

בִּצְדָקָה
B'TSELEM
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האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في اسرائيل
Association for Civil Rights in Israel



GHOST TOWN

Israel's Separation Policy and Forced
Eviction of Palestinians from the Center of Hebron

May 2007

Ghost Town

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Eviction of Palestinians
from the Center of Hebron**

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ISSN 0793-520X

B'Tselem and the Association for Civil Rights thank Dr. Eyal Gross and members of ActiveStills, Bnei Avraham, Yesh Din, and Breaking the Silence for their contribution in the preparation of this report.

This report was made possible through the generous support of the Minister of Development Cooperation, Representative Office of the Kingdom of the Netherlands.

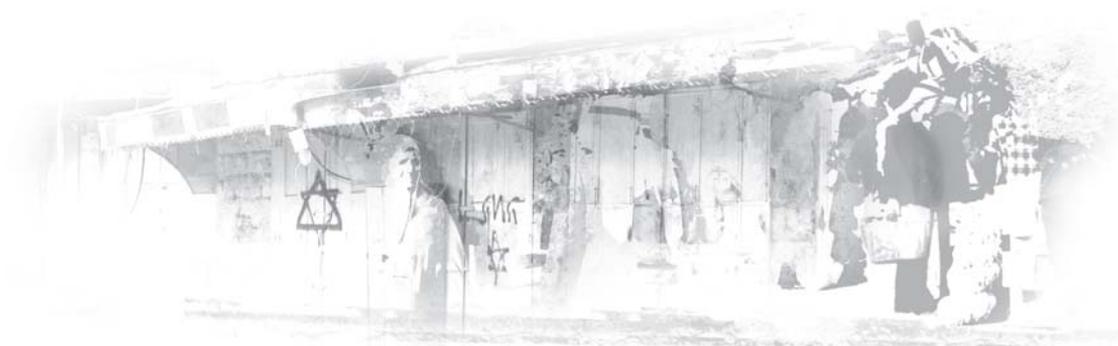


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Introduction

Hebron is the second largest city in the West Bank and the largest in the southern West Bank. It is the only Palestinian city with an Israeli settlement in the middle of it.¹ The Israeli settlement in Hebron is concentrated in and around the Old City, which traditionally served as the commercial center for the entire southern West Bank.

For years, Israel has severely oppressed Palestinians living in the center of the city. The authorities have created a long strip of land that partitions the city into southern and northern sections and is forbidden to Palestinian vehicles. Parts of the strip are also closed to Palestinian pedestrians. The settlers, on the other hand, are allowed to move about freely in these areas. In the areas open to Palestinian movement, passersby are subject to repeated detention and humiliating inspections every step of the way. Since the massacre of Muslim worshipers in the Tomb of the Patriarchs, carried out by the settler Baruch Goldstein in 1994, the Israeli military commander has ordered the closing of many Palestinian-owned shops, which provided a source of livelihood for thousands of persons. To aggravate matters, the Israeli defense establishment has knowingly and routinely protected countless acts of settler violence against Palestinians in the city.

These restrictions, prohibitions, and omissions have expropriated the City Center from its Palestinian residents and destroyed it economically. Most of the shops in this area have been forced to close. Having no option, many families have left their homes in the City Center. Israel's ongoing restrictions and prohibitions make it impossible for Palestinians to renovate and rejuvenate the area.

This report does not deal with all of Hebron, or even with those parts of the city that Israel directly controls. The report concentrates on the City Center, the area comprising the Old City and the Casbah, in which most of the settlement points were established, in which Israel imposes the most severe restrictions on Palestinian movement – an area that Palestinians have abandoned more than any other. What was once the vibrant heart of Hebron has become a ghost town.²

1. Other than East Jerusalem, which Israel annexed immediately following the occupation, in 1967.

2. See below, "The City Center."

Palestinians have left the area primarily as a deplorable result of the "separation policy" Israel has implemented there. Oppression of the Palestinians in the City Center is part of this policy, which is openly aimed at protecting Israeli settlers in Hebron by separating them, by physical and legal means, from the Palestinian residents. This objective is clear from the reasons the army gave for rejecting the suggestion of external Israeli security experts to protect the settlers without a physical separation, a suggestion that was intended to enable rehabilitation of the Palestinian fabric of life in the city.³ The army responded to the suggestion as follows:

It seems that the basis of the opinion [of the security experts], whereby it is possible for Palestinians to live a normal life in the area alongside that of Israelis, is inconsistent with the principle of separation that underlies the security forces' plan to safeguard the space...

Would anyone think it possible to protect the Jewish residents in the area of the Jewish neighborhoods when these neighborhoods are isolated from each other and between them is an area in which Palestinians live a regular and routine life? How is it possible to prevent friction in the space encompassed by these neighborhoods when on their doorstep (and in most cases, even under or alongside them) regular Palestinian commercial life is taking place?⁴

A senior official in the defense establishment described Israel's policy on the center of Hebron as "a permanent process of dispossessing Arabs to increase the Jewish territory."⁵ This report describes in detail this process of dispossession.

The first chapter briefly describes the history of settlement in Hebron and control of the city over the years. The second chapter presents the findings of a survey conducted in preparation of this report that illustrates the degree to which Palestinians have left the areas adjacent to the settlements in the city. These figures include the apartments that became vacant and the shops that closed, either following an army order or as a result of other implications of Israel's policy in the city.

This policy is discussed in the following three chapters, which deal with the factors that have led to Palestinians leaving the areas near the settlements in Hebron. The factors are not all inclusive, but they provide the main explanation for Palestinians leaving the City Center.

3. The Association for Civil Rights in Israel attached the suggestion to its letter of 27 August 2006 to the attorney general and the defense establishment.

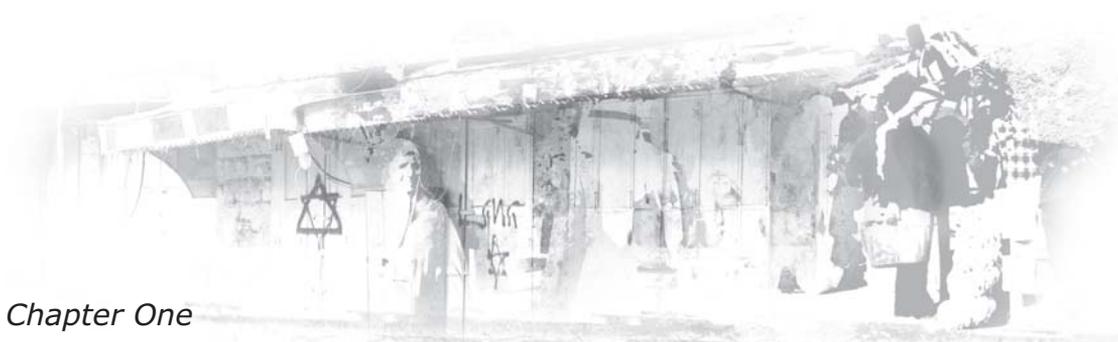
4. Letter of 31 January 2007 from Harel Weinberg, legal advisor for the West Bank, to Shai Nitzan, of the State Attorney's Office.

5. Amos Harel, "Report to Sharon and Ben Eliezer Recommending Enforcing the Law on Hebron Settlers," *Ha'aretz*, 11 August 2002.

Chapter Three discusses Israel's severe restrictions on Palestinian movement in the city, including the continuing curfew it imposed in the parts of the city under its control during the first years of the second intifada, and the closing of streets in the City Center to Palestinian pedestrians and vehicles. The chapter then discusses the large-scale closing of Palestinian businesses in areas near the settlement points and the death blow it dealt to Hebron's commercial center in the first years of the second intifada.

Chapter Four discusses the failure of the Israeli authorities to enforce the law against settlers who harm Palestinians and damage their property. Chapter Five deals with violence, abuse, and humiliation of Palestinians by police officers and soldiers, the seizure of Palestinian houses for operational purposes, and the searches, delays, and harassment by the security forces. Chapter Six examines Israel's policy from the perspective of international humanitarian law, international human rights law, and Israeli law.

The report ends with conclusions and recommendations.



Chapter One

History of Israeli Settlement in Hebron

On Passover Eve of 1968, less than one year after Israel occupied the West Bank, a group of Israeli civilians rented a hotel room in Hebron for forty-eight hours, and then declared that they did not intend to leave the hotel. Although the act violated official government policy at the time, after a few days passed, cabinet ministers visited the new “neighborhood” in a show of support. In the months that followed, the government refrained from removing the squatters, while the army equipped them with weapons and even trained them in their use.⁶

The settler-Palestinian-military triangle began to take its current shape already then, as Akiva Eldar and Idit Zartal explain:

A pattern of hostile and violent treatment of the local residents began, and with it came a sample of the Israeli reaction. At first, the settlers settled in the heart of the Arab population; long-time city residents, who naturally did not welcome the penetration of Israelis into the area in which they lived, tried to rebuff the unwanted guests, local skirmishes took place, large numbers of military forces were needed to defend the handful of settlers and to protect the Jews from the danger of violent confrontation, veteran Hebron residents were removed from their homes and shops.⁷

The government refrained from removing the squatters, while the army equipped them with weapons and even trained them in their use

Some six months later, in September 1968, the Ministerial Committee on Hebron and Gush Etzion [the Etzion Bloc] officially approved the establishment of a Jewish neighborhood in the city. The decision states that, for purposes of expanding the settlement in Hebron, it is necessary to consider the possibility of using Jewish-owned land. Three months later, the Ministerial Committee backed off its decision and

6. Response of Defense Minister Moshe Dayan to an inquiry by MK Uri Avneri, *Knesset Record*, Vol. 29, session of 12 June 1968, 2230-2232.

7. Akiva Eldar and Idit Zertal, *Lords of the Land: The Settlers and the State of Israel 1967-2004* (Kinneret, Z'mora-Bitan, Dvir, 2004), 38-39 [The quote is translated from the Hebrew version. An English edition of the book is in preparation.] For an extensive survey of establishment of settlement in Hebron, see Eldar and Zeral, *Lords of the Land*, 31-39, 327-333; Shlomo Gazit, *Gullible Persons in a Trap: Thirty Years of Israeli Policy in the Occupied Territories* (Z'mora-Bitan, 1999), 224-226.

decided to establish a Jewish neighborhood near the city. In March 1970, the Knesset approved the establishment of the Qiryat Arba settlement, situated close to Hebron, and in the second half of 1971, the first fifty families moved into the settlement. Within a few years, Qiryat Arba contained hundreds of housing units available for Israelis.

The big push to solidify the Jewish settlement in the heart of Hebron came in 1980, following two attacks by Palestinians that killed seven yeshiva students in the City Center. The year before, female settlers from Qiryat Arba squatted in Beit Hadassah, which is located in the City Center. After a yeshiva student was killed in the Old Market on 30 January 1980, settlers from Qiryat Arba squatted in buildings in the City Center that had previously been owned by Jews. Prime Minister Menachem Begin did not remove them.

In March 1980, the government decided to build a structure for a yeshiva in the City Center and add a floor to the Beit Hadassah settlement for use as a school. With these actions, the government gave final approval for the establishment of the Jewish settlement in the heart of Hebron. In 1984, a number of Jewish families established a settlement point in the Palestinian neighborhood of Tel Rumeida.

Over the years, the Jewish settlement in Hebron grew, and now a few hundred settlers live in a number of locations in the Old City, primarily in and around what was the city's commercial area (see the map, p. 102).⁸ Each of the settlement points is a building or small group of adjacent buildings. The settlement in Hebron is primarily comprised of the Avraham Avinu neighborhood, Beit Romano, and Beit Hadassah, in the Old City, near a-Shuhada Street, which was the heart of the Palestinian commercial district, and Tel Rumeida, near the Old City.⁹

In the pre-dawn hours of 25 February 1994, the settler Baruch Goldstein killed twenty-nine Muslim worshipers and wounded more than one hundred others in the Ibrahimi Mosque, located in the Tomb of the Patriarchs, in Hebron. Following the attack, Israel gradually adopted an official policy of separation of Palestinians and Israelis, first in and around the Tomb of the Patriarchs, and later elsewhere in the City Center.

In the interim agreement signed by Israel and the Palestinian Liberation Organization in 1995, the parties agreed to leave the city under Israeli military control, while the army retreated from the other cities in the West Bank. In 1997, the Protocol Concerning the Redeployment in Hebron was signed. This

8. The precise number of settlers in the City Center has not been made public. Also, the number fluctuates, since many of the residents in the settlement are yeshiva students or foreign visitors.

9. In addition, there is the "Givat Haavot" settlement, which lies a few kilometers north of the Old City and is considered part of Qiryat Arba. The Israeli police station of Hebron is located in the neighborhood.

agreement divided the city in two: H-1, which comprises some eighteen square kilometers, in which most of the city's residents live (about 115,000), was given over to the control of the Palestinian Authority, and H-2, which comprises 4.3 square kilometers and contains some 35,000 Palestinians, was left under the direct control of the Israeli army, with the Palestinian Authority being given only civil powers over the Palestinian residents in the area.¹⁰ H-2 contains the Old City and all the Israeli settlement points. The Old City contains the city's commercial center and also served as the city's north-south traffic artery.

In addition to the administrative division of the city, Article 9 of the Hebron Redeployment Agreement specifies that Israel and the Palestinian Authority shall strive for the smooth movement of the city's residents:

Both sides reiterate their commitment to the unity of the City of Hebron, and their understanding that the division of security responsibility will not divide the city. In this context, and without derogating from the security powers and responsibilities of either side, both sides share the mutual goal that movement of people, goods and vehicles within and in and out of the city will be smooth and normal, without obstacles or barriers.

In September 2000, the second intifada erupted. This led the army to expand the limited separation policy it had adopted following the massacre in the Tomb of the Patriarchs, and apply it in the entire area in which Israeli settlements are located. The separation entailed unprecedented restrictions on Palestinian movement in the city, primarily a continuous curfew and closure of main streets to Palestinian residents.

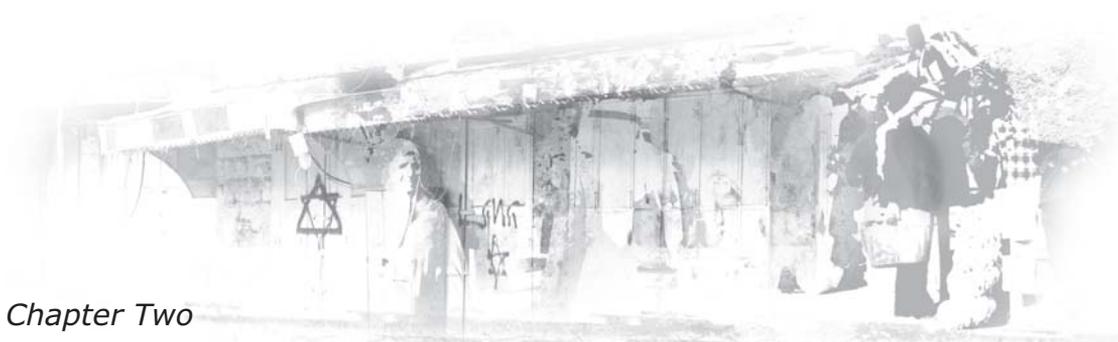
The second intifada led the army to expand the limited separation policy it had adopted following the massacre in the Tomb of the Patriarchs, and apply it in the entire area in which Israeli settlements are located The level of violence in Hebron, as in the rest of the West Bank, rose sharply with the outbreak of the second intifada. During the course of the second intifada, Palestinians killed seventeen Israeli security forces posted in Hebron and five Israeli civilians in the city, among them an eleven-month-old infant. In this period, Israeli security forces in Hebron killed at least eighty-eight Palestinians, at least forty-six of whom (including nine minors) were not taking part in the hostilities when they were killed. In addition, two Palestinians were killed by Israeli civilians: one was shot immediately after he killed a settler, and another, a fourteen-year-old girl, was shot in her home by settlers who had entered the house (see Chapter 4).

Simultaneously, the distinction between H-1 and H-2 gradually blurred, and the declared commitment to free movement and unity of the city was rendered

10. PCBS 2005 mid-year projections of the Palestinian populations in the two areas.

meaningless. In April 2002, during Operation Defensive Shield, the Israeli army invaded and established positions in H-1. The Palestinian Authority gradually lost its ability to operate in H-1 in respect of the matters over which it was given control in the Hebron Redeployment Agreement.

The commercial, cultural, and social center of Hebron became, as we shall see below, a ghost town.



Chapter Two

Palestinian Abandonment of the City Center

Over the years, many Palestinians have been forced to leave the City Center for locations farther away from the settlement points. Also, many merchants have been compelled to close their shops near the settlements.

The City Center, once a commercial district serving the residents of Hebron and the entire West Bank, has all but disappeared

The City Center, once a commercial district serving not only Hebron's residents and merchants but merchants from the entire southern West Bank. Now, this commercial district has all but disappeared. Most of the shops are closed, and Palestinian commercial activity has moved elsewhere, away from the area of the settlements.

In November and December 2006, in preparation for this report, a survey was conducted of over one thousand structures in the area encompassing the neighborhoods in or next to which settlements have been established, and in the areas adjacent to the roads used by the settlers and the Israeli security forces (see the map of the survey area, p. 103). Most of the structures lie in H-2.

The survey covered the structures in the Casbah, the area near the Tomb of the Patriarchs, in the Tel Rumeida neighborhood, around the Avraham Avinu, Beit Romano, and Tel Rumeida points, along a-Shuhada Street, on the lower part of the Abu Sneineh neighborhood near a-Sahla compound, along the roads settlers use to go to and from the City Center and the Qiryat Arba settlement, including the Qiryat Arba road and "Worshippers' Way," in Wadi al-Hussein, which runs between these roads and Qiryat Arba, around the Givat Haavot settlement (north of the contiguous settlement points in the City Center), and between the settlements Qiryat Arba and Givat Haharsina and adjacent to Givat Haharsina, which lies to the north.

The survey also covers two small areas inside H-1: the southeast portion of the Bab a-Zawiya neighborhood, whose residents and merchants were under Israeli army control for a long time during the second intifada, and the eastern part of Qarnatina Road, adjacent to the Avraham Avinu settlement, whose residents were detached from the commercial district during the intifada.

The statistics were collected by sixteen persons, who went door-to-door and documented all the residential dwellings to determine if they were occupied or abandoned. The same was done with every business establishment. The information was derived, inter alia, from inquiries conducted with some 550 residents and merchants who remained in the areas surveyed.

Separate data were obtained for housing units that were unoccupied before the second intifada and those that became vacant subsequently. The same was done for the businesses in the relevant areas.

Number of Palestinians who left the area

The survey's findings show that at least 1,014 Palestinian housing units had been vacated by their occupants.¹¹ This number represents 41.9 percent of the housing units in the relevant area. Sixty-five percent (659) of the empty apartments became vacant during the course of the second intifada.

Regarding Palestinian businesses, 1,829 were not open for business.¹² This number represents 76.6 percent of all the business establishments in the surveyed area. Of the closed businesses, 62.4 percent (1,141) were closed during the second intifada.¹³ At least 440 of them closed pursuant to military orders.¹⁴

In practice, the number of apartments left by Palestinians is higher than the survey's figures In practice, the number of apartments left by Palestinians is higher than the survey's figures. The collapse of Palestinian neighborhoods near the settlements led to a dramatic decline in the housing and living costs in these areas. Many poor families from distant parts of Hebron who did not have the money to pay rent moved into the Old City or other neighborhoods near the settlement points in the city. Since

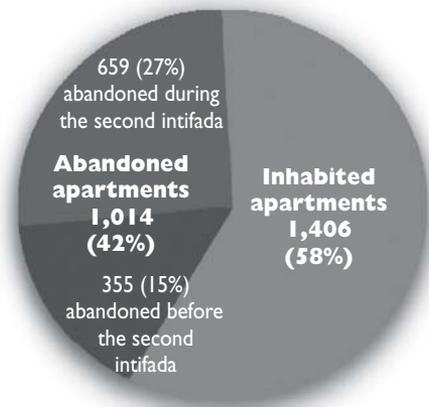
11. This number includes fifty apartments that became uninhabitable during the course of the second intifada because the army destroyed them or as a result of wear and tear.

12. This number includes commercial warehouses. Among the closed businesses were twenty-nine shops and commercial warehouses that became unusable during the course of the second intifada either because the army destroyed them or as a result of wear and tear.

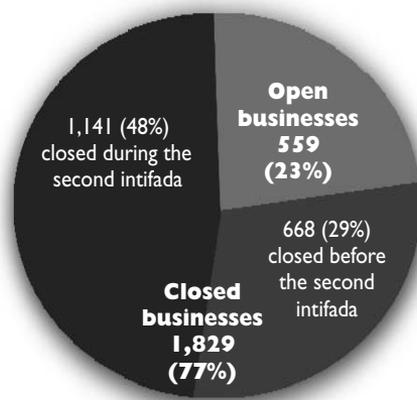
13. Some of the businesses that ceased operations prior to the outbreak of the second intifada were closed on army orders the following the massacre in the Tomb of the Patriarchs, in 1994.

14. The number of businesses closed by military orders is based on figures the army submitted to the court in HCJ 11235/04, *Hebron Municipality et al. v. State of Israel et al.*, Statement on Behalf of the Respondents, 16 November 2005. The orders were extended at the end of October 2006 (letter of 19 December 2006 from the office of the legal advisor for the West Bank to the Association for Civil Rights). The number of businesses and warehouses that were closed by order is larger than the number provided to the court since the latter does not include shops as to which the orders closing them were cancelled after the shop had already closed. Also, some shops were closed by military command without a formal order having been issued. Following a petition filed by the Association for Civil Rights in the High Court of Justice regarding the closing of shops in the Shalala compound, in 2003 the army cancelled orders it had issued to close more than one hundred shops in the compound, and in 2005 the army cancelled additional orders it had issued regarding shops in other areas. Despite the removal of the prohibition on opening for business, many of these shops remained closed for the reasons described below.

Housing Units



Businesses



poorer families moved into houses that had been vacated, the survey's findings reflect a more limited abandonment of the area than actually occurred.¹⁵

Testimonies indicate that, in many instances, the persons and families who continued to live and work in the areas near the settlements did not have the economic means to leave. Bahija Sharabati, a mother of six, who lives in Tel Rumeida, related that:

Many families were forced to leave this area because of attacks by settlers and actions of the Israeli army. We can't leave the house because we are poor. My husband's salary is barely enough to meet our family's basic needs. At times, I consider leaving because of the pressure and the tension, but rent in a safe place in Hebron is at least 1,500 Jordanian dinars [about 9,000 shekels, or \$2,250] a year. We have no alternative and have to suffer these living conditions.¹⁶

'Eid al-Jabarini, 66, owner of a dairy-products shop in the Old City, said in his testimony:

More than once I have considered closing the shop in the Old City and renting a place in H-1, but to do that I need thousands of dinars, and I can't make enough profit from selling my goods. I have to remain in my simple shop, open it every day, and wait for customers.¹⁷

15. New occupancy of abandoned apartments was possible only in certain parts of the City Center, where the restriction on Palestinian movement was not total, and the friction with settlers did not occur daily, as was the case in parts of the Casbah.

16. The testimony was given to Musa Abu Hashhash on 31 December 2006.

17. The testimony was given to Musa Abu Hashhash on 29 December 2006.

Analysis of the survey's findings indicates that, in at least some of the cases, more Palestinians left areas in or next to which settlement points had been established, while in neighborhoods farther away from the settlements, a smaller percentage of Palestinians left their homes and shops.¹⁸

For example, thirty-two housing units are unoccupied on Old Shalala Street, in the section on which the Beit Hadassah settlement sits on one side and the Beit Romano settlement on the other side. These apartments comprise 74.5 percent of the apartments in this area; a large majority (twenty-three) of them was abandoned during the second intifada.

An even higher rate of abandonment occurred in the Bab al-Khan area, which is located north of a-Sahla, between the Avraham Avinu settlement and the Tomb of the Patriarchs, an area in which whole buildings became vacant. The Bab al-Khan area contains twenty-eight Palestinian apartments. Twenty-four of them were abandoned during the second intifada, and three were vacated previously. One Palestinian family remains in the area. The area also contains forty-three shops: all were closed by army orders during the intifada. Not one shop remains open in the entire Bab al-Khan area.¹⁹

In the Shuhada Street area, the heart of the City Center, part of which was closed to Palestinian traffic and commerce as far back as 1994, following the massacre in the Tomb of the Patriarchs, there are 304 closed shops and warehouses (at least 218 of them were closed by military command) and a central bus station that Israel seized for use as an army base. Not one shop in the area is open for business.²⁰

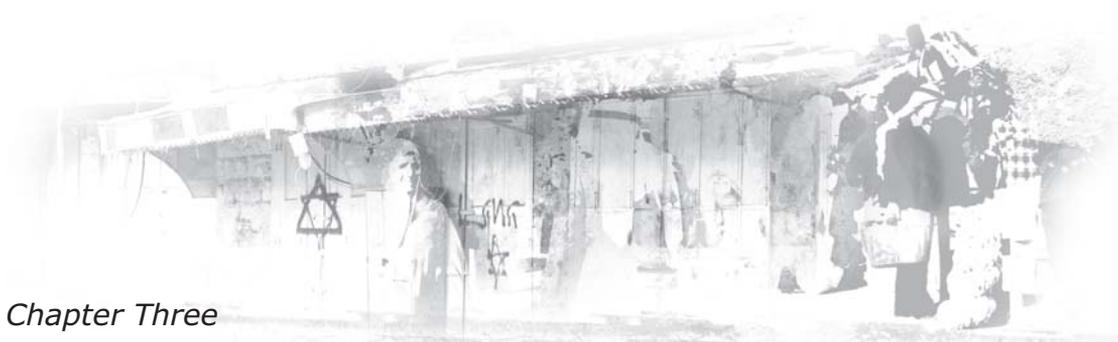
Non-commercial entities that provided important services to the residents and were located in the commercial district moved, for reasons of operational efficiency, during the course of the intifada to areas less affected by the presence of settlers and Israeli security forces. The Ministry of Supply, the Ministry of Information, the Waqf, the Farmers Association, the Women's Association, and other such entities formerly operated in the markets area, in the Shuhada area, and in the Casbah. In recent years, they moved farther away, most of them to H-1.²¹ During the second intifada, a few medical centers in this area also closed.

18. Some neighborhoods farther away from the settlement points were shelled by the army during the first years of the second intifada during exchanges of fire, and a substantial number of residents left these areas as well. Unlike Palestinians from areas near the settlement points, many of the residents from the more distant neighborhoods returned to their homes. Prime examples of this phenomenon are the Abu Sneineh and Haret a-Sheikh neighborhoods, most of which lie in H-1. The apartments in these neighborhoods are not included in the survey.

19. In this area, the army also prevents the residents from returning to their homes (see Chapter Three).

20. The Shuhada Street area includes a-Shuhada Street from the Bab a-Zawiya checkpoint to the al-Ibrahimiya school and the markets facing the street, including the wholesale market, the camel market, and Bab al-Khan.

21. OCHA, *Humanitarian Update* (July 2005), 2.



Chapter Three

Restrictions on Palestinian Movement and Closing of Businesses

In 1994, immediately after the massacre in the Tomb of the Patriarchs, Israel imposed a curfew on Palestinian residents of Hebron. Since then, Israel has restricted the movement of Hebron's Palestinian population in the vicinity of the settlement points in the city.²²

In the autumn of 2000, with the outbreak of the second intifada, Israel increased the severity of the restrictions, making Palestinian movement in large areas the exception and almost impossible. The authorities imposed a more intense curfew, prohibited the movement of Palestinians in the City Center, and issued orders closing Palestinian-owned shops. Other Palestinian-owned businesses were forced to shut down because of unofficial restrictions imposed on their operation or because of settler violence and the severe restrictions on movement. These factors made life in Hebron, particularly near the settlement points, unbearable.

