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B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

IMPOSSIBLE COEXISTANCE

HUMAN RIGHTS IN HEBRON SINCE THE MASSCRE AT THE CAVE OF THE PATRIARCHS

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רחוב עמק רפאים 43 (קומה שניה), ירושלים 93141, טלפון 5617271 (02), פקס 5610756 (02)
43 Emek Refaim St. (Second Floor), Jerusalem 93141, Tel. (02) 5617271, Fax (02) 5610756
e-mail: mail@btselem.org <http://www.btselem.org>

Research: Shmuel David

Written by: Shelly Cohen, Shmuel David, Eitan Felner, Yuval Ginbar, Noga Kadman, Yael Stein

Editing: Eitan Felner, Yael Stein

Fieldwork: Fuad Abu-Hamed, Bassem 'Eid, Yuval Ginbar

Translation: Jessica Montell and Zvi Shulman

English Version Editor: Zvi Shulman

INTRODUCTION

In the context of the negotiations between Israel and the Palestinian National Authority, an agreement is currently being formulated to arrange the withdrawal of Israeli security forces from West Bank towns prior to holding elections in the Territories. Media reports indicate that this agreement will provide a special arrangement for Hebron under which the city's Jewish settlement remains and Israeli security forces maintain overall responsibility for the city's security.

Jewish settlement in Hebron, located in the densely-populated center of a large Palestinian city, differs from other settlements in the Territories. The city's population numbers some 120,000 Palestinians and approximately 450 Israeli civilians.

Since 1968, when the Jewish settlement in Hebron was established following the Six-Day War, friction between the two populations led to numerous violent incidents, which have increased in number and intensity since the beginning of the Intifada. The killing of 29 worshippers by Baruch Goldstein in the Cave of the Patriarchs in February, 1994 was only the most tragic link in a chain of violent acts between settlers and Palestinians in Hebron.

Two days after the massacre, Israel established a governmental commission of inquiry, headed by then-President of the Supreme Court, Justice Me'ir Shamgar, to investigate the incident. The Commission's conclusions, submitted in June of 1994, strongly and broadly criticized the authorities' failure to enforce the law in the Territories against settlers and Israeli citizens, and noted serious defects in the handling of law enforcement.

Following the massacre and the recommendations of the Shamgar Commission, it was reasonable to expect the authorities to make a concentrated effort to prevent additional attacks on Palestinian residents and to improve significantly law enforcement in the Territories, in general, and in Hebron, in particular.

This report examines the activities of the Israeli authorities in the 18 months since the massacre, from February, 1994 to September, 1995. The first part of the report deals with security forces' activities in Hebron, activities which systematically violate the human rights of local Palestinians. The second part examines the conduct and efficiency of law enforcement against settlers who attack Palestinians and their property. The third part deals with violations of the human rights of Jewish settlers in Hebron.

LEGALITY OF JEWISH SETTLEMENT IN HEBRON UNDER INTERNATIONAL LAW¹

The establishment and continuation of Jewish settlement in Hebron violate various provisions of the Hague Convention and the Fourth Geneva Convention, which constitute part of international humanitarian law. Israel is obligated to implement these conventions in the Territories.²

1. **Prohibition on Population Transfer from the Occupying Country to the Occupied Territory**

The Fourth Geneva Convention prohibits the settlement of populations from the occupying country in the occupied territory. Article 49 of the Convention provides, *inter alia*, that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Whereas the beginning of the article, which deals with deportation of protected persons³ from the occupied territory, prohibits "forcible transfer... and deportation of protected persons," the prohibition on population transfer quoted above does not include the word "forcible." In other words, the prohibition on transfer of a population from the occupying power to occupied territory is broader, and includes settlement there under the auspices of the occupying power.

Several international law scholars agree with this interpretation. For example, Professor Yehuda Blum, who subsequently served as Israel's ambassador to the United Nations, wrote:

The distinction between (prohibited) "deportation and transfer" of a population of the occupying power to the occupied territory, and (permitted) "settlement" of its citizens as "those types of persons" into the occupied territory would be interesting were it not for the official commentary of the Fourth Geneva Convention that was published by the International Red Cross, that the relevant provision is intended, *inter alia*, to prevent "colonization" of the occupied territory by the occupier.⁴

¹ This section is based on a forthcoming **B'Tselem** report dealing with the principles and legal aspects of the establishment of settlements in the territories. For a more extensive discussion, see the forthcoming report.

² The Hague Regulations of 1907, which include universally accepted fundamental principles, are considered part of customary international law, which every state is obligated to respect. The international community maintains that Israel is also obligated to apply the Fourth Geneva Convention of 1949 to its occupation of the territories. See **B'Tselem, Human Rights Violations in the Territories, 1992/1993** (Jerusalem, 1994), pp. 16-19.

³ The term "protected persons" refers to occupied territory's residents, whom the convention is intended to protect.

⁴ Yehuda Blum, "East Jerusalem is not Occupied Territory," 27 *Hapraklit* (1973) 183. The reference by Blum to the "official

Jewish settlement of Hebron after the Six-Day War was largely accomplished with the Israeli government's approval and assistance. It began in 1968, when group of settlers headed by Moshe Levinger moved into the Park Hotel in Hebron and declared the site to be a settlement. The government later approved the relocation of the group to the government building in the city. It subsequently granted permits to the settlers to obtain buildings, and in certain instances even evicted Palestinian residents to make room for settlers. In at least one instance, an unauthorized settlement received *post facto* governmental approval: in 1980, the settlement at Beit Hadassah received a permit, about a year after it was established.⁵

Israeli settlement in Hebron, established by and with the assistance of the Israeli government, violates the Fourth Geneva Convention's prohibition on population transfer from an occupying power to the occupied territory.

commentary of the Fourth Geneva Convention" is to the commentary of Jean Pictet: Jean S. Pictet (ed.), **Commentary: The Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War** (Geneva: International Committee of the Red Cross, 1958). Although the Red Cross continues to rely on Pictet's commentary, it is no longer called the organization's "official commentary." Other jurists agree with Blum. See, for example, Adam Roberts, "Prolonged Military Occupation: The Israeli-Occupied Territories, 1967-1988," in Emma Playfair (ed.), **International Law and the Administration of Occupied Territories** (Oxford: Clarendon Press, 1992), p. 67; Yoram Dinstein, "Settlements, Deportation, and Occupied Territories," 7 *Iyunei Mishpat* (1979) 189.

⁵ See Ghazi Phalah, "Recent Jewish Colonization in the West Bank," in David Newman (ed.), **The Impact of Gush Emunim: Politics and Settlement in the West Bank**, (London: Croom Helm, 1985), pp. 245-260.

2. Prohibition on Permanent Changes to Occupied Territory

Under international law, the occupying power's acts must be provisional in nature. Consequently, it may not make changes that have long-term implications and create new facts on the ground. In the official commentary of the Red Cross, Jean Pictet writes that "the occupation of an area in wartime is essentially a temporary, *de facto*, situation..."⁶

In Hebron, the Jewish settlement in the city is clearly permanent in nature. The settlers repeatedly state that Hebron is a Jewish city, the "City of our Fathers", and that they will continue, therefore, to reside there.⁷ In this context, a distinction must be made between creating permanent facts and creating an irreversible situation: it is possible, of course, to vacate settlements, but that possibility does not negate the permanent nature of settlements. Acts of human beings are almost always reversible. But few acts are more permanent than buying a house, settling a family in that home, raising children in the community, etc. Permanent changes are permitted only where needed by the occupied population or for military necessity. The settlement in Hebron does not meet these criteria.

