as "house demolition."

Family Arrest: "Are We Parents or Prison Guards?"

The criminal justice system uses home arrest as a new penological mode of governing the family, activating its "members to enforce their own surveillance." When a child is "released" into home arrest, parents are expected not only to accept the web of surveillance technologies that penetrate the home, but also to be participant-agents of surveillance and punishment themselves, while simultaneously being held accountable by them. Parents and siblings are forced to state the following in court: "I will stay

home and not leave the respondent alone in any way. If he escapes, I will call the police.” This becomes their legally signed acceptance of their roles as wardens and informants of the state. As Abu Aysar, father of two children who were subjected to home arrest, explained in a loud, declarative voice, “I am the jailor of the child. He [my son] is not allowed a doctor ... can’t even stand at the door of the house. Everyday it’s: ‘Where’s your son? Photograph him Photograph him.’”⁷¹

Such a punishment places parents between two contradictory positions: struggling to maintain their parental roles of nurturers and guardians, while being “state employees,” “wardens,” and “prison guards.” Furthermore, parents are subjected to multiple, heavily damaging threats, blackmailed into exercising their supervisory role as strictly as possible. Abu Aysar said:

Yesterday, the police came at ten in the morning. The boy was alone. His mother was in the same building, on this floor at his grandmother’s. Then they came back at ten at night, they arrested me and the boy, and kept us [at the station] until 4:00 a.m. The next morning [today], they summoned my wife. I went there at 2:00 p.m. I had to sign off for ten thousand shekels [bail]. I have to pay them today.⁷²

The constant threatening of parents with home arrest and large fines for deviating from their roles as agents surveilling their children intensified their apprehensions and made them stricter with their children. In addition, as their communal and economic participation has become limited, parents expressed the sense of being imprisoned themselves. Abu Aysar said:

I am suffering The police come by every day. Four in the morning, six in the morning. It’s random. I am imprisoned with him. I can’t work or attend an occasion with his mother. A year, a whole year.⁷³

Parents in occupied East Jerusalem struggled with their capacity as caregivers and protectors, describing losing their authority over their children to the state. “Employing” parents as the state’s punitive agents over those that parents should protect has a transformative effect on the intimate ties and political attitudes of the family,⁷⁴ making both parties mutual jailers in accordance with the political dynamics of the punishing state.⁷⁵

As this self-destructive condition reveals, the family itself manages its own punitive control within the home, generating a mode of state violence that is self-inflicted and that slowly dismembers the family.

Fuad was arrested at 15 years old. Reflecting on his time under home arrest, he said:

I began to understand what they did to us At home, me and my siblings were very anxious ... we were fighting all the time. And my father ... I hated him Would you believe it ... he started working for them [the Israelis] as an informer? He was afraid that he might lose his job

my mother pitied him and was mad at him the house is small We were all afraid ... it's my fault Today I understand what they did to us. Home arrest was supposedly for my sake and in keeping my rights as a child they damned the hell out of my rights ... through law ... and they created a new family ... one that is afraid, terrified, anxious, and sick There's my mother who has diabetes now. My brother was actually imprisoned ... not house arrest ... It was a different experience. For me, they burned my soul [*haraqū anfasi*] And they made me hate my parents ... especially my father.⁷⁶

Targeting intimate ties and the “intimate bonds that tie native children to their communities, cultures, and homelands”⁷⁷ in settler-colonial contexts is a weapon of war used by the state against indigenous people⁷⁸ to complete the colonization process by dismembering the affective bonds tying indigenous children to their kin, community, culture, and homelands.⁷⁹ Transforming the father into a state agent reveals the power of the colonial legal mechanism in penetrating and reengineering the native family, as home arrest generates a slow, long-lasting, and hidden violence not only to invade the family and instill fear within the home, but also to signal the coercive structural violation and dismemberment of familial intimate-ties.

An Iron Wall against Palestinian Childhood

The complex web of surveillance, phone calls, police check-ins, parental supervision, electronic monitoring devices, patrol officers, social workers, and more constitutes an active penological system of governing the home-arrested child. Home-arrested children explained how home arrest was not about “rehabilitation” or a “solution to a bad boy’s behavior,” but rather a mechanism of psychosocially controlling the child and family. Such penological governance intends to produce what children termed paralysis (“*shalal*”). What condition are children talking about when they invoke “*shalal*”? As Rois claims, the criminal justice system operates as a “youth control complex,” consisting of “a network of racialized criminalization and punishment deployed from various institutions of control and socialization [that] has formed to manage, control, and incapacitate Black and Latino youth,”⁸⁰ targeting them daily in “school, at home, or on the street.”⁸¹ We go beyond Rois to understand disciplinary incarceration in the settler-colonial context of Jerusalem where home-arrested children talked about the helplessness, incapacitation, and submission that they felt home arrest attempts to instill.