Curfew

At the beginning of the intifada, the curfew placed on H-2, especially in the vicinity of the settlement points, became routine. Many Palestinians in the area under Israeli control were required to stay in their homes day and night for weeks and months, except for a few hours once or twice a week to enable them to replenish their provisions. Generally, the curfew was imposed on all of H-2, and at times on H-1 as well, or on certain neighborhoods in the center of H-2. A curfew was never imposed on the settlers in Hebron.²³

When the intifada erupted, the army placed a three-month curfew on Palestinians in H-2. After that, the army repeatedly imposed prolonged curfews. The reasons

22. In 1994, immediately after the massacre in the Tomb of the Patriarchs, Prime Minister Yitzhak Rabin decided on the harsh restrictions on movement on Palestinians. He also rejected the proposal to evacuate the settlers from the city, despite the dangers facing them that Israeli intelligence sources anticipated.

23. For further information on curfew and other restrictions on movement of Palestinians in the first days of the second intifada, see B'Tselem, *Civilians under Siege: Restrictions on Freedom of Movement as Collective Punishment* (January 2001).

varied. On 26 March 2001, a Palestinian sniper fired from the Abu Sneineh neighborhood, in H-1, and killed the infant Shalhevet Pass, who lived in the Jewish settlement in Hebron. Immediately, the army imposed a curfew on Palestinians in H-2 that lasted three weeks. In subsequent months, the army placed curfews on the area time after time, on various pretexts. On 15 November 2002, nine Israeli security personnel and three members of an emergency-alert squad of the Qiryat Arba settlement were killed by Palestinian ambush fire on Worshipers' Way in Hebron. Following the incident, Israel imposed a continuous six-month curfew on Palestinians in H-2 and on the Bab a-Zawiya neighborhood, which lies in H-1 near the border of H-2 and had come under the control of army forces during Operation Defensive Shield, in April 2002.

During the first three years of the intifada, the army imposed a curfew on H-2 for a total of more than 377 days During the first three years of the intifada, the army imposed a curfew on H-2 for a total of more than 377 days, including a curfew that ran non-stop for 182 days, with short breaks to obtain provisions. On more than five hundred days, the army imposed a curfew that lasted for a few hours up to an entire day.²⁴

The primary reason for the curfew was to enable Jewish settlers in the heart of the city to carry out their daily routine and to safeguard the security forces protecting them. The army, which stated that the curfew was imposed for security reasons, imposed the curfew as an immediate, easy, and cheap measure. The curfew was also used to collectively punish Palestinians in the city: there were times that the army placed a curfew on H-2 in response to gunfire at settlers that came from H-1. The army also imposed curfew during large-scale celebrations that Hebron settlers held in the city's streets. The army has argued more than once that curfew is intended, among other reasons, to protect the Palestinians themselves.

Harm to the Palestinian residents

Curfew, which imprisons people in their homes, is an extremely harsh restriction on movement. The absolute prohibition, imposed for days on end, on going outdoors directly harmed every aspect of Palestinians' lives. Naturally, the longer the curfew, the greater was the effect on their daily routine. The resultant economic and emotional hardship suffered by the families is obvious, especially for the poor families living in overcrowded conditions in the Old City.

The effects of the prolonged curfew were primarily economic devastation, loss of livelihood, poor nutrition, tension inherent in a family being confined at home for a long period of time, and severe harm to the education, welfare, and health

24. The calculations are based on information obtained from a few sources. B'Tselem and the Association for Civil Rights contacted military officials a number of times to obtain precise figures on the number of curfew days in H-2, but were told that the army was unable to provide figures of this kind.

systems. As a result, the prolonged curfew was one of the major reasons for the mass movement of Palestinian residents from areas near the settlements in the first years of the second intifada.

Samir al-Qawasmeh, 56, and his family were forced to leave their home in the Tel Rumeida neighborhood, and he had to close his grocery store. In his testimony, he related that:

I lived in this house for forty-five years. I spent my childhood and grew to manhood here, I got married and became father to ten children... In the beginning of the second intifada, the situation changed. The Israeli army imposed frequent prolonged curfews in our area. They usually let us go out to buy provisions for only two hours every two weeks. Sometimes, the curfew lasted for a whole month. The curfew was generally lifted suddenly, without informing us in an orderly way. Sometimes, they lifted the curfew in the morning and sometimes at night. There were instances in which we didn't know that the curfew had been lifted and did not have time to buy provisions.

No one can imagine what it is like to be closed in with twelve persons in a two-room house. Because of the curfew, [my] grocery was closed. I opened it only when the curfew was lifted. Sales dropped. The expiration dates on products passed, and I began to lose money.

Three of my sons, 'Abd al-'Aziz, Fadi, and Firas, left the house in Tel Rumeida and went to live in a house we are building in H-1. They wanted to flee living in a prison, and the dread, and the unemployment forced on us by the curfew. My other children couldn't go to school. Our life became intolerable. To support my family, I had to take money that was intended to pay the rent for the grocery store. I still owe the owner of the grocery 5,000 [Jordanian] dinars.

The harsh restrictions on movement in Tel Rumeida and the settler violence caused us to leave the house. In 2003, on 'Eid al-Adha [a Muslim holiday], we went to live with my family in the Dahduha neighborhood, near the Movement's office, north of Hebron. I rented another grocery store on a yearly lease...

My family can't return to Tel Rumeida. We built our new house, and I am working in the new grocery store. But I really long for the old house. Ever since my father died, in 2004, my mother has been pressuring us to return to the old house. She said that she wants to spend her last days in the house in which she spent most of her life.²⁵

The curfew severely impaired health and access to medical treatment of many residents in the City Center, because emergency treatment was not available during the curfew and because of the long-term consequences of curfew on the medical systems and on the general health of the residents. Medical clinics

25. The testimony was given to Musa Abu Hashhash on 24 January 2007.

and centers that had served residents of the City Center closed, and access of city-center residents to areas where medical facilities continued to operate was impossible because of the prolonged curfew. Sick persons, pregnant women, and the elderly, who required regular visits to clinics and hospitals for treatment and follow-up care, were left without the necessary services. In certain cases, pregnant women had to leave their homes toward the end of their pregnancy to enable them to reach the hospital and give birth there.

Dr. Taysir Zahada, 52, formerly ran a small hospital in the Tel Rumeida neighborhood, which he had to close because of the protracted curfew. In his testimony, he stated:

When the second intifada began, the situation started to deteriorate. At first, they let us drive our cars in the area after an inspection and search and proof that we lived in the area. But this situation didn't last long. The army set up fixed checkpoints and closed the roads leading to the area.

The Israeli army started imposing prolonged curfews. Our houses turned into prisons. The curfew lasted days and weeks. It was lifted for only a few hours, once every two weeks or month. My children and I took the risk and climbed down walls and snuck out to buy food. My children didn't go to school, and I closed the hospital because people couldn't get to the area.

I opened a temporary clinic in the Bab a-Zawiya area, in H-1. But the situation there wasn't very different. The confrontations reached there as well, and the Israeli army expanded the curfew to cover H-1. Whenever somebody threw a stone, they [soldiers] came to Bab a-Zawiya and forced the merchants to close their shops. For the first four years of the intifada, my clinic in Bab a-Zawiya operated without much success. My original hospital remained closed.

I thought the situation would change back to the way it was. But I was wrong. I realized that I wouldn't be able to reopen the hospital. I sold my medical equipment and materials at wholesale price. Some of the equipment went very cheaply...

I was not the only one harmed. The whole area suffered from this. The hospital primarily served women who went into labor at night. Now, women about to give birth have to walk by foot to the closest place where a car can come, and then ride to the hospital in H-1.²⁶

26. The testimony was given to Musa Abu Hashhash on 25 January 2007.

Lethal curfew

Palestinians found outside their house during curfew – whether they did not know the curfew was on, or for any other reason – risked their lives, given the army’s policy to open fire with live ammunition at Palestinians who ostensibly violated the curfew. In some instances, soldiers fired gas grenades at Palestinians outside their homes during curfew. At times, the firing was a way to inform people about the curfew, no prior notice having been given. In other cases, soldiers fired tear gas to punish Palestinians who ostensibly violated the curfew.

At the peak of the intifada, 2002-2004, soldiers killed in this way at least thirty-five Palestinian civilians throughout the West Bank, and wounded many more. Most of the fatalities were minors. At least three of the fatalities died in Hebron: Basmah Qeysiya, a thirty-five-year-old woman, was killed on 17 April 2002; ‘Abd a-Rahim Tawil, 40, was killed on 3 August 2002; and Gharam Mana’a, a one-year-old infant, was killed on 26 September 2002.

The infant died when soldiers fired tear gas at curfew violators in the Bab a-Zawiya neighborhood. One of the grenades struck her grandmother in the head. Gharam, who was in her grandmother’s arms, inhaled the gas and died within a few minutes.²⁷

Cessation of the extensive use of curfew

In January 2003, the Association for Civil Rights petitioned the High Court of Justice to lift the prolonged curfew on the Palestinians in Hebron.²⁸ The petitioners argued that the protracted curfew imposed on Palestinians in H-2 was illegal; that the army did not inform the residents when there were breaks in the curfew; that when the residents were informed of a break, they were prevented from leaving their homes; and that the decision to impose such a prolonged curfew ignored the severe harm to the population and took into account only security considerations.

In its response to the petition, the state contended that breaks in the curfew enabled the residents to obtain provisions, that the curfew was intended to

27. For further information on this subject, see B’Tselem, *Lethal Curfew: The Use of Live Ammunition to Enforce Curfew* (October 2002).

28. HCJ 854/03, *Dr. Sufiyan ‘Abd al-Rahman Sultan et al. v. Commander of Military Forces in the West Bank*. The petition also dealt with the curfew imposed on the neighborhoods al-Bawir, Azzun, and al-Biqa, which lie near Hebron.

prevent harm to settlers, Palestinians, and security forces, and that it was a legitimate military means. In its decision, given on 9 July 2003, the court rejected the petition. However, the decision stated that curfew is a drastic means, and that before imposing it, the military commander must take into account its effect on the civilian population.

in 2004, the army stopped imposing curfews on the city for long periods of time. Many Palestinians had already left their homes and shops near the settlement points

Although the petition was rejected, in 2004, the army stopped imposing curfews on the city for long periods of time. Many Palestinians had already left their homes and shops near the settlement points. In 2004-2005, a curfew was placed on H-2 and on certain neighborhoods in H-1 for no more than a few days at a time. These curfews followed violence by Palestinians or were in response to settler violence, or to enable settlers to hold public events, which generally take place around Jewish and Israeli holidays. Curfew was also imposed on Palestinians during funerals of settlers.²⁹

Beginning in 2006, official curfews ceased being imposed on a regular basis. At public events in which many settlers take part, the army informs the few Palestinian families that an event is about to take place in the immediate area of their home, and that they won't be allowed to leave or enter their home for a few hours or for the whole day.

Prohibition on Palestinian movement in the City Center

In February 1994, immediately following the massacre in the Tomb of the Patriarchs, Israel closed a section of a-Shuhada Street to Palestinian vehicles claiming that the restriction was needed to ensure the safety of the settlers. Entry by vehicle to that section of the street, which is the main thoroughfare in the City Center, was open only to Palestinians who lived there. The dozens of Palestinian shops along this section of the road were closed by military command (see the next section). The two gas stations on the street were also closed. In following years, the section was opened and closed sequentially.³⁰ When the second intifada began, in September 2000, Israel again prohibited Palestinian movement on this street and many other roads.³¹

29. For example, on 18 December 2005, a curfew was imposed on Palestinians in the City Center to enable a funeral in the Jewish cemetery in the city to take place.

30. See, for example, Amos Harel and Yair Sheleg, "A-Shuhada Street Opened to Traffic; Settlers Demonstrate in Reaction," *Ha'aretz*, 20 August 1999; Amos Harel and Nadav Shargai, "Tracks of Perpetrators of Attack near Tarquimiya Lead to Area B," *Ha'aretz*, 1 November 1999.

31. As a rule, in 2001, only residents of a-Shuhada Street were allowed to walk on the street.

As the intifada continued, the army increasingly restricted Palestinian movement on other streets leading to the settlement points. In addition to the section of a-Shuhada Street on which Palestinian vehicular traffic was forbidden, now almost the entire length of the street is closed to Palestinian vehicles. Palestinian vehicular and pedestrian traffic is forbidden on streets near the Avraham Avinu settlement and on most of a-Sahla Street. Palestinian vehicles are also forbidden on other main roads, such as streets in the Wadi al-Hussein, a-Salayme, and Tel Rumeida neighborhoods, the roads that circle the Salayme neighborhood, and the Qiryat Arba road, which Palestinians formerly used.

As the intifada continued, the army increasingly restricted Palestinian movement on other streets leading to the settlement points The restrictions on Palestinian movement are enforced by a large network of staffed checkpoints and physical roadblocks. In August 2005, the UN Office for the Coordination of Humanitarian Affairs (OCHA) counted 101 physical obstructions of different kinds in H-2. The staffed checkpoints prevent Palestinians from H-1 to enter H-2 by car and restrict crossing by foot. During most of the second intifada, Palestinians living on the other side of the checkpoint had to register with the army to be allowed to get to their homes.

This network of barriers created a contiguous strip of land in the City Center, along which Palestinian vehicles are completely forbidden. This strip, which stretches from the Qiryat Arba settlement in the east to the Jewish cemetery in the west, is separated from the rest of the city, and the army controls and restricts entry of Palestinians to it. The middle of the strip contains many sections of road that the army forbids even Palestinian pedestrians to use. The most important of these sections of road is the aforementioned a-Shuhada Street, which is closed to Palestinian vehicular and pedestrian traffic between the Beit Hadassah and Avraham Avinu settlement points.

The declared purpose of the extensive prohibitions is to separate Israelis and Palestinians in Hebron, as appears from the state's response to the High Court of Justice in November 2005:

Since the fighting began in September 2000, the security situation in Hebron has been special, characterized by terror incidents and extensive combat – events that have resulted in the shedding of much blood, both among the Jews living in Hebron and among the Palestinian residents. These events took place in H-2 for the most part, where the Israeli population and the Palestinian population live side by side.³²

32. *Hebron Municipality et al.*, supra, Statement on Behalf of the Respondents, 16 November 2005, Section 22.

Later in the response, the state speaks of the means needed, according to the army, to protect the settlers in Hebron – the creation of protective spaces in the heart of the city:

The operational conception of IDF forces in Hebron dictates that there is a need for “protective space” near the places where terror attacks habitually occur, among them the neighborhoods of the Jewish community in the city, where large gatherings of people usually do not take place, and where it is easier to notice hostile persons seeking to approach their target, and to thwart the intended attack.

According to the assessment of the most senior IDF commanders, there is a security and operational need for such protective spaces, both to safeguard IDF soldiers and the lives of the Jews living in Hebron....

The checkpoints and physical roadblocks are employed to implement the separation conception mentioned above: separating the city of Hebron from the area referred to as the “Jewish-community area.” But this area is the heart of the Palestinian city, covers main streets, and includes thousands of Palestinian dwellings and hundreds and hundreds of businesses.



Passageway between the wholesale market and the Casbah, 1990s

Photo: Na'if Hashalmon/al-Watan Center



Passageway between the wholesale market and the Casbah, 2007

Photo: Keren Manor/ActiveStills

Harm to the Palestinian residents

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The effect of closing streets goes far beyond the closed area. The strip of road on which vehicular traffic is forbidden is a kind of partition that severs the traffic arteries between the northern and southern parts of the city. These arteries were regularly used by all residents of the city and surrounding areas; now these people have to use long bypass roads to reach their destination. Obviously, the primary losers are the residents of the City Center. For example, a resident of the Old City wanting to go from one side of a-Shuhada

Street to the other has to go around the entire City Center, cross checkpoints, and walk uphill.

Raja Khatib, from Tel Rumeida, related to this problem in her testimony:

All the roads to the neighborhood are closed, and the checkpoint facing the house makes movement difficult. Basically, we live in an area that is completely closed. We can get home only by foot, and not by car.³³

As a result of the prohibitions on movement, and the prohibitions on opening shops and businesses, thousands of residents lost their source of income. Commercial activity in this area died. As shown below, many shops were closed even in the absence of an army order requiring it: the army, without an official order, prohibited the shops from operating, or it was no longer worthwhile to operate a shop in an area inaccessible to customers and suppliers.

In 2001, the army gradually began to close all the entrances to the houses of residents along a-Shuhada Street and some of the entrances to Palestinian houses near the Tel Rumeida settlement. For example, soldiers soldered shut the doors facing the street. The residents had two options: either use alternate paths, which entailed harsh and dangerous ascents, sometimes crossing the roofs of neighboring houses, or move out of the area.³⁴

Hanaa Abu Heykal, who also lives in Tel Rumeida, related in her testimony that:

Since November 2004, we have been forbidden to enter through the main entrance to the building, via the settlement, so all this time we got home by going through

33. The testimony was given to Musa Abu Hashhash on 21 January 2007.

34. In 2007, the army allowed the four remaining families on a-Shuhada Street to use the main entrance to their homes.



Left: Zahira Qafisha, 55, resident of a-Shuhada Street, in the City Center, forced to leave her house via the neighbors' roof because the street is closed to Palestinian movement. Right: Door of her house facing the street, which the army soldered shut. Photos: Musa Abu Hashhash and Oren Yakobovich

the olive groves that are on a hilly patch of land behind the house. My mother suffers from heart and blood pressure problems and diabetes... It is very hard for her to walk along that path... We are locked in our house as if it were a prison.³⁵

Decrees of this kind have been made every day of the year on many persons, including the elderly, pregnant women, the sick, and children. The Association for Civil Rights has repeatedly raised this matter with the relevant authorities.³⁶

**Accessibility of
Palestinians in the
entire City Center,
and especially near
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deteriorated**

In some instances, the army prevents Palestinians from returning to their homes. This happens, for example, in the Bab al-Khan area, which is situated between the Avraham Avinu settlement and the Tomb of the Patriarchs. Fahriya al-Turk, who owns a building in Bab al-Khan, related that, "We didn't succeed in returning to our house. Every time we tried, we were told it was a closed military area and that it was forbidden for us to be in, or approach, the area. Our furniture and things are still inside the house."³⁷

Accessibility of Palestinians in the entire City Center, and especially near the settlement points, to necessary services – such as health, education, and sanitation – has greatly deteriorated. For example, B'Tselem and the Association for Civil Rights know of cases in which the lack of access to medical services caused pregnant women to leave their homes near the settlement points and move to other areas of Hebron.

35. The testimony was given to Musa Abu Hashhash on 26 January 2007. In January 2007, the family was allowed to enter their home through the main entrance.

36. Among the officials to whom the Association for Civil Rights wrote were the legal advisor for the West Bank (29 April 2003 and 15 June 2003) and the attorney general (1 March 2004, 29 November 2004, and 27 August 2006).

37. The comments were included in her affidavit of 12 September 2005.

The prohibition on Palestinian vehicles traveling in the City Center also severely impairs emergency and rescue services in the city. Palestinian ambulances are not allowed to enter H-2 unless they coordinate entry with the Israeli authorities. When Palestinian residents from the City Center need emergency medical treatment and there is not enough time to coordinate the entry of an ambulance to take them to hospital, the persons must go by foot to an area where vehicles are permitted, and from there are transported to one of the hospitals in the city. Naturally, persons requiring emergency treatment would find it difficult to make their way by foot to an area outside the City Center. The Palestinian Red Crescent estimates that the roadblocks in the Old City have added an average of ten minutes to the time needed to get to patients in H-2. When coordination with the army is needed to enable the ambulance to go via a certain route, generally via a staffed checkpoint, it takes an average of forty-seven minutes to reach the patient.³⁸

Similarly, Hebron Municipality vehicles are not allowed into the City Center without prior coordination with the Israeli authorities, which might take several days to obtain. The ability of municipal crews to quickly repair electricity, telephone, water, and sewage problems has been severely impaired, and some families have been left without water or electricity for a number of days.

The army does not permit pupils and teachers at the Cordova Girls School to use a section of a-Shuhada Street that leads to the school. As a result, for a long time the pupils have had no choice but to use a long, steep, and dangerous dirt road to reach the school. In using this path, or the stairs recently built along the path, they are subject to constant assault by settler children, while the soldiers stationed in the area look on. During the course of the intifada, the number of pupils in the school dropped by fifty-five percent.³⁹ Two other schools – al-Ibrahimiya and al-Fihaa – are located on a-Shuhada Street as well, and their pupils suffer from similar restrictions.

In her testimony, Siara Bitar, a widow with seven children, who lives near the Tomb of the Patriarchs, stated:

Each time I want to return home, Border Police officers at the checkpoint near my house detain me. They ask me who I am, where I live, and search my belongings, even the food bags. Each time, I have to explain to them where I live, and that I own the house facing the checkpoint... It is easy for us to leave the house, but hard to return... The hardest thing for us is to be separated from family and friends, who are not allowed to visit us... I have never considered moving, regardless of the circumstances.⁴⁰

38. OCHA, *Humanitarian Update* (July 2005), 2.

39. This figure was provided by the Hebron Education Department. The decline was measured from the 1999/2000 school year to the 2004/2005 school year.

40. The testimony was given to Musa Abu Hashhash on 8 January 2007.

The restrictions on Palestinian movement also cover the roads linking the City Center and the Qiryat Arba settlement. Hisham Abu S'ifan lives with his family in Wadi al-Hussein, alongside which the Qiryat Arba settlement was built. In his testimony, he related that:

In 2002, the army closed the road leading to Wadi al-Hussein. Since then, it has been forbidden to enter the neighborhood by vehicle. This has caused us great hardship in our daily routine. For example, we have to carry provisions for the house, such as food and cooking-gas canisters, by hand and pushcart. Also, there is always a water shortage in our neighborhood, and we used to buy water from tankers that came to the house and filled the water tanks on the roof. Since the army closed the road, the tankers can't get to us. Closing the neighborhood to vehicles also impedes our access to medical services.⁴¹

Lack of justification on security grounds and collective punishment

Some of the restrictions on movement placed on Palestinians in the City Center can protect settlers from attacks by Palestinians.⁴² In some cases, however, it is clear that the movement restrictions imposed on Palestinians in Hebron have nothing to do with the attempt to prevent attacks on Israelis.

In some cases it is clear that the movement restrictions have nothing to do with the attempt to prevent attacks on Israelis In many cases, even after Palestinian pedestrians underwent a comprehensive security check and it was found that they were not a threat and were not suspected of anything, they were not allowed to move about on streets in which Palestinian movement was forbidden. In other cases, soldiers prevented Palestinians from traveling city streets even though they knew the Palestinians could reach their destination by using alternate routes. An illustrative case is described by a soldier who served in Hebron during the intifada. He gave his testimony to the organization Breaking the Silence:

Our job was to stop the Palestinians... To tell them that they are forbidden to cross... We knew that they had a way to cross. So on the one hand, it was forbidden for us to let them cross, and on the other hand, [there were] various elderly women who had to cross more or less to get to their homes, so we pointed out to them where the opening was... through which they could cross without us seeing. It was absurd... Our officers also knew about the opening; they told us about it...

This made us really wonder why we were at that checkpoint. Why was it forbidden? It was a pure case of collective punishment. It was forbidden to cross because it was forbidden to cross. If you want to carry out an attack, then go there, there to

41. The testimony was given to Musa Abu Hashhash on 12 December 2006.

42. It should be noted that this fact is not legally sufficient to warrant restrictions on movement. See Chapter Six for a discussion of this issue.

the right, and turn left after that. But if you don't want to carry out an attack, you have to make a very big bypass, or you can't get there at all.⁴³

Prohibitions on Palestinian movement imposed without a legal order

For most of the intifada, the army did not issue official orders restricting Palestinian movement in Hebron, and the orders to impose the restrictions were given to the soldiers verbally. It was not until the end of 2005, following a petition to the High Court of Justice, that the military commander issued a series of formal orders restricting Palestinian movement, in accordance with the "protective spaces" plan that was presented to the court.

However, the army continues even today to place extensive restrictions on Palestinians in the City Center that are not covered by official orders, even though the army agrees the action exceeds its authority.

Extensive restrictions on Palestinians in the City Center are not covered by official orders, even though the army agrees the action exceeds its authority

For example, for most of the intifada, Palestinians were forbidden to walk along a-Shuhada Street, which is the main street of the City Center, without any official order empowering the soldiers to impose the prohibition. Soldiers who prohibited Palestinian movement on this street contended that they had been given explicit orders that the street was a "sterile route" along which Palestinian movement was completely forbidden.⁴⁴

Given the long period these prohibitions were in force, and from additional information, it is clear that the prohibitions were not a result of the capriciousness of the soldiers in the field, but of orders given by the command echelon, which, lacking an official order, exceeded their authority. It appears that the army officials in charge consistently exceeded their authority, and even breached the army's commitment made in the High Court to impose restrictions only pursuant to official orders.

In December 2006, following a letter from the Association for Civil Rights to the legal advisor for the West Bank, army officials admitted among themselves that the movement of Palestinians along a-Shuhada Street had been prohibited for years without an official order having been issued, this, they claimed, "by mistake." The legal advisor's office stated that a new directive had been issued canceling the prohibition.⁴⁵

43. Breaking the Silence, Testimonies from Hebron, 6.

44. To the best of our knowledge, no written order has ever been issued prohibiting Palestinians from walking along any street in the city.

45. Letter of 25 December 2006 from Harel Weinberg, of the office of the legal advisor for the West Bank, to the Association for Civil Rights. The claim of "mistake" appeared as far back as August 2002, in the state's response to a petition opposing the closing of the Bab al-Khan and Huzq al-Far markets, which lie adjacent to a-Shuhada Street: "Due to a malfunction, no closing order was made in writing." See HCJ 4639/02, *'Abd Alsalleem Qatsrawi et al. v. Commander of IDF Forces in Judea and Samaria and Minister of Defense*, Supplemental Response on Behalf of the Respondents, 5 August 2002.

In the days following this admission, a small number of Palestinians managed to walk on a-Shuhada Street. Soldiers let these Palestinians use the street only when escorted by a massive number of soldiers and not before they were detained for a long time and underwent body searches.

Within less than a week, soldiers on the street informed Palestinians wanting to use it that they could no longer do so. Subsequently, it was learned that the Hebron Brigade commander was the official who had issued the conflicting order. The legal advisor for the West Bank then issued an amended statement: "The IDF is now reexamining the question of opening certain sections of this street."⁴⁶ Months later, Palestinian movement is still forbidden on a-Shuhada Street. Thus, the order currently given soldiers regarding Palestinian movement on the street still deviates from the orders given by the commanding officer and from the commitment that the army made to the High Court.⁴⁷

Giving orders of this kind without a written order supporting it and exceeding authority in the matter of restrictions on Palestinian movement in Hebron are especially grave and compound the sin: as if the harm caused to Palestinian residents of the city, who are not allowed to move about freely on the streets in their city, is not enough, the army's practice provides an opening for arbitrary infringement of their human rights, without control and without transparency, making it difficult for the residents whose rights have been infringed to exercise their right to object to the harm caused them.

Hebron settlers and the restrictions on the Palestinians

"I am not willing to have an Arab pass next to my house." (A child residing in the Beit Hadassah settlement, September 2005)⁴⁸

In an interview with the press, a senior army officer who served in Hebron spoke about the connection between the brigade commanders in the city and the settlers: "They [the commanders] certainly represent the interests of the Jewish residents there. The Jewish residents embitter their lives, and they try to reduce the friction with them. There were brigade commanders who wanted to cozy up to the Jewish community, but on the whole, the military commanders are a tool in the settlers' hands."⁴⁹

46. Letter of 31 January 2007 from Harel Weinberg to Shai Nitzan, of the State Attorney's Office. The letter was attached on 31 January 2007 to the State Attorney's Office's response to the letter of the Association for Civil Rights.

47. A video of the opening and re-closing of a-Shuhada Street is available at www.btselem.org/english/video/20070311_shuhada_closed.asp.