Justice Barak referred to this matter in the *Jam'et Askan* case:

The Hague Regulations revolve about two main pivots: one - ensuring the legitimate security interest of those holding the land by belligerent occupation; and the other - ensuring the needs of the civilian population in the territory subject to belligerent occupation... The military commander may not weigh national, economic or social interests of his country insofar as they have no ramification as regards his security interest in the area or on the interest of the local population.⁸

It is undisputed that the Jewish settlement in Hebron is not required for military necessity and that it serves no security function; conversely, it places a heavy burden on security forces acting

⁶ Pictet, p. 275; See also L. Oppenheim, **International Law: A Treatise, Vol. II: Disputes, War and Neutrality**, Seventh Edition, ed. H. Lauterpacht (London: Longmans), pp. 432-3.

⁷ See HCJ 390/79, *Dweikat et al vs. State of Israel*, Piskei Din 34(1)1, where the court denied the contention that the settlements do not constitute a permanent change, the settlers having declared that they consider the Alon Moreh settlement "to be a permanent Jewish settlement no less than Deganya or Netanya." (pp. 21-22)

⁸ HCJ 393/82, *Jam'et Askan Almalmon and Lithonia Almahdora Lamsaulia, Cooperative Association Registered according to Law at the Judea and Samaria Regional Command vs. Commander of IDF Forces in the Judea and Samaria Region et al*, Piskei Din 37(4) 788, 794-795. See also HCJ 302/72, *Suleiman Hilu et al vs. State of Israel et al*, Piskei Din 27(2) 169, 181; HCJ 606/78 *Suliman Tufiq Ayub et al vs. Minister of Defense et al* and HCJ 610/78, *Jamil Arsam Mattawa et al vs. Minister of Defence et al*, Piskei Din 33(2) 113.

in the area. Nor does the Jewish settlement serve the interests of the city's Palestinian population; it harms the rights of the local population and makes it difficult for them to live normal lives.

PART 1 - SECURITY FORCES' ACTIVITIES AMONG THE PALESTINIAN POPULATION

In the wake of the massacre and subsequent Palestinian demonstrations, security forces were present in massive numbers in Palestinian population centers in the Territories, particularly in Hebron. In their confrontations with Palestinian demonstrators, the security forces used live ammunition excessively. In addition, security forces further restricted Palestinians' freedom of movement, resulting in substantial harm to the routine of daily life in the city.⁹

The increased presence of IDF forces in Hebron includes a greater number of street patrols, positioning of observation points on roofs of dwellings, and often violent searches of residents' homes. The security forces often use excessive physical force against Palestinians.

The security forces also use measures which are routinely employed elsewhere in the Territories. Since these measures are not unique to Hebron, they will be briefly described below, but will not be discussed at length in this report:

A. Shootings: During the period covered by this report,¹⁰ security forces' gunfire killed 27 Palestinians, 13 of them in the confrontations between security forces and Palestinians prior to the end of March, 1994.¹¹ The number of persons killed in Hebron was appreciably higher than in other West Bank cities, both during the period immediately after the massacre and in subsequent months.¹²

B. Demolition of houses: During the relevant period, security forces, using massive firepower and bulldozers, demolished six houses totally and three houses partially during or following operations against wanted persons.¹³

C. Violation of right to freedom of religion: Several mosques were closed for a fixed period. On 8 June 1995, the Al-Jihad Mosque was closed for six months. On 14 June 1995, the Omar Ibn Abed El-Aziz Mosque and the 'Amru Ibn El-'Aas Mosques were closed for three months.

⁹ See **B'Tselem, Case Study No. 4 - Lethal Gunfire and Collective Punishment in the Wake of the Massacre at the Cave of the Patriarchs** (Jerusalem, March, 1994).

¹⁰ The 19 months following the massacre at the Cave of the Patriarchs (25 February 1994 - 25 September 1995).

¹¹ Palestinians killed three Israeli civilians in Hebron during this period.

¹² As regards deaths by security forces' gunfire during this period, seven Palestinians were killed in Nablus, two Palestinians were killed in Ramallah, one Palestinian was killed in Jenin, and one Palestinian was killed in Tulkarm. In Qalqilya, no one was killed by security forces' gunfire.

¹³ In comparison, Nablus during this period, one house was destroyed by missile-fire.

1. Restrictions on Freedom of Movement

a. Curfews

Hebron municipality daily logs¹⁴ indicate that 12 curfews of varying lengths were imposed on Hebron's Palestinian residents during the period surveyed. A total of 50 days of curfew were imposed; twenty-nine of them immediately followed the massacre in the Cave of the Patriarchs. In various parts of the city, principally in the old quarter, where the settlers live, the curfews lasted ten days longer.

The authorities also imposed 40 night curfews on the Palestinian residents and frequently declared partial curfews in various areas of the city.¹⁵ The total number of curfew-days in Hebron was greater than in any other West Bank city in the relevant period.¹⁶

Frequent curfews for extended periods severely disrupt the residents' daily life. Vital services, like hospitals, cannot operate normally, and curfews hinder commercial activity. During curfew, residents wanting to move about the city or leave it due to an emergency require permits from the Civil Administration, which can be obtained only after much trouble and effort.¹⁷

¹⁴ The figures were provided to **B'Tselem** by Mr. 'Azam El-Muhtasab, Hebron city clerk. **B'Tselem** also requested figures from the IDF Spokesperson, but the latter has not provided them.

¹⁵ Precise data is not available concerning the partial curfews and the areas where they were imposed. The records of the international observation force (hereinafter: Temporary International Presence in Hebron [TIPH]) provide data on partial curfews on parts of the city neighborhoods. For example, on 2 June 1994, a curfew was imposed on the northern part of the city, and it carried over into the next day (reports no. 26 and 27). A curfew was placed on the city center on 5 June 1994 for four days (report no. 29). A curfew was also imposed on the city center on 11 June 1994 and was cancelled the following day (reports no. 35 and 36). As for the reasons for establishing the observation force, see below at page 17.

¹⁶ According to statistics compiled by 'al-Haq, during this period, the Israeli authorities imposed 16 days of total curfew in the entire city of Ramallah, 14 days of total curfew throughout Nablus, and 14 days of total curfew throughout Tulkarm.

¹⁷ See **B'Tselem, Bureaucratic Harassment; Abuse and Maltreatment during Operational Activities in the West Bank in the First Year of the Declaration of Principles** (Jerusalem, September, 1994).

Curfews imposed on Hebron, being collective punishment, violate human rights; they also are discriminatory in that they are imposed only on Palestinians. Curfews are not imposed on settlers, regardless of the reason for the curfew. The security forces impose curfews on Palestinians for violent acts of Palestinians against settlers and also for violent acts of settlers against Palestinians. In the first instance, the security forces contend that they use the curfew to apprehend those responsible for the acts, and in the second instance, they impose the curfew allegedly to prevent "disturbances of the peace" by Palestinians and to "defend them" from further violent acts of the settlers.¹⁸

b. Checkpoints

Hebron is the only West Bank city containing checkpoints within the city. Most of the checkpoints are located in the city center, close to the area where the settlers live. Only Palestinians are checked at the checkpoints; the settlers are allowed to pass through freely.

Immediately after the massacre at the Cave of the Patriarchs, numerous roads were closed to Palestinian traffic. When the curfew imposed after the massacre was lifted, severe restrictions, in addition to those previously in force, were imposed on entry to a large area in the city center, where some of the settlers live (Beit Hadassah and Beit Romano). Under army orders, Hebron's main roads were blocked with concrete blocks, cement barrels, concrete fences, and other means. All streets branching off from the road leading from the "Glass Junction" to Kiryat Arba were closed, and the residents in the nearby neighborhoods were forced to travel longer distances along alternative routes to reach their homes; the road linking Beit Hadassah and the Avraham Avinu synagogue was closed to all Palestinian cars, resulting in financial loss to numerous businesses in the area (see the checkpoints' map); the large vegetable market in the city center, near the Avraham Avinu neighborhood, was also closed. Its operations were opened at Menara Square, outside the city center, at a site intended for other purposes.¹⁹

The checkpoints significantly hamper the residents, who must pass through them daily. The soldiers frequently delay, harass and humiliate residents at the checkpoints. Testimonies given to **B'Tselem** show that soldiers frequently make unreasonable demands of residents when checking their cars, confiscate their identity cards, or stop them for no reason.

