

Playing the Security Card

Israeli Policy in Hebron as
a Means to Effect Forcible
Transfer of Local Palestinians

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Introduction

The Israeli settlement in Hebron was established in the heart of a bustling city that used to be the commercial center of the entire southern West Bank. To enable the settlement to develop and flourish, Israel has imposed stringent restrictions on the movement of Palestinians in the city. Israel cites security concerns to justify this, purportedly arising both from violent acts by Palestinians against settlers and from the need to protect Palestinians from settler violence.

These restrictions have been imposed on Palestinians in Hebron for the last 25 years. They were introduced after Baruch Goldstein, a settler from nearby Kiryat Arba, opened fire at Muslims who were praying at the Tomb of the Patriarchs (the al-Haram al-Ibrahimi Mosque) in February 1994, killing 29 and injuring 129. Restrictions intensified over the course of the second intifada, and were ultimately consolidated into an open policy of segregation, with entire streets and areas in Hebron designated for Israeli settlers only while Palestinians are effectively driven out. Some features of the regime employed in Hebron recall certain aspects of the apartheid regime in South Africa.

To create this segregation and exclude Palestinians from an entire section of the city, Israel installed a cruel system of staffed checkpoints and physical obstructions throughout the center of Hebron, which is compounded by daily acts of violence by Israeli security forces and settlers. The regime of separation and violence has made life intolerable and commercial activity impossible for Palestinian residents. Day after day, year after year, this policy chips away at Palestinian communities in the area, forcing them to live in poverty among urban decay. The Old City of Hebron and its traditional markets,

once the cultural and commercial hub of the entire southern West Bank, are now a ghost town.

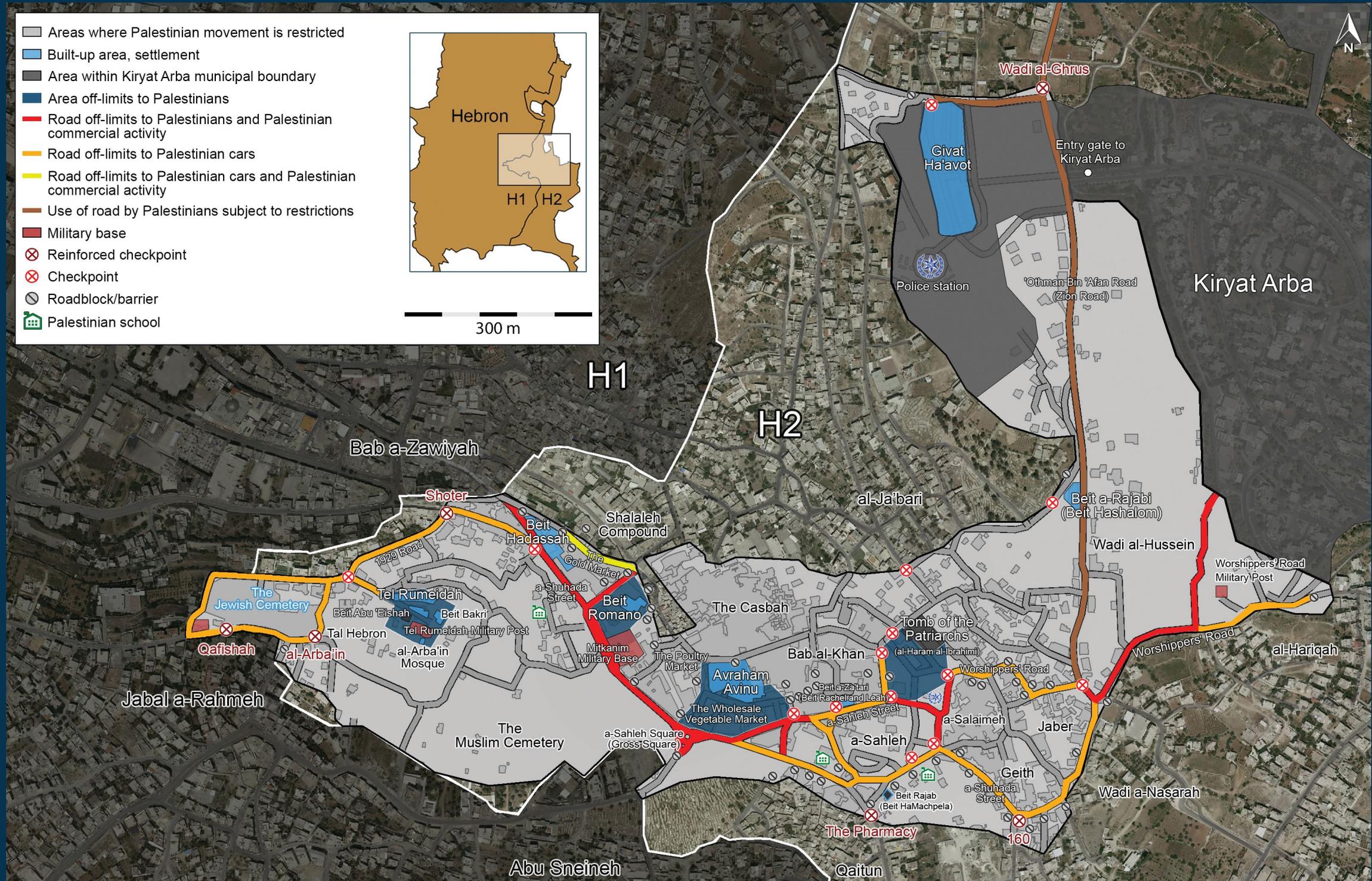
This regime has created what is known as a coercive environment, in effect leading to the forcible transfer of thousands of Palestinians and the closure of hundreds of businesses. This violates the prohibition on forcible transfer enshrined in international humanitarian law and constitutes a war crime.

Twenty-five years of this segregation have normalized a shameful reality, in which the lives and rights of tens of thousands of Palestinians are trampled underfoot while the interests of several hundred settlers are promoted by violent means. This report analyzes Israel's policy in Hebron and shows how the separation between the two populations and the attendant systemic violence serve to perpetuate Israeli presence in the heart of the city, make the lives of Palestinian residents in the area unbearable and relentlessly push those who still remain to leave.

The first chapter describes the Jewish settlement in Hebron and current plans to expand it, advanced by Israeli authorities and settlers. The second chapter details the movement restrictions imposed by the military to enforce the separation regime in the city. The third chapter discusses the daily routine of violence perpetrated by Israeli security forces and settlers. The fourth chapter reviews the results of the separation regime: the forcible transfer of thousands of Palestinian residents and the closure of hundreds of businesses. The last chapter illustrates the results of this policy with testimonies given by Palestinian residents – both those who have abandoned the area and those who still live there.

ISRAELI SETTLEMENT IN AREA H2, Hebron

Restrictions on Palestinian Movement Imposed by the Israeli Military



Chapter 1: Israeli settlement in Hebron and plans to expand it

The Israeli settlement in Hebron began in Passover 1968, when a group of Israeli civilians rented rooms in a hotel in the city and refused to leave when the holiday was over. Although there was no official policy to establish a settlement in Hebron at the time, the Israeli authorities did not remove the settlers. In fact, government ministers visited them in a show of support. Over time, the settlement expanded, primarily in the former downtown area. There are currently several settlement points in the city, each consisting of a single building or a cluster of buildings.¹ In August 2017, the OC Central Command declared the Hebron settlement an independent community that would be overseen by an appointed “directorates of civil services”.²

Due to the presence of settlers in the city, the military did not withdraw from Hebron as part of the implementation of the Interim Agreement in 1995, as opposed to other cities in the West Bank. It was not until 1997 that Israel and the PLO signed an agreement specific to Hebron, according to which the city was divided in two.³ In Area H1, which was home to about 115,000 Palestinians at the time, security and civilian powers were formally transferred to the Palestinian Authority (PA) as in other West Bank cities. Area H2, which includes the Old City and all the settlement points and was home to some 35,000 Palestinians and 500 settlers at the time, remained under Israeli control in terms of security, while the PA was given civilian powers relating to Palestinian residents only.

More than 20 years later, some 166,000 people now live in H1 – an increase of approximately 45% – while in H2, the number of Palestinians has dropped to about 34,000. These figures illustrate how natural growth in Hebron was offset by driving thousands of Palestinians out of H2.

About 700 settlers currently live in H2, within a smaller area spanning 800 dunams (1 dunam = 1,000 square meters), which includes the immediate vicinity of the settlers’ houses and the streets they use. Currently, about 700 settlers live in this area, some 400 permanently and another 300 or so are students of the Shavei Hebron Yeshiva.⁴ This area is home to about 7,000 Palestinians, about 1,000 of whom live in a narrow strip that runs from the Tomb of the Patriarchs through a-Shuhada Street to Tel Rumeida, where most of the settlers’ homes are concentrated (see map).⁵

In recent years, both official and unofficial plans have been advanced to expand the settlement and develop tourism in the historic center of Hebron. If these plans come to fruition, the settler population in Hebron stands to double over the next few years. The state is officially pursuing several such plans:

• **A new apartment block in the wholesale market:** In November 2018, the media reported that then-Defense Minister Avigdor Lieberman was promoting a plan to build an apartment block above the wholesale market, having received a

1. For more information see B’Tselem and ACRI, *Ghost Town: Israel’s Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, May 2007 (hereinafter: *Ghost Town*), pp. 9-12.

2. Order Concerning Directorate of Civil Services (Judea and Samaria) 2018, signed by Gen. Roni Numa on 31 Aug. 2017:

<http://peacenow.org.il/wp-content/uploads/2017/09/HebronMunicipalAdministrationOrder310817.pdf> (Hebrew).

3. See the agreement protocol on the website of the Ministry of Foreign Affairs: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/protocol%20concerning%20the%20redeployment%20in%20hebron.aspx>.