48. The remark was made on 12 September 2005, during a tour of Hebron by the Association for Civil Rights.

49. Meron Rapoport, "Ghost Town," *Ha'aretz*, 18 November 2005.

With the outbreak of the intifada, the heads of the settlement in Hebron prepared a document for the Hebron Brigade commander that contained a list of demands to close streets to Palestinian pedestrian and vehicular traffic. The document states, in part, that, "The movement of Arab vehicles will be forbidden on the following streets: a. TRP" T [1929] b. King David, c. Emek Hebron (Tnuva), d. Esther, e. Route 160 from Qiryat Arba to Ma'akeh, f. Prophets' Way."⁵⁰ The document also states, in Section 3, that:

Arab pedestrian movement shall be forbidden in the following sections:

- a. The road above A. Yadi (behind the guard) (except for local residents);
- b. King David Street between the gas station and Beit Kastel (except for local residents);
- c. Small Shalala [Street];
- d. Tnuva Lane;
- e. In the Casbah – Einav Lane (next to Jewish houses) (except for local residents);
- f. Erez Lane.

The demands presented in the document are almost identical to the restrictions that the army ultimately placed on Palestinian movement in the City Center. The practice of closing streets to Palestinians in areas near the settlements, along with the open declarations of the settlers in Hebron about their intention "to Judaize" the city and live in an area "free of Arabs," show that the source of the prohibitions on Palestinian movement in this area apparently relate to the army's surrender to the racist demands of settlers.⁵¹

A soldier who served in Hebron in the beginning of the second intifada told of the circumstances in which the army decided to expand the prohibitions on movement of Palestinians in a-Sahla:

Until 2001, Esther Route [the street demarcating the southern edge of a-Sahla] was open to Palestinian movement. Not pedestrians, but vehicles. In late 2001 or 2002, I don't recall exactly, the settlers began to use that route, though they could have gone via the Tnuva route [the street demarcating the northern edge of a-Sahla]. Our platoon understood that they used that route to expand their territory. They complained to the army that stones were thrown at them, so they [army commanders] quickly told us to close down this street also to Palestinian

50. "Restricting Arab Movement, Recommendations to the Brigade Commander," 1 November 2000, Section 2. The settlement's heads refer to the streets with the Hebrew names they have given them.

51. See, for example, the video available at www.btselem.org/english/video/20070416_Tel_Rumeida.asp.

pedestrian travel. The street became sterile. This is the term used in briefings. It was clear to us as soldiers that we had to protect settlers and to do that we had to close this road as well.⁵²

Taysir Abu 'Ayesha, a resident of Tel Rumeida, where a settlement was established next to his house, told about an incident that took place in the beginning of the second intifada that indicates the link between settler demands and army policy relating to restrictions on Palestinian movement:

One day, the wife of the settler Eitan Fleischman took her car and blocked entry to the street leading to the settlement and our house. She wouldn't move the car until the army closed the roads to Palestinian traffic. The same day, the army closed the roads leading to Tel Rumeida, and they remain closed. Palestinians are forbidden to travel in this area in their cars. We can only go by car to a place two or three hundred meters from our house. I have to carry gas balloons and food on my shoulder from the Bab a-Zawiya checkpoint on the road that leads up to the house.⁵³

Settlers' demands also affected the return of Palestinians to homes they had left. A presentation prepared by the Civil Administration describes in brief the army's policy on "Camel Lane," near which lies the Avraham Avinu settlement: "The area is abandoned, the IDF does not allow Palestinians to return because of the Jewish opposition."⁵⁴

* * *

As of now, the many letters sent by the Association for Civil Rights, B'Tselem, and other organizations, and petitions filed in the High Court of Justice have not led to cancellation of these prohibitions and restrictions on Palestinian movement in the center of Hebron.⁵⁵ The state admitted in court that the prohibitions on movement exist, and explained that the security forces were acting to separate Palestinians and Jews.⁵⁶ Israel contends this separation is needed for security reasons, i.e., to protect settlers and Israeli soldiers from attack by Palestinians.

52. The testimony was given to Ofir Feuerstein on 15 April 2007.

53. The testimony was given to Musa Abu Hashhash on 4 January 2007. The complete testimony appears in the Appendix.

54. Civil Administration, "Breaking the Law – Jews in the 'Ebb and Flow' Events – City of Hebron" (presentation).

55. The petitions, which are still pending, were filed in *Hebron Municipality et al.*, supra, and in HCJ 6869/05, *Hebron Development Committee v. State of Israel*.

56. *Hebron Municipality et al.*, supra, Statement on Behalf of the Respondents, 16 November 2005, Section 22.

The army has capitulated to the racist demands of Hebron settlers to enable them to conduct their lives in an environment “free of Arabs,” and the attempt to Judaize the area by separation based on ethnicity

As shown above, however, the term “protective spaces” entails the systematic impairment of Palestinian freedom of movement in the city. The harm is intended to enable the settlers to live a normal life, although they live there in contravention of international law (see Chapter Six). Thus, the only basis for distinguishing between persons in Hebron, regarding freedom of movement and other rights, is the ethnic group to which they belong.

Therefore, underlying the prohibition on Palestinian movement in the City Center is the army’s capitulation to the racist demands of Hebron settlers to enable them to conduct their lives in an environment “free of Arabs,” and the attempt to Judaize the area by separation based on ethnicity.

Closing of Palestinian businesses

The area in and around the Casbah used to be one of the West Bank’s important commercial districts. Now, most of its shops are closed, some by army directive and some because of the severe restrictions on Palestinian movement in the area and the resultant economic recession that hit the area following the outbreak of the second intifada. During the intifada, the curfew and other restrictions on Palestinian movement prevented customers from entering the area regularly. As a result, many business owners and their families lost their source of livelihood.

The restrictions led to a situation in which almost nobody entered the area, killing the economy not only for owners of shops that were closed by army orders and for owners of shops on streets that were closed to Palestinian traffic, but on a much wider area, including the entire Old City and more.

A total of 1,829 Palestinian businesses in the area of the settlements in the city are now closed. These businesses and warehouses constitute 76.6 percent of the businesses surveyed for this report (see Chapter Two). Of the closed shops, 62.4 percent (1,141) were closed during the second intifada, at least 440 pursuant to army orders.⁵⁷ Over the years, Israeli security forces set up positions on the roofs of some of the abandoned shops, and settlers squatted in at least twenty-eight of the Palestinian businesses.

In 1994, following the massacre in the Tomb of the Patriarchs, the army ordered the closing of a section of a-Shuhada Street – from Gross Square to the Beit Hadassah settlement – to Palestinian vehicles, contending the closing was needed

57. See footnote 14.

to ensure the safety of the settlers. Some sixty shops on the street were closed by army command. For similar reasons, the two gas stations on the street were closed. In addition, the meat market and the wholesale market, which were near the Avraham Avinu settlement, were closed. The wholesale market had contained fourteen large produce shops.

As previously mentioned, with the outbreak of the second intifada, the army imposed a three-month curfew on Palestinians in this area. The curfew destroyed, among other things, most of the economic activity in the City Center. At the end of the three-month period, the shop owners faced unprecedented restrictions on them and their customers. As noted above, Israel closed more and more streets to Palestinian traffic and repeatedly imposed curfews on the residents. The attempts of most of the shop owners to recuperate and reopen their shops failed.

In March 2001, following the killing of the infant Shalhevet Pass, settlers destroyed an improvised Palestinian market that had opened near the wholesale market that had been closed. Ever since, the army has refused to allow the market to be reopened. The army also ordered, following the killing of the infant, closing of the gold market, which was situated next to the Beit Hadassah settlement, and seventy-three shops in Bab al-Khan and Huzk al-Far. In defending the closing before the High Court, the state raised the cynical claim that, in any case, H-2 was under curfew, "which prevents commercial activity anyway." The state also contended that the markets could not be re-opened because the settlers who had taken possession of the Palestinian shops had to be protected.⁵⁸

In 2001 and 2002, scores of businesses closed on Old Shalala Street, over which is situated, on a separate level, the Beit Hadassah settlement. Some of these businesses closed pursuant to army command and others because of the prolonged curfew.⁵⁹ Since the 1960s, the al-Karki family had operated four clothing shops in the Shalala compound. Taysir al-Karki spoke about the circumstances that led to the closure of the shops during the second intifada:

In the past, people from Yatta, a-Samu', and Bani Na'im [towns near Hebron] used to park their cars on a-Sahla Street and walk along Shalala Street to Bab a-Zawiya. The street was crowded with people during the day.

When the intifada began, the Israeli army imposed a curfew in the Old City. There was also a curfew in Bab a-Zawiya, and in New Shalala and Old Shalala. The curfew

58. 'Abd Alsallem Qatsrawi, *supra*. In October 2002, the High Court recommended to the state that it consider compensating the merchants in these markets. See Moshe Goral, "Let the Ones who Closed the Market Support the Merchants' Families," *Ha'aretz*, 20 November 2002.

59. At first, only verbal orders were given to close the businesses. A written order was issued only after the Association for Civil Rights petitioned the High Court. After the petition was filed, the military commander stopped the forced closing of more than one hundred businesses in the Shalala compound, except for nine shops under the Beit Hadassah settlement. Despite this, many of the businesses did not reopen for the reasons described above and because of frequent harassment by settlers of Beit Hadassah.

lasted a long time. People stopped coming to the area. The economic situation continued to deteriorate because of the restrictions on movement along a-Shuhada Street, in the Huzq al-Far market, and the barriers inside the Old City...

Despite the restrictions on movement and despite the settler attacks in the Shalala compound in the first two or three years of the intifada, we tried to make a go of it and keep the shops open when there wasn't a curfew. We hoped that the situation would improve, but it got worse. People moved from the Shalala compound and from the Old City. Now, only people who live near here and those who have to use these streets come here. All the merchants lost money. We started to use our savings. When we realized we wouldn't make money, we closed the four shops...⁶⁰



The Fruit Market, 1999



The Fruit Market, 2007



a-Sahla compound, near the Camel Market, 1999
Photo: Na'if Hashalmon/al-Watan Center



a-Sahla compound, near the Camel Market, 2007
Photo: Keren Manor/ActiveStills

60. The testimony was given to Musa Abu Hashhash on 11 February 2007.

At the peak of the intifada, in April 2002, army forces took control of the Bab a-Zawiya neighborhood, in H-1, which was part of Hebron's commercial district. From that moment until at least the end of 2003, the neighborhood was treated the same as H-2: the residents were put under curfew and their movement was restricted. As a result, commerce in the area died for some two years. Many of the merchants in Bab a-Zawiya formerly had shops in the Casbah, which is in H-2, and they moved to Bab a-Zawiya because of the difficulties in the Casbah. B'Tselem and the Association for Civil Rights know of cases in which business owners, who were forced to leave the Casbah and move to Bab a-Zawiya, closed their doors once again.

The army generally refused to let shopkeepers return to their shops, not even to remove the merchandise that had been left there. The doors of many shops were soldered shut; barbed wire, iron gates, and other obstructions were placed around the markets, blocking all access to them. Some of the shopkeepers who managed at some stage to get to their shops to remove their merchandise found that the shop had been broken into, robbed, and in some instances torched. In many cases, the persons who broke into the shops were Hebron settlers, a fact that the state confirmed in the High Court.⁶¹ As a result, many business owners lost not only their source of livelihood but also valuable merchandise. Also, when they were able to return to their shops, after the orders closing them had been canceled, there was no point to reopen, inasmuch as the area no longer functioned as a commercial district.

61. The Israel Police confirmed that Hebron settlers' property crimes involving shops in the market that had been abandoned was a problem and believed that minors were responsible for a large percentage of the offenses. *'Abd Alsalleem Qatsrawi, supra.*

Restrictions on movement of Palestinians and closing of shops and markets – major events

1994, Massacre in the Tomb of the Patriarchs

- A-Shuhada Street is closed to Palestinian vehicles from Gross Square to the Beit Hadassah settlement. Palestinian shops along this section of the street are forbidden to open, as are the markets near the Avraham Avinu settlement.

1997, Hebron Protocol

- A-Shuhada Street is opened to Palestinian vehicles. Prohibition on operation of Palestinian shops remains.

1998

- A-Shuhada Street is again closed to Palestinian vehicles (following the killing of Rabbi Raanan in Tel Rumeida)

2000, Second intifada begins

- A continuous curfew is placed on Palestinian residents for three months, beginning on 1 October.
- A-Shuhada Street is closed to Palestinian vehicles.
- Roads leading to settlement points are gradually closed to Palestinian vehicles (the process ending in 2001).

2001

- A-Shuhada Street is closed to Palestinian pedestrians, except in unusual cases.
- The continuation of Worshipers' Way in the Old City, known as Erez Lane, is closed to Palestinian movement.
- The army closes the gold market under the Beit Hadassah settlement, and the Bab al-Khan and Huzq a-Far markets.
- Settlers destroy an improvised market near the closed markets, and the army prohibits its reopening (following the killing of the infant Shalhevet Pass).
- More than 100 shops on Old Shalala Street are gradually closed, a process lasting until 2002, some because of the prolonged curfew and some pursuant to military command.
- Nine Israeli families squat in the closed wholesale market, and the army refrains from removing them.

2002

- The Banks Intersection, near the Shalala compound, is closed to Palestinian vehicles.
- In the framework of Operation Defensive Shield and Operation Determined Path, the army imposes an almost continuous curfew on Palestinians in the city for about 240 days, extending into 2003.
- A-Sahla street, which leads to the Ibrahimi Mosque, is closed to Palestinian pedestrians.
- Exit by foot from the Casbah is closed by physical obstructions and staffed checkpoints.
- Settlers kill the Palestinian girl, Nivin Jamjum, and wound others, burn a residence also used as a museum, and take control of another house (following the killing of the soldier Elazar Leibowitz, who lived in a settlement in the city). Israeli security forces were unprepared for the expected vengeful attack.
- The street on which the Beit Romano settlement is located is closed to Palestinian pedestrians.
- Following the incident on Worshipers' Way, the road is paved, a barricade is built along its entire length, and Palestinian vehicles are forbidden to use it.
- A street in Tel Rumeida is gradually closed to Palestinian pedestrians, a process that continues until 2003. Palestinian residents on the street have to cross through gardens, terraces, and openings.

2003

- Prohibition on operating shops in the Shalala compound is cancelled, except for nine shops near the Beit Hadassah settlement (following the petition to the High Court filed by the Association for Civil Rights).

2004

- Part of a-Sahla Street is opened to Palestinian pedestrians.

2006

- Nine settler families leave the market (following an agreement with the army). A few months later, settlers return to the market and squat there.

2007

- The western section of the Shalala compound, inside H-2, is opened to Palestinian vehicles (following the request of the Association for Civil Rights).

Effect of the overall restrictions on Palestinians – the economic aspect

The inability to move about freely and gain a livelihood raised the level of unemployment among Palestinians in Hebron and increased the number of persons living under the poverty line. In 2002, the harsh economic situation led the International Committee of the Red Cross to begin a food-distribution program, in which it provided food to some two thousand households in the Old City, including all households in the market; in 2004, the program was extended to cover 2,500 families.⁶² In 2005, average monthly income for Palestinian households in H-2 stood at only 700 shekels [about \$150].⁶³

'Eid al-Jabrini, who has a dairy-products shop in the Old City, whose testimony was quoted in part above, stated:

I rented a shop in the Laban [dairy-products] Market ... At the time, the Old City was full of life. When the intifada began, everything changed. The Israeli army closed the part of Bab al-Khan that leads to the Laban Market. For long periods of time, it imposed a closure or curfew on the Old City. During closure, the army sets up checkpoints and only Old City residents are permitted to move about there. In cases of curfew, people are forbidden to leave their homes. Settlers attacked the residents and damaged shops repeatedly. Some families were forced to leave their homes. People stopped working and were reduced to ruin. Some families in the Old City survived on the food they received from the soup kitchen... When there was a curfew, I sold my products to neighbors who came via the roof. Our economic situation deteriorated... The Laban Market has between forty to fifty shops, but now only three are open.⁶⁴

The Hebron Brigade deputy commander admitted, in 2003, that "the economic burden is not incidental, it is part of a long process to pressure the residents of Hebron to get them to rid themselves from the terror in their midst."⁶⁵ This statement is an admission that the measures taken against the Palestinians in the City Center are intentional collective punishment given that they aimed at large numbers of persons in response to the acts of a few.

The prolonged curfew imposed in the first years of the intifada on Palestinians in houses near which settlement points had been established made normal living conditions in these areas impossible. This alone may have been sufficient to force many of these families to leave their homes for more distant areas, and it certainly played a crucial role in the massive closing of businesses in these neighborhoods.

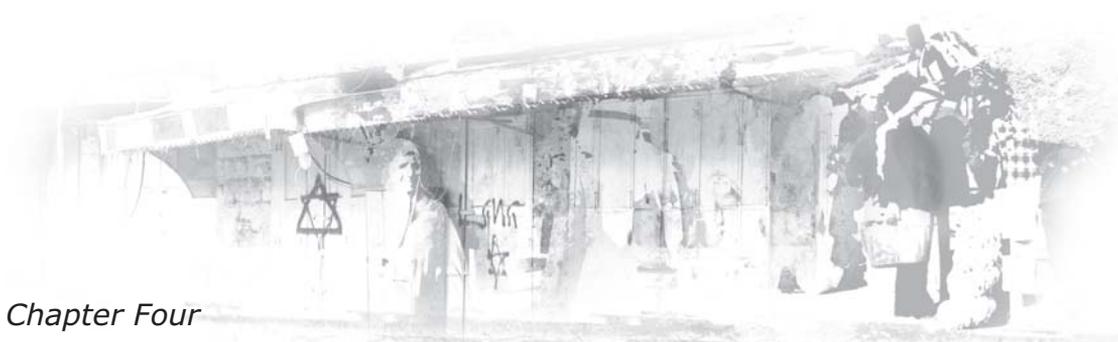
62. The figures are based on page 285 of the ICRC's annual report, and on OCHA, *Humanitarian Update* (July 2005), 3.

63. The figures, which were given by the Palestinian National Economy Ministry, relate to July 2005. See OCHA, *ibid*.

64. The testimony was given to Musa Abu Hashhash on 29 December 2006.

65. *Yoman*, Israeli Channel One Television, 7 February 2003.

The various restrictions on Palestinian movement in the City Center as a whole and the prohibition on operating shops there brought economic ruin and damaged the fabric of life there. These extreme prohibitions and restrictions continue today, preventing the rehabilitation of the City Center.



Chapter Four

Refraining from Protecting Palestinians and their Property from Violent Settlers

"Protecting the safety and property of the local residents is among the most basic obligations imposed on the military commander in the field." (High Court of Justice, 2004)⁶⁶

Israeli security forces generally act harshly in repelling attacks by Palestinian individuals on settlers and their property but refrain from protecting the Palestinian residents and their property from attacks by settlers in the city

Since the beginning of the Israeli settlement in Hebron, there have been numerous violent incidents involving settlers and Palestinian residents, some of which were bloody. Over the years, dozens of Israeli civilians and dozens of Palestinian civilians have been killed in such incidents.

Israeli security forces generally act harshly in repelling attacks by Palestinian individuals on settlers and their property. They use very oppressive means against the Palestinian civilians, including, as was shown in previous chapters, sweeping and extreme restrictions on their movement.

The manner in which security forces respond to violations of law and order by Palestinians is the exact opposite of their mode of operation – or, more accurately, lack of operation – regarding settlers. The Israeli security forces as a rule refrain from protecting the Palestinian residents and their property from attacks by settlers in the city.⁶⁷

66. HCJ 9593/04, *Rashed Murar v. Commander of Military Forces in the West Bank*, Judgment, Paragraph 33 (not yet reported).

67. See Yesh Din, *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank* (June 2006) and the B'Tselem reports *Foreseen but not Prevented: The Performance of Law Enforcement Authorities in responding to Settler Attacks on Olive Harvesters* (November 2002), *Free Rein: Vigilante Settlers and Israel's Non-Enforcement of the Law* (October 2001), *Tacit Consent: Law Enforcement towards Israeli Settlers in the Occupied Territories* (March 2001), *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories* (March 1994).

Against this backdrop, a phenomenon of routine and sometimes extremely violent settler abuse of Palestinians developed in the city. Settlers in Hebron have declared more than once that they are engaged in expanding the settlement to other parts of the city, and it appears that this objective is the reason for the violence: these settlers seek to embitter the lives of Palestinians in the City Center, make their lives intolerable, and get them to leave the area.

The Israeli authorities have from the beginning been well aware of the failure of the security forces to enforce the law on violent settlers. The subject was raised in a petition to the High Court as early as 1981.⁶⁸ Recently, the attorney general, Menachem Mazuz, admitted this problem existed:

Enforcement of the law in the Territories is not only unsatisfactory, it is very poor... This reality has existed from about the beginning of settlement in the Territories to the present time... The State of Israel does not invest sufficient resources on this subject...⁶⁹

Despite criticism by official Israeli entities, non-enforcement of the law against settlers continues In response to a video that B'Tselem released to the media, showing a soldier refraining from enforcing the law on a settler who was assaulting Palestinians in Tel Rumeida, and on settler children who were throwing stones at the home of a Palestinian family (hereafter "the Tel Rumeida video"), Prime Minister Ehud Olmert said, "Clearly, this is not the first time. Only this time there was a camera, but there were certainly more cases."⁷⁰

Official entities – such as the Karp Committee, in 1982, the Shamgar Commission, in 1994, and one attorney general after the other – have sharply criticized the failure of Israeli authorities to enforce the law on Israelis in the Occupied Territories, and in Hebron in particular. Yet, the policy remains the same.

68. In HCJ 175/81, *Al-Natshe v. Minister of Defense*, *Piskei Din* 35 (3) 361. The security forces' failure in handling settler violence against Palestinians in Hebron was discussed in many reports, governmental and non-governmental, among them the Karp Committee Report which was submitted to the attorney general on 23 May 1982, the State Commission of Inquiry on the Massacre in the Tomb of the Patriarchs, 5754 – 1994 (the Shamgar Commission); B'Tselem, *Tacit Consent: Policy on Enforcing the Law on Settlers in the Occupied Territories* (March 2001), and countless requests by B'Tselem, the Association for Civil Rights, and other organizations to investigate cases of violence and the authorities' failure in their handling of these cases.

69. The attorney general made these comments in response to a question at a talk he gave at a conference of the Public Law Association, held in Caesarea on 24 November 2006.

70. The prime minister made these comments at a cabinet meeting. See Roni Sofer, "Olmert on the Violence in Hebron: I Saw It and was Ashamed," *Ynet*, 14 January 2006.

Settler violence and property damage

Although the authorities have been familiar with the problem for years, the helplessness in handling settler violence that characterized the first years of the settlement in Hebron has grown worse and worse, and with it the violence has increased. Repeated assaults and violent abuse have become routine for residents living in the City Center near the settlement points.

Ian Christianson, who headed the international observer force in Hebron (TIPH), described the reality in Hebron as follows: "The settlers go out almost every night and harm whoever lives near them, break windows and cause damage..."⁷¹

Repeated assaults and violent abuse have become routine for residents living in the City Center near the settlement points

The settler attacks include physical assault, including beatings, at times with clubs, stone throwing, hurling of refuse, sand, water, chlorine, empty bottles and other objects, occasionally using sharp objects, destruction of shops and doors, shattering of windows, thefts, cutting of fruit trees, destruction of merchant's stands, and verbal insults. Also documented during the second intifada are cases in which Israelis were involved in gunfire, trying to run people over, poisoning of a water well, breaking into homes, spilling of hot liquid on the face of a Palestinian, and the killing of a Palestinian girl.⁷²

In his testimony, Ahmad al-Hadar, 10, told about an incident that took place on 4 February 2006:

I saw six or seven settlers dressed in black. They had stones in their hands and were running at us. I looked at them and was hit by two stones. One hit me on the top of my head, on the right side, and the other hit me above the right eyebrow... I tried to flee, but I fell from a one-and-a-half-meter-high fence that was next to the house. I fell down on the stones. My right hand hurt and I couldn't move it. The area around my right eye hurt and my head was bleeding. It all happened very fast.⁷³

On some occasions, civilian security guards also take part in the violence. S'adi Jabber, whose house is situated near the Givat Haavot settlement and the al-Muhawel checkpoint, related what happened one day when he and his wife approached the checkpoint:

71. Arnon Regular, "Head of Observer Force in Hebron: Hebron's H-2 Area is being Cleansed of Palestinians," *Ha'aretz*, 16 February 2004.

72. Fourteen-year-old Nivin Jamjum was shot to death by an Israeli civilian on 28 July 2002. See B'Tselem, *Standing Idly By: Lack of Law Enforcement on Settlers in Hebron, 26-28 July 2002* (August 2002).

73. The testimony was given to Musa Abu Hashhash on 5 February 2006.

We saw two of the checkpoint guards beating 'Amar [our eldest son] while he was sitting on the ground. The checkpoint is run by armed civilians. They apparently are part of the settlement's security apparatus. 'Amar screamed... Within a few minutes, more civilians came to the checkpoint, and everyone beat 'Amar. I think they were settlers... 'Amar lay there on the ground, and his mother and I tried to rescue him from the attackers. They beat and kicked him and stepped on him. We ultimately managed to get him on his feet, and we began to walk from the checkpoint. Suddenly, I felt a sharp blow on the right side of my head. I think it was the butt of a pistol that struck me. Lots of blood flowed from the wound, but I did not leave 'Amar, and I started pulling him to the other side of the road. The attackers tried to pull him from me, but I didn't let him go. A large dog belonging to a settler came over to me and 'Amar, and 'Amar kicked it. The settler threw stones at us, and one of them hit me in the foot.⁷⁴

A large percentage of the attacks and abuse are carried out by minors. Taleb Jabber, who is in the transport business, told B'Tselem about an incident that occurred on 19 June 2006, in which youths from the Hebron settlement attacked him when he was in a-Sahla, the area next to the Tomb of the Patriarchs and the police station next to it:

A group of fifteen or twenty settlers about 13-16 years old arrived at the site, and stood around me... After I picked up a big tin container and put it onto the wagon, a stone hit me in the face, under the left eye. It bled a lot and the blood flowed onto my shirt and hands. When the youths saw the blood, they moved back a few meters and threw stones. I told my son to run away, and I hid behind the donkey. A few stones hit the donkey in the neck.⁷⁵

Taysir Abu 'Ayesha, whose testimony was quoted in part above, stated:

The settlers attack us all the time. They swear, throw stones, beat us with sticks, and spray water at us. Everybody in my family has been injured by their attacks... Most of the soldiers ask us to go into the house when there is a confrontation between us and the settlers. Some of the soldiers identify with us, but they can't do much. They shout at the children who throw stones...

Sometimes, we call the police and they don't come. There are settler attacks all the time. The parents, who stand alongside them, encourage the children because the law doesn't apply to minors. We try to avoid contact with them. We try to avoid going into the street, except when we have no choice.

74. The testimony was given to Musa Abu Hashhash on 28 September 2006.

75. The testimony was given to Musa Abu Hashhash on 21 June 2006.

Offenses committed by minors who are not subject to punishment

Under Israeli law and the law applying in the Occupied Territories, persons under age twelve are not criminally responsible for their acts. The trouble is that children under this age commit many of the violent offenses carried out by Hebron settlers. In an interview with *Ha'aretz*, the Hebron District police commander, Commander 'Ali Zamir, stated: "We have a major problem here. They [the settlers] understand our weak point – and they use children under the age of criminal responsibility, under the age of twelve. They do this intentionally. The children throw stones, break walls. They are the tactical wing, even the strategic wing, of the adults."⁷⁶

Rather than carry out their function of enforcing the law on minors, law-enforcement officials pounce on this fact, granting absolute immunity to these children and to their parents, and systematically refraining from taking any measures to prevent the violence. For years, the law-enforcement authorities have refrained from detaining the perpetrators and taking them to the police station. Also, they do not assign welfare workers to get delinquent minors to change their behavior. In addition, they refrain from issuing supervision orders, which would require the parents to post a bond that would be forfeited if their children commit a subsequent offense.