In his testimony to **B'Tselem**, Raigheb Jaidet Raigheb Slima stated::

¹⁸ See, for example, *Davar*, 27 February 1994, 17 May 1994, 21 March 1995; *Al Hamishmar*, 20 May 1994, 10 July 1994, 21 March 1995; *Ma'ariv*, 19 April 1995. See also **B'Tselem, Law Enforcement Vis-a-Vis Israeli Civilians in the Occupied Territories** (Jerusalem, March, 1994) (hereinafter: **B'Tselem, Law Enforcement**), pp. 50-52.

¹⁹ The city of Hebron owns the wholesale market structure, and the wholesalers paid a usage fee to the city. According to media reports, during a visit by Ministers Moshe Shahal and Yossi Sarid in Hebron in May, 1995, the city received some NIS 650,000 in compensation for the losses suffered as a result of the market's transfer. See *Ha'aretz*, 22 May 1995.

On 2 June 1995, ... around 9:00 a.m., my wife had labor pains. No Palestinian vehicles reach my house, so I had to escort my wife on foot from the house to the Policeman's Square, where the first checkpoint was located, about 250 meters from my house. At the checkpoint, I stopped a car and brought my wife to the 'Alia Hospital, where she gave birth. The next day, 3 June 1995, when she was released from the hospital I drove her home by car. I drove about 12 kilometers before reaching the Tel Rumeida checkpoint, but soldiers did not let me enter Dabuya. I told the soldiers that my wife had just given birth, showed them the newborn baby and said that we wanted to go home. The soldier wasn't impressed. He said he would call his commanders, and that I had to return later. I drove around and again drove to Policeman's Square. At the checkpoint they prevented my entering Dabuya with the car. I had to take my wife out and we walked about 250 meters until we reached our home.²⁰

The checkpoint stationed at the entry to the 'Issa neighborhood demonstrates some of the difficulties checkpoints cause to Hebron's Palestinian residents. For six years the checkpoint has been located on the only road leading into the neighborhood.²¹ Ishaq Falah Siaj, aged 42, who owns an electronic appliance repair shop on 'Issa Street, described these difficulties:

Since they placed the roadblock, there has not been a week that they didn't close the checkpoint for a few hours or even a few days. When they close the checkpoint, the soldiers do not allow cars to enter the 'Issa neighborhood. 15,000 people live there, and there are many businesses and factories. The checkpoint is on the main street, so the residents have no other way to reach the neighborhood, and closing the road disrupts the residents' lives and the community's normal activities. The checkpoint's opening is so narrow that each vehicle passing through is damaged by the barrels placed there by the soldiers. On 13 June 1995 in the evening, the soldiers closed the checkpoint, and it stayed closed until 18 June 1995. No vehicle could enter or leave the neighborhood....

When a garbage truck arrives to take the garbage, it leaves half the refuse on the main street, and the soldiers force residents to clean the road.

We suffer greatly from this checkpoint and the way the soldiers conduct themselves. Sometimes they don't let cars travel on the road that crosses the checkpoint, and they order drivers to drive onto the sidewalk to go around the checkpoint.

Said Qfesheh, aged 18, owner of a textile shop in the 'Issa neighborhood, told **B'Tselem** that in June of 1995 he crossed at the 'Issa checkpoint. A soldier ordered him to stop:

He asked for my identity card and told me to open all the doors and the hood of the vehicle. The soldier searched the interior and then told me to disassemble the lights, the doors, and the seats. I refused. He told me: "You won't leave here until you take

²⁰ Testimony taken by **B'Tselem** fieldworker Bassem 'Eid on 17 September 1995 in Hebron.

²¹ The testimonies related to the 'Issa barricade were given to **B'Tselem** fieldworker, Bassem 'Eid on 21 June 1995 in the 'Issa neighborhood.

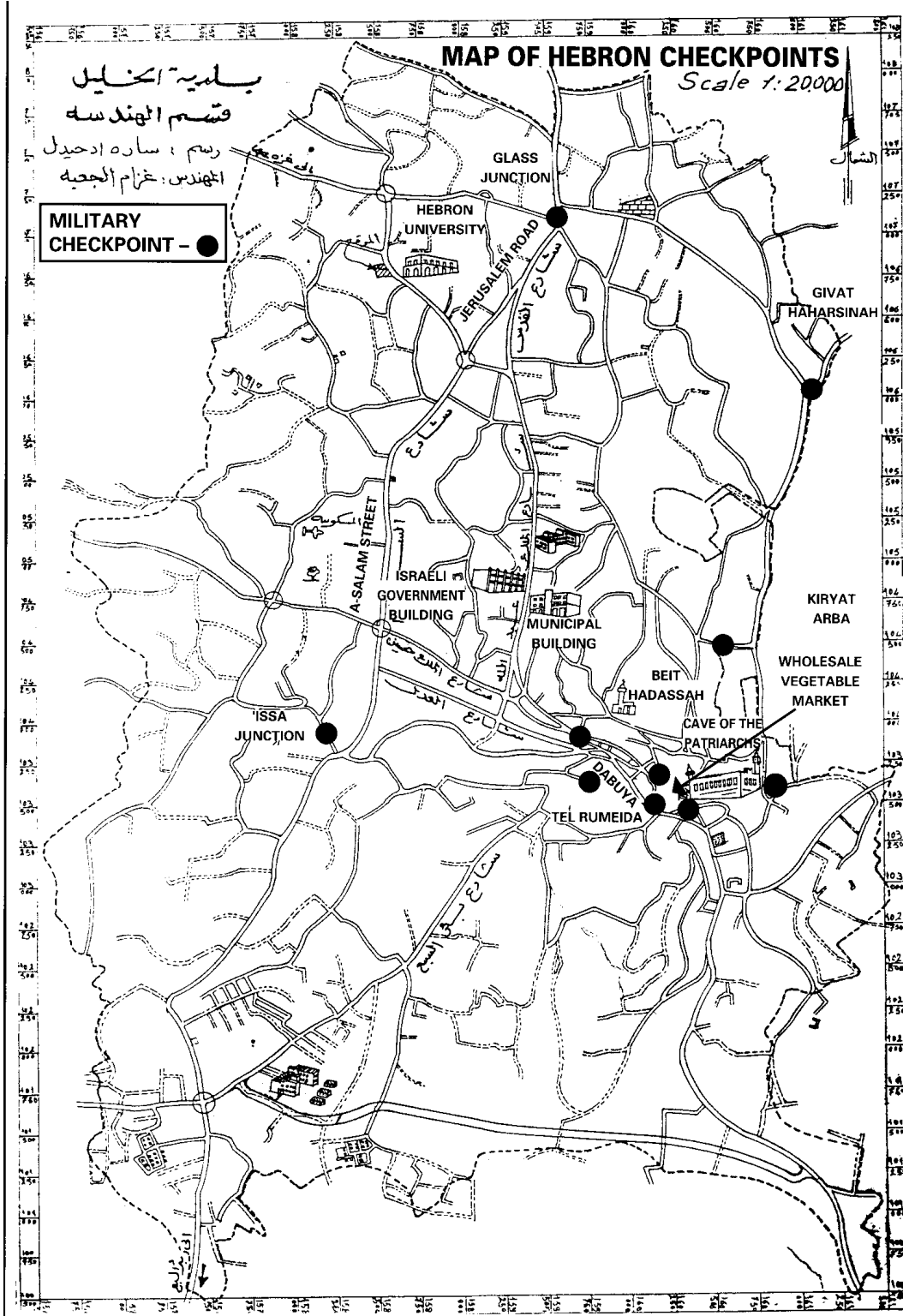
everything apart." I gave the keys to the soldier and said: "When you finish your inspection, let me know, and then I'll come to take the car." My uncle... came to the checkpoint and tried to talk to the soldier, but the soldier grabbed his beard and pulled him down. The argument went on for about two hours, until an officer came and told me I could go.