4. See the settlement’s website: <http://en.hebron.org.il/about>

5. OCHA–OPT, *The Humanitarian Situation in the H2 Area of Hebron City: Findings of Needs Assessment*, April 2019 (hereinafter: OCHA survey), p. 3.

legal opinion permitting construction despite legal concerns over protected residency rights of the Palestinian vendors.⁶ The plan, which is yet to be finally approved and be heard by the Supreme Planning Council in the Civil Administration, will expand the settlement in the Avraham Avinu neighborhood, which is currently home to some 40 Israeli families.⁷

After the massacre at the Tomb of the Patriarchs, the military shut down all the stores in the market. In the Hebron Agreement, Israel committed to reopening the market but has yet to follow through.⁸ The market has been targeted as a site for settlement expansion for many years. In 2001, settlers invaded several of the closed stores and began to renovate them. Eviction orders were issued that year, but the settlers vacated only in 2006, voluntarily, after agreeing with the military that their belongings would remain in the stores. In late 2006, two settler families invaded empty stores. They were not removed until August 2008 – along with hundreds of other settlers who had barricaded themselves in the area – in an operation that involved about 2,600 Israel Police and Border Police personnel. The marketplace is now used for public gatherings on Jewish holidays.

• **A new neighborhood in Beit Romano:**

In October 2018, the Israeli government approved the allocation of 21.6 million shekels (~USD 6.2 million) for a new project next to the settlement of

Beit Romano. The project, known as the Hezekiah Quarter or the Chabad Quarter, is set to be built on land currently located within the Plugat Hamitkanim military base that borders on the neighborhood.⁹

This compound has also been eyed by the state and the settlers for some time and has undergone a similar process of driving out Palestinians and replacing them with Israelis. The military base was established on a site that used to house Hebron's central bus station and was seized "for military needs" in 1983. In 1991, then-Chief of Staff Ehud Barak officially permitted six settler families to live on the base, several months after they moved in. In 2016, the military transferred part of the land to the Housing Ministry, which planned the new neighborhood. In a hearing held by the Subcommittee for Planning and Licensing of the Supreme Planning Council in the Civil Administration in October 2017, the subcommittee decided that Palestinians had no protected rights in this area and consequently authorized, "in accordance with the government decision", the construction of 31 housing units.¹⁰

Beit Romano is also home to the Shavei Hebron Yeshiva, which about 300 students attend.¹¹ In 2013, a new ten-story dorm was added to the Yeshiva, right next to the Palestinian market in Hebron's Old City, where shop doors have been welded shut by the military.

6. Yotam Berger, "New Residential Building for Jewish Settlement in Hebron Gets Go-Ahead", *Ha'aretz*, 1 Nov. 2018.

7. See website of the Shavei Hebron Yeshiva: <http://www.shaveihebron.org/en/Hebron/Page/?id=1534&Father=1525>.

8. Article 7 of the Protocol Concerning the Redeployment in Hebron, see fn. 3.

9. Government Decision 4189 of 14 Oct. 2018 regarding pooling budgets for the purpose of carrying out works at the Plugat Hamitkanim military base towards building the Hezekiah Quarter compound in Hebron: https://www.gov.il/en/Departments/policies/dec4189_20 (Hebrew).

10. Minutes of session no. 2017016 of the Planning and Licensing Subcommittee of the Supreme Planning Council in the Civil Administration, 18 Oct. 2017.

11. See the website of the Shavei Hebron Yeshiva: <http://www.shaveihebron.org/en/Hebron/Page/?id=1534&Father=1525>.

• **The Tel Hebron National Park in Tel Rumeida:**

In October 2018, the Tel Hebron National Park was inaugurated in the Tel Rumeida archaeological site.¹² According to the settlers' narrative, this site was the original City of David, where King David spent the first seven years of his reign (although no archaeological evidence of this claim has been found).¹³ Since the site was taken over by settlers in 1984, an apartment block on stilts has been built on top of the archaeological excavations and named Beit Menachem. A cluster of eight mobile homes has been erected at the edge of the excavation area and named "Admot Yishai (the Lands of Jesse)". The cluster is home to seven families.

In the southern part of the archaeological site, settlers have taken over the Deir al-Arba'in structure that served as a mosque until the massacre at the Tomb of the Patriarchs. After the massacre, the military declared the mosque a "closed military zone", and it has since been used as a synagogue to which settlers refer as the Tomb of Ruth the Moabite and Jesse, Father of David.¹⁴

These development plans are complemented by the efforts of various government ministries to reinforce the settlement in Hebron and lend it public legitimacy. In 2011, then-Education Minister Gideon Saar started a program to encourage school trips to the Tomb of the Patriarchs;¹⁵ in 2012, Transport Minister Israel Katz participated in an

inauguration ceremony marking the expansion of the road leading from the settlement of Kiryat Arba to the settlement in Hebron;¹⁶ in 2014, then-Minister of Infrastructure Silvan Shalom inaugurated renovations of the eastern part of the "Worshippers' Road", which would turn it into a boardwalk;¹⁷ and in 2015, President Reuven Rivlin inaugurated a visitors' center at the settlement of Beit Hadassah.¹⁸

Alongside these formal moves, settlers have taken over – or attempted to take over – several Palestinian structures in the city over the past decade, in some cases with the full support of the military:

• **The a-Rajabi House ("Beit Hashalom" or the House of Peace):**

The four-story building, once owned by the a-Rajabi family, lies in the a-Ras neighborhood, in the center of 'Othman Bin 'Afan Street ("the Zion Route", in military parlance) that connects the western entrance to Kiryat Arba with the Tomb of the Patriarchs.

The settler takeover of the building – where renovations had almost been completed at the time – began in March 2007, when about 150 settlers invaded it claiming they had legally purchased it. In November 2008, Israel's High Court of Justice (HCJ) ruled, at the request of the state and the a-Rajabi family, that the settlers must vacate the

12. David Or Shachar, "Tel Hebron archaeological site opened to visitors", *Hakol Hayehudi*, 17 Oct. 2018 (Hebrew).

13. Emek Shaveh, "Tel Rumeida – Hebron's Archaeological Park", November 2014.

14. *Ibid.*, pp. 18-19.

15. "Uri Avnery Slams Gideon Saar's Plan to Bring Students to Hebron", *JPost*, 16 Feb. 2011.

16. Hizki Baruch, "I Will Work to Turn Highway 60 into a Cross-Country Road along the Mountain Ridge" *Arutz Sheva*, 7 Nov. 2012 (Hebrew).

17. Netanel Katz, "Hebron – Our Birthright Conquered Without Trial", *Arutz Sheva*, 1 Sept. 2014 (Hebrew).

18. Yair Ettinger & Jonathan Lis, "Rivlin, on Visit to Hebron: I Won't Boycott the Left or the Right", *Ha'aretz*, 2 Feb. 2015.

building until the inquiry into the validity of the sale was completed.¹⁹ The settlers refused to leave and were forcibly removed a month later by Special Patrol Unit officers. The building was transferred to the custody of the state. In September 2012, the District Court accepted the settlers' argument that the sale agreement was valid.²⁰ The HCJ denied an appeal by the a-Rajabi family in March 2014.²¹ A month later, three Israeli families moved into the building, with the approval of the Defense Minister. The association of Jewish settlers in Hebron, "Harchivi Mekom Ohalech", is currently marketing 17 apartments in this new settlement.²²

• **The a-Za'tari House ("Beit Rachel and Beit Leah"):**

In January 2016, settlers broke into two houses on a-Sahleh Street, next to the Tomb of the Patriarchs. The houses belong to the a-Za'tari family, who had to leave them during the second intifada as a result of Israel's policy in the city. The settlers claimed to have made a lawful purchase, but the military evicted them several days later, locked up the houses and kept a watch on them. In March 2018, the Civil Administration Land Officer issued the settlers a "transaction permit", which does not confer ownership but is the first stage of a registration procedure that can take many years to complete.²³ Nonetheless, the settlers used this permit as an excuse to invade the houses, and 15 settler families now live in them.²⁴ In July 2019,

the HCJ dismissed a petition filed by the a-Za'tari family, having ruled there was a "lack of clarity" around who holds rights in the property and the issue had to be resolved by a "competent court", which was not the High Court of Justice.²⁵

• **The Bakri House in Tel Rumeida:**

At the end of 2001, after suffering constant harassment and assaults by settlers, along with the movement restrictions imposed on Palestinians in the area, the Bakri family reluctantly left their home, which stands next to the Beit Menachem settlement. Settlers then broke in, damaged doors and windows and destroyed the front porch. The Bakris hired a metal worker to seal the doors and windows. In 2005, settlers invaded the house again, this time claiming they had purchased it. A police investigation found that the transfer deeds had been forged. In January 2008, then-Deputy State Attorney Shai Nitzan announced that the findings of the investigation into forgery and fraud had been forwarded to the Jerusalem District Attorney.²⁶ To the best of B'Tselem's knowledge, no decision has been made in the case to date – more than ten years later.

Since the settler's invasion, the Bakri family and the Hebron municipality have been engaged in legal proceedings to evict them. In March 2019, the Magistrates Court in Jerusalem instructed the settlers to vacate the building within 45 days and

19. HCJ 10302/07, *Tal Construction and Investment in Karnei Shomron Ltd. et al. v Minister of Defense et al.*

20. CC 2025/08, *Tal Construction and Investment in Karnei Shomron v Faiz Muhammad Zayed Rajabi*. See also, Amos Harel, Nadav Shragai and Tomer Zarhin, "HCJ orders contested house in Hebron evicted in 3 days", *Haaretz*, 16 Nov. 2018 (Hebrew).