Lack of soldiers' intervention

Acts of violence by settlers against Palestinians have been occurring undisturbed for years, despite an enormous presence of Israeli forces throughout H-2.⁷⁷ Generally, soldiers are present at all times on every street near the settlement points. In many cases, settler assaults on Palestinians take place right in front of their eyes.

In the late afternoon of 27 January 2007, settlers broke into the house of the Abu Hata family in the neighborhood of a-Salayme. In her testimony about the incident, Basemah Abu Hata, 40, related that:

I saw more than thirty settlers, men and women, all of them young. They were beating my children. I shouted for help... The children tried to push the settlers out of the house, through the door they had entered. The attack lasted about fifteen minutes.

While this was happening, I saw two army vehicles that had stopped opposite the house. Some soldiers were standing next to the vehicles. During most of the

76. Meron Rapoport, "Ghost Town."

77. Many hundreds of troops are permanently stationed in the area. They staff guard posts, lookouts, and checkpoints, and patrol the streets and passageways.

attack, the soldiers did nothing. Only at the last moment, when my children had already managed to push most of the settlers out, a few soldiers came into the house and helped them...

I think that the settlers would not have entered our house if they didn't feel the Israeli army was protecting them and waiting for them by the door. The army interfered in the attack to protect the settlers, not to protect us.⁷⁸

Ghandi Bader, 27, who lives on a-Shuhada Street, told about an incident in which settlers beat him on his way home from work on 26 November 2005:

I was in the Muslim cemetery, about 150 meters from my house. This is about the only way I can go without crossing the DCO [Bab a-Zawiya] checkpoint. Suddenly, three young settlers came out from behind one of the tall monuments. One of them grabbed my chest and hands from behind, and the other two hit me in the face. The blows were sharp and hard.

I tried to get out of his grasp, but the settler was stronger than me. I shouted to workers in the cemetery for help. They ran over to me. The three settlers let me go and ran to a-Shuhada Street, toward Gross Square.

When they beat me, the soldier closest to me was at the post on a-Shuhada Street, about 125 meters, I estimate, from me. The soldier had a dog and was giving it water from a bottle. When the settlers beat me and I shouted for help, he continued to give the dog water and did not react.⁷⁹

On 21 November 2006, Ziad a-Rajbi, a sheep and goat dealer in the city, was preparing fodder in the Jabber neighborhood, next to the Qiryat Arba settlement. In his testimony, he spoke about what happened to him.

When I got back to the car to move more fodder, I saw four settlers, two men and two children, throwing stones at my car and at other vehicles that were next to the obstruction. An Israeli army patrol jeep was there. The soldiers saw the settlers throwing stones at the vehicles, but did nothing to get them to stop. After a few minutes passed, three more settlers came and threw stones...

After a while, more army vehicles appeared. The settlers moved and went toward our farmland in the wadi. The soldiers followed them to protect them...⁸⁰

A soldier who served in Hebron during the second intifada told *Breaking the Silence* about an incident he witnessed in the City Center:

An Arab from Abu Sneineh... who appeared to be sixty years old or more, who had a cane, came to the intersection... Suddenly, three kids aged 16-17 knocked

78. The testimony was given to Musa Abu Hashhash on 12 February 2007.

79. The testimony was given to Musa Abu Hashhash on 30 November 2005.

80. The testimony was given to Musa Abu Hashhash on 31 January 2007.

him to the ground in a second's time, took a stone and smashed him in the head. That is, they began to kick him on the ground, to crack his head open. A sixty-year-old man, his head bleeding badly. They were kicking him... An officer came with the patrol. He didn't know what they did, so he didn't grab them. They simply fled.⁸¹

The commanders consistently refrain from instructing the soldiers to protect Palestinians from settler violence, and at times even brief them not to do so. In his testimony to *Breaking the Silence*, another soldier who served in Hebron during the intifada stated:

One of the things that really upset us was really the powers that they didn't give us to cope with the settlers. I am a soldier. I don't know how to stop a person, a Jew. I don't know what the law is. They didn't tell me that I would some time have to do such a thing, and in Hebron, they essentially told me, "This is not your function. This is why the police are here"... I remember that the police commander explained to us that they don't have the money for enough police officers to respond to every call. So we essentially were helpless, and this decision was made from above.⁸²

Another soldier told about a case in which a settler's child told him that he intended to harm Palestinians:

A small child, a child who was six years old, passed near me... and he told me, "Soldier, listen, don't get upset, don't try to bother me. I am now going to kill Arabs." I looked at him, and didn't really understand what I was supposed to do in that case... I had nothing to tell him. Nothing. I was empty inside.⁸³

Noam Toker, another soldier who served in Hebron, in an interview with *Ha'aretz*, told about an incident that occurred in 2003:

The Jewish children sent a small girl to taunt young Palestinian girls and then beat them and throw stones at them from up close... I couldn't do anything to the settlers, because according to orders, I was forbidden to arrest settlers.⁸⁴

The soldiers' impression that they were forbidden to detain or arrest settlers assaulting Palestinians or damaging Palestinian property was strongly and publicly supported by senior government officials. In response to the airing of the Tel Rumeida video, Prime Minister Olmert said, in addition to his remarks quoted above, "I felt great discomfort in seeing a soldier stand aside without the authority to act. One gets the impression, false in fact, that the whole incident was

81. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

82. *Breaking the Silence, Testimonies from Hebron*, 14.

83. *Breaking the Silence, "Combatants Tell about Hebron: Photo/Video Exhibition,"* transcript of soldiers' testimonies (June 2004), 8.

84. Meron Rapoport, "Ghost Town."

carried out under government auspices.”⁸⁵ Defense Minister Amir Peretz described the incident in this way: “A soldier stands there helpless, without being able to interfere, because he does not have enforcement powers.”⁸⁶ On another occasion, Peretz emphasized: “Legally, he [the soldier] is helpless.”⁸⁷

Under the law, soldiers have the power, and even the obligation, to enforce the law on everyone, including violent settlers

This is not true. Under the law in the Occupied Territories, soldiers have the power, and even the obligation, to enforce the law on everyone, including violent settlers. Section 78 of the Order Regarding Defense Regulations empowers soldiers to arrest, without an arrest warrant, every person who violates the order. These regulations classify the following acts as offenses: assault, throwing objects, and intentional destruction of property. The Procedure for Enforcing Law and Order on Israeli Offenders in the West Bank, which was published by the attorney general, clearly states that the security forces have the duty “to take every action necessary to prevent harm to life, person, or property,” and also “to detain and arrest suspects who might flee from the scene.”⁸⁸ Section 6(3) of the procedure specifies that the army is responsible for handling events that develop without prior warning, until the police arrive and the responsibility for handling the matter is handed over to them.

Failure of police to enforce the law

The Hebron Police Department, whose sole function is to enforce the law in the city, has acted with abominable helplessness over the years. A soldier who served in Hebron described the police’s action in an incident in which he and other soldiers were requested to trap an “unruly Jew,” as the individual was classified over the radio transmitter:

85. The comments were made at a Cabinet meeting. See Roni Sofer, “Olmert on the Violence in Hebron: I Saw it and was Ashamed,” *Ynet*, 14 January 2007. Following the airing of the video in the media, the Cabinet decided to establish a ministerial committee to examine and suggest “proposals relating to legal tools for the police and security forces to enforce the law in Judea and Samaria.” Cabinet Decision of 14 January 2007, Section 1046 (see below).

86. Uri Yablonka, “Olmert: I Saw the Humiliation and Simply was Ashamed,” *nrg Ma’ariv*, 14 January 2007.

87. Avi Issacharoff, Amos Harel, *Ha’aretz* news service, “Peretz: All the Easing of Restrictions at the Checkpoints are Nothing in Comparison with One Female Settler in Hebron,” *Ha’aretz* Online, 22 January 2007.

88. Attorney General, Procedure for Enforcing Law and Order on Israeli Lawbreakers in Judea and Samaria and in the Gaza Strip, Section 11(a)(5)(c). Following publication of the procedure, the army formulated its own procedure. It, too, specified that “every soldier who is witness to the commission of an offense by an Israeli, either against a person or property, shall take immediate action to prevent and/or stop the offense, and, if necessary, detain and arrest the persons suspected of committing the offense, document the scene and preserve it” (letter from Harel Weinberg, of the office of the legal advisor for the West Bank, to the Association for Civil Rights, 31 July 2005).

They inform us that they caught him inside Avraham Avinu. The operations room says: "Call the police, so they'll come and take him"... Five minutes later, the commander comes over to us: "The police aren't willing to enter. Take him out"... "We take him out of Avraham Avinu, how is that? What? We smack him? We remove him from Avraham Avinu by force? What are you talking about? We are not allowed to do such a thing. You come to Avraham Avinu." Then the operations room tells us, "OK, the police don't agree to enter Avraham Avinu. They are afraid of creating a provocation, and they are afraid they [the residents there] will throw eggs at them"... Then my commander says, "OK, there is nothing to do. Let him go."⁸⁹

Ghadah Hirbawi, a mother of ten, related in her testimony that:

For more than five years, settlers from Qiryat Arba have been assaulting and annoying us to drive us out of our house. In 2001, they torched the house and shattered the windows. In 2004, they broke into the house and stole furniture. In addition, they assault us, throw stones at us and chop our trees. Once, they came to our house and told us that it belongs to them and that we had to leave.

On Friday, 28 April 2006, when my son Fadi, 16, and I were on our land surrounding the house, three men from the settlement's security team arrived. One of them said that he saw us steal the fence separating our house from the settlement. The fence had not been built, and parts were lying on the ground. The three of them came over to us and started to slap and kick Fadi. They also pushed me a few times. At that moment, an Israeli police jeep arrived. The settlers told the police officers that we stole the fence, and as they talked they continued to push us. The police officers tried to move Fadi and me toward the house, and then my husband came out, and the settlers pointed to him and Fadi as the thieves. The police officers went over to my husband and told him and Fadi to go to the jeep. They simply believed the settlers.⁹⁰

In general, the police do not investigate incidents of settler violence where a complaint has not been filed, a fact confirmed by the Hebron District police commander, Commander 'Ali Zamir.⁹¹ At least once, it was contended that, "when the police know an offense has ostensibly been committed, and if it is informed of the facts of such a case, it will certainly investigate and gather the facts."⁹² But countless testimonies and videos obtained by B'Tselem and the Association for Civil Rights prove without doubt just the opposite: police officers and other security forces are regularly present when Hebron settlers carry out violent acts

89. Breaking the Silence, Testimonies from Hebron, 29.

90. The testimony was given to Musa Abu Hashhash on 11 May 2006.

91. Letter of 5 October 2006 from Commander Zamir to the SHAI [Samaria and Judea] Police District legal advisor, who sent a copy of the letter to the Association for Civil Rights on 17 October 2006.

92. Letter of 17 October 2006 from Chief Superintendent Yonatan Lahav, legal advisor for SHAI Police District, to the Association for Civil Rights.

against Palestinians, witness them and are thoroughly aware of them, yet the offenses are not investigated.⁹³

Many Palestinians refrain from filing complaints of settler violence. One reason is the lack of trust in the law-enforcement authorities and the Israeli justice system. Therefore, the number of complaints and investigations opened by the police do not nearly reflect the full extent of settler violence in Hebron. Daud Jabber, who lives in the City Center, stated in his testimony that, "We did not file a complaint with anyone. Who should we complain to? We have complained a lot and nothing has happened."⁹⁴ Bahija Sharabati, who lives in Tel Rumeida, related in her testimony that, "We already filed dozens of complaints with the Israeli police, but nothing changed. I don't believe in complaints any more."⁹⁵

In recent months, B'Tselem has repeatedly requested the police to provide information on the handling of Palestinian complaints of Hebron settler violence in 2006.⁹⁶ The police have not yet provided the precise information.⁹⁷ Recently, the police claimed there had been an improvement in law enforcement on Hebron settlers, but the claim has not been supported by relevant data.⁹⁸

A study made by the Yesh Din human rights organization indicates that some ninety percent of police investigations of settler harm to Palestinians in the West Bank in which the investigations were completed (or where investigations were not conducted at all because the files were lost) were closed without the filing of

93. Israel conducts two separate systems of law for Israelis and Palestinians in the West Bank, flagrantly discriminating between the two populations. The two systems differ substantively and procedurally, with different standards and rules. A Palestinian suspected of committing a violent offense against a settler is tried in the military court, under the military legislation, while an Israeli suspected of committing the identical offense against a Palestinian is tried under the Israeli penal law, by Israeli law-enforcement authorities, and is tried in the Israeli civilian courts. In this reality, Palestinians suspected of committing a violent offense can expect to be detained until the end of the criminal proceedings against them, while Israelis suspected of a similar offense are detained only in exceptional cases.

94. The testimony was given to Musa Abu Hashhash on 31 January 2007.

95. The testimony was given to Musa Abu Hashhash on 12 December 2006. For the full testimony, see the Appendix.

96. The first letter requesting the information was sent on 18 December 2006.

97. In a letter of 20 February 2007 from Yaron Shetrit, assistant to the head of the SHAI District Investigations Department, to B'Tselem, the police provided statistics on complaints of settler harm to both Palestinians and to security forces, without separating the two. Regarding 2005, the police indicated they had opened 178 investigations into cases of Israeli offenses against Palestinians throughout the entire southern West Bank. Apparently, a large majority of the offenses took place around the settlement points in Hebron. Letter of 10 January 2006 from Shlomi Sagi, spokesperson of SHAI District, to B'Tselem.

98. Letter of 24 October 2006 from Itzik Rachamim, of the Investigations and Intelligence Department of SHAI District, to Shai Nitzan, of the State Attorney's Office. The letter was attached to the State Attorney's Office's response of 31 January 2007 to a letter from the Association for Civil Rights. The attached data sheet did not compare different periods, so the figures do not support the claim of improvement in law enforcement on Hebron settlers.

an indictment.⁹⁹ These cases in which the assailants are not brought to justice reflect another layer of the failure to enforce the law on settlers.

The police's inability to enforce the law on violent settlers has often led to settlers continuing their rampage against Palestinians living nearby. Presumably, many settlers against whom complaints have been filed, including some who have been indicted, still live in the City Center and regularly commit violent acts against Palestinians.

Ministerial Staff on Law Enforcement in the West Bank

As mentioned above, in early 2007, the government established the Ministerial Staff on Law Enforcement in the West Bank.¹⁰⁰ The staff was established following the airing of the Tel Rumeida video. At its first meeting, the staff decided to:

- a. determine the number of police that will be among the forces needed to handle the friction areas;
- b. make this police force a trained task force that will remain in the assigned area;
- c. increase the use and handling of restraining orders;
- d. handle the institutions that are the center of the agitation and are state funded;
- e. budget personnel for the Civil Administration in light of the new orders.¹⁰¹

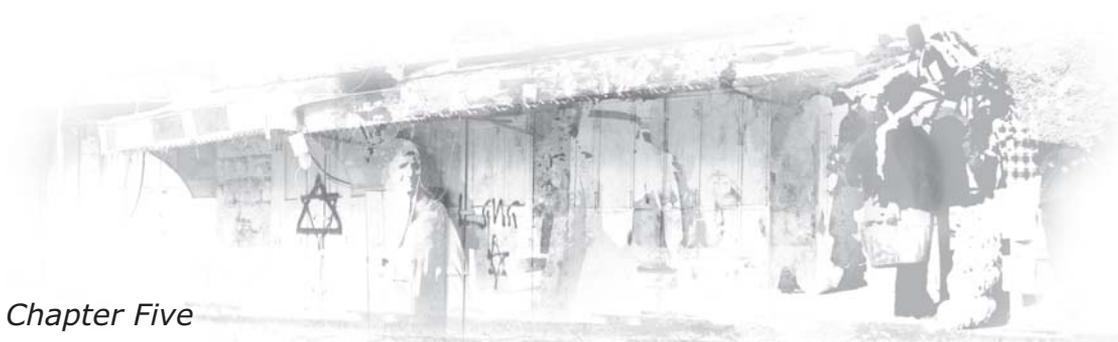
These decisions are capable of improving law enforcement on violent settlers. Still, it seems that they fail to address the foundations of the problem of settler violence in Hebron. The members of the staff ignored the fact that in the area of the settlements in Hebron and elsewhere in the West Bank, many soldiers witness the violence and refrain from exercising their enforcement powers. The members also ignored the large number of investigation files that were closed without an indictment being filed, and the need to determine the reason for this failure. In addition, the decisions did not provide sufficient response to the problem of violence by minors under the age of criminal responsibility.¹⁰²

99. Yesh Din, *A Semblance of Law*, 91.

100. Cabinet Decision of 14 January 2007, Section 1046.

101. Notice of the Defense Minister's media advisor, 30 January 2007.

102. The ministerial staff directed Deputy Defense Minister Ephraim Sneh to submit to the government within thirty days recommendations on law enforcement in the Territories. B'Tselem and the Association for Civil Rights do not know whether Sneh has submitted the recommendations.



Chapter Five

Harm to Palestinians by Soldiers and Police Officers

"The ease with which you do what you want, without any supervision... What bothered me, I think, and what most frightened me in Hebron was the unregulated and uncontrolled power, and what it led people to do." (Soldier who served in Hebron, 2004)¹⁰³

The increased presence of soldiers and police in Hebron, especially in the City Center, brings with it violence and excessive and unjustified use of force and of the powers given them. Violence, house searches, seizure of control of houses, harassment, detainment of passersby, and humiliating treatment have become part of daily reality for Palestinians living in the center of the city and have led many of them to seek housing in safer places.

The system's handling of violence, abuse, and humiliation by soldiers and police

Security forces' violence against Palestinians is not unusual. Long ago, harassment, humiliation, and "moderate" violence, such as a slap or kick, became commonplace for residents of the Occupied Territories. In Hebron, the police and soldiers have committed even extremely severe violent acts against Palestinians in the city, including bloody beatings and killing. These acts are not part of operational activity; rather, it is abuse that, everyone agrees, serves no military or police need. Compared with other cities in the West Bank, the enlarged presence of military and police forces in Hebron has brought with it more and harsher cases of violence against Palestinian civilians.

On 31 December 2002, four policemen forced 'Imran Abu Hamdiya, 18, a resident of the city, to get into a jeep the police were driving in H-2. The jeep continued to the industrial area. At some point, the policemen threw Abu Hamdiya out of the jeep while it was traveling at high speed. His head struck the pavement, killing him. B'Tselem and al-Haq investigated and exposed the incident.

103. Breaking the Silence, "Combatants Tell about Hebron," 5.

At first, the police denied any involvement, contending no police jeep was in the area. However, a few months later, the four policemen were arrested and, on 1 May 2003, indicted for the manslaughter of Abu Hamdiya, abuse of three other Palestinians, and obstruction of justice. Other police officers from the same company were arrested on suspicion of committing violent acts against Palestinians in Hebron, and committing robbery while threatening the victims with a knife. A total of eleven indictments were filed in these cases.¹⁰⁴

Beating to death by security forces is not common in Hebron. The Abu Hamdiya case is the extreme manifestation of routine violence by police and soldiers in the city. Over the years, human rights organizations have documented numerous cases of violence by Israeli security forces against Palestinian residents of Hebron. Many of these cases took place near the settlement points, where there is an especially large police presence.¹⁰⁵

Investigation of the Abu Hamdiya case and prosecution of some of the suspects are exceptions. As a rule, the authorities do not properly enforce the law on delinquent soldiers and police officers. Presumably, the tragic consequences of this case, together with the extensive media coverage it received, led the authorities to act differently and prosecute security forces who harmed Palestinians.

A soldier who served in Hebron during the second intifada confirmed, in his testimony to *Breaking the Silence*, that violent acts, abuse, and humiliation by soldiers are common:

In every company, there are uncultured persons. They would arrive and not consider anyone or anything. There was a case in which somebody grabbed some unfortunate Arabs by their beards and had his pictures taken with them. In Hebron. Or there were people who regularly beat Arabs there. They are really a minority of the soldiers in the company. If the company had seventy-eighty combatants, there were about five who were despicable.¹⁰⁶

Incidents documented over the years include serious beatings: smashing the victim's head with a blunt instrument or against the wall, hitting the victims with rifle butts and clubs, kicking them in the head and other parts of the body, flinging persons to the ground, twisting arms and legs with force, and stone throwing, among others. In one case of abuse, soldiers forcibly cut the hair of their victims. In many cases, the violence was accompanied by damage to Palestinian property, including the shattering of car windows and slashing of tires.

104. Efrat Weiss, "Indictment: Police Beat and Rob Residents in Hebron," *Ynet*, 6 July 2003; Baruch Kra, "Serious Charges against Ten More Police Officers from Border Police Company in Hebron," *Ha'aretz*, 17 June 2003.

105. See, for example, B'Tselem, *Hebron, Area H-2: Settlements Cause Mass Departure of Palestinians* (August 2003), 19-25.

106. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

Sample cases

An army officer who served in Hebron during the second intifada gave her testimony to *Breaking the Silence* about an incident she witnessed:

I see these two pencil pushers... I see a detainee whose hands were cuffed behind his back, his eyes covered. Suddenly, I see one of them go over to him, and without any prior warning, knee him in the head. He simply kned him in the head.¹⁰⁷

In September 2006, Sallem al-Qimri, a contractor, was asked to renovate Border Police offices in Hebron and was given a special permit to enable him to do the work. In his testimony, he related what happened to him at a checkpoint on 6 September 2006:

While I was talking to two border policemen, the policeman in a blue uniform [that of the regular police] intervened and told me to give him my identity card. I gave it to him. I was standing behind a wooden table that was located at the checkpoint. Suddenly, and without knowing why, the border policemen went to the other side of the table, picked it up, and threw it on me. The table struck me under my knees, and my legs started to bleed.¹⁰⁸

Samer Idris, a high-school student, told about an incident that occurred on 31 March 2005, south of the Tomb of the Patriarchs, after he walked past a group of soldiers:

Five or ten meters after I passed them, I felt a foot being placed between my legs from behind me. I was pushed forward and fell to the ground, on my left side. I saw it was a soldier who did it. I didn't understand what was happening. The soldier slammed the left side of my face with his rifle butt, hitting me under the left eye. I felt a sharp pain. I put my hand to where he hit me and turned my head to the right. The soldier hit me again with his rifle butt, this time behind the left ear. That hurt a lot. I felt dizzy and my vision became blurred.

I laid there on the ground for about five minutes. I didn't know what was happening around me, or why the soldier did that. I heard a jeep move near me, but I didn't know where it was headed.¹⁰⁹

Dr. Taysir Zahadeh, 52, a physician, who lives in Tel Rumeida, described what happened when soldiers invaded his house on 25 August 2006.

The officer came over and ordered me to go inside... I told him that I only wanted to take the sack. He pushed me with his chest toward the entrance of the house. I put out my hands to move him away from me, and so I wouldn't fall.

107. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

108. The testimony was given to Musa Abu Hashhash on 15 October 2006.

109. The testimony was given to Musa Abu Hashhash on 31 March 2005.

I don't understand what happened after that. The six soldiers began to kick me and beat me all over my body with their hands and rifles. In the course of the beating, they pushed me toward the door. I tried to ward off the blows as best I could, but they were very aggressive. They hit me dozens of times. I couldn't believe what was happening to me. I thought they wanted to kill me and "do a job on me" for no reason.

After about five minutes passed, my daughter Sausan, who is fourteen, came down and screamed. She tried to come over and defend me and separate me from the soldiers, but one of the soldiers pushed her hard, and she fell down and lost consciousness. The soldiers paid no attention to that and continued to beat me hysterically. My wife came down and tried to defend me, and the soldiers beat her on the arms with their rifle butts. She still has bruises on her arms.

The soldiers continued to beat me. I saw another of my daughters, Najiya, try to come to me, but one of the soldiers pushed her toward the door. She was hit on the left side of her waist and shouted in pain. The small children stood on the stairs and screamed.

I heard my brother Amjad shout from below and call for help. At that moment, I managed to get out of the grasp of the soldiers, grabbed Sausan, and took her to the clinic on the second floor. I tried to revive her and gave her oxygen. The soldiers chased after me and closed the clinic door behind them. While I was treating Sausan, they hit me in the back and swore at me, "Bastard, ass." After a while, Sausan regained consciousness.¹¹⁰

'Abd al-Hafiz al-Hashlamouni, a journalist who lives in Hebron, related an incident that took place on 18 April 2006:

I saw six soldiers stop a Palestinian fellow and push him into a fence. His hands were raised. I began to take pictures of the incident and one of the soldiers saw me. The soldiers left the fellow and came over to me. They beat me and took the camera... With another camera I had, I tried to photograph the soldiers and they noticed. A few of them came over to me, pushed me onto a car parked in the square and beat me. They kicked me a few times, punched me, and hit me with their rifle butts. The soldiers also took the second camera out of my hands... Later, the soldiers left and threw the cameras on the hood of one of the cars.¹¹¹

On 24 August 2005, police went into the yard of a building in which Bashar al-J'abri lived, in the area of Worshipers' Way. Al-J'abri described what happened when he encountered them and did not have his identity card on him:

He [one of the police officers] said that I had to carry my identity card with me at all times, even when I was sleeping. Another policeman started to hit me, and the first one joined in. They kicked me in the knees and one of them hit me twice with

110. The testimony was given to Musa Abu Hashhash on 28 August 2006.

111. The testimony was given to Musa Abu Hashhash on 20 April 2006.

his rifle butt, once in the head and another in the back. I tried to defend myself, and managed a few times to grab the hand of the policeman to get him to stop hitting me, but the other one continued beating me, and I couldn't resist. This lasted for more than fifteen minutes... Two other police officers stood on the side and did not intervene. A fifth policeman stood guard behind the iron gate.¹¹²

Ra'id Fatafteh, an engineer from the town of Tarqumiya, told about an incident on 9 May 2006 at the "Abbed" checkpoint, near the Tomb of the Patriarchs:

One of the police officers told me to stop and asked for my identity card. He ordered me to wait by a low plastic fence, which was about a meter high... After about twenty minutes passed, I went over to the policeman and asked him if he could give me back my identity card. He told me to wait and move back, and then walk right and left. I felt he was trying to humiliate me. Despite this, I did what he said.

Suddenly, he came over to me, grabbed my shirt and dragged me over to the plastic fence. He bent me over it, so that my chest was touching it and my head was facing the ground. I didn't understand why he was doing that. I stayed calm and did not respond, though I was angry and felt humiliated.

When the policeman left me, I asked him, in Arabic, why he had done that. He began to swear at me, in Hebrew; I didn't understand what he said. He jumped over the fence, put my hands behind my back, pushed me, and the right side of my head hit the fence, injuring me. That hurt a lot, and I put my hand on my head (to feel it). I saw that I was bleeding badly. The policeman appeared frightened and confused. He brought my identity card and ordered me to go home.¹¹³

Handling of offenses committed by soldiers and police officers

While justifying many of its violations of human rights of Palestinians in the West Bank on the grounds that the acts are carried out for "security needs" of one kind or another, the authorities generally condemn outright acts of violence, abuse, and humiliation by security forces. However, rejection of the violence is not accompanied by proper enforcement. Many acts of violence and abuse are not investigated, or the investigation does not result in indictments. For example, in the case of the beating of Ra'id Fatafteh, presented above, the Department for the Investigation of Police (DIP), in the Ministry of Justice, closed the file against the assailant police officer on grounds of lack of evidence.¹¹⁴ This even though the incident took place in daylight and was witnessed by many persons.