Muhammad Yusri Jamil A-Shweiki, aged 42, a shopowner on 'Issa Street, stated that he sent his son, Riad, aged 17, to buy something at the market. On his way back, Riad passed the 'Issa checkpoint:

A soldier standing there asked for his identity card. My son told him that the card was at the shop, about 50 meters away. My son was on a bicycle, and the soldier ordered him to leave the bike at the checkpoint and go to the shop to get the identity card. My son brought it. When he got back to the checkpoint, the soldier took the identity card and started to kick him and send him back and forth to the intersection, which was about 10 meters away. My son did that about 5 times.

I stood by my shop and saw what was happening at the checkpoint. I went over to the soldier and complained about his behavior. He threatened to arrest me. I told him: "Just the opposite." The soldier called to three soldiers, who came and cursed and shouted at me.

... The soldier threw my son's identity card on the ground. When he bent over to pick it up, the soldier stepped on his hand. More soldiers came from the base. One of them picked up my son's identity card, ripped it, and said to him: "This isn't your picture." The officer arrived and I showed him the torn identity card. The officer told me: "It doesn't matter, replace it." Replacing an identity card costs NIS 280, not to mention the harassment involved in going over and over again to the Civil Administration.



2. Violent Attacks on Residents by Security Force Personnel

In several testimonies given to **B'Tselem**, Hebron's Palestinian residents indicated that security forces personnel beat them severely.²²

June, 1994

On 8 June 1994, soldiers came to the Abu 'Aishah family's home, in Hebron. Two soldiers entered the house to search it. Na'ama Abed A-Rahim Abu-'Aishah, aged 60, who was home at the time, told **B'Tselem**:

When they entered, one of them grabbed my grandson, 'Issam, and the second soldier began to search the house. He beat those who were in the house. The soldier who grabbed 'Issam beat him continuously. They were in the house about 15 minutes. They also smacked my other grandchildren, Wiam and Muhand, who are two-years old. They left and took 'Issam with them, continuously beating him all over his body.

Zeinab Sa'id 'Abed El-Hamid Abu 'Aishah, a 30-year-old housewife, told **B'Tselem**:

I approached the soldiers and asked them what they wanted. They said: "Shut up." One of the soldiers grabbed my son, 'Issam, and the other soldier began to beat other persons who were in the house. He beat them with his hands and feet. He smacked me and pushed me to the floor. My six-year-old daughter was hit twice. Most of the persons in the house were beaten. The soldiers ran wild in the house. They stayed about 15 minutes.²³

About two weeks after the incident, the Office of the Military Advocate General advised **B'Tselem** that the matter was being investigated.²⁴ **B'Tselem** sent two reminders to that office in an attempt to learn the results of the investigation, but received no response.

²² Other sources also reported about beatings: TIPH reports mention 8 cases in which the observers witnessed soldiers beating Palestinians. Their daily reports also mention numerous complaints of Palestinians about being assaulted by soldiers. The service diary of IDF officer David Haramati, who served in Hebron as a liaison officer to the observer force in June and July, noted that he witnessed 6 such incidents.

²³ The testimonies were taken by **B'Tselem** fieldworker, Fuad Abu-Hamed, on 9 June 1994 in Hebron.

²⁴ Letter dated 23 June 1994 from legal officer Ilan Zohar, assistant to the Chief Military Prosecutor, to **B'Tselem**.

April, 1995

On 26 April 1995, at 8:15 p.m., Jamal 'Abd El-Min'am El-Qawasmi drove his sister-in-law, who had gone into labor, to the Al-Ahli hospital in Hebron. The city was under curfew at the time. They were told at the hospital that the child would be born late at night, and the two went home. As they approached the house, they encountered a group of soldiers, who ordered El-Qawasmi to accompany them:

All the way, they pushed and kicked me. When we ascended the terraces they pushed me and threw me down, and slapped me. That went on for about an hour. I was walking all the time. After about an hour, we reached the military base alongside Beit Hadassah, where they had me sit on the floor.... The soldiers continued to kick me and beat me with their rifle butts. This went on about two hours inside the base.²⁵

El-Qawasmi was only released at 12:30 a.m., following the intervention of Hebron's mayor. **B'Tselem** contacted the military prosecutor about El-Qawasmi's complaint, and was notified that Military Police Investigations was investigating the matter.²⁶

May, 1995

On 3 May 1995, about 12:00 p.m., Sa'id Hussein 'Abd El-Fatah Tabiyah parked his car near the electronic equipment warehouse he owned, on one of Hebron's main streets. A police patrol van stopped alongside him, and a policeman asked for his automobile registration. Then he ordered him to go to the police station at 5:00 p.m. What happened afterwards Sa'id Tabiyah related in his testimony to **B'Tselem**:

At 5:00 p.m., I arrived at the Cave of the Patriarchs police station, where I saw the policeman with whom I had spoken in the afternoon. His name is Corporal Wahabi Karmi, and he is a Druse. I asked him where my licenses were, and he gave them to me along with a traffic ticket for NIS 130. I asked him why he gave me a ticket, and Karmi said: "If you don't leave, I'll bust your head." I told him: "These NIS 130 you are going to waste on your children in the hospital."

Suddenly four border police officers jumped me. They dragged me into the police room inside the station and the four of them and Karmi beat me all over my body. They pushed me and slapped and kicked me. One of the police officers, who was older and has a beard, took out a pocket-knife, opened it, put it to my throat and said: "If you scream, I'll butcher you." I began to scream: "Help, help, they want to kill me," but that didn't do any good because the door was closed.

²⁵ The testimony was given to **B'Tselem** fieldworker, Bassem 'Eid, on 18 May 1995 in Hebron.

²⁶ Letter of 31 August 1994 from Col. Danni Barri, Chief Military Prosecutor, to **B'Tselem**.

They beat me for about an hour, and then told me I was under arrest. They kept me in the room until 11:00 p.m. without giving me any medical treatment even though blood was flowing from my head and nose.²⁷

Tabiyah was released at 11:00 p.m. after policeman Karmi had him sign a personal bond of NIS 5000, gave him a payment slip in the amount of NIS 1000 for payment before the trial, and demanded that he pay the traffic ticket.

Following **B'Tselem's** enquiry, the Department for the Investigation of Police Officers indicated that the matter was being investigated.²⁸

The many checkpoints situated in Hebron, and the large number of security forces manning them are a constant source of confrontation between them and the city's Palestinians, and Palestinians are frequently beaten at checkpoints.²⁹

March, 1995

Nizam Muhammad Sharbaty, aged 23, a shoemaker working on 'Issa Street, gave testimony to **B'Tselem** regarding events which transpired when he passed through the 'Issa checkpoint on 1 March 1995. A bus full of soldiers stood alongside the checkpoint:

A small child, aged 14, passed by the bus. A soldier inside the bus extended his hand to the child, to shake his hand. The child couldn't reach the soldier's hand. Another soldier came and lifted the child up. The soldier who put out his hand shook the child's hand with one hand, and with the other, slapped him.