21. CA 8012/12, *Faiz Rajabi v Tal Construction and Investment in Karnei Shomron*.

22. See Beit Hashalom website: <https://beithashalom.com>. See also, Shabtai Bendet, "3 families enter contested house in Hebron with HCJ approval", *Walla! News*, 13 Apr. 2014 (Hebrew).

23. Letter by Att. Samer Shehadeh to the Minister of Defense et al. concerning the 'new invasion' of settlers into houses in the Old City of Hebron, 15 April 2018.

24. Jacob Magid, "Claiming State Approval, Settlers Take Over 2 Disputed Hebron Buildings", *Times of Israel*, 27 March 2018.

25. HCJ 4470/18, *Shahira 'Abd al-'Aziz al-Za'tari v. State of Israel*.

26. Letter from Deputy State Attorney (Special Functions) Shai Nitzan to Hagit Ofra of Peace Now, 6 Jan. 2008.

also pay the family NIS 580,000 (~USD 166,300) in damages.²⁷ A company named Tal Construction and Investment in Karnei Shomron appealed the ruling to the Jerusalem District Court on behalf of the invading settlers. The appeal is currently pending.²⁸

• **The Rajab House (“Beit Hamachpela” or the House of the Patriarchs):**

For more than seven years, settlers have been trying to take over the Rajab house, which stands next to the parking lot south of the Tomb of the Patriarchs. The first invasion took place in March 2012, when a group of settlers entered the two upper floors, which were vacant. The settlers left the building after a Palestinian family living on the

first floor petitioned the HCJ and the state made an undertaking that the building would remain empty until a decision was reached by the First Registration Committee in the Civil Administration concerning the legality of the purchase. In July 2017, settlers again entered the building, but vacated it several days later after the military issued a closure order for the floors they had invaded. The HCJ denied a petition filed by settlers in March 2018, with the justices ruling that it was not their role to decide on property rights in the building.²⁹ Today, the upper floors are empty but adorned with Israeli flags and signs proclaiming the building as “the House of the Patriarchs”.

27. See judgment by Jerusalem Magistrate Court judge Yael Yitav in CC 48162-09-13 *Tal Construction and Investment in Karnei Shomron Ltd. v Juda Bakri (Formali) et al.* and CC 12278-02-14 *Juda Bakri v Tal Construction and Investment in Karnei Shomron Ltd.*, 12 March 2019. See, also Peace Now, “Court Orders Eviction of Settlers from Bakri House in Hebron”, 18 March 2019.

28. Yotam Berger, “Court Orders Settlers Evicted from Palestinian Home Purchased with Forged Documents”, *Ha’aretz*, 22 April 2019.

29. HCJ 6247/17, *Imran Ibrahim Abu Rajab v the al-’Aidun Lilakrat company (Talmon) Ltd.* For a summary of the affair, see Yotam Berger, “Top Court Okays Eviction of Israeli Settlers from Contested Hebron House”, *Ha’aretz*, 12 March 2018.

Chapter 2: The separation regime in Area H2

Israel is openly implementing a regime of separation between Palestinians and settlers in H2, enforced through draconian restrictions on the movement of Palestinians and a system of staffed checkpoints and physical obstructions, which make daily activities extremely taxing. Israeli security forces impose additional restrictions whenever they see fit, for indefinite durations and with no prior warning.

The separation regime was instituted after the massacre in the Tomb of the Patriarchs in February 1994. At first, it consisted largely of lengthy curfews and varying restrictions on Palestinian movement and commercial activity. These measures intensified during the second intifada, and consolidated, by the end of 2005, into an official plan defining entire areas as partially or fully off limits to Palestinians.

A. The development of the separation regime

In February 1994, immediately after the Tomb of the Patriarchs massacre, the military imposed a 29-day curfew on the Palestinian residents of Hebron; this was extended for another 10 days in the Old City.³⁰ The military also barred Palestinian vehicular traffic along a section of a-Shuhada Street – until then the major thoroughfare of the Old City – and shut down the 60 odd stores and two gas stations on it. In addition, the military shut down the meat market and the wholesale market, which lie near the Avraham Avinu settlement. From then until September 2000, when the second intifada broke out, the military closed and opened the street intermittently.

When the second intifada broke out, the military once again imposed extreme restrictions on the

movement of Palestinians. During the first three years of the intifada, the military imposed lengthy curfews in the city, forbidding Palestinians to leave home at any time of the day or night, except for several hours once or twice a week, when they were allowed out to buy food. The curfews were usually imposed on the entire area of H2, sometimes only in certain neighborhoods, but never on settlers. Curfews were imposed for at least several hours on more than 500 days during this time – including one period of 182 days consecutively.³¹ A petition filed by the Association of Civil Rights in Israel (ACRI) against the lengthy curfew was dismissed, after the judges ruled that the military had imposed it proportionately, in circumstances that required the protection of civilians and soldiers.³² Throughout 2004, the military significantly reduced the use of curfews in Hebron, but by then, many Palestinians had already left their homes and shops in Area H2.³³

The military imposed further restrictions on Palestinians. In October 2000, a-Shuhada Street was permanently closed off to Palestinian foot and car traffic and all Palestinian commercial activity was banned.³⁴ The military also shut down more than 100 stores in an area known as the Shalalat (streets in Hebron's old market that run parallel to a-Shuhada Street), some of which are adjacent to the settlers' houses in Beit Hadassah. By 2005, the military had officially canceled the closure of dozens of these stores – but they remain closed to this day, due to Israel's policy in the city.³⁵

By the end of the second intifada, the military had established a system of dozens of checkpoints and physical obstructions designed to control and

30. *Impossible Coexistence – Human Rights in Hebron since the Massacre at the Cave of the Patriarchs*, B'Tselem Information Sheet, September 1995, p. 8.

31. See *Ghost Town*, fn. 1, p. 18.

32. HCJ 854/03, *Dr. Sufian 'Abd a-Rahman Sultan et al. v the Commander of IDF Forces in Judea and Samaria*.

33. See *Ghost Town*, fn. 1, pp. 17-22.

34. *Ibid.*, pp. 22, 37-38.

35. *Ibid.*, p. 15.

restrict Palestinian movement in all the areas around the Tomb of the Patriarchs and near the homes of the settlers and the streets they use.

In November 2005, in its response to an HCJ petition concerning movement restrictions in the city, the state unveiled “the plan for the protection of Hebron’s Jewish community”. In the response, the state clarified that the purpose of the plan was to separate Israelis and Palestinians in Hebron and that “according to the IDF’s operational paradigm in Hebron, there is currently a need for a ‘protective space’ near the sites that are vulnerable to terror attacks, including the Jewish neighborhoods in the city... both to ensure the safety of the soldiers and to protect the lives of the Jewish residents in Hebron.”³⁶

About a year later, the principle of separation was again officially laid out in a letter from Capt. Harel Weinberg, a security and criminal counsel officer in Central Command Legal Advisor’s Office, to the State Attorney’s Office. In the letter, Capt. Weinberg rejected alternative arrangements in the city proposed by the Peace and Security Council, stating that “the premise that ordinary Palestinian life can take place in an area alongside ordinary Israeli life does not appear to be compatible with the principle of separation that underlies the security forces’ program for securing the area.” Further on, Capt. Weinberg wondered:

Is it conceivable that the residents of the Jewish community can be protected in the Jewish neighborhoods, when they are isolated from one another and separated by an area where ordinary

Palestinian life takes place? How can we prevent a friction attack in these neighborhoods, when on their very doorstep (and in most cases, right below or next to them) there is ongoing Palestinian commercial life?”³⁷

Over the years, dozens of petitions have been filed with the HCJ against the separation regime, but none were accepted. The court’s policy was not to question the logic of separation that Israel applies in the city, and especially the basic principle that limiting tens of thousands of Palestinians – to the extent of keeping them away from the settlers’ homes and the streets they use – is justified to protect several hundred settlers and allow the settlement in Hebron to develop. The judges repeatedly ignored the cumulative impact of the restrictions and the wealth of information presented to the court, choosing instead to examine every restriction individually, outside the general context. The court unquestioningly accepted the military’s claim that the restrictions are needed “for security reasons” and that the harm to Palestinians is “proportionate” and will end as soon as circumstances allow it.³⁸

B. Implementation of the separation regime

The military has defined five “closed zones” in Area H2 that are off limits to Palestinians except by special permit from the military, much like settlements throughout the West Bank: the Tomb of the Patriarchs compound and the neighborhoods of Givat Ha’avot (which was defined as separate from H2 and assigned to the settlement of Kiryat Arba), Avraham Avinu, Beit Romano and Tel Rumeida. The latter is home to the Abu ‘Ayesha family – the only Palestinian home

36. The State’s response of 14 Nov. 2005 in HCJ 11235/04, *Hebron Municipality v the State of Israel*.

37. In letter from Harel Weinberg of the Office of the Legal Advisor for the West Bank to Att. Shai Nitzan of the State Attorney’s Office, 31 Jan. 2007, sent following a request by ACRI to Att. Nitzan concerning human rights violations in Hebron. For the full letter, see ACRI website: <https://law.acri.org.il/pdf/hevron0107.pdf> (Hebrew).

38. See, for example, judgments in HCJ 854/03, *Dr. S. A. A. S. et al. v the Commander of IDF Forces in Judea and Samaria*; HCJ 7007/03, *Muhammad ‘Ali Qawasmi et al. v the Commander of IDF Forces in Judea and Samaria*; HCJ 3043/18, *‘Issa Amro v the Commander of IDF Forces in Judea and Samaria*; and HCJ 11235/04, *Hebron Municipality v the State of Israel*.

located within a closed military zone.³⁹ Defining a settlement as a “closed zone” to Palestinians is not unusual – it is standard Israeli practice.