112. The testimony was given to Musa Abu Hashhash on 30 August 2005.

113. The testimony was given to Musa Abu Hashhash on 10 May 2006.

114. Letter of 7 December 2006 from DIP to Ra'id Fatafteh.

Many acts of violence and abuse are not investigated, or the investigation does not result in indictments

Since the beginning of the second intifada, in September 2000, the Military Police Investigations Unit has opened 427 investigations against soldiers suspected of committing violent acts (not including shootings) throughout the entire West Bank. Of these, only thirty-five led to the filing of indictments.¹¹⁵ Given that some of the investigations involved more than one soldier, more than ninety-two percent of the investigations did not result in the filing of an indictment.¹¹⁶

B'Tselem and the Association for Civil Rights do not have complete figures on the complaints being handled by DIP, but information on complaints that B'Tselem submitted to DIP indicate a large number of files were closed without the filing of an indictment: eighty-two percent of the cases submitted to DIP during the second intifada that related to police violence against Palestinians were closed with no indictment filed.¹¹⁷

It appears, therefore, that the authorities do not give proper importance to the investigation of violence by security forces against Palestinians and to bringing the delinquent persons to justice. This failure sends a message to soldiers and police officers in the field that acts of violence, abuse, and humiliation are not considered serious. This situation creates a feeling among security forces of impunity for violent conduct against Palestinians in the West Bank, and in Hebron in particular.

In this reality, no wonder severe violence in Hebron, and elsewhere in the West Bank, is deeply entrenched, raising its head time and again with disturbing frequency.¹¹⁸

115. The figures were provided by the judge advocate general to the Knesset's Constitution, Law and Justice Committee on 14 February 2007. The low number of investigations relating to violent acts in the West Bank can be explained by the small number of complaints, a result of the victims' lack of confidence in the system, which tends not to take the complaints seriously and not to bring the assailants to justice. Another factor is the concern of victims about the time and energy they would have to expend, and the humiliating treatment they can expect at the police stations and DCOs in the West Bank. B'Tselem, the Association for Civil Rights, and other human rights organizations work diligently to identify cases of violence and abuse and report them to the authorities, but these substantial efforts cannot overcome the systemic failures, which restrain victims from filing complaints.

116. The judge advocate general did not state the number of investigations that had been closed without an indictment being filed. It may be, therefore, that the number of investigations that did not lead to an indictment includes investigations as to which no decision has been made regarding the filing of an indictment. However, the number is likely relatively small because the relevant period is more than six and a half years. If there are unfinished investigations that were opened years ago, this fact, too, would provide further evidence of the failure to bring delinquent soldiers to justice.

117. The figures relate to sixty-eight cases whose investigation was completed, or as to which it was decided at the start not to investigate. Twenty-one other cases submitted by B'Tselem are still being handled or their status is unknown.

118. For further discussion on this point, see B'Tselem, *Crossing the Line: Violation of the Rights of Palestinians in Israel without a Permit* (March 2007), Chapter Three.

Seizure of Palestinian houses

At least thirty-five Palestinian residential dwellings and shops in Hebron are currently held by security forces permanently for their continuous or sporadic use: ten of the structures are located in the area of the Avraham Avinu settlement, ten along Worshipers' Way, four houses in Tel Rumeida, five houses around the Beit Hadassah settlement, three buildings in the area of the Beit Romano settlement, and three buildings in H-1.

Clearly, turning a private dwelling into an army or police outpost severely impairs the living conditions of the occupants. The soldiers invade their private space and restrict the area in which they live. When a family's roof is taken, they are not allowed to use it, and sometimes they are also not permitted to use the top floor of the building. As a result, large families, which in many cases were already living in overcrowded conditions, have been forced to vacate part of their homes and cram themselves into an even smaller space.

However, their suffering does not end with the overcrowding. Often, these families are harassed by the invading soldiers. In some instances, the stairs leading to the roof pass through the family's living quarters, so that the family suffers whenever the soldiers go to or from their post. In other cases, the occupants suffer from frequent routine searches – once or twice a week – and from other actions of the soldiers, such as causing property damage, playing loud music, leaving refuse lying around, and even urinating wherever they want. In some cases, the family suffers these conditions for years.

Sample cases

The army has been using the house of Suha Hadad on and off as a lookout. In her testimony, she described the situation:

The Israeli army takes control of our house time and again, always late at night, after ten or eleven o'clock. Generally, they arrive on Saturdays and holidays. They usually come in groups of eight and keep me and the children in the TV room. They enter the bedroom and set up a lookout over the nearby spring, where the settlers swim... At first, the children were frightened and cried, but they got used to it... They [the soldiers] have done this dozens of times.

Last Sukkot [a Jewish holiday], eight soldiers came to our house in the morning. An officer told me that they would remain for three days. I told him that I wouldn't let them live in my house. He said that he had an army order... They took control of the interior terrace and the roof. They didn't let us leave the house while they were there. They used our shower.

Three or four months ago, when I was pregnant, eight soldiers came at night. They put the children and me in one room and used the other rooms. While they were in the house, I took my son to the bathroom and saw them relaxing on the floor...

Frankly, we can't move out because we don't have enough money to rent... We don't pay rent where we are living now.¹¹⁹

In 1999, soldiers set up a permanent position on the roof of the house of Bahija Sharabati, the mother of six from Tel Rumeida whose testimony was quoted in part above. Regarding this, she stated:

Our yard has become a refuse dump. The soldiers eat and throw the food scraps on the ground around the house. They also urinate on the roof. Three years ago, my little daughter, Abrar, left the house and the urine of one of the soldiers sprayed her on the head. She came into the house and cried. She hasn't forgotten that incident.

The soldiers shout, jump, run, and sometimes also play. Their shouting and movements disturb us a lot, especially at night. Sometimes, we can't get to sleep because of the disturbance, and sometimes their noise and the barking of their dogs wake us up. The noise usually starts at 1:00 A.M. and continues until morning...

Some of the soldiers assault us... Last winter, a soldier on the roof broke out in hysterical laughter and threw sand and stones at me while I was standing outside the house. He spoke to me in Hebrew and said things I didn't understand. My husband understands Hebrew very well, and he said that the soldier swore at me.¹²⁰

A soldier who served in Hebron during the second intifada told *Breaking the Silence*:

We seized a house. You know the procedure: the family moves down a floor... We installed a pipe for when we peed. This was on the third floor. To pee outside... We installed the pipe in a way that the urine flowed into the yard of a house. There were chicken coops below, and everything landed there. That was the daily joke. Waiting for the father or one of the children to go to the coops, and everyone standing there and pissing down. Or... one guy loved brushing his teeth... and wait for somebody to appear below, and then spit into the yard... Yes, this was just some of the possibilities you had. Nobody prevented you from doing it. As a rule, the commanders in the field didn't stop you, unfortunately, because most of them were like the others, and were not exceptions to the rule... There was nobody to try you for what you did.¹²¹

119. The testimony was given to Musa Abu Hashhash on 28 January 2007.

120. The testimony was given to Musa Abu Hashhash on 29 December 2006.

121. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

Searches, delays, and harassment

Searches of houses and shops, detaining of passersby to inspect their identity cards, and various kinds of harassment by soldiers and police are also part of the intolerable routine of Palestinians living under direct military control in the City Center. While in some cases a house search or check of an identity card may be justifiable for security reasons, in other cases the actions are clearly forbidden and unreasonable abuse of civilians.

Searches

A house search, even if carried out lawfully and in accord with all the proper rules, severely infringes the privacy and dignity of the occupants. In Hebron, these offensive acts have become routine, especially for Palestinians who live near the Israeli settlements.

While in some cases a house search or check of an identity card may be justifiable for security reasons, in other cases the actions are clearly forbidden and unreasonable abuse of civilians

It appears that in these areas, almost every house has been combed, most more than once. The security forces carry out three kinds of searches in the City Center: pinpoint searches, following a concrete suspicion; extensive searches, for mapping purposes; and routine searches in locations that have been decided arbitrarily, for the purpose of "manifesting a presence" of security forces. The searches are usually conducted by military forces, and sometimes by Border Police officers.

Raja Khatib, from Tel Rumeida, a segment of whose testimony was quoted above, stated:

Last year, almost no week passed without them [the soldiers] coming into our house. Each time, they ordered us to leave the rooms. They searched all the rooms and made a mess of everything. This month, they invaded our house twice.

A soldier who served in Hebron during the second intifada stated:

One of the functions of the patrol is to manifest a presence, so when the Palestinians wake up in the morning, they hear from the neighbors that we entered this house and that house, and so they get the impression that the army is present everywhere at all times.

You have eight hours to burn, so you make coffee, but that still leaves four hours to burn, so you go into two houses and burn two hours, do a circuit, and burn another two hours. In houses close to the settlements, soldiers make fixed visits. In houses farther away, soldiers make random checks. The soldiers patrol, they want to rest, so they say, let's go into that house, do a search, and rest a bit.

There are also tasks that we initiate which are random. In those cases, soldiers really turn the house upside down. The company commander opens a map, picks this and that house. He only makes sure the house doesn't belong to a collaborator or whatever.¹²²

Another soldier who served in Hebron said in his testimony: "Whether night or day, any time I felt like it, we chose a house on the map, based on our geographical location and the situation of the group at the moment. Makes sense to us? Do we want to? Fine, we enter."¹²³ Another soldier related that, "Daily, a team of six soldiers go along the roofs and enter a house, search the entranceways, the exits, put the whole family into one room..."¹²⁴

A sergeant who served in the city in 2006-2007 stated in his testimony:

The company commander's believes it's better to carry out [searches] at night, when the whole family is at home... We went to some house, me and another squad commander, and knocked on the door, waking up the whole house. Now I say to my company commander, "Why at two in the morning?" [He replies:] "Because everyone is there." Then we call to the whole family, comb some small room, put them all inside, go to the house, and essentially turn the whole house upside down. Then we comb the whole house, you know, you lift up furniture, move things, look inside the vase, and continue in that way... This is the worst thing in the world, having your whole family woken up.¹²⁵

Search operations aimed at mapping the neighborhoods repeatedly take place in the same areas. The sergeant related to this fact later in his testimony.

I have no idea who thought about these things. Until now, in all the years of Hebron, nobody bothered to preserve the mapping pages. Each time a company arrived, combed a thousand houses, and threw out all [the pages] that were classified material intended to be destroyed.

The frequent invasions into the homes to search them, or on the pretext of a need to search them, severely harm the routine and privacy of Palestinians in the City Center. The soldiers surprise the occupants at various hours, day and night, destroy their daily routine, invade their privacy, and comb their private cabinets and personal belongings. More than once, incidental to a search of an apartment or shop, soldiers have damaged items. In addition, there have been claims of looting of valuable personal property during search operations of this kind.

122. The testimony was given to Ofir Feuerstein on 8 March 2007.

123. *Breaking the Silence, Testimonies from Hebron*, 18.

124. *Breaking the Silence, Testimonies from Hebron*, 17.

125. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

Hamza al-J'abri, a resident of the Old City, told about a search soldiers conducted in his house on 14 October 2006:

We were sitting in the guest room, getting ready to leave the house. Suddenly, a group of eight soldiers came into the house. They forced the whole family – my mother, my father, my sisters, and my brother Osama, 15 – into the guest room. The soldiers collected the males' ID cards. Two of the soldiers came into the guest room and started to search, helped by my mother.

One of the soldiers ordered me to leave the room. He asked me how to get to the roof, and I explained that there was no way to the roof from here, only from outside. The soldiers searched computers, disks, and my work equipment... Two soldiers took me into the bedroom and asked me to help them search the room...

I remained with two other soldiers, who asked me if I was a member of Hamas. When I said I wasn't, one of them threatened to murder me, cocked his weapon, aimed his rifle at my forehead, and swore at me. Two soldiers who were also there beat me and swore at me.¹²⁶

Israeli soldiers confirm that acts of humiliation and property damage occur during searches of homes. A soldier who served in Hebron in the second intifada told *Breaking the Silence*: "The sergeant and some other soldier decided that, before leaving, they would leave behind a memento. They destroyed the video and something else I don't recall."¹²⁷ Another soldier related:

We are sitting, resting, in one of the Arab houses. Sitting on the sofa. Sitting opposite us is an old woman, very old, close to eighty or ninety years old... and the two soldiers sitting next to me... were playing some game... I don't recall, rolling up pieces of paper that were there and throwing them at her... at the old lady.¹²⁸

Delay and harassment

Because the settlement points are located in the heart of the city, dozens of checkpoints and permanent positions have been set up in the City Center. Security forces also conduct frequent patrols in the area. Palestinian residents living there, or Palestinians who need to go there, are forced to pass through checkpoints and by the army's positions. When they do, they are subject to physical checks and delays "for an identity-card check." Every Palestinian passerby, at any time of day, is liable to be detained, depending on the whim of the soldiers. The length of the delay varies from five minutes to a couple of hours or more.

126. The testimony was given to Musa Abu Hashhash on 17 October 2006.

127. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

128. *Breaking the Silence* provided the testimony to B'Tselem and the Association for Civil Rights without mention of the witness's particulars.

In most cases, the Palestinians detained are not suspected of committing any offense or of constituting a threat to the wellbeing or safety of another person

These delays clearly are not justifiable on security grounds nor are they permitted by law. In most cases, the Palestinians detained were not suspected of committing any offense or of constituting a threat to the wellbeing or safety of another person. In some cases, Palestinian passersby were detained as a soldiers' game for an hour or more in nasty weather. In other cases, soldiers were ordered to detain Palestinians crossing a certain point, even though it was known that they can get to their destination without being delayed by means of an alternate route.

A staff sergeant who was stationed in Hebron told Breaking the Silence about one mode of operation adopted by soldiers in Hebron:

The officer and soldier get out. The driver stays in the jeep. They randomly collect twenty Palestinian males, stand them in a line in the middle of the street under the sun and do not allow them to move for an hour or so. When I went over to the officer to learn the explanation for this, he responded, "For the fun of it, you know." When they released them, they gave them a few sharp blows.¹²⁹

Another soldier, who served in the city during the second intifada, stated:

My company commander set a quota of twenty ID cards we had to check while standing guard... At some stage, the company got real excited about this, holding competitions to check as many ID cards as possible...

In one instance, one commander and a soldier decided to work at it and grab a lot, to break the quota... They took three guys from the Shalala compound, brought them, put them on the side, and in the meantime checked the details on their cards by two-way radio. Meanwhile, they grabbed three more guys... The number rose to seven, eight, nine persons who were standing there in a one-by-two-meter space, standing and waiting for their cards to be checked by two-way radio...

From an operations perspective, this was stupid... I realized how inhumane this was. How it was simply evil to do this to people. To take them and stick them next to each other, make them stand there for twenty minutes. And all this for no security reason whatsoever, but because the soldiers got some inertia, and to pass the time while on guard duty.¹³⁰

Ziad a-Salayme, who is unemployed, lives near the Tomb of the Patriarchs. He stated:

129. Breaking the Silence, Compilation of Testimonies No. 1, 5.

130. Breaking the Silence, Testimonies from Hebron, 10.

The suffering starts at the moment I leave the house. The Border Police have a post next to my house... The check can last a few minutes or more than an hour. They check us even though they see us every day. I think it is an evil device they use against us and is not for security purposes.¹³¹

A soldier told about a case in which soldiers encountered a convoy of Palestinian vehicles decorated for a wedding:

The minute he [the company commander] sees the wedding convoy... [there is a] kind of a feeling of, "Let's go, we can strike some blow here"... We stop the car, people get out, Palestinians, dressed in fancy clothes. You see the groom, you see the bride. The father. Their faces as they get out, the dread that the happiest day in their life might be lost... He [the company commander] doesn't let them continue on. He wants to dismantle everything, so they return home. He takes the keys to the car... Their pleas, the bride's wailing, the groom's father, they are all pleading... And on the other side I can see on the face of the company commander, how he looks at them and doesn't view them as humans. As simple as that... You see them all dressed, the children, everything, a whole family watching this show of an IDF officer taking their car keys and wearing down and canceling the [wedding]. For me it was seeing essentially... how the IDF views the Palestinian population.¹³²



Soldiers conducting a body search of Palestinian pedestrians in the center of Hebron.

Photo: Gil Cohen Magen, Reuters

131. The testimony was given to Musa Abu Hashhash on 31 January 2007.

132. *Breaking the Silence, Testimonies from Hebron*, 32.

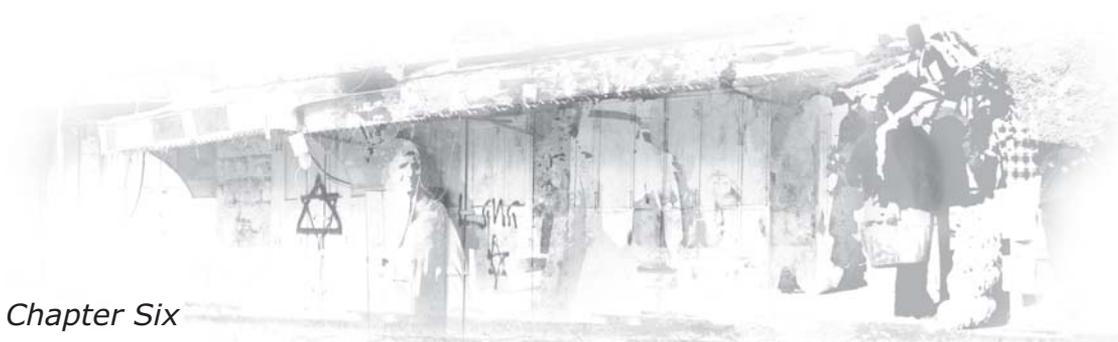
Nidal 'Ashur, a blind resident of Abu Sneineh, related an incident that occurred in November 2006:

Border Police officers stopped me at al-Haram [Tomb of the Patriarchs] checkpoint. They know I am blind, I pass there every day. Anyway, one of them told me to give him my identity card and ordered me to stand along the wall. After a half an hour passed, I asked the policeman for my card. He said I had to wait longer. I waited ten minutes and asked again for my card. Again, he told me to wait. I lit a cigarette and he told me to put it out. My cell phone rang, and he told me not to answer it. An hour and a quarter passed like that. Every time I asked for my card, the soldier told me to wait.¹³³

Victims of this phenomenon are random Palestinians, of all ages, walking along their city streets, on their way to school, to a shop, to visit a relative, to see the doctor, to go home, or for some other reason. At any moment, they might be called by a soldier and detained for as long as the soldier likes, or at best, until the soldier receives the "OK" by two-way radio.

This arbitrariness and the high frequency of detaining and harassing of Palestinians turn this activity into a harmful phenomenon and contribute to Palestinians leaving the City Center.

133. The testimony was given to Musa Abu Hashhash on 11 February 2007.



Chapter Six

Israel's Policy in Hebron from the Legal Perspective

Mortal blow at human rights

Israel's policy in the center of Hebron, which is based on the "principle of separation," has over the years extensively and mortally infringed the human rights of tens of thousands of Palestinians in almost every aspect of their lives. The obligation to protect these rights is enshrined in international humanitarian law,¹³⁴ in international human rights law,¹³⁵ and in Israeli administrative and constitutional law. These three sources of law are binding on Israel as the occupier in the West Bank.¹³⁶

134. International humanitarian law is comprised of the Regulations Attached to Hague Convention IV Respecting the Laws and Customs of War on Land, of 1907, and the Fourth Geneva Convention Relative to Civilians in Time of War, of 1949. For a discussion on the applicability of the Hague Regulations, see HCJ 606/78, *Ayub v. Minister of Defense, Piskei Din* 33 (2) 113. The State of Israel has agreed to comply with the humanitarian sections of the Fourth Geneva Convention in the West Bank. The question of the applicability of the Fourth Geneva Convention in its entirety has not been decided by the Supreme Court. See HCJ 7957/04, *Mara'abe et al. v. Prime Minister of Israel et al.* (not yet reported), Judgment, given in 2005, Paragraph 14. On the applicability of these conventions in the Occupied Territories, see the advisory opinion of the International Court of Justice, in The Hague, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, 43 ILM 1009 (2004) (hereafter: ICJ Advisory Opinion), Paragraphs 89-101.

135. Three conventions, which deal with protection of human rights, are primarily relevant in the matter under discussion: the International Covenant on Civil and Political Rights, of 1966, the International Covenant on Economic, Social and Cultural Rights, also of 1966, and the Convention on the Rights of the Child, of 1989. Israel ratified all three instruments in 1991. The ICJ's Advisory Opinion states that these instruments are a supplemental legal source governing Israel's actions in the Occupied Territories. Israel's High Court of Justice has made a similar determination. See HCJ 769/02, *Public Committee against Torture in Israel v. Government of Israel* (not yet reported), Judgment, given in 2005, Paragraph 18.

136. The changes that have taken place in the occupied territory since it was first occupied, including the agreements signed by the PLO and Israel, have not altered the status of the areas as occupied territory, or Israel's status as occupier of these areas. See ICJ Advisory Opinion. This is also the position the High Court has taken in a long list of cases. See, for example, HCJ 7015/02, *Ajuri et al. v. Commander of Military Forces in the West Bank et al., Piskei Din* 56 (6) 352; HCJ 2056/04, *Beit Sourik Village Council v. Government of Israel et al.* (not yet reported); *Mara'abe*.

International humanitarian law, which deals with occupied territory, revolves around two main pivots: one – ensuring the legitimate security interests of the occupying power in the occupied territory and two – ensuring the needs of the civilian population in the occupied territory.¹³⁷ Article 27 of the Fourth Geneva Convention, which is a fundamental provision of international humanitarian law, expresses the balance between the two:

Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all time be humanely treated, and shall be protected especially against all acts of violence or threats thereof....

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

The obligation to respect and protect the human rights of the population, first and foremost their right to life, liberty, personal safety, and freedom of movement, as well as other rights, are also enshrined in international human rights law, which also applies to Israel's actions in the Occupied Territories and is binding on Israel.

Israel's policy in the center of Hebron, which is based on the "principle of separation," has extensively infringed the human rights of tens of thousands of Palestinians

The obligation to respect and protect the human rights of Palestinians also appears in Israeli administrative and constitutional law.¹³⁸ This law enshrines, among other obligations, the duty of the governmental body to act only in accordance with lawful authority, the prohibition on infringing rights unless expressly allowed to do so, the duty to provide the right to be heard, the duty to act reasonably, and the principle of proportionality, which specifies that the decision of an

administrative body is lawful only if the means used to achieve the objective are proportionate.¹³⁹

The sweeping restrictions on Palestinian movement in the center of Hebron, the prohibition on opening shops in large sections of this area, the arbitrary searches and seizures of houses there infringe the residents' freedom of movement,¹⁴⁰ the

137. HCJ 393/82, *Jam'iyat Iskan al-Mu'aliman al-Mahddudat al-Mas'uliyah v. Commander of IDF Forces in Judea and Samaria et al.*, *Piskei Din* 37 (4) 785, 793-794.

138. *Ibid.*, 792-793; HCJ 69/81, *Abu 'Ita v. Commander for Judea and Samaria*, *Piskei Din* 37 (2) 197, 231; HCJ 591/88, *Taha, a Minor v. Minister of Defense*, *Piskei Din* 45 (2) 45, 52; *Ajuri*, *supra*, 382; HCJ 10356/02, *Yoav Hass v. Commander of Military Forces in the West Bank*, *Piskei Din* 58 (3) 443; HCJ 7862/04, *Abu Daher v. Commander of Military Forces in the West Bank*, *Piskei Din* 59 (5) 368.

139. In *Beit Sourik*, the High Court specified three sub-tests in determining if an action is proportionate: one, is there a rational connection between the objective and the means; two, is it possible to obtain the objective in a way that causes lesser injury; and three, is the damage caused to the individual by the means used to achieve the authority's objectives in proper proportion to the gain brought about by that means.

140. Universal Declaration of Human Rights, of 1948, Article 13; International Covenant on Civil and Political Rights, Article 12.

right of property,¹⁴¹ the right to gain a living by work they choose,¹⁴² the right to an adequate standard of living, including the right to adequate housing,¹⁴³ the right to the highest attainable standard of health,¹⁴⁴ the right to education,¹⁴⁵ the right to family life,¹⁴⁶ and the right to privacy.¹⁴⁷

The ongoing and conscious failure of Israel to enforce the law on the delinquent Israelis, settlers, and security forces, and to protect the Palestinian residents from them, at times amounts to backing the lawbreakers in carrying out their abuse and harassment. This being the case, Israel breaches its fundamental obligation to ensure safety and public order, as well as its duty to protect the rights of the Palestinian residents to bodily integrity and personal safety, which similarly are deeply enshrined in international law and Israeli law.¹⁴⁸

The conditions that Israel forces on Palestinians in the City Center cumulatively amount to "cruel, inhuman or degrading treatment."¹⁴⁹

Prohibition on settlement of occupied territory

As shown above, the grave infringements of the human rights of Palestinian residents of the City Center are the result – directly or indirectly – of the settlers' presence in the city.

Article 49 of the Fourth Geneva Convention states that, "The Occupying Power shall not deport or transfer parts of its own civilian population in the territory it occupies." This provision prohibits not only the deportation or transfer of a population by means of coercion, as occurred during the Second World War, but also the use of any means by the occupying power whose purpose is to organize or encourage the transfer of parts of its population to the occupied territory.¹⁵⁰

141. Universal Declaration of Human Rights, Article 17; Hague Regulations, Article 46.

142. International Covenant on Economic, Social and Cultural Rights, Article 6.

143. *Ibid.*, Article 11; Convention on the Rights of the Child, Article 27.

144. International Covenant on Economic, Social and Cultural Rights, Article 12; Convention on the Rights of the Child, Article 24.

145. International Covenant on Economic, Social and Cultural Rights, Article 13; Convention on the Rights of the Child, Article 28; Fourth Geneva Convention, Article 50.

146. Fourth Geneva Convention, Article 27; Hague Regulations, Article 46; International Covenant on Civil and Political Rights, Articles 17 and 23; International Covenant on Economic, Social and Cultural Rights, Article 10.

147. International Covenant on Civil and Political Rights, Article 17; Convention on the Rights of the Child, Article 16.

148. Fourth Geneva Convention, Article 27; Hague Regulations, Article 43.

149. International Covenant on Civil and Political Rights, Article 7. See also common Article 3 of the Geneva Conventions, and *Cyprus v. Turkey* (25781/94) [2001] ECHR 327 (10 May 2001).

150. ICJ Advisory Opinion, Paragraph 120. For an extensive legal analysis on the illegality of the settlements in the West Bank, see B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002), Chapter Two.

This prohibition applies so long as the territory is under the military occupation of another state. This provision expresses one of the fundamental principles of international law – the denunciation and eradication of colonialism.¹⁵¹

Israel's actions in settling civilians in the occupied territory breaches international humanitarian law The settlement in Hebron was originally initiated by individuals, and not by the government of Israel. Yet, the development and expansion of it were carried out over the years with the approval, cooperation, support, and even encouragement of the various Israeli governments, and with the approval of other governmental authorities.¹⁵² Israel's actions in settling civilians in the occupied territory breach international humanitarian law, being contrary to the prohibition set forth in the Fourth Geneva Convention.¹⁵³

Obligation to ensure the needs and way of life of the local population

The military commander has the fundamental obligation to ensure the needs of the civilian population in the occupied territory.¹⁵⁴

As we have seen, the fixed pattern of Israel's activity places the entire burden on continuing the Israeli settlement in the city on the shoulders of the local Palestinian population. This activity breaches Israel's obligations under international humanitarian law and exceeds the authority given by international humanitarian law to the military commander.

International humanitarian law, as mentioned above, recognizes the legitimate security interests of the occupying power in the occupied territory, and toward this end grants special powers that allow in certain cases even grave harm to the protected persons and infringement of their fundamental rights, provided that the act is required to meet security needs or to serve an imperative military purpose.