I was next to the bus at the time. One of the soldiers standing alongside the bus asked for my identity card. I gave it to him, and he threw it into the bus. The soldiers in the bus started to throw it from one to another. Five soldiers were near me. One of the soldiers shouted: "He's 23-years-old?" Another soldier kicked me hard in the face. The soldier told me to sit down. I refused. He told me to wait. A soldier left the bus, kicked me and punched me in the face.

I fled, leaving my identity card with the soldiers. A soldier ran after me and caught me. The neighbors saved me from him. The soldiers began to throw stones at me. I cursed them and left.

²⁷ The testimony was given to **B'Tselem** fieldworker, Bassem 'Eid, on 6 May 1995 in Hebron.

²⁸ Letter dated 6 June 1995 from Tamar Shalom, head of the clerk's office at the Department for the Investigation of Police Officers, to **B'Tselem**.

²⁹ The following testimonies were given to **B'Tselem** fieldworker, Bassem 'Eid, on 21 June 1995 at 'Issa Street, Hebron.

Afterwards Nizam Sharbaty's father asked the soldiers to return his son's identity card, but the soldiers refused to return it, and told him that his son had to come for it. The family's neighbors told him that they had seen the soldiers burn the card. Sharbaty applied to the Civil Administration for a new identity card, but had not yet received the card when he gave his testimony, some 6 weeks after the incident.

May, 1995

'Isam Saleh El-Madbuah, aged 18, a shoemaker whose shop is on 'Issa Street, stated in his testimony to **B'Tselem** that he passed through the checkpoint situated on the street and was unaware that the soldiers had called to him to stop:

Some persons informed me that the soldiers were calling to me. I went back to the checkpoint. Two soldiers were there, and they asked me why I didn't answer. I told them that I didn't know they were calling me. They told me to stand with my face to the wall and my hands raised. They ordered me to spread my legs. I refused. One of them slapped me twice....

The soldiers took me into an alley. Seven soldiers came and beat me with their hands and feet. Then they brought another guy to the alley, and all the soldiers beat the two of us.

PART 2 - ENFORCEMENT OF THE LAW VIS-A-VIS SETTLERS IN HEBRON

The 1982 Karp Commission Report, which deals with law enforcement against Israeli civilians in the Territories suspected of crimes against Palestinians,³⁰ and human rights organizations³¹ noted serious deficiencies in this area. The massacre at the Cave of the Patriarchs renewed public discussion on this issue and led to a reexamination of the extent to which Israeli authorities fulfill their obligation to protect the Palestinian population.

As a result of criticism after the massacre concerning enforcement of law by the Israeli authorities against settlers, Israel and the PLO agreed to the establishment of an international observer force, the Temporary International Presence in Hebron (TIPH), to monitor the measures taken to return order and provide a sense of security to the city's residents. The TIPH operated in Hebron from May to July, 1994, and provided the relevant parties with daily and comprehensive reports on the human rights situation in the city.³²

Also, a governmental commission of inquiry, headed by then-President of the Supreme Court, Justice Me'ir Shamgar, was established following the massacre. In addition to investigating the events surrounding the massacre, this commission examined the issue of law enforcement vis-a-vis Israeli citizens in the Territories.

In its report, published in June, 1994 (hereafter the Shamgar Commission Report), the Commission sharply criticized law enforcement authorities. It found that law enforcement against settlers in the Territories had failed and that for many years measures had not been taken to improve it.³³

The Commission noted police dereliction when investigating incidents involving settlers and the failure to fully implement the judicial processes against them.³⁴ The Commission repeatedly emphasized that general principles of the Israeli criminal procedure law must be applied to police

³⁰ The Commission, chaired by Yehudit Karp, Deputy Attorney General, submitted its report to the Attorney General on 23 May 1982. The Commission was established by the Justice Ministry in order to ensure effective investigation of suspicions regarding crimes by Israeli civilians against Palestinians in the Territories.

³¹ See for example, PHRIC: **Israeli Violence in the Occupied Territories, 1980-1985; B'Tselem, Law Enforcement.**

³² Memorandum of Understanding signed by the Norwegian, Italian, and Danish governments on 8 May 1994.

³³ *Shamgar Commission Report in the Matter of the Massacre at the Cave of the Patriarchs (Jerusalem, 1994)*, pp. 157-200; 250-251.

³⁴ *Ibid*, pp. 192-193.

investigations in the Territories. These principles stipulate that the police investigate every time it learns of the commission of a crime, and not only when the victim files a complaint.³⁵ Investigations should only be closed for reasons such as insufficient evidence or "lack of public interest" according to the principles established by the criminal procedure law.³⁶

The Commission recommended clearly defining police unit tasks in the Territories, reinforcing police presence in the settlements, and providing a suitable budget. In addition, it recommended improving coordination between military forces in the area and the police to ensure dissemination of information about crimes and military assistance for police investigations.³⁷

Following the Shamgar Commission's recommendations, several measures were taken to rectify deficiencies in law enforcement. Police presence in the area was expanded, a new police district - the Shai district³⁸ - was established for the West Bank, an additional police station was established in Hebron, and a new prayer schedule was set in the Cave of the Patriarchs for settlers and Palestinians. In addition, shortly after the massacre, the authorities took measures against the settlers, including administrative detention, restrictions on their freedom of movement, and the banning of the Kach and Kahane Chai movements, which were declared illegal pursuant to the Ordinance to Prevent Terror.³⁹

1. Law Enforcement Vis-a-Vis Settlers in Hebron

B'Tselem's investigation reveals that the actions of the authorities responsible for law enforcement in Hebron did not improve significantly as a result of the Shamgar Commission's recommendations. Soldiers and police officers' handling of cases where settlers injure Palestinians is still characterized largely by acquiescence, compromise, and mitigation.

The problems raised in the Karp Commission report, the Shamgar Commission report, and the reports of human rights organizations regarding law enforcement vis-a-vis settlers in Hebron remain. In many instances, police officers and soldiers prevent Palestinians from entering police stations to register complaints. In other cases, police officers treat Palestinians dismissively and disrespectfully, require them to return repeatedly to the station, or refuse to register their complaints. In a number of cases examined by **B'Tselem**, police officers did not question suspects or investigate allegations, which subsequently led to the closing of files on the grounds of "insufficient evidence" or "suspect unknown." Officers did not investigate a number of instances where settlers broke the law but a complaint was not filed, even where the police had information from third parties regarding the events.

³⁵ Sec. 59 of the Criminal Procedure Law (Consolidated Version), 1982.

³⁶ *Shmgar Commision Report*, pp. 250-251.

³⁷ *Ibid.*

³⁸ "Shai": Acronym in Hebrew for Samaria and Judea.

³⁹ For a criticism of these measures, see pages 29-30.

Because of this treatment, which creates a lack of confidence in police investigations, and occasionally also because of fear of the settlers,⁴⁰ Palestinians frequently refrain from complaining to the police.

On several occasions, IDF soldiers present during violent acts by settlers against Palestinians did not fulfill their duty to intervene, prevent a crime, and detain suspects. Where soldiers have intervened in such incidents, they often injured Palestinians or their property.

One measure taken by the authorities to cope with criminal acts by settlers was the issuance of restraining orders by the OC Central Command against 30 settlers, most of whom live in Hebron and nearby Kiryat Arba. These orders prohibited the settlers from entering the city or the area of the Cave of the Patriarchs for a limited time.

a. Bodily Injury: Ishak Abu-Sneneh, 17 June 1994

In testimony given to **B'Tselem**, Ishak Taha 'Eid Abu-Sneneh, aged 32, related what happened on the morning of 17 June 1994 while he was on his way to work in the city center:

I saw two settlers about 100 meters in front of me. They threw stones at me the whole time. I don't know if stones were thrown at them. One of the settlers was about 50 years-old and the other about 20. Both stood behind a checkpoint in the middle of the road, next to the gate of the Beit Hadassah settlement.