In addition to closing off these five complexes, the military imposes a system of restrictions that creates a contiguous strip of land isolated from the rest of the city and partially or fully off limits to Palestinians. This corridor extends from the settlement of Kiryat Arba in the east to the Jewish cemetery in the west.

Some of the movement restrictions are based on military orders, which are periodically extended and form the matrix of the separation regime. The orders are drafted in clinical language, with restrictions imposed on vehicles that are not “legally registered in Israel” or on persons who are not “registered in Israel’s population registry” or not “eligible to immigrate to Israel under the Law of Return”.⁴⁰ The military further limits Palestinian activity during Jewish holidays or public events held by settlers, to which tens of thousands of Jewish visitors flock.

The main roads in H2 that are devoted to the exclusive use of settlers and barred to Palestinians are:

“Zion Route”:

’Othman Bin ’Afan Street, which leads from the roadblock near the Ashmoret Yitzhak Border Police base, through the western entrance to the Kiryat Arba settlement, to the “Worshippers’ Road”. In 2006, Palestinian car traffic was banned along this road. The military gradually permitted residents of the street to travel on it by car, subject to receiving

a special permit. Today, only 85 Palestinian vehicles whose owners have obtained such a permit are allowed on the street.

“The Worshippers’ Road”:

This road starts at the boardwalk on the southwestern outskirts of Kiryat Arba, passes by Palestinian houses in the neighborhoods of Wadi al-Hussein, a-Salaimeh and Gheith, and reaches the Tomb of the Patriarchs. Palestinians are not allowed to travel along it by car or on foot, but the military sometimes permits pedestrians and carts through – at the personal discretion of the soldiers (except along the boardwalk that reaches Kiryat Arba). A stone wall has been erected along this part, making access difficult for residents of Wadi al-Hariqah and Wadi a-Nasarah.

In the western part, in late 2002 the military blocked all entrances, doorways and windows of the buildings facing the road from the neighborhoods of Jaber and a-Salaimeh, after Palestinians killed 12 members of the Israeli security forces nearby. The obstructions were formed with metal sheets and stone walls, or cement-filled barrels.

In 2017, the military installed a tall metal fence separating the neighborhoods of Gheith and a-Salaimeh from the western part of the “Worshippers’ Road”. This forces some residents of these neighborhoods, which are built on a steep slope, to use a steep, bumpy dirt road to reach their homes – while settlers are free to walk along a parallel paved road. The residents of these neighborhoods can only access a-Shuhada Street via a narrow gate, which is supposed to

39. See B’Tselem, “Daily attacks by settlers on Abu Ayesha family”, 4 Jan. 2007.

40. The military issued 17 movement restriction orders in Hebron. The updated list – orders on closing of space and restriction of movement, orders on restriction of movement and declarations of closed zones – are included in a letter by the head of operations at the Office of the Legal Advisor for the West Bank, Maj. Haggai Rothstein, to Att. Roni Pelli of ACRI, 7 Dec. 2017.

be open every day from 6:00 A.M. to midnight. In reality, however, Border Police officers close the gate as they see fit, on weekends and on Jewish holidays or as collective punishment whenever neighborhood children purportedly throw stones.

A-Shuhada Street:

In the western part of the street, from Gross Square to the Cordoba steps opposite Beit Hadassah, the military prohibits all Palestinian movement – on foot or by car – and commercial activity. From the steps to the Shoter Checkpoint, Palestinians are allowed on foot only. In this section, the military has blocked and welded shut the doors of Palestinian shops facing the street. Climbing the stairs leading from the street to the Cordoba school and from there to the neighborhood of Tel Rumeida is permitted to students and teachers of the school alone.⁴¹ Settlers may use the stairs on their way to the neighborhood, but usually do so only with a military escort.

The passageway from the Shoter Checkpoint to the Tel Rumeida neighborhood:

In this part of the street, the military allows Palestinians on foot only. In 2015, the military tightened the restrictions on the section reaching Tel Rumeida and permitted passage only to residents of the neighborhood who registered in advance, subject to inspections at checkpoints. Some residents refused to register and were forced to use long circuitous routes to get home.⁴² Since early 2019, the military has again permitted Palestinians on the street – on foot only. To enforce the prohibitions listed above, the military

erected a series of checkpoints and obstacles around H2. Until the beginning of September 2019, the military had placed 22 checkpoints and 64 obstructions of various types in the area: walls made of stone or of cement-filled barrels, concrete or metal slabs and a wide variety of fences.⁴³

Six checkpoints have been turned into fortified “smart inspection points” over the last two years. Three of them – Checkpoint 160, the Pharmacy Checkpoint and the Shoter Checkpoint – are called “crossings” and are covered by wooden beams that conceal what happens inside. The construction of these fortified checkpoints began after the wave of violence in 2015, which included attacks against soldiers in H2 checkpoints and especially in Tel Rumeida. At the time, the military banned Palestinians not registered as neighborhood residents from passing through it. After three of the checkpoints surrounding the neighborhood – Hashoter, al-Arba'in and Qafishah – were fortified, the ban was lifted.⁴⁴

The fortified checkpoints have face-recognition technology and metal detectors installed, allowing for total separation between the soldiers or Border Police officers staffing them and the Palestinians passing through them. The fortification led to the seizure of Palestinian land several times larger than that needed for earlier checkpoints, in order to surround them with fences that include netted covers against stones and Molotov cocktails, install electronic gates and place concrete blocks to prevent vehicles from breaking through.⁴⁵

41. Order concerning Security Provisions [consolidated version] [Judea and Samaria] [no. 1651], 2009, Defense Regulations (State of Emergency), 1945; Provisions concerning restriction of movements and traffic (“the Cordoba stairs”), 2018, 24 April 2018, signed by Maj.-Gen. Nadav Padan.

42. See B'Tselem, “New restrictions on movement in Hebron and environs disrupt lives and constitute prohibited collective punishment”, 5 Nov. 2015.

43. OCHA counted 121 checkpoints and obstructions of various kinds in H2, see “OCHA survey”, fn. 5., p. 4. The difference between the lists stems from B'Tselem counting obstructions concentrated in a particular area as a lone checkpoint or obstruction and does not count those located inside the Tomb of the Patriarchs.

44. See B'Tselem, “Israeli military isolates Palestinian neighborhoods in downtown Hebron, making daily life an ordeal”, 1 Dec. 2016.

C. The effect of the separation regime on residents

The network of checkpoints and obstructions in the city affects all Palestinians living in, or accessing the area, preventing them from going about their daily affairs in a reasonable manner and subjecting them to constant uncertainty. Every simple action involves crossing a checkpoint, sometimes several of them; every such crossing involves a lengthy, degrading inspection, with the soldiers deciding whom to check, at what pace, and whom to allow through. Occasionally, the military closes one of the checkpoints, arbitrarily and without warning. This forces residents to use longer bypass routes, which often are not suited for older adults or people with disabilities. The military also requires residents to obtain advance approval to bring service providers into the area, making it even harder to lead a normal life. These conditions make living in the area unbearable.

A representative sample gathered by the UN Office for the Coordination of Humanitarian Affairs (OCHA) in 2015-2018 among Palestinian families living next to the streets and houses used by settlers illustrates how debilitating the effect has been on their lives: 81% of Palestinians living in the area reported having to cross a checkpoint at least once a day to get home; 89% cannot reach home by car; 88% of children have to cross a checkpoint on their way to school; and 90% of families reported

that their children have been detained, frisked or harassed at least once at a checkpoint.⁴⁶

The separation regime has torn away at the social fabric of area residents, which relies on a network of connections between extended family members and includes mutual visits, celebrating family events together and sharing meals during Ramadan. Limited movement options and having to walk long distances, sometimes along rough, steep dirt roads, has cut residents off from family and friends. Young people report diminished marriage prospects, as potential partners fear the difficulty associated with living in these neighborhoods and the inability to maintain reasonable family ties. Of the families surveyed, 65% reported a drop in the frequency of family visits to their homes: in 82% of the cases, the reason given was fear of harassment at checkpoints, and in 52% it was the explicit prohibitions on entering the area.⁴⁷

Commercial activity has shrunk to several grocery stores and traditional workshops. Any significant purchase of goods requires leaving the area and carrying the goods through checkpoints on foot, along hundreds of meters and steep roads, even heavy loads.

The military claims that the new checkpoints erected over the past two years are meant to reduce “friction between security forces and Palestinian residents” and improve “respect for the dignity and privacy of the inspected persons.” The Defense Ministry also informed the HCJ of its intention to

45. HCJ 4330/17, *Hebron Municipality et al. v the State of Israel*. The petition stated that for the purpose of expanding two “inspection posts” in the neighborhood of Tel Rumeida, the seized area was expanded from 106 sqm to 1,047 sqm. See, also, HCJ 772/16, *Hebron Development Committee et al. v the State of Israel et al.*

46. See OCHA survey, fn. 5, p. 5.

47. *Ibid.*, p. 9.

integrate “technological tools” into the upgraded checkpoints that would allow identifying “known” Palestinian residents and having them cross in an “expedited procedure”, and that these checkpoints would have “a covered walkway” for people with disabilities.⁴⁸

This is a far cry from reality. Not only is crossing these checkpoints not faster, according to testimonies given to B’Tselem it actually takes considerably longer than before. Also, some of

the old checkpoints allowed the transfer of bulk purchases, commercial goods or water tanks using the back-to-back technique: carting them from a car that drives up to one side of the checkpoint to carts, some horse- or donkey-drawn, waiting on the other side. This option was also essential to the activity of the few traditional pottery workshops remaining in the area. The new checkpoints make it difficult to transport large quantities of raw materials and goods – further harming the residents and commercial activity.