Home arrest not only limited Marwan’s movement and accessibility, but also his sense of agency and empowerment against surrounding political violence:

I used to like to go to the neighborhood ... to talk politics ... to observe the soldiers and settlers ... and yes I used to photograph them when they attack and abuse us ... and then they paralyzed me completely My

parents wanted me back home and we all decided: enough with politics ... I actually promised the judge I will stay home and behave like a normal child.⁸²

Children also exposed how home arrest targets their convictions, belonging, and political activities. Na'il noted the political underpinnings of home arrest:

I feel occupation's power between us here, inside the home. As my sister said yesterday, they work based on the divide and rule mode; they did it during the Nakba [1948 expulsion of Palestinians] and they are doing it to us ... one by one ... as individuals.⁸³

The shalal goes beyond being a technique of control. This is ultimately what the criminalization of childhood entails as psychological, emotional, social, and economic punishment becomes the price for standing up against injustice and suffering: it is a crime to be a child resisting mundane oppression.⁸⁴

As children's voices suggested, home arrest is not simply about incapacitation and targeting children: it also impacts children's hopes for change and influences their self-perception and identity. Durgham al-Araj, an activist and ex-prisoner who supervised Palestinian children in Israel's Damun prison, points out that the political objective of "alternatives to detainment" in East Jerusalem is to control the child and in particular to "drain from [the consciousness of] children their resilient spirit."⁸⁵ Al-Araj emphasizes the significance of this mode of control being used in Jerusalem, stating that this "attempt at creating [a] *separation wall within the mind* is about isolating Jerusalemite people and differentiating them from the rest of Palestine."⁸⁶

Such findings prompted us to look at Palestinian political prisoner and author Walid Duqqah's analysis of Israel's "regime of incarceration, punishment and discipline, as a mode of 'searing the Palestinian consciousness.'"⁸⁷ What al-Araj claims is a creation of the "separation wall" within the mind, Duqqah calls a "searing the consciousness": a settler state penological governmental practice that aims at dismantling the collective space and awareness of Palestinians and replacing them with a sense of fragmentation and hopelessness – "for what Israel established of Palestinian enclaves in the occupied territories amount to large prisons, and what it tries to apply against prisoners in the small occupation prisons is a continuation of the same policy."⁸⁸ The aim of this policy is to "re-articulate humans through absolute control and surveillance over them and every detail of their lives."⁸⁹ Duqqah's analysis resonates with our respondents' suggestions that Israeli penal power operates to achieve the submission of the imprisoned native's identity, sense of self, collective unity, and agency.

Through isolation, division, and daily slow structural violence, the state increases its capacity of control over the spatial and psychological potentialities of the steadfastness of Palestinian life and childhood. If state punishment through house demolitions is part of the effort to "sear the consciousness,"⁹⁰ home arrest as "house demolition" can be clearly seen as a continuation of this mode of penological governance. While it unchild the Palestinian child, it attempts to cage and dispossess the home-space

of the Palestinian family and society that provides the psychological infrastructure for steadfastness, resilience, and continuity, and replace them with notions of defeat, desperation, and hopelessness, as Amjad revealed to us in a letter he wrote about his experience under home arrest, entitled, “I am a child with no childhood, imprisoned in a home that doesn’t exist.”

Conclusions: Home Arrest Lawfare

Colonial legalities, apparent in our study of home arrest, demonstrate that punishment is a vital technology through which colonial suppression of resistance operates. Centering children’s own narrations and witnessing against the operationalization of law and legality expose the racialization of lawfare reflected in home arrest. John Comaroff states that lawfare is “the effort to conquer and control indigenous peoples by the coercive use of legal means.”⁹¹ It has “had many theatres, many dramatis personae, many scripts.”⁹² We maintain that children’s homes become theaters where modes of lawfare are against the Palestinian child’s future, family, and community. Home-arrest lawfare’s use of socio-legal discourses and practices reveals how the Israeli so-called criminal justice system in occupied East Jerusalem positions Palestinian children not as subjects to be rehabilitated, but as objects obstructing settler-colonial social formations⁹³ to be punished within a criminal framework, outside the social body, in submission to the political will of the military regime.

Home-arrest lawfare exposes the state’s objectives in the confinement and penetration of the colonized home, and its anxious performance of racialized violence through law. The state’s slow structural violence operates in hidden and visible theaters, wounding children and invading their homes and sense of home-ness. Home-arrest lawfare restructures the meanings and role of home for the child and familial relations that persevere between its walls and the penal power and political objectives of the state. Slow violence apparent in the “rule *by* law” logic via “maghmagha” as a mode of legal maneuvering proved to be a racialized mode of punishing intimate ties, governing and dismembering the native community, and paralyzing the unchilded. The multiple modes of caging, which force families to submit their children to incarceration, and the limited legal means and resources available to families make lawfare against Palestinian families clearly apparent. As families, lawyers, and child representatives claimed, all means and resources of steadfastness that might provide families with power against the court were targeted and threatened.

Re-scripting children’s homes as prisons and turning their families into prison guards positions colonized children as objects of the settler state’s legal manipulations, legitimizing the occupation of the home, aiming at hindering dissent. The variegated and unpredictable effects of colonial lawfare “legalities” went beyond governing childhood to governing children’s homes, searing their minds, and building iron walls inside the visceral quality of the colonized’s sense of home-ness. The colonizer’s legal taxonomies and its lawfare are racially and spatially inscribed, determining who has legal rights, who can be exploited and penetrated, and who is unchilded.⁹⁴ Children

positioned as political capital in the hands of the colonizer remain a persistent site of struggle for the native, as lawfare governance hosts a range of violent penal mechanisms aimed at uprooting native existence and silencing acts of resistance among the native children. Theorizing the colonial legality and settler-state penology experienced by Palestinian children, while guided by their thoughts and insights, means that Palestinian children, in exposing the unending injustice, racism, and cruelty against them, persist in rejecting colonial disciplining and maintaining their hope for a future and desire to break the bars of the iron cage.

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Endnotes

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