One stone hit me in the leg. I started to yell at the settlers. A group of three soldiers arrived and returned the settlers to the settlement. We continued to walk. After 200 meters, I suddenly felt a bullet hit the left side of my leg. I fell to the ground. Four guys picked me up and took me to the Al-Ahli hospital in Hebron, from where I was transferred to Al-Mukassed hospital to undergo an operation to remove the bullet.⁴¹

Abu-Sneneh was hospitalized for a month, and had to remain at home for a lengthy period. He had to use crutches and had a metal plate inserted in his leg.

Although the hospital sent the bullet removed from his leg to the police, investigators did not contact Abu-Sneneh to take his statement, and he went on his own initiative to the police in July, 1994. However, the police officers did not take his testimony on that day, but told him to return on 1 August 1994. On the first of August he went again to the police and submitted a detailed complaint, which included the names of two eye-witnesses to the shooting. The witnesses were summoned to the Hebron police station and provided precise details about the identity of the

⁴⁰ See **B'Tselem, Law Enforcement**, pp. 67-70. Attorney Badira Khoury, of HaMoked: Center for the Defense of the Individual, recently informed **B'Tselem** that in a case in which a settler injured a Palestinian in Hebron, out of fear of settler retaliation, eye-witnesses refuse to testify unless allowed to do so anonymously.

⁴¹ This testimony was taken by **B'Tselem** fieldworker Fuad Abu-Hamed on 21 June 1994 at Al-Mukassed Hospital, in Jerusalem.

shooter, who they claimed was known to many Hebron residents as one who transports passengers around the area.

Attorney Leah Tsemel, who represented Abu-Sneneh, contacted the Hebron police. On 5 September 1994, the Hebron police informed her that they were investigating the matter. On 15 January 1995, the Hebron police informed attorney Tsemel that the investigation file had been closed on the grounds of "Assailant Unknown."

At her request, attorney Tsemel received a photocopy of the investigation file. The file consisted solely of the testimony of the complainant and the eye-witnesses. There was no indication that any effort, such as a police line-up, was made to locate the shooter, nor were the soldiers who witnessed the incident questioned. In response to her inquiry, the Military Advocate General for the Central Command informed attorney Tsemel on 19 October 1994 that the army did not investigate the incident and that such an investigation was impossible "because of the lack of details."

Abu-Sneneh petitioned the High Court of Justice, requesting that the police be instructed to conduct an exhaustive investigation of the matter, and that the Military Advocate General for the Central Command be instructed to investigate whether soldiers were present during the incident.⁴² At the beginning of July, 1995, **B'Tselem** was notified that after the petition was reported in the press and before it was served on the police, the Hebron police reopened the investigation, summoned witnesses and was completing the investigation.⁴³

b. Assault and Bodily Harm: Fares Natsheh, 23 August 1994

Fares Musa abed el-Hafez Natsheh, aged 40, testified to **B'Tselem** that on 23 August 1994, while driving to the glass factory he owns, located on the main road between Halhoul and Hebron, another vehicle, while passing his car, came close to Natsheh's car and tried to push him into the lane of oncoming traffic. Natsheh continued driving to his factory, where he stopped his car:

Before I got out of the car, the car that overtook me on the road stopped next to me. Four settlers, three armed with pistols and the fourth with a submachine gun got out of the car. The driver stayed in the car. They approached me. I asked them in Hebrew: "What happened?" One said to me "Nothing," and punched me in my jaw.

I got out of the car. Another approached me and hit me in the jaw with his pistol butt, knocking out 5 teeth.

I tried to escape into the factory. My children and my brother's children, who work in the factory and were outside witnessing the events, entered the factory after me but did not get involved since the settlers were armed. Three settlers entered the factory and hit me in

⁴² Petition filed in HCJ 3517/95 *Ishak Abu-Sneneh vs. Hebron Police and the Military Advocate General* (still undecided).

⁴³ The notification was given in a telephone call made in early July, 1995 from Superintendent Yoni Tzioni, Supervision Section Officer, of the Investigations and Claims Department at National Police Headquarters.

the face with their fists, but I managed to defend myself. The settlers left the factory, stood at the entrance, and pointed their weapons at us.

By chance an army jeep passed by at that moment. My nephew, Musa, aged 24, ran after the jeep and stopped it. He told the soldiers about the settlers standing in the factory entrance with weapons. The soldiers, after they heard what my nephew had said, continued to drive slowly, until they stopped about 30 meters from the factory. They continued to sit in the jeep, turned the searchlight towards our faces and watched the incident. The settlers stood at the entrance with their weapons for 5 minutes, and the soldiers observed the events without saying anything or intervening. Afterwards, the settlers got into their car and drove away. The car was a grey Renault 9.

Natsheh was taken to the emergency room of Al-Ahli hospital in Hebron. The following day he reported the incident to the mayor. The mayor contacted the Civil Administration and spoke with one of the officers. Natsheh related what then transpired:

The mayor told me to contact the Civil Administration in Hebron and request "Captain Eyal." I went there immediately from the municipal offices and gave my ID card to the soldier at the gate. I told him that I was summoned by "Captain Eyal." The soldier took my ID card and went inside. I waited about 15 minutes, after which the guard returned with my ID card and gave me a summons to see "Captain Erez" on 28 August 1994.⁴⁴

On the appointed date, Natsheh returned to the Civil Administration offices. He waited about 15 minutes until a soldier came out of the building and told him to come back in four days to see "Captain Erez." When he returned on that day, he was told that he had to return in two weeks. He did not return.

B'Tselem contacted the Israeli Police to verify the results of the investigation. The Investigations and Claims Department responded as follows:

1. After reviewing your aforementioned inquiry and the newspaper article that was enclosed, we note that the complainant did not file a complaint with the police about this incident, but rather turned to the Civil Administration and was, according to him, turned away by them.
2. The incident clearly cannot be investigated by the police if it is not reported.
3. The complainant should contact the police station in Hebron to file a complaint, which will be dealt with accordingly.⁴⁵

As stated above, the police must investigate whenever it is informed of the commission of a crime whatever the source of the information and whether or not the victim has filed a complaint.

⁴⁴ This testimony was taken by **B'Tselem** fieldworker Bassem 'Eid on 25 August 1994 in Hebron.

⁴⁵ Letter to **B'Tselem** from Superintendent Yoni Tzioni, Supervision Section Officer, on behalf of the head of the Investigations and Claims Department at National Police Headquarters, 23 January 1995.

The incident was described at length in the local weekly, *Kol Ha'ir*, some two weeks after it occurred.⁴⁶

c. Bodily Injury and Property Damage: Jihad a-Najar, 28 November 1994

Jihad Abdallah a-Najar, aged 27, testified to **B'Tselem** that on 28 November 1994, as he approached the old cemetery in Hebron while on his way downtown, he saw 7 Israeli cars parked alongside the road:

The passengers got out of the cars and started shooting in the air. Probably youths had thrown stones at them. When I saw what was happening, I stopped my car about 15 meters from the settlers' cars. I wanted to turn around and go back, but I couldn't because there was a cement mixer behind me. I turned into an alley in order to turn around. When the settlers realized that I was escaping, they came towards me and threw stones at the windshield of my car. They smashed the front windshield and all the windows on the left side of the car - the side from where the settlers came.

... I was wounded in the face and shoulder by glass fragments and from stones thrown into the car. When I realized that the settlers were approaching me, I hurried in the opposite direction. I reached the hospital, where I received first aid, and then returned home.

Jihad a-Najar spent NIS 300 to fix his car. After about a week he contacted the Hebron police in order to file a complaint about the incident:

At 8:00 a.m., I arrived at the government building, where the police are located. I approached the soldiers at the gate and informed them that I wanted to file a complaint. The soldiers told me: "Wait here for a policeman."