However, these special powers do not include protection of the settlements. The absolute prohibition on settlements set forth in international humanitarian law supports this contention. Placing the burden of defending the security of the settlers on the Palestinians therefore breaches the balance between the rights

151. Jean Pictet (ed.), *Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), 283.

152. Petitions filed by Palestinian residents of the city against the expansion of the settlements in the city were denied: *a-Natshe* (expansion of the Beit Hadassah settlement); HCJ 3352/01, *Zakaria al-Bakri v. Civil Administration* (unreported) (expansion of the Tel Rumeida settlement); HCJ 6442/01, *Zakaria al-Bakri v. Civil Administration for Judea and Samaria* (unreported).

153. For an extensive discussion on this point, see B'Tselem, *Land Grab*.

154. Hague Regulations, Article 43.

of the protected residents and the security powers of the military commander as specified in humanitarian law.

The High Court has ruled that Israel may infringe the human rights of protected residents to protect the settlements or to enable various actions of settlers in the occupied territory, and even destroy private Palestinian property.¹⁵⁵ However, the High Court's decisions directly conflict with international humanitarian law, as described above.

Israel has the duty to provide reasonable security to Israelis living in Hebron, while preserving the Palestinian fabric of life Regardless of the question of the legality of the presence of Israeli settlers in the area, and so long as they remain in his area of responsibility, the military commander must protect their lives and ensure their safety. There is no dispute on this point. However, this objective and the actions carried out to achieve it cannot lawfully be done in a way that the local population "pays the price" to enable the continuation of the settlement. Clearly, the actions cannot lawfully include the extreme measures currently taken against Palestinians in the City Center, nor the damage to the Palestinian fabric of life there. Israel has the duty to provide reasonable security to Israelis living in Hebron, while preserving the Palestinian fabric of life.

Guise of security

Many of the prohibitions imposed by the security forces on Palestinians in the City Center, and restricting free movement in the area to Israelis, cannot be explained on security grounds. We have seen that the source of some prohibitions on Palestinian movement in the City Center is the army's surrender to settlers' demands. By yielding to these demands, the authorities are doing more than protecting the residents of the settlements in the city: they are supporting the aspiration of many settlers "to Judaize" the area and expand the settlement and "Jewish control" in the city, by creating territorial contiguity between the Qiryat Arba settlement and the Tel Rumeida settlement in the heart of the city.

The Israeli authorities have acted unlawfully, therefore, by taking into account extraneous considerations and giving the stamp of legality to breaches of the law.

Furthermore, last year, external Israeli security experts and members of the Israeli Council for Peace and Security proposed alternative ways to protect the settlers in the City Center that would harm the Palestinian residents to a much lesser extent. Under one of these proposals, which was submitted to the attorney general and the defense minister, the houses in the settlement would be provided with better protective devices, security forces and lookouts would be increased, and the

155. See, for example, the court's decisions in *Hass* and *Mara'abe*.

settlers would use vehicles with protective equipment.¹⁵⁶ The army rejected the proposal.¹⁵⁷ Inasmuch as there are proposals for protecting Hebron's settlers in a way that causes lesser harm to Palestinians, the sweeping infringement of the human rights of Palestinians is disproportionate and, therefore, illegal.

Obligation to treat persons equally and the prohibition on discrimination

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, of 1965, which Israel signed in 1966 and ratified in 1979, defines "racial discrimination" as:

any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

All the actions discussed in this report, which gravely infringe fundamental rights, are based on discrimination on a background of ethnic origin All the actions discussed in this report, which gravely infringe fundamental rights, are based on discrimination on a background of ethnic origin. The actions are not carried out by individuals, but are part of the State of Israel's formal policy of deliberate separation and discrimination. The actions of the military commander in Hebron are directed against every Palestinian citizen, and not only against those who are deemed a threat. The distinction, therefore, is grounded on their national-ethnic origin. A policy based on discrimination of this kind is absolutely forbidden and is denounced by the world as racist.¹⁵⁸

Israel has argued that restrictions on Palestinian movement in the West Bank are not forbidden discrimination because the prohibition does not apply to the distinction between its citizens and persons who are not its citizens. The UN committee responsible for implementation of the International Convention on the Elimination of All Forms of Racial Discrimination responded to this argument:

The Committee is concerned at the State party's assertion that it can legitimately distinguish between Israelis and Palestinians in the Occupied Palestinian Territories on the basis of citizenship. It reiterates that the Israeli settlements are illegal under international law.

156. The proposal was attached to a letter of 27 August 2006 from the Association for Civil Rights.

157. Letter of 31 January 2007 from Harel Weinberg to Shai Nitzan, *supra*.

158. See articles 1, 2, 3, and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

The Committee recommends that the State party review its approach and interpret its obligations under the Convention in good faith in accordance with the ordinary meaning to be given to its terms in their context, and in the light of its object and purpose. The Committee also recommends that the State party ensures that Palestinians enjoy full rights under the Convention without discrimination based on citizenship and national origin.¹⁵⁹

Guests of the settlement in Hebron, some of whom are Jews without Israeli citizenship, are treated like the settlers, clearly indicating that citizenship is not a factor, and that the discrimination is based on national-ethnic origin.

Israel's actions in Hebron constitute an especially grievous breach of the Convention inasmuch as it has adopted an official practice of separation based on national origin. As the aforesaid UN committee stated:

The State party should review these measures to ensure that restrictions on freedom of movement are not systematic but only of temporary and exceptional nature, are not applied in a discriminatory manner, and do not lead to segregation of communities. The State party should ensure that Palestinians enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health.¹⁶⁰

Therefore, Israel's refusal to cease this practice is liable to result also in breach of Article 3 of the Convention, which particularly condemns racial segregation.

Prohibition on collective punishment

"The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers; every man shall be put to death for his own sin." (Deuteronomy, 24:16)

The prohibition on collective punishment is a fundamental principle in Israeli law and in international humanitarian law. Article 33 of the Fourth Geneva Convention states:

No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.... Reprisals against protected persons and their property are prohibited.¹⁶¹

The sweeping means taken during the second intifada against all Palestinian residents in the City Center – such as the prolonged curfew, the prohibition on

159. Committee on the Elimination of Racial Discrimination, *Concluding Observations, Israel*, Consideration of reports submitted by states parties (seventieth session, 2007), CERD/C/ISR/CO/13 (2007), Article 32.

160. Ibid.

161. See also Article 50 of the Hague Regulations.

Palestinian movement on the streets, forbidding businesses to open – breach the prohibition on collective punishment.

Israel's official position is that the means are not collective punishment but are security measures to protect the settlers living in the city. As seen above, the military commander uses the aforesaid means extensively against all Palestinians in the city, for extremely long periods of time, when he has available alternatives that would protect the settlers. Also, it is clear that some of the means used are not necessary for security purposes. Therefore, whether or not the objective is collective punishment and deterrence, the acts constitute collective punishment.¹⁶²

Prohibition on forced transfer

As we have seen, Israel's declared policy, its actions in separating Israelis and Palestinians in the City Center, and the acts and omissions of its security forces in the city have brought about a "quiet transfer" of thousands of Palestinians from the City Center. The authorities could not have failed to anticipate that this would be the result of their policy in Hebron. In several neighborhoods near the settlement points, the security forces also directly prevent Palestinian families from returning to their homes.

The first paragraph of Article 49 of the Fourth Geneva Convention states:

Individual or mass forcible transfers, as well as deportation of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Given that this prohibition applies also to transfer within the occupied territory,¹⁶³ and inasmuch as international law specifies that forced transfer also includes indirect and hidden coercion,¹⁶⁴ the provision applies also to driving Palestinians out of the City Center.¹⁶⁵ Articles 146-147 of the Fourth Geneva Convention classify the unlawful transfer of a protected person as a grave breach of the convention, a war crime, for which the persons responsible bear personal liability.¹⁶⁶

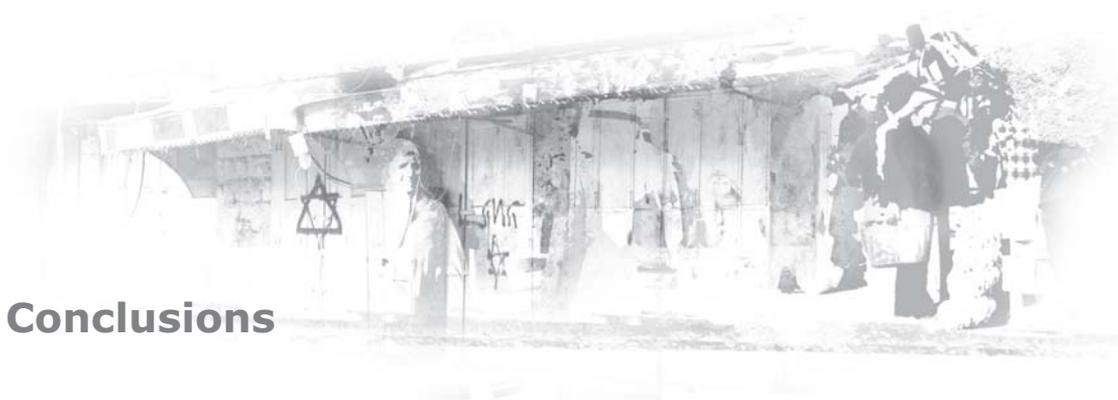
162. In some of the cases, it is clear that collective punishment is the objective of the military action or the prohibition, and not only the result of them (see Chapter Three).

163. See D. Fleck, *Handbook of Humanitarian Law in Armed Conflict* (Oxford: Oxford University Press, 1999), 253.

164. *The Prosecutor v. Naletilic & Martinovic*, Case No. IT-9834-T (ICTY), 17 October 2003, Sections 125-128.

165. Article 49 specifies a narrow exception that allows evacuation if the security of the population or imperative military reasons so demand. In our case, it is clear that neither of these exceptions apply, nor has Israel ever contended they do.

166. Forced transfer and settling a population of the occupying state in the occupied territory are crimes within the jurisdiction of the International Criminal Court. See the Rome Statute, of 1998, Article 8(2)(b)(viii).



Conclusions

The constant and grave harm to Palestinians living in the center of Hebron is one of the most extreme manifestations of human rights violations committed by the State of Israel. Israel's policy of protecting the Hebron settlement and encouraging it is based on "the principle of separation" and includes physical and legal segregation between Palestinians and Israeli settlers based on national-ethnic criteria.

This policy involves the use of harsh oppressive measures against the Palestinians in the city. Residents of the City Center are subjected to extremely severe restrictions on their movement, whether by car or on foot, to repeated assaults by violent settlers who attack them and their property, and to the arbitrary treatment of soldiers and their commanders during searches of the homes, to delays, and harassment, even to violent acts committed by the security forces. As explained above, these actions violate Israel's obligations under international human rights law, international humanitarian law, and Israeli administrative and constitutional law.

Using these measures, Israel has brought about over the years the expulsion of thousands of Palestinian residents and merchants from the center of the city. The measures have sharply embittered the lives of these Palestinians, making it impossible for them to continue to live and work in the area, leaving them no option but to get up and leave. This expulsion is unique in magnitude since the occupation of the West Bank in 1967 began, and is a grave breach of international humanitarian law. The "separation policy" constitutes, therefore, a policy of expulsion of Palestinians. This is the result of that policy, and as we have seen, the authorities had to expect it.

The authorities' refraining from protecting Palestinians from settler violence also contributes to the harsh results of this policy, and, as the testimonies have shown, is a significant cause, whether deliberate or not, in Palestinians leaving the City Center.

The army acts according to similar principles throughout the West Bank, but in Hebron, the only Palestinian city in the West Bank with an Israeli settlement in the heart of it, this regime of separation-discrimination is implemented in a small area. As a result, the concentration, magnitude, and severity of human rights violations in the city are especially great.

It appears that the source of Israeli policy in the center of Hebron is the profound disregard for the rights of the Palestinian residents, the flagrant and discriminating preference for the interests of the settlers, and the fear of confronting the settlers and of enforcing the law on them. Without hesitation, the authorities have made the entire Palestinian population pay the price for protecting the Israeli settlement in the city.

Recommendations

The State of Israel must cease infringing the human rights of the Palestinian residents of Hebron and refrain from using the oppressive means they are currently using against them.

The Israeli settlement points in Hebron were established in breach of Israel's obligations under international law and continue to cause severe breaches of prohibitions specified in international law that are intended to protect the human rights of persons under belligerent occupation.

Israel contends that it is impossible to ensure the safety of the settlers without separating Palestinians and Israelis in the city, and without infringing the basic rights of the Palestinians living there, which has resulted in Palestinians leaving the City Center.

Therefore, and even assuming that the government's claim that Israeli settlement in the West Bank does not breach its obligations under international law is correct, it was forbidden to enable the settlement in Hebron to continue, given the grave infringement of the human rights of Palestinians living in the city. The State of Israel has the legal and moral obligation to evacuate the Israelis who settled in Hebron, and return them to Israel.

Until the settlers are removed, the Israeli authorities must ensure their safety in a way that enables the Palestinians to live a normal life and guarantees public order, while minimizing the infringement of the human rights of Palestinian residents.

In particular, the government of Israel must urgently take the following measures:

- allow Palestinians to move about in the City Center, in part by removing the physical obstructions separating the City Center from other parts of the city;
- allow and facilitate the return of Palestinians to their homes;
- rejuvenate the City Center as a commercial area, in part by enabling Palestinians to open shops and markets there;

- direct the security forces to vigorously enforce law and order on violent settlers, and toward this end, make sure that all soldiers and police officers are instructed of their duty to stop and detain violent settlers committing an offense, ensure that the police properly investigate cases of violence and that the lawbreakers are brought to justice, and that the authorities take the steps necessary to cope with the problem of violence by minors under the age of criminal responsibility;
- direct the investigative authorities to investigate every case of violation of the law by security forces;
- direct the army and the police to actively prevent settlers from taking control of additional buildings and areas in the city.



Appendix

Testimonies of City Center residents

Testimony of Na'imah Ahmad¹⁶⁷

I live with my husband and five of my children in a rented place on Ras al-Jora, in H-1. We pay rent of 1,300 Jordanian dinars a year. Two of my daughters study at university. My son Firas, 23, studied mechanical engineering and is presently unemployed. Bashar, 26, is a computer engineer. He started work not long ago. Taysir, 18, is in school. My husband works as a guard in al-Haram al-Ibrahimi [Tomb of the Patriarchs] and earns 900 shekels a month in the framework of the unemployment program. I have a son who is studying and working in the US, and another son, 'Abd a-Razaq, who is married and lives in his own home.

At the end of May 2006, we moved into our current dwelling. Before that, we had rented a place in the Old City of Hebron, in H-2, where we paid rent of 280 dinars a year. The house was close to the entrance to the Avraham Avinu settlement, opposite the Waqf's offices. Prior to the intifada, six families lived in the building. We lived on the fourth floor.

We lived there for twenty-two years. While there, I gave birth to three children, and my other children grew up there. We had problems there because the Israeli army used our roof as a lookout and because of our proximity to the settlers. Despite that, it was OK. The big children and I knew how to manage. Once, the settlers beat 'Abd a-Razaq and afterwards he was imprisoned on charges the settlers made up. When Bashar was sixteen, he was arrested for a dispute he had with a soldier.

When the present intifada began, the situation deteriorated. The settlers' and soldiers' attacks increased. The army imposed more stringent restrictions on the area. Every day, the settlers threw stones at our windows. They destroyed the electricity meters, threw garbage into the entrance to the building, and beat our sons. More than once, they tried to break into our place and assault us. They

167. The testimony was given to Musa Abu Hashhash on 18 December 2006.

assaulted us almost every day. Besides, the army imposed a curfew for many weeks and fired at Palestinian houses arbitrarily. Our water tanks were destroyed as a result.

In the summer of 2001, we had to leave the apartment. We could no longer stand the assaults and the hardship. We rented a place in al-Kawaz at a rent of 1,400 dinars a year. We lived there for eight months. Then we moved back to the apartment in the Old City because my husband stopped working and we had almost no money. We saw that, while we were away, settlers had broken into the apartment, stole things, and destroyed everything that was there. I filed a complaint with the Israeli police. We lived there even though the settlers continued to attack us and despite the curfew. Later, the area was declared a closed military zone. There was a checkpoint at the entrance to the building, and to pass we needed an identity card. After each attack on Israelis, they took out their vengeance on us and imposed a harsh curfew. To continue at school, my sons and daughters had to go and live with their grandfather in H-1.

Three years ago, my daughter Hana'a, who is now twenty-one, was scheduled to take her final exams at high school. The day of her English exam, soldiers blocked the way and said it was forbidden to pass. I argued with the soldiers for more than an hour, and finally managed to convince them to let her leave the building so she could get to school. She arrived at school about an hour after the test had begun. She failed the exam.

Almost nobody remains in the neighborhood, only two families and us. Most of the neighbors left to go to H-1. We lived in isolation, like in prison. Despite the suffering, our poor financial situation made it impossible for us to move. Later, the settlers took control of the Waqf building [the settlers were subsequently removed, by court order, and the building is now closed]. They torched the places that were vacated in the neighborhood. The situation got worse, and the army increased the restrictions and supervision. I was close to having a mental breakdown. The settlers started to go on the roof of the Waqf building and throw stones at us. We felt more isolated than ever before. We were frightened and felt we were in a dangerous situation, and that things were getting more and more complicated. It was impossible for us to continue living in the apartment.

In late May 2006, despite the pain in doing so, we decided to move. We rented a place in Ras a-Jura, in H-1. It wasn't easy to move. We had to carry furniture on our shoulders through the checkpoint and the iron revolving door. They didn't let anybody help us, and by law, it was forbidden to bring a moving van into the area. We dragged our things and furniture through the market, a distance of about 300 meters. It took us three days to move everything.

Our life here is much easier. Our fears and worries are gone. I feel that my children are safe. I also feel free. Guests who haven't visited us in years come by. In the

other place, prior coordination was required for visitors to come to our home. Now it is easy for me to do the shopping, without being searched and delayed. The car comes right up to the entrance of the building. Everything is easier.

The aggression of the settlers and the army is past history [for us]. Safety is the most important thing. I feel as if Allah had mercy on me by moving me from that area, although I miss the old house. I lived there half my life. All our memories are from there. Once, I went there with my daughters. They stood facing the building and cried.

I pray that Allah will let us return, but how is that possible if the settlers are still there? It was impossible to live there. Better to live in a tent than in a house surrounded by the army and settlers.

Testimony of Bahija Sharabati¹⁶⁸

I live with my husband and our six children in Tel Rumeida. We have a three-room apartment with bathroom and kitchen. The apartment is in a big house, and the apartment of our neighbors, Hani al-'Aza and his wife, is next to ours. We came to live here in 1998, after the elderly owner, Mahmud a-Sahab, left and offered to let us live here for free for two years. Before that, we lived in a small place near the Cordoba School, on a-Shuhada Street. My husband, Wa'il Sharabati, works at the Hasuna gas station in Hebron and earns 1,100 shekels a month.

When we moved into the apartment, the owner and the neighbors told us that, following the massacre in the Tomb of the Patriarchs, soldiers took control of the roof temporarily. In 1999, a settler from Tel Rumeida was stabbed, and the army imposed a curfew. The night of the incident, I heard people on the roof. In the morning, I saw that the army had set up a lookout. The lookout on the roof has remained ever since. They built a room and an iron ladder. Generally, there are two soldiers at the lookout around the clock.

Our life is not easy. Many families were forced to leave this area because of the settler attacks and the army's actions. We can't leave the house because we are poor. My husband's salary is hardly enough to cover our basic needs. Sometimes, the pressure and the tension make me consider leaving, but rent in a safe place in Hebron is at least 1,500 Jordanian dinars a year [about \$1,065]. We have no choice; we have to suffer these harsh living conditions.

At the beginning of the intifada, the Israeli army didn't let us use the front entrance of the house. They also prohibited cars from using the streets in the area. We had to use another entrance and go between trees, house, and fields to get to the

168. The testimony was given to Musa Abu Hashhash on 30 December 2006.

paved road. We also had to go by foot along a steep path to the checkpoint at Bab a-Zawiya, a distance of more than 300 meters. Our neighbors – the al-'Aza and Abu Heykal families, among others – also suffered from these access problems.

Because of the army's lookout, our yard became a refuse dump. The soldiers eat and throw the food scraps on the ground around the house. They also urinate on the roof. Three years ago, my little daughter, Abrar, left the house and the urine of one of the soldiers sprayed her on the head. She hasn't forgotten that incident.

The soldiers shout, jump, run, and sometimes also play. Their shouting and movements disturb us a lot, especially at night. Sometimes, we can't get to sleep because of the disturbance, and sometimes their noise and the barking of their dogs wake us up. The noise usually starts at 1:00 A.M. and continues until morning.

One day last summer, around eight at night, we were at home and heard explosions on the roof and around the house, which frightened us and startled the children. We thought it was an army action. We went into one room and were unable to sleep. After midnight, the noise stopped. In the morning, I went into the yard to see what happened, and saw pieces of paper all around and realized that the soldiers had shot off fireworks.

The soldiers let settlers go onto the roof. Children of the settlers throw stones and sand at us from there, and sometimes spit at us. This generally happens on the Sabbath and holidays, so that is the reason why on those days I don't hang laundry outside the house. There have been a few times that the laundry got dirty from the sand and filth they threw from the roof. Once, when they threw stones and sand at us, I left the house and spoke about this with the soldiers. One of the soldiers said to me, "Children." My son, Husam, who is twelve, was next to me. I told the soldier, "He, too, is a child, but if he throws stones, you would shoot him." The soldier replied, "I don't do that."

The soldiers not only let the settler children bother us, they also carry out the settlers' orders. One day, before the most recent 'Eid al-Fitr [the holiday at the end of Ramadan], the water in the house stopped running. I think that the settlers damaged the pipe on purpose, but I am not sure. The soldiers did not let the repairmen come and fix the problem for four days. The repairmen came in the morning, and Border Police officers accompanied them.

Husam helped the workers. He gave them tea and cookies and opened the front door for them because the pipe runs through there. The settlers apparently saw him opening the door, which is forbidden, and called the army. Around seven at night, six soldiers came, along with the soldiers on the roof, and asked about Husam. They made him get out of the shower, and he dressed quickly. When they saw he was only a child, they let him be. They took us all outside and conducted a long search, opened a locked room that had items belonging to the owner, and

combed through his possessions. When they finished, they took the key for the front door. I called the Israeli police and TIPH [the international observer force in Hebron]. The soldiers returned the key that night.

Three weeks ago, on a Thursday night, there was a power breakdown. The soldiers did not let the workers come and repair the malfunction, and we didn't have electricity until Sunday afternoon.

On the Saturday that the Jews read the "*Chayey Sara*" biblical portion [for which the Hebron settlers hold an annual public celebration], the soldiers let the children go to school and told us adults that we could stay closed in the house or leave the house and only come back after eight at night. Last year, on this holiday, the children had to wait at the Bab a-Zawiya checkpoint until eight at night before being allowed to cross and return home.

On one Saturday in 2005, settlers shattered windows in our house. I went into the yard to speak with the soldiers who were on the roof, and one of them laughed. One of the settler children threw a stone at me, hitting me in the head. After that, ten soldiers arrived. An army doctor examined me, gave me first-aid, and told me to go to the hospital. Police came and asked me to give a statement. I went to the police station and filed a complaint. The soldier who laughed was also there. Later, I went to the hospital where they stitched the wound.

On 'Eid al-Adha last year, my relatives came to visit. The soldiers let them come in via the front door, which was usually closed. Later, my brothers-in-law came via the other way, and the two soldiers on the roof ordered them to return and enter through the front door. After that, my children realized we could use the front entranceway, so when they came back from the grocery store, they used this entrance. A large group of settlers was waiting for them along the way. The group attacked them and beat my daughter, Islam, who is nine years old. I went to the two soldiers who were on the roof to complain. One of them said that we were forbidden to use the front entrance, and that I have to close the door. I told him that he let us go out that door. He did not reply, but only told me again to close the door.

Some of the soldiers themselves assault us. Last winter, a soldier on the roof broke out in hysterical laughter and threw sand and stones at me while I was standing outside the house. He spoke to me in Hebrew and said things I didn't understand. My husband understands Hebrew very well, and he said that the soldier swore at me.

Sometimes, there are nice soldiers, who talk to the children, play with them, and give them chocolate and sweets. One day, I told the children not to take chocolate, and that I was afraid of it. The soldier was sad and said that he did that because he missed his children at home. Despite everything, we try to behave nicely toward the soldiers.

In May this year, a settler child, who was about nine years old, stood opposite the house. He began to pick loquats from a tree and throw them to the ground. When I saw what he was doing, I asked Husam to pick some fruit, put them in a bag and give it to the child. Husam picked some and gave them to the child. The child took the bag and went away. An hour later, he came back and asked for more, and Husam gave him a bag [of fruit] again. After that, he didn't return. I saw that he wanted to come over and thank us. He never came back again.

I could write a whole book about settler attacks and the acts committed by soldiers. We have already filed dozens of complaints to the Israeli police, but nothing has changed. I don't believe in complaints any more. We try to get used to the situation because we have no choice.

Testimony of Taysir Abu 'Ayesha¹⁶⁹

I live with my wife and our seven children. Our eldest daughter, Raja, is seventeen. We live on the first floor in a house that lies close to the Ramat Yishai settlement in Tel Rumeida. A road separates us from the settlers' houses. I inherited my apartment. My father lives on the top floor with his wife and children. My father, Raja, and I work in a clothes shop on Bab a-Zawiya Street.

When the settlement in Tel Rumeida began, there were only caravans. Two years ago, they built a building. Since the beginning of the settlement, my family has suffered from settler violence and harassment. At first, my father tried to treat them like neighbors. He went to their homes on the Sabbath for candle lighting and to bring them grapes, but they assaulted and swore at us. They demanded that we leave our house. My two brothers, Samir and Jamil, left the house because of the settlers' violence. Jamil, 39, left seven years ago. When he left, he had to live in a house that was still under construction. He closed his carpentry shop, which was next to the house, even though he made a good income there, and rented another carpentry shop.

At the beginning of the current intifada, in 2000, the settlers began to attack us more than in the past, and the Israeli army increased the restrictions on movement in the area. One day, the wife of the settler Eitan Fleischman took her car and blocked entry to the street leading to the settlement and our house. She wouldn't move the car until the army closed the roads to Palestinian traffic. The same day, the army closed the roads leading to Tel Rumeida, and they remain closed. Palestinians are forbidden to travel in this area in their cars. We can only go by car to a place two or three hundred meters from our house. I have to carry gas balloons and food on my shoulder from the Bab a-Zawiya checkpoint on the road that leads up to the house.

169. The testimony was given to Musa Abu Hashhash on 4 January 2007.

In 2000, the settler Noam Federman fired shots from an air rifle at our windows. At first, we thought that it was a regular rifle. When the police came and checked, we learned it was an air gun. The shots pierced holes in the windowpanes. There was a court hearing on the matter, and I was present.

In the first years of the intifada, the army imposed a prolonged curfew on the area, which was interrupted for only short periods. Life for us was almost intolerable. We had to stay at home all the time. On occasion, I fled with some of my children to be with my two brothers, Samir and Jamil, in H-1. Sometimes, we sent the children to their uncle's houses, so they could go to school. They came home to us on weekends.

During the curfew, settlers put some white substance in our well. People from the Red Cross told us that they took water samples and checked them. We don't know the results, but they emptied out the well.

Our family had a factory for melting and casting copper near the entrance to the settlement. About seventeen people worked in the factory. The settlers, among them the wife of Baruch Marzel, filed a complaint with the army, contending that the factory caused smoke pollution and harmed them. In 2002, an order was issued to close the factory. We managed to move a few machines and open a much smaller factory, with three workers, elsewhere.

The most severe attacks took place in the winter of 2002. For example, Shalom Alkoby, Baruch Marzel, and more than ten other settlers broke the side door of the house, entered, beat me and tried to drag me to the road. I grabbed Alkoby by the beard. My father came through the other door with a stick and rescued me. I was hurt in the neck, and the police investigated the matter.