48. HCJ 4330/17, *Hebron Municipality et al. v the State of Israel*. See, also, HCJ 772/16, *Hebron Development Committee et al. v the State of Israel et al.*

Chapter 3: Routine of violence

The separation regime Israel imposes in Hebron goes hand in hand with routine acts of violence by security forces and settlers against Palestinian residents, even if not officially.

A. Violence at the hands of Israeli security forces

The military presence in Area H2 includes patrols on foot and by car, soldiers stationed at almost every street corner, and guard posts on the roofs of Palestinians' homes. On weekends and Jewish holidays, the military requisitions the rooftops of more houses and turns them into posts, too. As of May 2019, seven rooftops have permanent military posts on them, all near settler houses. Soldiers deploy in 36 more homes on weekends and Jewish holidays. In six homes, the military has installed surveillance cameras facing streets with Palestinian pedestrians.

This inescapable presence means incessant, daily friction between residents and security forces at checkpoints and on streets, which comes with acts of physical violence, threats, insults and various forms of humiliation. Residents also suffer repeated incursions of the military into their homes, usually in the dead of night – and false arrests on streets and at home, including of minors, some below the age of criminal responsibility.

OCHA's survey illustrates the effects of the constant friction with security forces and the extent of harm this causes the Palestinian residents: 75% of Palestinian homes located near areas and streets used by settlers were searched at least once since

October 2015; in 97% of the searches, a member of the family was physically assaulted by security forces. Twenty percent of the families reported that one of their children had been arrested by soldiers,⁴⁹ and 75% cited harassment by Israeli security forces as their main concern.⁵⁰

Soldiers who served in Hebron and have given testimonies to Israeli NGO Breaking the Silence have repeatedly described the arbitrary use of military violence against Palestinian residents. The goal – according to the instructions they received – is to “increase the sense of persecution”.⁵¹

One soldier related that “most missions – I mean routine ones – are also intended to make the Palestinians know you're there. That the army's there. That they mustn't relax for a second, normal civilians just as well.”⁵² Another soldier emphasized the free rein given to security forces to harass and intimidate Palestinians:

*You actually do whatever you want to do unsupervised, that is, enter people's homes, conduct random searches. Every officer, every commander can decide now I'm entering a home, ordering the family out, ransacking the house... On one occasion we were told: 'Peace and quiet is not necessarily good, and if there isn't mayhem, we'll create it.' To demonstrate power, to demonstrate that we are everywhere.*⁵³

One tried to convey the supposed rationale for the military's conduct in the city:

Terror here can emerge out of any home. So what we do, is to random-check everyone... For this to be

49. See OCHA survey, fn. 5., p. 6.

50. *Ibid.*, p. 16.

51. See, for example, a letter from Breaking the Silence to President Reuven Rivlin regarding “Your planned visit to Beit Hadassah in Hebron” (Hebrew). See, also, the video testimony “Create the sense of persecution”; Breaking the Silence, *Soldiers' Testimonies from Hebron 2011-2017*, testimony no. 30 of a first sergeant in a Nahal reconnaissance battalion, p. 46.

52. Breaking the Silence, *Soldiers' Testimonies from Hebron 2005-2007*, testimony no. 7, p. 14.

53. Breaking the Silence, *Soldiers' Testimonies from Hebron 2001-2004*, p. 12.

effective, it has to take place at times when everyone is already at home. So it's nighttime... at the end of the day the objective is also to sow fear. Make everyone know that the army can appear at any moment. An army patrol can show up anytime and search a home.⁵⁴

A captain also addressed the nightly incursions into homes, called "mappings" in military parlance:

During mappings we enter a home without any prior intelligence, there's no wanted [person] (for interrogation), nothing to do with any hostile terrorist activity or danger... I felt that the army had a very strong desire, and an interest backed by the Jewish community, for them (the Palestinians) to know and see that the army is there all the time.⁵⁵

Another soldier referred to the false arrests made during these night incursions:

What we did have though were false arrests that we... that our company commander carried out, his own initiative. Also to train us and show that the army can go in anywhere it wants, arrests anyone it wants in the middle of the night, without any apparent reason. There was no reason. The place was chosen at random on the map, where the finger touched, that family's home was broken into in the middle of the night.⁵⁶

A lieutenant from the Nahal Division summed it up: "In Hebron, if you're a Palestinian, I'll enter your house whenever I feel like it, and search for whatever I want, and I'll turn your house upside down if I want to."⁵⁷

B. Settler violence: Aided and abetted by security forces

Settler violence against Palestinians has been part and parcel of the settlement in Hebron from its inception. In some cases, the security forces observe and refrain from intervening. At other times, they actively participate. Either way, with very rare exceptions, the settlers enjoy near complete immunity. All the law enforcement agencies – the police, military and the State Attorney's Office – take no action whatsoever to prevent violent acts, do not investigate after the fact and do not bring perpetrators to justice. The vast majority of cases are closed with no measures taken – and the violence continues.

This is not a matter of isolated incidents or some flaw in the system. It is a consistent policy employed by Israeli law enforcement authorities throughout the West Bank, as demonstrated repeatedly in reports by human rights organizations.⁵⁸ The conduct of authorities regarding settler violence and their refusal to enforce the law on perpetrators has also attracted official criticism.⁵⁹ Yet the policy remains unchanged.

The Israel Police in Hebron exemplifies this policy. The police station was founded in 1994 on the recommendation of the Shamgar Commission, which was established following the massacre at the Tomb of the Patriarchs. According to the State Comptroller's report, now – 25 years later

54. Breaking the Silence, *Soldiers' Testimonies from Hebron 2005-2007*, testimony no. 16, p. 27.

55. Breaking the Silence, *Soldiers' Testimonies from Hebron 2011-2017*, testimony no. 28, p. 42.

56. Breaking the Silence, *Soldiers' Testimonies from Hebron 2005-2007*, testimony no. 82, p. 101.

57. Breaking the Silence, *Soldiers' Testimonies from Hebron 2011-2017*, testimony no. 27, p. 40.

58. See, for example, B'Tselem reports *Ghost Town* (fn. 1) and *Impossible Coexistence* (fn. 30). See, also, collections of testimonies given to Breaking the Silence: *Soldiers' Testimonies from Hebron 2001-2004*, *Soldiers' Testimonies from Hebron 2005-2007*, *Soldiers' Testimonies from Hebron 2008-2010*, *Soldiers' Testimonies from Hebron 2011-2017*. See also, Yesh Din, *Standing Idly By: IDF soldiers' inaction in the face of offenses perpetrated by Israelis against Palestinians in the West Bank*, Jan. 2015.

59. Report by the coordinating team headed by Deputy Attorney General Yehudit Karp. The report was submitted to the Attorney General on 23 May 1982. See, also, *Report of the State Commission of Inquiry into the Massacre in the Tomb of the Patriarchs*, 1994 (the Shamgar Commission).

– the police and military have yet to formally define the responsibilities of each at the scene of an incident.⁶⁰ Moreover, the police participates in attacks on human rights activists, including the organizers of Breaking the Silence tours and B'Tselem field researchers.⁶¹ Just recently, the Hebron police closed complaints by Breaking the Silence concerning assaults by settlers in Hebron – despite being provided with footage.⁶²

In recent years, Hebron settlers have changed their tactics. They now focus largely on daily harassment of Palestinians, especially in Tel Rumeida – the only neighborhood in Hebron where Palestinians continue to live next to settlers. Still, according to the OCHA survey, 70% of Palestinian families living by settlement concentrations reported that at least one member of their family experienced an incident of settler violence since October 2015, while 20% said they experienced such violence on a weekly basis. Among the families affected by settler violence, nearly 80% reported intimidation and threats, 48% related physical assault, 33% described stone throwing, 12% reported denial of access and 5% reported gunfire. More than 80% reported emotional distress as a result of settler violence, 25% reported damage to property and 18% described bodily injury.⁶³

In January 2019, Prime Minister Benjamin Netanyahu decided to end the work of TIPH (Temporary International Presence in Hebron), an international observers' organization, which he called "an international force working against

us".⁶⁴ TIPH consisted of 64 observers and was active in Hebron since the Tomb of the Patriarchs massacre. The group documented incidents of harm to Palestinians and was permitted to reach any part of the city – on foot and by car. Stopping their work may leave Palestinians vulnerable to more acts of violence.

Testimonies of soldiers who served in the city indicate that to the military, settlers' interests prevail over those of Palestinians, even when the former wield violence against the latter. The testimony of a first sergeant in the Nahal Division reflects the settlers' confidence in the security forces' inaction:

*They [the settlers] know that they can do whatever they want, and they do whatever they want. They know that we can't do anything. The cops are their friends, friends of their families. They know that nothing will happen to them... They know that they can hit them, they know that they can steal from them if they want and nothing will happen to them.*⁶⁵

Another soldier testified that "a whole street [of Palestinians] had to move aside" so settlers could tour the Casbah with a military escort.⁶⁶ A soldier from the Nahal Division added that, as far as the military is concerned, "the sole mission there is to protect the Jews. The Palestinians don't matter at all, they made that clear."⁶⁷

60. *State Comptroller Report 68(b)*, 14 March 2018, p. 216-218 [Hebrew].

61. See 972, "Breaking the Silence founder detained in Hebron", 3 April 2014; B'Tselem, "Hebron Police prevent B'Tselem volunteer from lodging complaint about death threats, themselves threatening to arrest him", 1 Sept. 2016.

62. Maya Horodniceanu, "Despite footage: Hebron Police closes complaints by Breaking the Silence concerning assault", *Walla!*, 21 April 2019 [Hebrew].

63. See OCHA survey, fn. 5., p. 7.

64. Noa Landau & Yotam Berger, "Israel to Expel International Monitoring Force in Hebron After 20-year Presence", *Ha'aretz*, 28 Jan. 2019.