I waited for four hours. Around noon, the police officer came to the gate. I told him about the incident. The officer let me into the building and took my statement. The officer who questioned me said during the questioning: "Maybe the people who threw stones at your car were from Hamas and not settlers." I said that seven cars had stood on the road and all their passengers shot in the air. Nearly all of them wore skullcaps. The officer questioned me for an hour-and-a-half. Because the policeman didn't know any Arabic, he wrote my statement in Hebrew, although I don't read Hebrew. I signed the statement without knowing what he had written.⁴⁷

B'Tselem contacted the police on 22 March 1995 and inquired about the results of the investigation. The Police Department responded that "on 24 December 1994, the investigation

⁴⁶ See Hillel Cohen, "Then They Punched Me", *Kol Ha'ir*, 9 September 1994.

⁴⁷ This testimony was taken by **B'Tselem** fieldworker Bassem 'Eid on 27 December 1994 in Hebron.

was closed by a Judea Investigations Division officer on the grounds that the assailant is unknown."⁴⁸

d. Rioting in the Market, 19 March 1995

'Afif Yehiya 'Abed a-Rahman Zeghaer, aged 34, is the owner of a grocery store located on the road from Kiryat Arba. Zeghaer testified to **B'Tselem** that on 19 March 1995, around 8:00 p.m., while sitting in his shop with several persons, he heard shots being fired. When he looked outside, he saw a group of settlers walking down the road:

I started to bring all the vegetable cartons which were outside into the shop. The people who were with me helped. The settlers reached my shop and started to throw stones and empty bottles at the shop. They broke the shop's windows.

Soldiers arrived and told me to immediately close the shop and stay inside. I closed the shop. I didn't have time to bring all the vegetable cartons inside and most of them were left outside. The settlers threw the cartons onto the road and the soldiers stood aside and watched them.

I stayed inside the shop. I called the mayor, the municipal clerk and also the [Palestinian] security people in Jericho to come help us. At the municipality, they said they would come soon. At around 9:30 p.m., I heard someone call me to come out. I opened the shop and saw a group of Palestinian photographers calling to me and the other people inside to come out and go home. When we came out, I found that all the windows of my car, a 1975 Opel Record, had been smashed.⁴⁹

On 13 April 1994, **B'Tselem** contacted the Police Investigations Unit to inquire about the results of any investigation into settler violence concerning this incident and the damage caused. A response has not yet been received. **B'Tselem** also contacted the Military Advocate General about the soldiers' behavior. **B'Tselem** was informed that the inquiry had been forwarded to the Central Command Military Advocate General, who would respond. A response has not yet been received.⁵⁰

e. Property Damage at the Home of the Zahada Family, 15 May 1995

⁴⁸ Letter dated 20 July 1995 from Superintendent Yoni Tzioni, Supervision Section Officer, on behalf of the head of the Investigations and Claims Department at National Police Headquarters, to **B'Tselem**.

⁴⁹ The testimony was taken by **B'Tselem** fieldworker Bassem 'Eid on 27 March 1995 at 'Afif Zeghaer's shop.

⁵⁰ Letter dated 25 May 1995 from Legal Officer Lior Eisenfeld, assistant to the Chief Military Prosecutor, to **B'Tselem**.

Moufid Ibrahim Sadek Zahada, aged 41, lives near the Jewish settlement next to the Abraham Avinu synagogue in Hebron. He told **B'Tselem** that on 15 May 1995, three days after the Jewish holiday of Lag B'Omer, while he was at the market, he heard the sound of wood being chopped:

I saw two youths with skullcaps, about 14-16 years old, I think, going into my family's apartment, breaking doors, closet doors, beds, and other wood items, leaving the apartment and throwing out the items to the area between the Palestinian apartments and the Abraham Avinu locality. I approached a spot where I could see better (the apartment consists of three rooms which are not adjoining) and I saw that there were actually six youths, in and around the apartment, who were destroying the furniture....

I spoke with the soldiers who were at the checkpoint. They could see youths breaking furniture. The soldiers called the police, and at the same time went to try and stop the youths. There were maybe six youths altogether. They forcibly resisted the soldiers. Within about 10 minutes, the police came. They took the youths from the apartment but detained only one of them because the youths' parents from the Abraham Avinu locality showed up and started yelling at the police.

The police took Moufid Zahada to the police station to give a statement:

They kept me there for hours. A police officer named Farid took my statement. Four times he questioned me and asked me the same questions. The youth who was detained was also there, but he was freed before me. Suddenly Farid asked me: "Do you recognize the youth who was here?" I said: "Show him to me." He said: "We've already released him."

Moufid Zahada was released only at 2:00 a.m., and he walked home.⁵¹

According to newspaper reports, arrest warrants were issued against settlers suspected in this incident.⁵² In response to an inquiry by **B'Tselem**, the Police Investigations and Claims Department indicated that the investigation was completed on 28 August 1995, and that the file had been forwarded to the Shai District prosecutors office.⁵³

2. Law Enforcement in the Dabuya Neighborhood

An examination of the events which took place in the Dabuya neighborhood over the years illustrates the deficiencies in law enforcement vis-a-vis settlers in Hebron and the security forces'

⁵¹ This testimony was taken by **B'Tselem** researcher Yuval Ginbar on 25 May 1995 in Hebron.

⁵² *Kol Ha'ir*, 16 June 1995; *Yerushalayim*, 16 June 1995.

⁵³ Letter dated 17 September 1995 from Superintendent Yoni Tzioni, Supervision Section Officer, on behalf of the head of the Investigations and Claims Department at National Police Headquarters.

failure to protect Palestinian residents and their property from repeated attacks by settlers in the city. A number of settlers' buildings - Beit Hadassah, Beit Schneerson, Beit Hason, and Beit Romano - are located in this neighborhood, which is in the center of Hebron.

In 1981, two years after establishment of the Beit Hadassah settlement, Palestinians complained bitterly about attacks by settlers. Residents living near Beit Hadassah testified about stone-throwing, harassment of customers, threats of violence, theft of property, setting dogs on Palestinians and more. The Palestinians also protested the security forces' lack of serious attention to their complaints.⁵⁴

In response to widespread harassment by the settlers and indifference of the authorities, a number of residents petitioned the High Court of Justice, demanding that the settlers vacate the building. The petition was rejected, *inter alia*, because the State's Attorney undertook that the authorities would relate seriously to public disturbances, and would deal with complaints of Palestinians quickly and efficiently.⁵⁵

In spite of the State's promise to the High Court of Justice, the situation remains unchanged. Four years later, in August of 1985, the media reported on complaints of residents of the Dabuya neighborhood about repeated attacks by settlers, especially on the street in front of Beit Hadassah. Residents who live in the area contend that settlers throw stones and bottles at their homes and garbage into their yards. One of the residents related that a burning newspaper was thrown at the house's gas canisters. Shop owners in the neighborhood complained that the settlers throw stones in the street and injure passersby.⁵⁶

After the massacre, the neighborhood's main road, a-Shehadeh Street, was closed to Palestinians who are not residents of the neighborhood, and Palestinian cars were absolutely prohibited. Businesses were severely affected as a result: the gas station on the main street closed because Palestinian cars could not reach it, and nearby shops were closed by their owners because of the reduction of customer traffic. Today, only part of the road is blocked-off, but Palestinian cars are still forbidden access.