In 2003, my two daughters, Safa and Wafa, got married. We couldn't have the marriage ceremony in the house because of the curfew, since cars couldn't get to our house. We decided to have it at Jamil's and Samir's houses. The curfew was in force, but I managed to sneak my daughters out the back door using a wooden ladder. My father couldn't take part in the ceremony. He didn't want to leave the house unoccupied because he was afraid of what the settlers and army would do. We had to put up a metal-mesh fence around the house to protect against the attacks. Our house is like a cage. The settlers cut the mesh fence more than once. We replaced it with tin panels. We did that also because the windows had been shattered by settlers who threw stones and empty bottles.

One day in 2003, I was walking home with my son Sharif, who was five at the time, and my brother Ibrahim, who was four. A young settler threw hot tea at us, hitting me in the face. A few times, settlers attacked my daughter Fada with stones, and beat and swore at her on her way to school. My father was hit twice in the eye by stones thrown by settlers.

In 2005, my sister Iman, who was then eight, was struck in the head with a stone. On 30 November 2006, Shalom Alkoby tried to run over Fada and Iman when they were on their way to school. He tried that more than once, laughing each time. We complained to the police.

The settlers attack us all the time. They swear at us, throw stones, beat us with clubs, and spray water at us. Everybody in my family has been harmed by these attacks.

About a month ago, at two in the morning, my wife, who was pregnant, started to bleed a lot. We had to go by foot to the 'Aliyah government hospital, about half a kilometer away. We couldn't summon an ambulance that would come to our house. The doctors at the hospital pronounced the fetus dead. If we want an ambulance, we have to coordinate it hours in advance. In most cases, they don't let it through.

We do not suffer only from direct assaults. The restrictions on our movement cause us lots of hardship. Since the beginning of the current intifada, the army has forbidden our relatives to come to our home. It is as if we are living in prison. During the past 'Eid al-Fitr, they didn't let any of my wife's relatives or my father's wife's relatives to reach the house.

Just prior to 'Eid al-Adha this year, because of our experience on the previous holiday, we spoke with people from the Red Cross and they promised that they would arrange with the Israeli army that our relatives could come to us on the holiday. We gave them the names of our relatives and told all of them that they could come. On the morning of the holiday, our relatives arrived at the Tel Rumeida checkpoint and waited. We spoke with the soldiers and told them that things had been arranged so that our relatives could enter. The soldiers spoke by radio with their base, and they said that we should give them the identity card numbers. We realized it would take lots of time, and they all left and didn't come to our house.

Most soldiers want us to go into the house when there is a confrontation between us and the settlers. Some soldiers identify with us, but they can't do much. They shout at the children throwing stones. The police hear our complaints. We have already filed more than two hundred complaints with the police. Sometimes, we call the police and they don't come. The settlers' attacks go on all the time. The settler children attack us, with the parents encouraging them and standing next to them, because the law doesn't apply to minors. We try to avoid having contact with them. We try not to cross the road, unless we have no choice. The settlers' children play in the road, my children and my small brothers play in the yard behind the house. I bought them pigeons and chickens to take care of rather than go into the road and play opposite the house. In any event, the settlers attack us daily.

Responses of the Israeli Authorities

Response of the IDF

The following is a translation of the Hebrew version, In case of divergence of interpretation, the Hebrew text shall prevail.

Subject: IDF response to B'Tselem Report "Empty Market Square"

This B'Tselem report deals with a very important matter, which is dealt with by the army's highest ranking officers, in an ongoing and daily manner. By way of introduction, it is important to note that the interpretation of those who composed the report and their presentation of the current situation in Hebron ignores many key aspects of the reality that prevails in the city. The interpretation of the writers ignores the difficult security situation that prevails in the city and the urban changes that have taken place, which has caused a natural population movement away from the crowded Kasbah to the rest of Hebron.

We would like to refer, in general, to the main arguments described in the report regarding the actions of the IDF authorities by presenting them in a broad context and by taking into account the general picture that is the reality of life in Hebron.

We would like to emphasize that due to the short period of time given to the IDF to comment on the report before its publishing, we did not have enough time to comment on each individual case mentioned in the report. Therefore, we will refer only to the major arguments given against the IDF in the report.

In short, the authors of the report oppose a number of activities that are being carried out by the regional authorities which are, according to their claims, intended to "Judaize" the H-2 area. It is claimed that the security forces use methods such as curfews, closure of shops and traffic disruption on the one hand whilst not enforcing the law on Israelis on the other hand, with the alleged purpose of causing the Palestinian residents of the H-2 area to leave.

Intro: The Security Reality in Hebron

For decades the city of Hebron has been a focus of tension and friction between Israelis and Palestinians. This is because it is the only city in the Judea and Samaria regions where Israelis and Palestinians live side by side. It is important to emphasize that the rights of Israeli citizens to live in the city have been authorised by the decisions of the Israeli government.

Starting from September 2000, violence erupted in Israel and Judea and Samaria, including terror bombings carried out by Palestinian terrorist organisations against Israeli civilian and military targets. In the framework of this terrorist threat pointed at the State of Israel and the Judea and Samaria regions, the threat against civilians living in the territories has increased, especially in Hebron.

This dangerous security situation is evidenced by a long chain of terrorist attacks which were carried out by Palestinian terrorists (*inter alia* by operating from within the civilian population and with its assistance) in the H-2 Zone in Hebron. There are numerous examples of these problems such as the terrorist attack on the HaMitpalellim road in Hebron on 15.11.2002, in which Colonel Dror Weinberg was murdered along with eleven other soldiers and members of the Hebron security services and Kiryat Arba; a terrorist shooting attack against IDF soldiers on "160 Curve" in which two soldiers from the Sachlav unit were murdered on December 12, 2002; terrorist shooting attack against an IDF soldier in which Tomer Ron was murdered on March 10, 2003; the shooting attack on IDF soldier in which Matan Gidri was murdered on June 8, 2003; a suicide bombing in Gross Square in Hebron in which the married couple Gadi and Dina Levy were murdered on May 17, 2003; the shooting attack in which Rabbi Shlomo Yitzchak Shapira was murdered on September 23, 2002; the shooting attack in which the baby Shalhevet Pass was murdered on March 26, 2001. There have been many other terrorist attacks which took place in the Hebron sector.

The severity of the security situation in Hebron is underlined by the fact that despite the relative quiet in Judea and Samaria in recent months, Hebron has remained a focus of Palestinian terrorist activities. In those months, Palestinian terrorists have carried out numerous attacks in the city including planting explosive charges, stabbing attacks, Molotov bottle attacks and stone throwing, shooting attacks and others.

In 2003, High Court Justice Beinisch ruled on the prevailing situation in Hebron in High Court ruling 7007/03, **Qawasmeh v. the IDF Military Commander in Judea and Samaria**:

"There are prevailing tensions in Hebron between the Arab and Jewish populations in Hebron which are expressed by an ongoing series of bloody flare-ups. The pent-up tension is ongoing and caused the Regional Army Commander over the years to take preventative steps in order to reduce the danger in this volatile area."

It can be said that **the Jewish neighbourhood of Hebron has suffered the highest amount of terrorist attacks in proportion to its size throughout all the years of fighting.**

Terrorist attacks in Hebron have formed serious threats to Israeli citizens that live in Hebron and on IDF forces and police in the area, which have become a direct target for terrorist factions in the city. In light of these activities, the Military Commander was forced to take steps to thwart Palestinian terror activities and to provide defence for Israelis living in the city.

Within the framework of these activities the Commander has undertaken and continues to take numerous actions. For example, the Military Commander carries out different intelligence and operative measures, patrolling Hebron and carrying out security activities, restrictions on movement, and construction activities in order to prevent and disrupt terrorist activities. The criticism of the report's authors was focused mainly against these crucial activities, and therefore we will address these activities.

Curfew

In the framework of these activities to prevent terror, the military commander of Hebron has been forced to impose a curfew of varying degrees in different areas of the city. This curfew was imposed because of the security needs to make the activities of IDF forces against Palestinian terrorist groups easier and to ensure the safety of the citizens and soldiers in Hebron. (Both Israelis and the Palestinians can get caught up in a battle-zone). This curfew was not a total curfew but rather a partial curfew, which was limited in area and time, and within its framework the possibility was given to the residents of the curfew zone to buy food and medicine, to get access to medical treatment and other services. Similarly, procedures were put in place which allowed the urgent needs of the population to be taken care of during the curfew, such as evacuating people to hospitals, and repairs to the water and electricity infrastructure.

This curfew was imposed sporadically on a number of neighbourhoods in Hebron from 2000 till 2003 according to security needs. The Supreme Court discussed the topic of the curfew in Hebron and determined:

"There is no doubt that for the residents of the neighbourhoods of Hebron, upon whom the respondent [Military Commander] was forced in recent months to order, time and again, the imposition of a curfew, suffered a great deal as a result. However, from the details that were mentioned in the statements by the Military Commander in relation to events and circumstances that caused the Military Commander to impose a curfew and his frequent cancellation of curfews he had imposed, limiting the curfews only to the hours of darkness and similarly regarding the issue of fixing breaks in the curfew to allow residents to stock up on food and medicine and to avail themselves of necessary services, in no way supports the claim that the Military Commander used his authority to impose curfews arbitrarily or for long periods of time. **The opposite is true, and by examining the facts, it is easy to be convinced that the Military Commander is well aware that the imposition of a curfew is a drastic measure that is only to be used when circumstances absolutely demand it to defend the lives of civilians and soldiers, for preserving security and to thwart terrorist activities...Unfortunately, due to the continuous and ongoing murderous terrorist attacks, the respondent [IDF] was forced time and again to impose a curfew.** In light of this, we have not found any basis to establish that in any cases in the course of the period relevant to the petition, the Military Commander gave the order for the imposition of a curfew in contradiction to the procedures that regulate the use of curfews - his reasons were also explained to the lawyers of the

petitioners - or that he decided to impose a curfew when the circumstances of the event allowed for the use of alternative methods which injure the population less. Furthermore, there is no basis to establish that from the previous decisions of the Military Commander, any mistake occurred that was likely to lead to the involvement of the court and there is also no basis for our involvement in the considerations of the Military Commander to establish principles or criteria beyond those established in military procedures and the rules of the Attorney General for the ranks of the military command." (HCJ 854/03, **Sultan v. the Military Commander, emphasis added**)

Nevertheless, despite the importance of this security tool, and its operational necessity, and even though the petition's claim that curfews are an illegal measure was denied, the military commander decided, for the sake of the Palestinian population, not to impose a curfew at this time in Hebron.

As a result of this, as of 2003, curfews were imposed only in unique cases for short periods of time, and since 2006, **no curfew has been imposed on the city of Hebron.** Needless to state, that this step had a big impact on improving the fabric of life and trade and industry lives of the Palestinians in the city.

In light of the above, we can conclude that the imposition of a curfew by the military commander is without any shadow of a doubt a measure that makes life difficult for the residents of the city. However, they were necessary, considering the security circumstances in Hebron.

Seizing Positions

In the framework of these activities to prevent terrorist activities in the city of Hebron the Military Commander is required to seize property, which often belongs to private owners, in order to establish army positions and stations and for the security of different sectors or zones.

According to the above, the military commander acted to capture strategic positions in territories which overlook and control the city (mainly the hills of Abu Sneh and Kharet A'Shieh which are under the security control of the Palestinians, as well as other parts of Hebron). These areas were used for shooting attacks with small-arms from relatively short distances against Israelis in the Hebron area. As a result of these shooting attacks, many civilians and soldiers were injured. These events came to a tragic height when the baby Shalhevet Pass was murdered by a Palestinian terrorist.

The military commander seized these territories through injunction seizure orders in accordance with the recognized and accepted rules of international law, legislated by the regional security. This procedure is routinely brought before the Supreme Court. (See: **HCJ 8286/00 The Association for Civil Rights in Israel v. the Military Commander in Judea and Samaria; HCJ 3435/05 the Muslim Wakf v. the Military Commander; HCJ 10356/02 Hess v. the IDF Military Commander in the West Bank, et.al.**)

It is noteworthy regarding this issue that despite the stated military need and the strong legal basis under which the military commander operates, there exists an ongoing examination of the hardships and damages caused to the Palestinian population, whilst maintaining a constant effort and intention to ease the suffering that is caused to this population.

For example, regarding a school which had been seized for military purposes (an action approved in a legal process), the Military Commander instructed that the base be relocated in order to return the school to the use of the civilian population. There are other such examples.

Regarding seizing civilian residences, these seizures are done, in general, for short periods of time and for strictly military purposes. These seizures are carried out according to very strict regulations which are given to IDF soldiers, with a meticulous observance of the honour and rights of the residents.

Restrictions on Movement and Commerce in the City of Hebron

The authors of the report focused to a large degree on the limitations on movement and trade that were put in place by the IDF in the H-2 zone in Hebron. Within this framework, the authors of the report claim that these restrictions are due to "the submission of the army to the racist demands of the settlers", in their words.

Below, we will clarify the security considerations that necessitated the military commander to take these limitations, through the presentation of the broader picture with a full perspective and a wide point of view.

The extent of the limitations

First and foremost, and before we address the interpretation of the restrictions, it has to be emphasised that these restrictions which are in place in the city of Hebron, **are enacted in only a very small area (the area of the Jewish neighbourhood) in the H-2 zone which is a very small part of Hebron.** These restrictions which certainly do adversely affect the lives of Palestinians in that area, were only imposed on a very small percentage of the residents of Hebron and actually, most of the residents of Hebron (about 180,000 Palestinian residents) enjoy freedom of movement in the city and light traffic, relatively speaking, compared to the majority of cities and villages in the district.

Furthermore, except for the small Jewish neighbourhood, the movement of Israelis is not permitted in the majority of Hebron (movement in the H-1 zone is completely forbidden to Israelis, excluding special occasions on which they are given special permit from the Military Commander; and movement in the H-2 zone is restricted to Israelis, for security reasons, to only two or three roads.)

As was stated, due to the wave of terrorist incidents that washed over Hebron since 2000, the Military Commander was forced to take measures using different methods in order to thwart and prevent the execution of terrorist attacks.

One type of terrorist threat is a "friction attacks", such as suicide attacks and infiltration and shooting attacks; the placing or throwing of improvised explosive devices (IEDs) and petrol bombs from short ranges from crowds or from buildings; use of "cold" weapons such as knives for stabbing attacks; and rock throwing from short ranges that could cause injury and even death.

"Friction attacks" occur often when the attacker reaches his destination under the "cloak" of a large gathering of people while cloaking himself as an innocent civilian and making use of the IDF's difficulty in distinguishing between the terrorist and innocent people to reach his destination. Furthermore, even once IDF forces identify the attacker they still have serious difficulties thwarting the attacker when he is operating amongst a crowd of civilians.

There is no need to state that in Hebron we are not talking about theoretical threats, and as a result of these attacks, tens of Israelis were killed in recent years in Hebron.

In light of the above, the military commander realised that the common military operations available to him were not sufficient to prevent the "friction attacks" in a place as complicated as Hebron where Israelis and Palestinians live side by side. Therefore, the Military Commander decided that there is no alternative, from an operational perspective, from establishing separation zones in the friction zones so that large gatherings of Palestinians should not be formed in the friction zones, that could assist the approach of an attacker to a military force or to the Jewish neighbourhood, without an IDF force identifying him in advance.

Accordingly, the IDF forces formed a new operational strategy that includes forming of protection zones in proximity to zones of high terrorist activity, including the Jewish neighbourhoods. In these protection zones, the objective is to prevent a large gathering of people, in order to identify the attacker easily when he tries to reach his destination and to prevent the planned attack. Furthermore, this perspective means that due to the sensitivity and high-risk of potential danger that exists in the continuing tensions between the Jews and the Palestinians in the stated zones, it is crucial to try, as far as possible, to minimise the friction.

It is important to point out that this principle is taken in the most part from the idea which was presented in the Shamgar Committee Report, regarding the massacre in the Cave of the Patriarchs in 1994, which dealt with the arrangements for prayers and security in the compound and established that:

"...Firstly, it is recommended to prevent friction between Jews and Muslims...this matter often causes physical altercations which need to be prevented in advance...on the basis of these assumptions we recommend first and foremost to introduce the order that were supposed to be enforced, to

separate completely between the Jewish worshipers and the Muslim worshipers, in order to ensure the safety of all worshipers and to prevent friction, arguments and acts of violence." (Shamgar Committee Report, p. 246)

In light of this security perspective, the IDF formed a plan that seeks to regulate the stated protection zones whilst guarding the fabric of Palestinian life in this zone. In the framework of this plan, a small number of areas were closed to Palestinian traffic, a number of roads were closed to vehicles, and trade was forbidden in certain sectors. It is important to point out that these restrictions were put in place only when there existed alternative roads and in areas where the majority of residents are Israelis.

In the framework of this plan, the military commander invested and continues to invest a large amount of resources, costing millions of NIS, in order to carry out complicated infrastructure operations which allow and will continue to allow the opening of many stores whilst taking a calculated security risk.

Since 2003, the implementation of the stated plan allowed the military commander to open more than 330 stores which had been closed since the year 2000. In addition, 80 additional stores (which are located in proximity to the Jewish neighbourhoods in the H-2 zone) will be opened in the coming months. However, only about 280 stores will remain closed, according to the Military Commander order.

Furthermore, despite the restrictions on movement mentioned above, the Military Commander allows, with coordination in advance, the movement of Palestinian vehicles that are essential to preserving the fabric of Palestinian life, on the stated roads. Within this framework, the passage of ambulances, garbage vehicles, goods vehicles and others on the defined roads are also coordinated in a routine manner.

We further point out this plan of the Military Commander is pending in the Supreme Court, H CJ 11235/04 **The Municipality of Hebron v. the Military Commander**. In the state's response to the petition, the Military Commander explained the reasons that led to the imposition of the restrictions in relation to each and every restricted zone in Hebron. In the framework of the petition the petitioners were asked to suggest reasonable alternatives to the plan of the Military Commander which will provide security to the Israelis living in Hebron on the one hand and an improvement in the lives of the Palestinians on the other. To date, an alternative is yet to be presented which provides, in a reasonable and realistic manner, the military requirements mentioned above.

Regarding the section dealing with Shuhada Street that was extensively covered in the report, it is important to emphasize that the street in question is the central road in the Jewish neighbourhood in Hebron that connects all the Jewish areas of the city. This road is the only access road, by foot and by vehicle to "Bet Romano", "Bet Hadassah" and "Tel Romeida" in which there are large number of Israeli residents. Hundreds of Israelis pass through this road everyday. At the Cave of the Patriarchs and on the

Sabbath and Holidays and on the "exceptional days" On the Cave of the Patriarchs, thousands of Israelis use this road.

In the framework of the operational plan, the road was defined by the Military Commander as a road on which Palestinian pedestrian traffic is allowed after a security check. In actuality, until today the road was not opened.

Currently, after evaluating the new situation and the examination of the threat that is visible as a result of the passing of Palestinians in the street, whether to Israelis dwelling on that road or whether to Palestinian pedestrians, and because of the fact that, according to the Military Commander, this street is not critical to the fabric of a normal life of the Palestinian population in the area, the Military Commander requested to re-examine his stated position and to prevent pedestrian traffic on the road (except for families actually living on the road who need to use it everyday), from Gross Square until the Bet Hadassah area. This position of the Military Commander will in the near future be presented for the approval of the Minister of defence and for the examination of the Ministry of Justice.

To summarise, the position of the IDF is that that the restrictions on movement and commerce in the city of Hebron are the "minimum necessary" that are required by the IDF to provide protection to its soldiers and to the Jewish residents of Hebron. Moreover, in the framework of these restrictions, the military commander decided to take significant calculated risks. Therefore, regarding this situation, we are of the opinion that the claims of the document's authors regarding the external considerations of the military commander are baseless.

Failure to enforce the law on Israelis in Hebron

The authors of the report claim that IDF forces do nothing to enforce the law on Israelis in Hebron.

There is no disagreement that regarding respect for the law, the current situation is not the best or optimal. Nevertheless, IDF forces are continually working to improve this situation.

In the last few years, IDF forces carried out many preventative and police actions in order to prevent Israelis breaking the law in their attitudes towards Palestinians and to capture those who are involved in breaking these laws.

Thusly, there was an order given to all soldiers serving in Hebron that whenever a felony is committed against a Palestinian or his or her property, the soldiers have to intervene immediately in order to prevent the crime and to detain the suspects and to transfer them to the Israeli police. Similarly, IDF soldiers are instructed that it is their obligation to report to the Israeli police every criminal incident in the treatment of Palestinians and they are also obligated to assist the Israeli police in every way necessary to implement the law, including giving testimony in court against the suspects. These rules are relayed to IDF soldiers serving in Hebron both in a

continuing manner while serving in the city and in the training before they begin their service in this area.

Additionally, the Military Commander allocated Border Police forces to patrol Hebron, whose central purpose is to enforce the law on Israelis. To these forces were recently added two policemen of the Border Police stationed, on a regular basis, to the region of Tel Romeida.

Similarly, the military commander carried out a number of important operations in order to establish a fixed military presence in places where riots are likely to break out.

Furthermore, and in order to deal with minors who break the law in Judea and Samaria, the military commander of the IDF forces in Judea and Samaria passed the law relating to minors that enforces the law on minors on Israelis that reside in Judea and Samaria and provides authority to social-workers to deal with these minors.

It is clear from these actions that the Military Commander is working to reduce the amount of law-breaking in the city of Hebron by Israelis.

Conclusion

The reality with which the military commander has to deal with is very sensitive, intricate and complicated, within which many opposing interests of different population groups are intertwined. Unfortunately, the report does not reflect this complex situation.

In the daily reality in Hebron, the Military Commander is obligated to protect the lives and security of the residents in the area under his command, Israelis and Palestinians alike. It is his obligation to defend against terrorist actions, to prevent terrorists achieving their goals and at the same time to ensure the continuance of normal every-day life and the rights of the population not involved in the conflict.

This reality, which rests on the shoulders of the IDF, is an extremely difficult task that requires balance, risk-taking, and coping with a changing and dynamic reality. It is a responsibility that is tested every hour of every day.

In this complex reality, the military commander is required and in fact obligated to act according to the challenges mentioned above and **for security reasons alone**. The steps taken by the security forces are neither arbitrary nor taken as a matter of choice, but according to the demands of the situation and the specific circumstances. Their one purpose is the defence of human life. Only with this basic understanding is it possible to understand the reality in the city of Hebron.

Response of the Israel Police Force*

In follow-up to receipt of the report for our review, the SHAI District's response to its main points is as follows:

- A. The State of Israel, through SHAI District, the Hebron sector in this case, is entrusted with enforcing law and order throughout Judea and Samaria, including the area of the Jewish community in Hebron and in the Israeli community situated in this sector.
- B. The State of Israel expends great effort to effectively enforce the law and order there. It does this by various means – an intelligence apparatus, detective work, a youth division and other forces operating in the field. In addition, units of teams investigating Israeli public disturbances have the specific responsibility for handling these matters.
- C. In the period discussed in the report, there was a clear drop in public disturbances and in the commission of offenses in general. This decline was, in part, a direct result of the Police Department's firm enforcement of law and order. Periodically, depending on the situation and anticipation of developments, the number of police officers was increased in the Hebron area, and in many cases forces from elsewhere in Israel were dispatched to the Hebron area.
- D. Regarding the contents of the letter of Commander Ali Zamir (as his rank was at the time) [see p. 49, the text accompanying footnote 91] there are indeed many problems in opening an investigation when the complainant does not tell his version of the incident, but gives that of third parties. In such a case, it is impossible to verify the complaint by questioning the potential suspect, a line-up – either of persons or photos – cannot be conducted, previous ties between the complainant and the suspect cannot be investigated, and so forth. Therefore, not a few files that lack a complainant or a material lead in the investigation file are closed because the offender is unknown or due to lack of evidence. We should point out that, in any event, the Police does not have a policy to refrain from opening an investigation if a complaint is not filed.
- E. Regarding the claim that there are cases in which police officers are present at incidents and see what occurs yet an investigation is not initiated. We know of no such cases. The policy is to open an investigation in such instances.
- F. Regarding the claim that 90 percent of the investigation files were closed in 2006, 344 Israeli disturbance-of-the-peace cases were opened in the Hebron sector. Of these, 67 percent of the files have been resolved. A breakdown of the results of handling of the files is as follows: 63 were closed for lack of evidence, 35 were closed due to lack of public interest (a decision reached together with the Jerusalem District Attorney's Office), 14 were closed on grounds of lack of guilt, 16 files involved minors who are not subject to criminal punishment, and 95 were closed because of suspect unknown. It should be noted that 81 indictments were filed in court. These figures refute the claim made in the report.
- G. As for the claims regarding police violence, abuse, and degrading treatment of the local population, complaints of this kind come within the responsibility of the Department for the Investigation of Police. We know of no such cases that have not been investigated.

* *Translated by B'Tselem*

Response of the Ministry of Justice



State of Israel Ministry of Justice

The Human Rights and Foreign Relations Department

The following is a translation of the Hebrew version, In case of divergence of interpretation, the Hebrew text shall prevail.

Date: 25 Iyar, 5767

May 13, 2007

Ref: 2766

Mr. Yehezkel Lein
Head of Research Department, B'tselem
8 HaTa'asiya St.,
Jerusalem 91531

Dear Sir,

Re: **Reference to "B'tselem" and the "Association for Civil Rights in Israel" Draft Report on Hebron**

The above-mentioned report deals with many issues relating to various bodies, mostly the security forces. The following is the response of the Ministry of Justice regarding the Department for Investigations of Police Officers -DIPO, that is under its authority.

The Investigations of the Department for Investigations of Police Officers (DIPO) – General

Contrary to what is claimed in the report, acts of violence, abuse and humiliation by security forces towards Palestinian residents, are regarded with great severity that is manifested in proper enforcement and punishments, as presented before.

This meticulous and persistent treatment is meant to, among other things, create deterrence among the security forces and raise the bar, to make sure that the Human

The Human Rights and Foreign Relations Department

Rights of the local population in the Judea and Samaria areas on the whole, and in Hebron in particular, are maintained.

The complaints raised in the report were raised in "Btselem" previous reports, and the following are our main references.

1. Complaints received in the DIPO against police officers are inspected by an attorney from the department, whose role is to decide whether to open a criminal investigation in light of the factual basis or to abandon the complaint, based on the grounds set in the law. Following the decision to open criminal investigation, the case is transferred to the relevant investigation team. Subsequent to the gathering of evidence by the Department's investigators, the case is relayed to the consideration of an attorney that recommends to the head of the DIPO whether to close the file or to file criminal/administrative indictment, due to the offences attributed to the police officers. As stated in the report, indeed some of the DIPO cases are closed after the conclusion of an investigation, due to lack of evidence, since insufficient evidence were gathered to prove the acts attributed to the police officers, in the level of certainty required for a criminal trial. Nevertheless, in many cases, where sufficient evidence exists to file a criminal indictment, criminal indictments are filed due to police officers' behavior, among others, in cases concerning police officers' violence towards Palestinian residents. It should be emphasized that DIPO investigators do everything in their power to exhaust the investigation in the case and gather sufficient evidence, to inquire as to the truth.
2. Contrary to what is claimed in the report, in some cases the investigation resumes despite lack of cooperation on the part of the complainant. This in cases where beyond the complainant version, there are additional evidence supporting its version. Yet in cases where, there are no additional evidence supporting the complainant version, there is no other course of action but to close the case and not to proceed with the investigation. This decision is based on the fact that in cases lacking additional support to the complainant version and the complainant is not interested in cooperating; it will be impossible, even following a strenuous investigation, to file a criminal/disciplinary indictment against the officers involved and prove their guilt in the level of certainty required for a criminal trial.

The Human Rights and Foreign Relations Department

3. The DIPO indicts, even when the complainant's version is in contradiction to the police officer's version, in cases where the complainants' version is supported by additional evidence. Also, indictments are filed in cases lacking evidentiary reinforcement beyond the complainant version, when truth signals can be found in the complainant version attesting to his credibility. It should be noted that in 2006, many criminal/disciplinary indictments were filed against police officers, despite the fact that the police officers denied the allegations attributed to them.