65. Breaking the Silence, *Soldiers' Testimonies from Hebron 2011-2017*, testimony no. 12, p. 22.

66. Breaking the Silence, *Soldiers' Testimonies from Hebron 2008-2010*, testimony no. 9, p. 21.

67. Breaking the Silence, *Soldiers' Testimonies from Hebron 2011-2017*, testimony no. 14, p. 26.

Chapter 4: Forcible transfer of Palestinians from H2

In a testimony given to Breaking the Silence, a soldier who served in the Civil Administration articulated the conclusion to be drawn from the separation policy and routine violence in Hebron:

*If you're [a Palestinian] with money, you won't live there. Why should you? The army takes over your house regularly, there are roadblocks. But especially on Zion route. If you live on Zion route or in the Casbah or something like that, and you have money, you just leave. Why should you [stay]? Why have the army sit there all day long... Not being able to drive up to your house, there's part of your neighborhood you can't go by foot? No reason [to live there.]*⁶⁸

Many Palestinian residents of H2 have been driven to the same conclusion. The separation regime, implemented for more than 25 years in a small area hemmed in by checkpoints and roadblocks, with its inescapable, debilitating effects that touch all aspects of local residents' lives, effectively making life in the area unbearable, has created a coercive environment that has pushed residents and businesses out. As a result, the historical center of the city has become a ghost town, stagnating after a massive exodus of all who can afford to leave.

In 2006, B'Tselem and ACRI conducted a door-to-door survey in Palestinian neighborhoods with settlements nearby or within them, and also in areas near streets used by settlers and security forces. The survey found that at least 1,014 apartments, which make up 41.9% of the apartments in the area, had been abandoned by their Palestinian residents, 659 of them during the second intifada.⁶⁹

A survey of 3,369 housing units conducted by the Hebron Rehabilitation Committee nearly a decade later found that 1,079 apartments (almost a third) were empty.⁷⁰ As an average Palestinian family in the West Bank numbers 5.1 people, it can be estimated that at least 5,500 Palestinians have left their homes in Area H2.⁷¹

The separation regime has not only driven residents out but also forced hundreds of businesses to shut down. B'Tselem and ACRI's 2006 survey found that 1,829 Palestinian businesses had been shut down and stood vacant, and that 62.4% were abandoned during the second intifada.⁷² An April 2019 report by OCHA revealed that according to Hebron Municipality figures, 512 Palestinian businesses in H2 had been closed by military order, and about 1,000 others by their owners due to movement restrictions that make access difficult for customers and supplies.⁷³

These figures reflect only some effects of the separation regime on Hebron. The exodus of Palestinian residents began before the second intifada broke out, intensified throughout the intifada, and has not stopped since. To this day, anyone who can do so leaves the city center. This predictable effect became evident shortly after Israel began to implement this regime. For example, back in 2007, Haggai Alon, who was an assistant to then-Minister of Defense Amir Peretz, outlined the results of this policy. He said: "There is no written order to empty Hebron of Arabs, but that's the greatness of military rule. It can simply refrain from doing: it can refrain from enforcing the law on the settlers and it can refrain from allowing the Palestinians to move around."⁷⁴

68. Ibid., testimony no. 18, p. 30.

69. See *Ghost Town*, fn. 1, pp. 13-16.

70. See OCHA survey, fn. 5, p. 16.

71. *Palestine in Figures 2017*, Palestinian Central Bureau of Statistics, March 2018, p. 15.

72. See *Ghost Town*, fn. 1, pp. 13-16.

73. *The Humanitarian Situation in the H2 Area of Hebron City: Findings of Needs Assessment*, p.12.

74. Meron Rapoport, "The Spirit of the Commander Prevails", *Ha'aretz*, 20 May 2007.

The departure of thousands of residents and the economic collapse of the area have significantly brought down property value in H2. Deserted houses are rented at extremely low prices, and sometimes even given for free to impoverished families in exchange for protection against damage or invasion by settlers. In addition, Israel's control of the area prevents the regular operation of Palestinian welfare authorities and the Palestinian police, drawing in disempowered populations, such as individuals suffering from drug addiction and their families, who find shelter in the abandoned homes – another factor contributing to the disintegration of the city center's social fabric.

Given these results, Israel's policy in the city constitutes a violation of the prohibition on the forcible transfer of protected persons in occupied territory. This prohibition is absolute and pertains to the expulsion of both individuals and entire communities.⁷⁵

Violating this prohibition is considered a grave breach of the Geneva Convention and constitutes a war crime, which comes under the purview of the International Criminal Court in the Hague.⁷⁶ No intention to expel residents is required for the crime to materialize – the expulsion only has to be a likely result of the policies the authorities implement. Therefore, even if the Israeli authorities did not intend to do so, after thousands of residents left their homes, they must have been well aware of the consequences of their policy, which nevertheless remained in place.

The fact that Israel does not use physical force to drive residents out of their homes does not

diminish its responsibility, as the prohibition applies whenever people leave their homes involuntarily or as a result of pressure exerted on them and their families. Creating a “coercive environment” – that is, circumstances that drive protected persons to leave their homes due to impossible living conditions created by the authorities – is also prohibited.⁷⁷ An expert opinion submitted by legal scholars Prof. Eyal Benvenisti, Prof. David Kretzmer and Prof. Yuval Shany to the HCJ, as part of a petition concerning the expulsion of Palestinians in the South Hebron Hills, stated:

The terms “forcible transfer or deportation” in Article 49 of the Convention must be interpreted extensively, in order to fulfill the purpose of the Convention, which is the protection of protected persons, and in view of the occupying military’s ability to exploit various justifications and employ various indirect methods in a way that requires the protected persons to leave their place of residence. Accordingly, it has been established that transfer is “forcible” even when no physical force is used directly against the protected persons with the purpose of causing their departure. Creating circumstances that indirectly cause the protected persons to leave is also considered a prohibited transfer.

The opinion cites several judgments by the International Criminal Court concerning Yugoslavia, in which the judges unequivocally found that “actions such as dismissal from work, searching homes and cutting homes off from water, electricity and telephone lines as part of a process of creating difficult living conditions for residents, designed to make people leave their homes” – constitute

75. Article 49(1) of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949. Article 8(2)(a)(vii) of the Rome Statute.

77. See, for example, the ICRC Commentary on article 49 of the Convention: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/COM/380-600056?OpenDocument>.

forcible transfer prohibited by Article 49(1) of the Geneva Convention.⁷⁸

Israel is implementing similar policies elsewhere in the West Bank, to varying degrees and by different means. In East Jerusalem and in dozens of communities scattered throughout the West Bank – mainly in the Jordan Valley, the South Hebron Hills and the Ma’ale Adumim area – Israeli authorities are implementing a policy designed to expel residents from their homes, seemingly of their own free will, by creating desperately unbearable living conditions. This policy includes, among other things, imposing a sweeping ban on the construction of both residential and public buildings, refusing to connect these

communities to basic services such as water and electricity, and refraining from building access roads. When, left with no alternative, residents build without permits – the Civil Administration issues demolition orders. Whether these orders are carried out or not, the threat of demolition hovers constantly over the residents.

The center of Hebron – which includes historic sites – cannot be demolished, nor is that something Israel wants. Yet the consistent, deliberate policy outlined above is intended to achieve the same result: emptying the area of Palestinians and transferring more and more areas to the control of settlers.

78. Prof. Eyal Benvenisti, Prof. David Kretzmer & Prof. Yuval Shany, “Expert legal opinion in relation to the petition filed by residents of villages in Firing Zone 918 against the intention to transfer them from their homes”, filed in HCJ 413/13, *Abu ‘Aram v the Minister of Defense*, sections 10, 11. See, also Prof. Eyal Benvenisti, “Expert legal opinion regarding the prohibition of forcible transfer in the village of Susiya”, filed in HCJ 1420/14, *Susiya Village Council v the Minister of Defense*.

Chapter 5: Daily life – testimonies of past and present

residents of H2

From the beginning of 2018 to May 2019, B'Tselem's field researchers in Hebron, Musa Abu Hashhash and Manal al-Ja'bri, collected some 100 testimonies from Palestinians describing life in H2 under the unbearable conditions created by the separation regime and the daily acts of violence by Israeli security forces and settlers. This reality leads those residents who can afford it to leave their homes. The testimonies paint a picture of daily lives in which even the most trivial action is affected by the violent Israeli presence in the city.

The testimony of Bilal Abu 'Eishah, 40, a tailor and a married father of six who used to live in Tel Rumeida:⁷⁹

I was born, raised and married in the neighborhood of Tel Rumeida in Hebron. My six children were born there. Until early 2017, I lived in a house that my family owned in the neighborhood. My wife is a teacher and five of my children attend school outside the neighborhood. I am a tailor and work at a sewing workshop in the Bab a-Zawiyah neighborhood, which is located only about 500 meters from my home in Tel Rumeida.

Our lives in Tel Rumeida could have been great. We had a copper factory, where I worked with my father and brothers, and a supermarket. The factory and supermarket were closed by military order and we lost a lot of money. That's why I had to take a job as a tailor at a sewing workshop. The military also demolished part of our home in 2003, on allegations that shots were fired from somewhere nearby.

We had to move to a tiny house far from the city center – from my workplace, my friends and relatives, and all my memories – in the neighborhood of Dwerban, in the northwestern part of Hebron. My wife and I realized that it was basically impossible to stay in our house in Tel Rumeida. I felt that our lives would be in danger if we stayed there. My wife and I and the entire family suffered every day.

It wasn't an easy decision. My wife and I borrowed more than 50,000 shekels (~USD 14,340) to build a small house in Dwerban, far away. I can't say I'm happy in the new house. The move turned our lives upside down: we transferred the kids to new schools, far from their friends and relatives, and the new house is far from our workplaces – my wife still teaches at school in Jabal Johar in the city center. But we're less worried now, and life is more or less stable. We don't run into soldiers and settlers, and my children don't live in a place that's basically like a big prison. There are no checkpoints, no curfews and no fear.