Specific Cases mentioned in the Draft Report

In the report, 3 cases of Police violence are mentioned, and the following is the DIPO's stance in their matter:

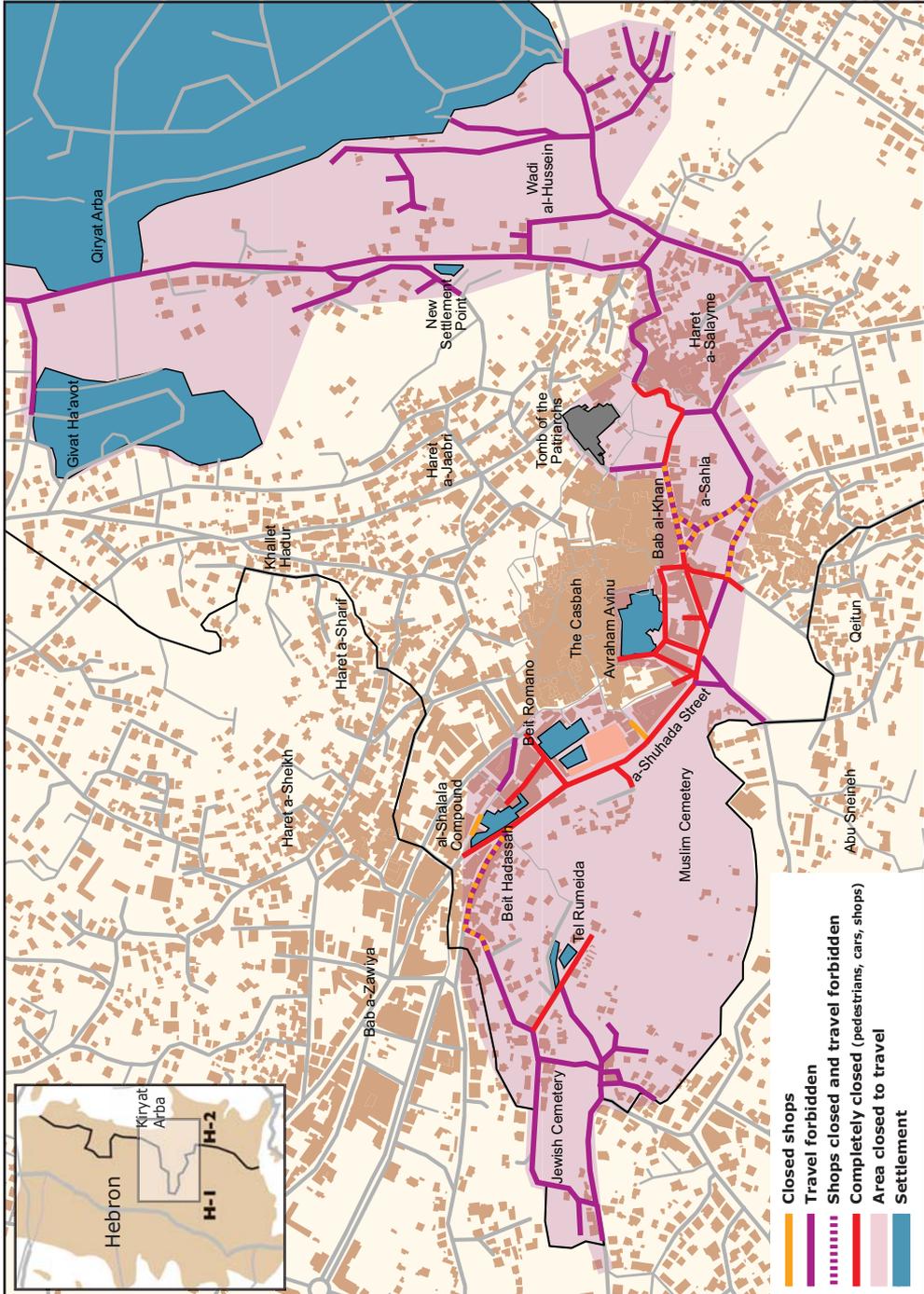
1. The case dated September 6, 2006 is currently under investigation by the DIPO that has not yet been concluded.
2. A complaint regarding the case dated August 24, 2005 was not located in DIPO, if a complaint will be filed, it will be handled with full gravity.
3. The case dated May 9, 2006 was investigated in DIPO and it was decided to close the case due to lack of sufficient evidence. This decision was appealed and the case is currently in the Appeals Department in the State Attorney's Office, awaiting their decision on the appeal,

Sincerely yours,
Boaz Oren, Esq.
Department Director

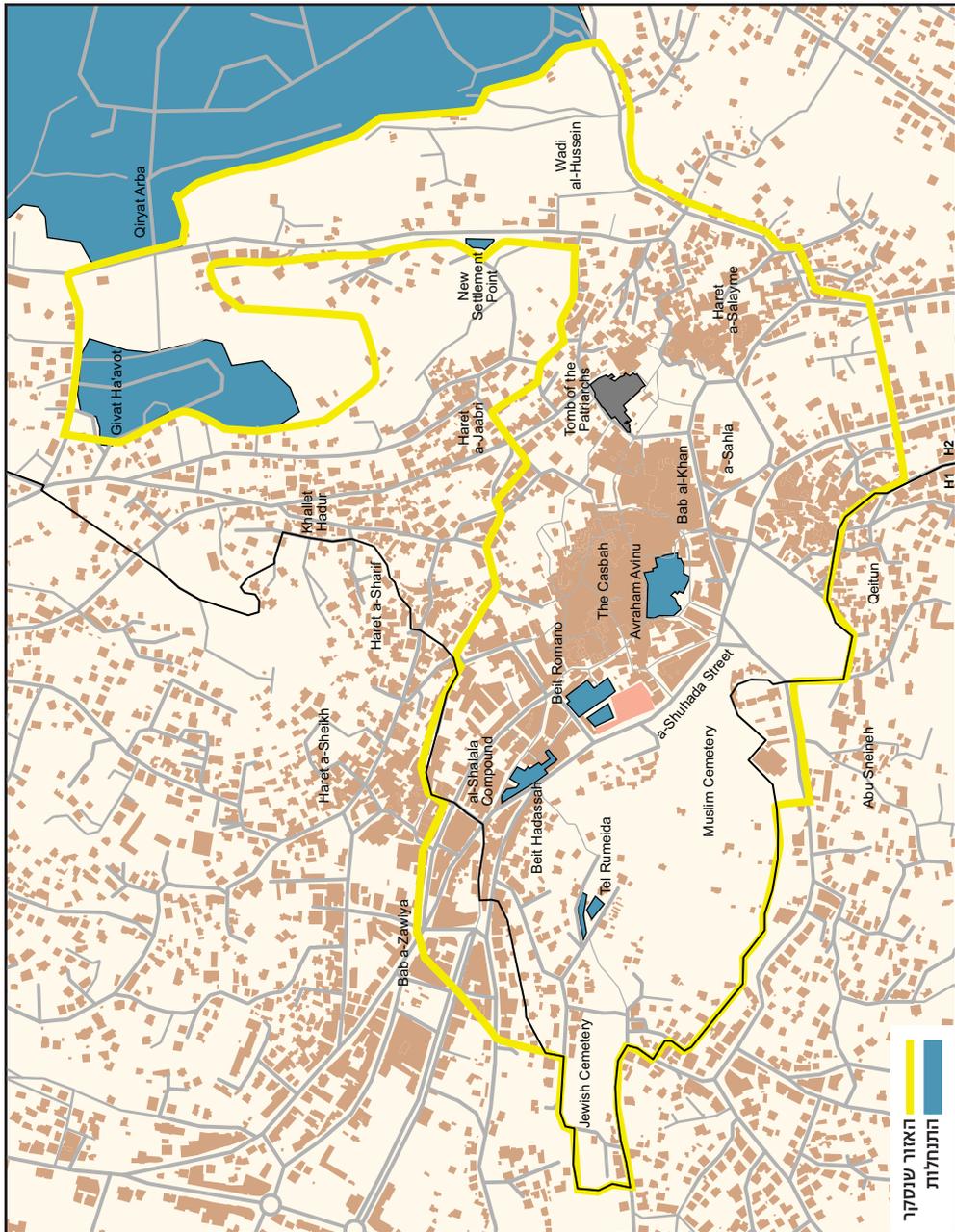
Cc: Mr. Herzl Sheviro – Head of the Department for Investigations of Police Officers
Ms. Hila Tene - here

Maps

Map of Hebron City Center

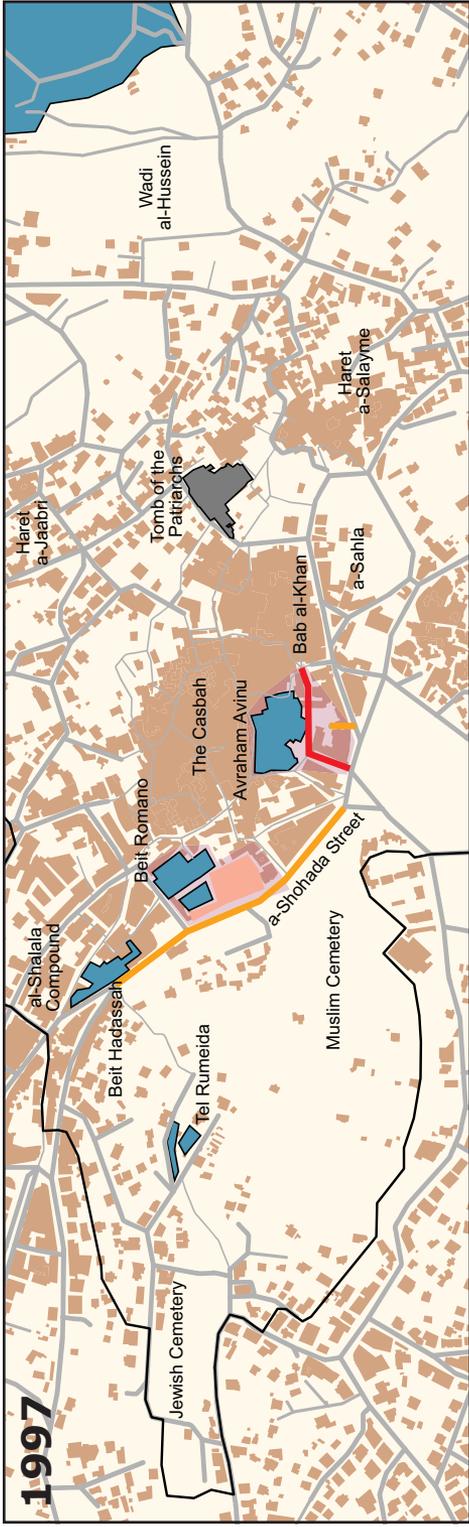
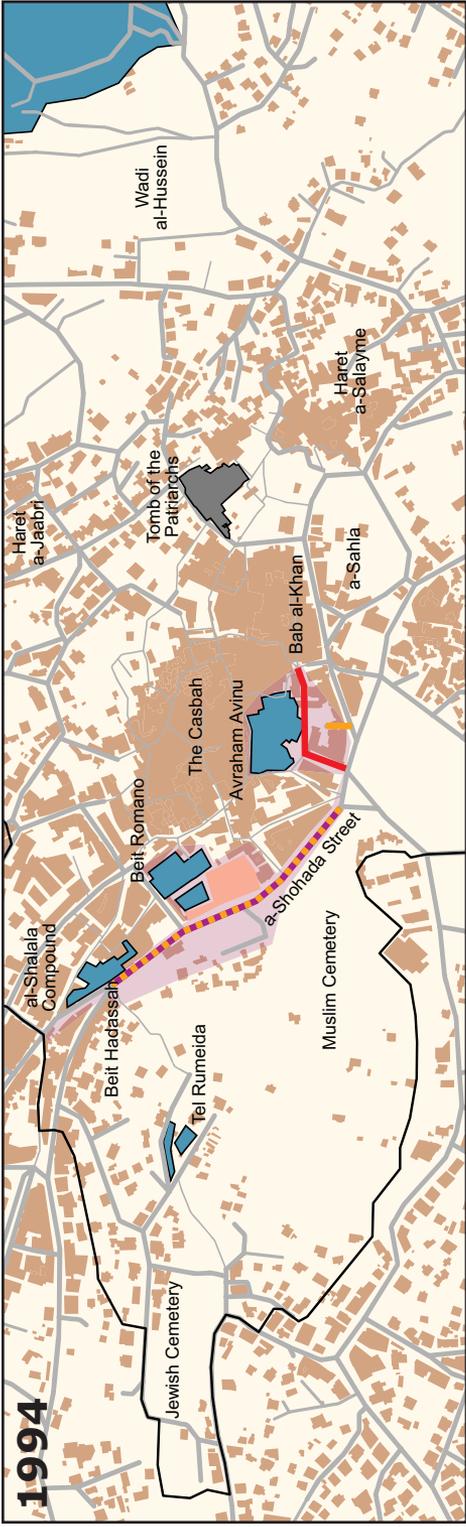


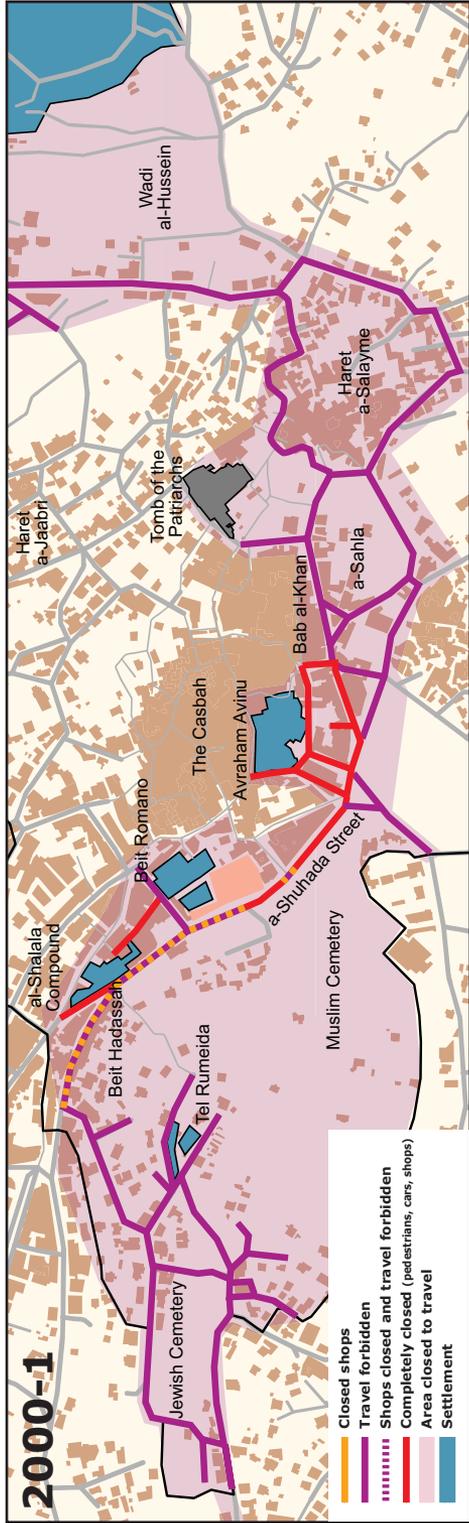
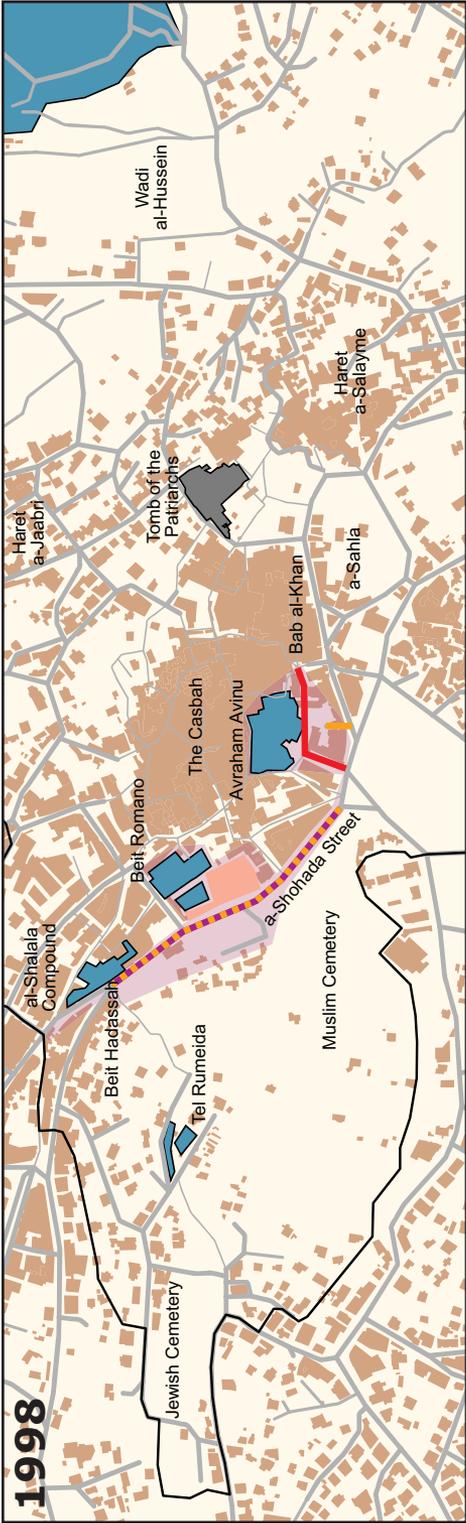
Map of the surveyed area¹⁷⁰

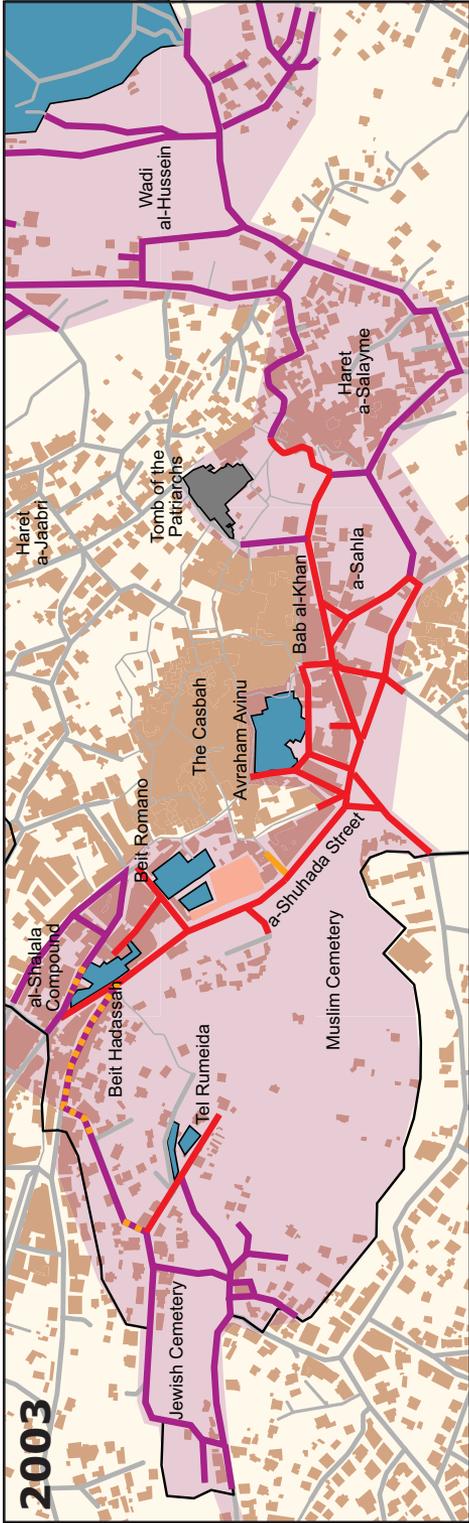
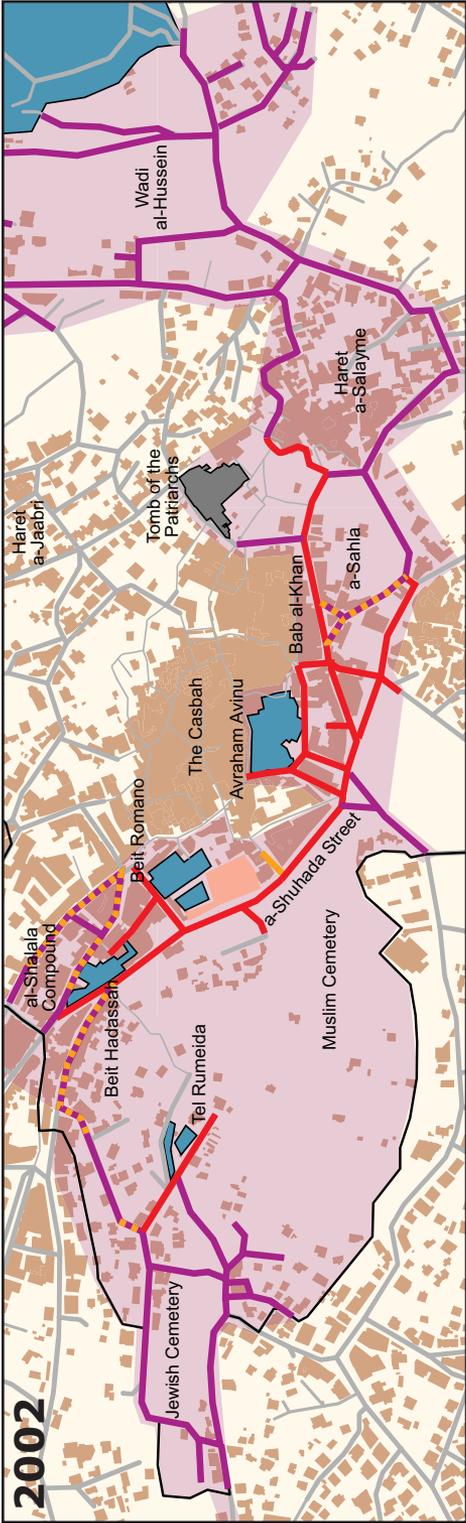


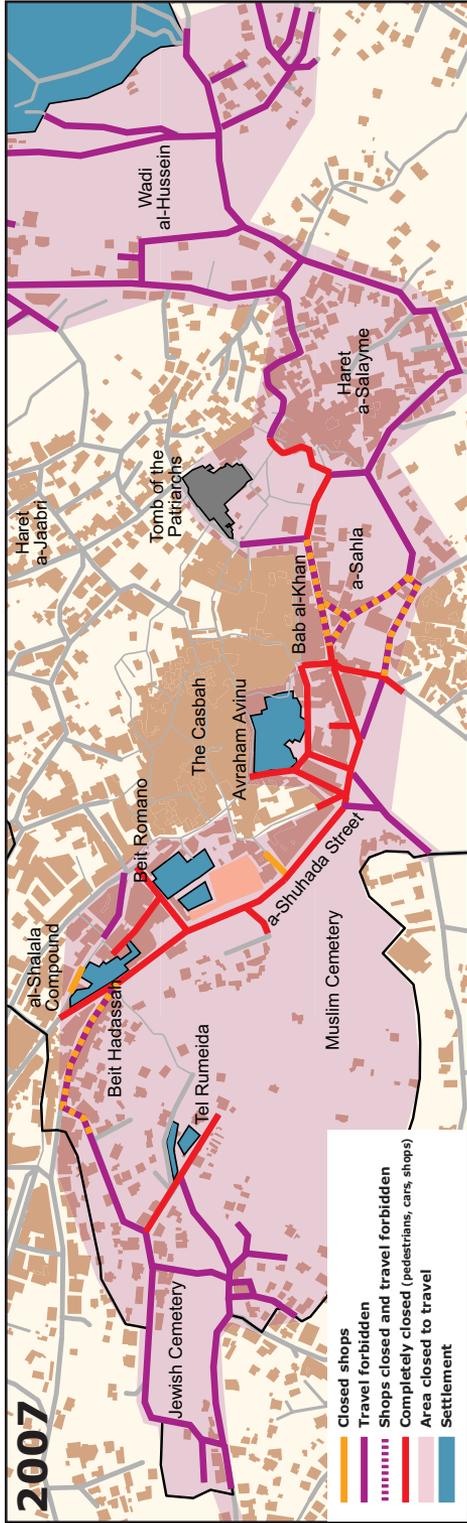
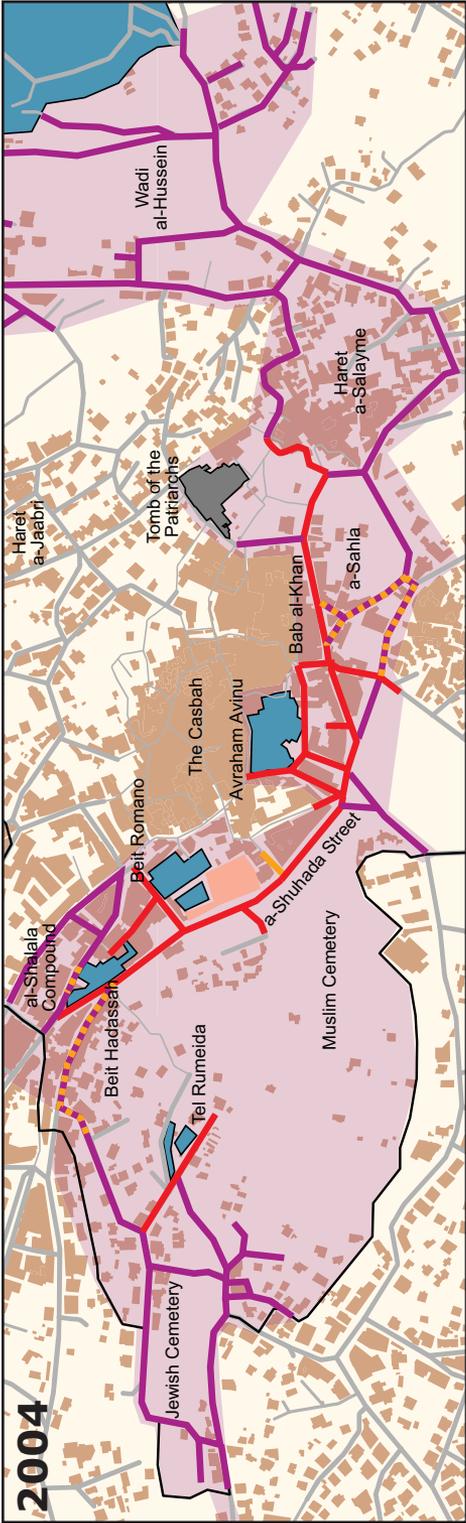
170. The surveyed area is enclosed by a yellow line. The survey also included Wadi al-Ghrous and 'Ein Bani Salim, which lie north of the area on the map, near which the Givat Haharsina settlement was established.

Restrictions on movement of Palestinians and opening of businesses in the City Center over the years









To protect and encourage the Israeli settlement in Hebron, Israel applies a "principle of separation" – the segregation, both physically and by law, of Palestinians and settlers in the city. This discriminatory policy results in protracted and severe harm to Palestinians living and working in the center of the city, and results in some of the gravest human rights violations committed by Israel.

Palestinians in the City Center are subjected to severe restrictions on movement and repeated attacks by settlers. They also suffer arbitrary treatment by commanders and soldiers in house searches, detention and delays, and harassment, as well as violence at the hands of police officers and soldiers.

Over the years, Israel's policy in Hebron has led to the expulsion of thousands of Palestinian residents and merchants from the City Center, who were left with no option but to get up and leave. This expulsion, the greatest in magnitude since Israel occupied the West Bank in 1967, constitutes a grave breach of international humanitarian law.

בִּיְשֵׁלֵם
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