We held out a long time in Tel Rumeida, despite the difficulties, the curfews and the checkpoints. It didn't occur to us to leave our home, until in 2015 the stabbing attacks began, and along with that came the killing of Palestinians by Israeli security forces. Right in front of my house, more than 13 Palestinians were killed for allegedly trying to carry out stabbing attacks. I saw the young men lying in the street, dying before my very eyes. My wife and I watched from our window and cried. We tried to keep our kids away from the windows

79. Given to B'Tselem field researcher Musa Abu Hashhash on 15 May 2019.

so they wouldn't see. The last time they killed a Palestinian, my six-year-old son Ahmad was playing on the street. I had to jump over a three-meter-high fence to bring him home, even though I wasn't allowed on the street by the military.

That's when we said, enough, it's time to leave. But the decision was also the result of accumulated pressure over time that drove me to think about leaving the neighborhood. One of the simplest reasons was that I work in Bab a-Zawiyah. I was working night shifts but because of the security situation in the neighborhood, I had to stop working at night, which hurt us financially. Sometimes they would close the checkpoint with no prior notice, and then to get home I would have to sneak among the houses and risk my life. Once, my ten-year-old son Suhayb was on his way back from school and when he found the Baba-Zawiyah Checkpoint closed, he jumped over a high fence, fell and broke his arm.

For my wife and children, crossing checkpoints to get home was a major problem that caused them daily suffering. The kids would always tell us that their schoolbags were searched at the checkpoints. My wife would ask how long we would have to go through checkpoints every morning and every evening. It's not just the searchers at the checkpoints, it's the daily humiliation too.

We weren't allowed to enter Tel Rumeida by car, so we had to carry our groceries on foot, walking uphill for more than 300 meters, because we lived at the top of the neighborhood, near the Gilbert Checkpoint. Friends and relatives didn't visit much. It wasn't easy to spend holidays and the month of Ramadan without our relatives.

Opposite our house, they established the settlement of Ramat Yishai, and the settlers there were

dangerous. My kids told me more than once that the settlers' children had attacked them on their way home from school. When I protested – in order to protect my children – I was arrested. On one occasion I was arrested for a day, and on another for three days, on the allegation that I had attacked the settlers.

All of these reasons, and even just one, were enough for us to decide to leave the neighborhood. I'm not happy about it, and neither are my wife and kids. God willing, things will go back to the way they used to be in Tel Rumeida and we'll be able to go back to our home and our memories. What's upsetting is that you make tough decisions in your life because you have no choice, and not of your own free will. Leaving the neighborhood was the toughest decision for me, and for my wife and kids. To gain a bit of freedom, we paid a very high price. We still feel sad and frustrated about it.

The testimony of Hamed Abu Ermeileh, 52, a married father of 12 who used to live in Tel Rumeida:⁸⁰

I live with my two wives and 12 sons and daughters in two separate houses in Wadi al-Hariyeh, a neighborhood in Area H1. We moved there two years ago. Before that, we lived in two rented houses in Tel Rumeida, one of which lay opposite the entrance to the settlement of Ramat Yishai. We lived there for ten years.

During that time, I married off three of my daughters. Organizing the weddings involved a lot of suffering – for us, for them and for their husbands. We had to hold the wedding party outside the neighborhood because cars weren't allowed in. Many friends and relatives couldn't reach us because of the checkpoints and settlers.

80. Given to B'Tselem field researcher Musa Abu Hashhash on 17 May 2019.

Still, it didn't occur to me to get up and leave the neighborhood. We adapted to the situation. What encouraged us to stay in was the low rent for the two houses, compared to other areas under the Palestinian Authority, and the relationships we formed with the neighbors.

In 2015, when the stabbing attacks and killings began – many of which took place near my house – the Israeli army declared the area a closed military zone. Entry was forbidden to anyone not living in the neighborhood, including my three married daughters who had moved out of the neighborhood. Staying in touch with them and their families became impossible. Every visit we paid them involved restrictions and worrying: you have to visit only during the day; you can't be late getting home, both because of the security situation in the neighborhood and because of the checkpoints. During Ramadan, we couldn't invite them for the meals that mark the end of the daily fast with the family and they didn't come on the holiday, either. It made us very sad and frustrated.

The barriers and the closure imposed on the area were a real problem in recent years. My wives and I were constantly worried – until the last of the kids came home. Sometimes, the military would close the checkpoints suddenly, with no warning, and the kids would be stuck outside. Sometimes they were still outside when it was dark, and sometimes they would go to relatives in the Old City.

At other times, the checkpoints were closed because of some incident, when our kids had to get to school or back. Six of them are in school. Even when the checkpoints were open, they'd be late for school and late coming back home, because they'd have to stand in a long line for inspection and it was crowded. My kids would tell us how soldiers

at the checkpoint would search their school bags on their way home. They would come back with a lot of stories about crossing the checkpoint.

I am the provider of a large family with many children. That means lots of groceries and food that have to be carried home. Every time I would come back with groceries, I'd ask the kids to wait at the checkpoint and we would carry heavy loads uphill on foot, walking hundreds of meters in the bitter cold or scorching heat. It was very difficult to get a tank of cooking gas delivered. Whenever an appliance broke down – such as a washing machine or refrigerator – we were in trouble. We weren't able to bring in a technician to repair them, and it's impossible to carry such bulky items all the way to the checkpoint and from there to transport them to the store.

My wives pressured me to look for houses outside the neighborhood, but I kept hesitating. The rent outside the neighborhood is very high and I'm unemployed at the moment. I used to own a housewares store in Khan Shahin in the Old City, but I closed it after the second intifada, because of the situation in the Old City.

In the end, I couldn't bear the suffering and disruption of our lives anymore either. I was also increasingly concerned about the closure and the killings – especially as my children were growing up and I had a daughter of marriageable age. People are very hesitant about marrying girls from Tel Rumeida because of how hard it is for them to stay in touch with their families after they leave the neighborhood.

Now I pay double the rent but I'm free of the fear, worry and suffering. My family and I, and especially the children, are far from the checkpoints. We

don't walk around a dangerous area anymore, where settlers move freely with military support. We're rid of their taunts and attacks against our kids on the street. My children complained several times that the settler kids teased them and tried to attack them. I always advised them to be patient and not to react.

Looking back on it, I don't understand how I held on for ten years of daily suffering, fear and concern. My son To'meh got married three years ago and left the neighborhood, too. The bride's parents only agreed to the wedding on the condition that the couple does not live in Tel Rumeida.

The testimony of Narmin Sha'abnah, 20, married, a former resident of the a-Sahleh neighborhood.⁸¹

I live in the area of Um al-Dalia in the southern part of Hebron with my husband Ihsan, 22. I moved here seven months ago, after my wedding. Before that, I lived on the fourth floor of the Abu Mialeh building, which overlooks the Pharmacy Checkpoint. On my wedding day, I couldn't go from my family's house to my husband's house, as is customary. My family had to take me to my uncle's house in Wadi al-Hariyeh, and the groom came there so we could complete the wedding ceremony. The same happened when my sister Suzan got married. It put a damper on our family's joy.

My family suffers very much from life in a-Sahleh, as I did until I left. The area is surrounded by Israeli checkpoints. We often had to wait for hours until they let us through to get home – in the rain, sometimes in the bitter cold, and also on very hot days.

One of the things that makes things at the checkpoints worse is the narrow turnstiles,

especially when we want to carry goods or furniture through. We have to coordinate permission to bring in a gas tank, sofas or other pieces of furniture. I've been hit several times by the turnstile: once I got hit in the face because the police officer closed it before I managed to get through, and another time my foot got stuck in the turnstile.

After you go through the turnstile, you reach the electronic room that's controlled by two Border Police officers who sit behind a glass screen. They ask me to show them my ID every time I come to visit my parents. They taunt me and laugh at me. Sometimes they shout things I don't understand in Hebrew, which confuses me even more. It's very stressful and frightening. Sometimes, the police officers force me to empty my bag onto a table inside the checkpoint. That embarrasses me, because I have personal items in there. When the female officer saw I had underwear and sanitary pads, she started mocking me with the other officer. I felt embarrassed and angry. Sometimes, when the detector beeps, the police officer tells me to pass through it again and again. I get stressed and take care not to bring anything personal with me, so I won't be put through another situation that makes me embarrassed and angry.

Add that to the taunting and assaults against my father and brothers inside the checkpoint – being made to stand facing the wall, being searched in a way that's meant to provoke them, being kicked during the searches, and sometimes even being forced to strip. My mother is ill and needs to go to the bathroom very often; for her, waiting at the checkpoint is especially exhausting and difficult. The police officers very often shut down the checkpoint for hours on end, with the excuse that some kid has been arrested in clashes with schoolchildren.

81. Given to B'Tselem field researcher Manal al-Ja'bri on 10 June 2019.

Since I got married I've rarely visited my family, because my husband refuses to come with me. He's worried he'll be harassed outside the checkpoint. He suffered a lot during our engagement. Every time he came to visit me, he was detained and searched, and the Border Police officers harassed him. During Ramadan, he refused to come to my family's celebration and have the *iftar* dinner with them. He agreed only after I insisted. On 'Eid al-Fitr, I visited my mother and learned that not a single relative had visited her except my older brothers. None of their young children came to visit because everyone was afraid they'd be harassed at the checkpoints.

The testimony of Sahar al-Muhtaseb, 35, a mathematics teacher and married mother of five, who lives near the Tomb of the Patriarchs:⁸²

I live with my husband Luai and our five children, and I'm six months pregnant. I work as a math teacher at the Al-Quds school in Wadi al-Qadi, in southern Hebron. There are a lot of Israeli checkpoints around my house: the checkpoint at the main entrance to al-Haram al-Ibrahimi [the Tomb of the Patriarchs], the Court Checkpoint, the Pharmacy Checkpoint, Checkpoint 160 and the Bakery Checkpoint. I have to go through them every day to get to work. My husband has to go through checkpoints to get to work at the Hebron Municipality. My children also have to go through checkpoints to get to school and back.

At the checkpoints, we suffer daily harassment. We have to wait for a long time, our bags are searched, and it's difficult to get groceries to our house, especially gas tanks. It's very difficult to get the tanks through, and we're allowed to do so only with a permit and security coordination from the Civil Administration, via the Palestinian DCO.

In recent weeks – in fact, since the Jewish holidays began – things have gotten worse. The Jewish holidays cause us a lot of suffering because of the extreme restrictions on movement that turn our homes into prisons. The kids are late to school because they aren't allowed through the checkpoint at the main entrance to al-Haram al-Ibrahimi. They have to take a taxi to Bab a-Zawiyah and walk from there.

I wait an hour or two every day at the Pharmacy Checkpoint, on my way back from work. They close the checkpoints just when the schoolchildren in the southern part of the city finish school for the day, which is also when I reach the checkpoint. There are clashes between the schoolchildren and Border Police officers, who fire tear gas canisters, close the checkpoint and don't let us through to get home until the clashes end. It can take hours. I suffer especially from inhaling the tear gas, which is dangerous for my fetus. Sometimes I call my husband and get him to ask the Border Police officers to let me through.

Yesterday, at about 2:15 P.M., I got to the checkpoint and found it closed. Some residents were there, yelling at the Border Police officers to open up. It was pouring rain and we all got wet, but they ignored our requests and answered in a derisive tone. I shouted at one officer, "How can I get home if you close the checkpoint?" He replied: "You can fly home." I waited there with my daughter, in the rain, for about two hours, without knowing why the checkpoint was closed. Eventually, my husband came there and called the people in charge, such as the Palestinian DCO and the Red Cross, until they finally opened the door and we went through.

Today, at about 2:00 P.M., I got to the Pharmacy Checkpoint and it was closed. There were some

82. Given to B'Tselem field researcher Manal al-Ja'bri on 6 Nov. 2018.

Border Police officers there, stationed near concrete blocks about 20 meters away from the checkpoint, and they told me to turn back. I was with a few other women who live in the area. I tried to convince them that I live near al-Haram al-Ibrahimi and that I wanted to get home, but the officer in charge yelled at us and told us to leave. I called my husband and he got there within minutes. He was very upset and Manal al-Ja'bri (a field researcher for B'Tselem) was with him. She tried to film what was going on but the Border Police officers wouldn't let her and moved her away from the checkpoint. They did seem to be uncomfortable with the filming though, and they opened up the checkpoint, so my husband and I managed to get home.

On Jewish holidays, there are gatherings of settlers and then we're not allowed to leave our homes. They essentially become prisons, with the occupants trapped inside. Add to that the loud music played during settler celebrations until morning, so we can't sleep. The children are very scared and anxious because groups of settlers attack Palestinian homes and Palestinian residents in the streets.

The testimony of Hanan Shweiki, 50, a married mother of six who lives in Tel Rumeida:⁸³

I live with my husband Walid, my sons 'Ali and Hamza, my son Walid, his wife Razan and their two-month-old son Walid. We've lived for 33 years in the upper part of Tel Rumeida, in the middle of the street that leads to the Jewish synagogue on the top of the hill overlooking the Jewish cemetery.

Life here is getting more terrible by the day. We feel like we're living in a huge prison. My husband and son work as glaziers. We have 180 square

meters of space for shops under the building but can't make full use of them, because the area is blocked off and it's very hard to bring raw materials in. Palestinian cars are also forbidden entry.

We suffer every day from the strict security procedures at the checkpoints that surround the area. In 2018, two new checkpoints were added, one near the Qafishah building and the other near the al-Arba'in mosque. Now the area is shut off from every direction and we have to pass through a checkpoint that has a room with electronic equipment and show our IDs every time. They always search the things we carry; sometimes the checkpoint is closed and we have to wait outside for more than half an hour, even when it's cold and rainy.

One of our worst experiences happened three months ago. My daughter-in-law Razan was eight months pregnant and started to bleed so heavily that we feared for her life. We called for a Palestinian ambulance, but it didn't come. Razan was covered in blood, so my son and I had to carry her about 400 meters until we got to the new checkpoint near the Qafishah building. From there, my brother drove her in his car to the 'Alia Government Hospital. Thank God, they stopped the bleeding and saved the baby. She was hospitalized for three days.

I suffer from the damage to my relationships with my family and relatives. Even my mother, who is 75, hasn't visited me since she had open heart surgery a year ago. She can't walk from the checkpoint to my house or back. My sons and husband are harassed and sometimes even assaulted when they go through checkpoints. I don't take relatives and friends up on invitations to visit because I have high blood pressure, diabetes and a slipped disc, and it's hard for me to walk uphill from the checkpoint. The Bab a-Zawiyah Checkpoint is

83. Given to B'Tselem field researcher Manal al-Ja'bri on 23 Jan. 2019.

hundreds of meters from our house and I can't walk that far.

Living in this area forced me to take my daughters out of school and marry them early. I was afraid they'd stay single because no one wants to marry girls who live in this neighborhood. My girls only visit me once every two months. When they come, I have to accompany them to the checkpoints because I fear for their safety.

I would like to live in a safer place, without checkpoints and electronic gates. I want to live a normal life, enjoy visits by relatives and my daughters, and not worry about my sons whenever they leave the house. That said, I love our home very much and will never leave it.

Conclusions

For 25 years, Israel has been openly pursuing a policy of segregation in the center of Hebron, in order to allow a handful of Jewish residents to live as though they had not settled in the middle of a bustling Palestinian city, in the heart of an occupied territory. This policy completely ignores the needs of hundreds of thousands of Palestinians and sentences them to an unbearable reality, with the hope that they will leave their homes ostensibly of their own free will.

The dozens of staffed checkpoints and physical obstructions installed around the city make even the most routine activities difficult for Palestinians. Leaving the house for work, grocery shopping or school, visiting family or going to the doctor – all these involve the hassle of waiting at a checkpoint, the specter of intimidating encounters with Israeli security forces and settlers. On Jewish holidays and during public events held by settlers, their homes turn into prisons and life becomes a nightmare. Palestinian also experience daily violence, both by security forces – who can raid their homes at any time, arrest their children and search their belongings – and by settlers, who harass them with the full backing and sometimes active collaboration of soldiers.

These living conditions have produced the outcome Israel desired: Thousands of Palestinians have left the city center, and it has become a ghost town where only Palestinians who do not have the option to leave remain. Entire parts of the historical city center now stand deserted, in stark contrast to the bustling commercial hub it had been for the entire southern West Bank.

The forcible transfer of thousands of Palestinian residents and the closure of hundreds of businesses in this manner violate the prohibition on forcible transfer enshrined in international law, which constitutes a war crime.

The settlement enterprise in Hebron could never have begun, nor later thrived, without massive support by all the official arms of the Israeli state, from 1968 to the present day. All the relevant decision makers – politicians affiliated with the right and left, Supreme Court justices, senior military commanders and defense establishment officials, the personnel of both the Military Advocate General Corps and the State Attorney's Office – have effectively accepted the existence of an Israeli settlement in the heart of a Palestinian city, tolerated the severity and frequency of the violent incidents it produced, and justified the ongoing oppression of Palestinian residents dispossessed of their homes, property and workplaces. This overwhelming support continues despite clear evidence of the heinous effect Israel's policy in the city is having.

The settlement in Hebron is exceptional in that it was injected into the heart of a major Palestinian city. Yet even if Israel's policy in Hebron is extreme, it is essentially identical to that employed in the rest of the West Bank: treating the area as primarily intended to serve Israeli needs and regularly ignoring the interests of Palestinians while giving settlers preferential treatment. This is carried out under a guise of legality based on military orders, legal opinions and High Court judgments – all of which sanction the ongoing occupation and dispossession.

A particularly brazen manifestation of this policy can be seen in small Palestinian communities in Area C of the West Bank, some of which are even more vulnerable than the population that remains in Hebron's Area H2. Israel's goal is similar in both cases: emptying the area of Palestinians thanks to unbearable living conditions created by the authorities and establishing Israeli control by expanding settlements and taking over farmland.

The long-term goals of Israel's policy across the West Bank have long since been clear: millions of Palestinians, denied political rights, are confined to life in enclaves that the state has deigned to allocate them, even as it steals land, exploits natural resources for its own needs and establishes communities for its own citizens only, who enjoy a separate – modern and generous – planning system and are subject to a different legal system. This regime instated by Israel is reminiscent of the systemic aspects of South Africa's Apartheid regime, referred to as 'grand apartheid', which included restricting access to land, limiting movement and denying political rights.

In Hebron, however, it is not only grand apartheid that applies, as it does elsewhere in the West Bank. Here, the separation regime is pursued so openly, so brazenly, in public space, that it exhibits aspects of 'petty apartheid' as well, in the form of policed, formal, public segregation of human beings based on ethnicity – Jewish or Palestinian – exercised through separate streets, checkpoints and physical obstructions.

The settlement in Hebron – which was established illegally and continues to produce a litany of human rights violations – is not an inevitability. The State of Israel chose to enable this settlement in the heart of a Palestinian city and continues to support and sustain it. The state runs the city as though it belongs to the settlers only and ignores, to the utmost degree possible, the needs and interests of the Palestinians for whom Hebron is home. This reality can – and must – be changed.



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