Samaha Najed A-Tamimi, a resident of the Dabuya neighborhood, testified to **B'Tselem** about an incident that illustrates the situation in the neighborhood:

About three months ago, a curfew was imposed on the city. I live in Dabuya. At home we were without water. I sent my 15-year-old daughter to our neighbors to fill up a jug of water. When my daughter left, I heard her scream. I went into the street and saw about 15 settler girls dragging my daughter by her hair to the checkpoint at Beit Hadassah. My

⁵⁴ See Yehuda Litani, "Reminder from Hebron," *Ha'aretz*, 18 July 1980; Yehuda Litani, "Return to the City of the Patriarchs," *Ha'aretz*, 27 March 1981; Yehuda Litani, "The Gloomy Side of Beit Hadassah," *Ha'aretz*, 29 March 1981.

⁵⁵ HCJ 175/81, *Mustafa Antabi al Natasha et al vs. Minister of Defense*, Piskei Din 35(3), 361-367.

⁵⁶ See Yehuda Litani, "Beit Hadassah Returns to the Map," *Ha'aretz*, 30 August 1985.

eldest daughter took a piece of rubber and beat one of the girls until we freed my daughter.

The girls went to Beit Hadassah and brought adult settlers who began to pound on the door and throw stones and bottles at our house. My daughters and I began to scream. Our neighbor tried to come to my house to protect us, but the soldiers arrived and beat the two neighbors, claiming they had violated the curfew.

This continued for about two hours until the border police removed the settlers and freed our two neighbors.⁵⁷

⁵⁷ Testimony given to **B'Tselem** fieldworker Bassem 'Eid on 17 September 1995 in Hebron.

PART 3 - VIOLATIONS OF HUMAN RIGHTS OF JEWISH SETTLERS IN HEBRON

As a result of the massacre at the cave of the Patriarchs, in their attempt to cope with criminal acts committed by settlers, the authorities frequently used means, following the massacre at the Cave of the Patriarchs, that violated the settlers' human rights. A number of settlers were administratively detained, and the Kach and Kahane Chai movements, many of whose members are settlers in Hebron, were banned.

B'Tselem opposes, in principal, the placing of persons under administrative detention, as such a step violates the right of every individual to due process. However, international law does not prohibit a state from taking this step in extreme cases.⁵⁸

B'Tselem is of the opinion that such a measure should only be taken when a danger exists that the further activity of specific persons would place human lives in jeopardy, and where there is insufficient evidence against the individual to indict. This measure must be used for a set, limited period, under court supervision, and only after all other legal measures to preempt the danger have been exhausted. **B'Tselem** does not believe that the above criteria were met in the administrative detention of settlers following the massacre.

B'Tselem also opposes outlawing the Kach and Kahane Chai organizations under the present circumstances. The outlawing of organizations can only come as a last step, after all the measures to enforce the law have been taken against members of these organizations who are suspected of breaking the law. Such measures have not been taken to a sufficient extent in the case of Kach and Kahane Chai. In the past, **B'Tselem** similarly opposed the banning of Palestinian organizations, such as Fatah and Hamas.

In addition to these measures, in various circumstances security forces frequently used excessive force against settlers in the Territories.

B'Tselem fieldworkers gathered several testimonies from settlers in Hebron concerning violations of their rights and police brutality against them.

Use of Violence against Settlers in the Course of Breaking-up a Demonstration and during Detention, 22 September 1994

On 22 September 1994, settlers' organizations planned an assembly in Hebron. The IDF initially issued a permit for the gathering, but subsequently revoked it. Nevertheless, large numbers

⁵⁸ See **B'Tselem, Detained Without Trial: Administrative Detention in the Occupied Territories since the Beginning of the Intifada** (Jerusalem, October, 1992).

arrived at the Cave of the Patriarchs. Several participants informed **B'Tselem** that the police treated them brutally.⁵⁹

Shalom Koblekin, resident of Givat Haharsinah, stated in his testimony to **B'Tselem**:

We entered the expanse of the cave. Thousands of persons were already there. It was a gigantic mess, there were confrontations with border police. They grabbed one guy, and five police officers jumped on him, twisted his arms, choked him. He wasn't resisting. He looked half dead. Our people came to rescue him, and then more police officers came and grabbed him so he wouldn't leave. I saw him faint in their arms, his head facing the floor. I shouted to them: "You killed him, let him go." They grabbed me, too. Maybe five police officers. I told them: "Leave me alone, I am not resisting." Two soldiers took me to a patrol van. They also brought the other guy, and he laid there unconscious.

The police arrested some 20 demonstrators, who were taken to the Civil Administration building in Hebron, where, according to Koblekin, they suffered further violence:

People started to sing. They sang "Am Yisrael Chai" ("The People of Israel Live") over and over. A police officer came and shouted: "Quiet, quiet." But they continued to sing. He began to slap people. He grabbed someone, handcuffed him behind his back, and threw him into some room. Other police officers there did not beat anybody, but they also didn't intervene. Afterwards, he went into the kitchen, threw cups, salt and tins of preserves at us.

Several complaints about police brutality at this demonstration were filed by settlers with the Department for the Investigation of Police Officers, and **B'Tselem** forwarded the testimonies concerning this incident to the Department.

As regards one of the complaints, about which **B'Tselem** also complained, Eran Shender, head of the Department for the Investigation of Police Officers, wrote to the complainant, Na'ama Ofen, who testified about the severe brutality she and another person suffered, that the investigation had ended and the file had been closed because it was impossible to investigate the complaint fully.⁶⁰

One of the complaints, which concerned throwing an object at a youth held in detention in Hebron, led the police to institute disciplinary proceedings against the police officer.⁶¹ The authorities have not responded to other complaints concerning handling of the demonstration.

⁵⁹ The testimonies related to this incident were taken by **B'Tselem** researcher Yuval Ginbar on 30 September 1994 and 7 October 1994 in Hebron.

⁶⁰ Letter dated 30 August 1995. A copy was sent to **B'Tselem**.

⁶¹ Letter from Eran Shender, head of the Department for the Investigation of Police Officers, to Shmuel and Dalia Daniel, of Hebron, dated 8 May 1995. A copy was sent to **B'Tselem** by Orit Struk, of the Hebron Jewish Settlement Committee.

Violent Arrest and Violation of Detainees' Rights: Anat Cohen, 6 October 1994

Anat Cohen, a resident of Beit Hadassah, was arrested on 6 October 1994 at about 9:30 a.m. She asked the police officers to allow her to go home and bring her son, a two-month-old infant, who was still breastfeeding. Under police procedures, a mother is entitled to breastfeed her infant child.⁶² Nevertheless, the police officers refused.

Hillel Horowitz, called to help Anat, stated in his testimony to **B'Tselem**:⁶³

I saw Anat as she was holding onto the fence, two police officers grabbing her forcefully, one on her right and the other on her left. They were trying to pull her away from the fence. She told them: "I have a two-month-old infant at home." She asked if she could breastfeed her child, and that [if they let her] she would go with them. They said "No. You are coming with us now." "You are hurting me" She screamed. They continued. During the struggle, her shoes fell off. The police officers told me they are holding her so that she doesn't fall...

Police officers called for another patrol van. Eight police officers came, some of them in plainclothes. They shoved some of the women, and five or six police officers dragged her like some kind of cat and threw her into the van. The van drove off.

Some 20-30 women, among them Anat Cohen, and their children reached the government building. In her testimony to **B'Tselem**, Nehama Mushnik, who was among them, stated:

In the courtyard, soldiers told us to go out (I was already outside). I saw an army officer assault the women. The female soldiers came alongside him, and I heard them say: "Keep your hands off, we'll take care of them." He punched the women. He didn't say anything.

Only in the afternoon did the police allow Anat Cohen's child to be brought to her.

As a result of the inquiries of **B'Tselem** and others, the Department for the Investigation of Police Officers recommended to the State's Attorney that indictments be filed against the police officers about whom Anat Cohen complained. Disciplinary charges for misconduct were brought against two other police officers involved in the incident.⁶⁴

⁶² Paragraph 5(G)(3) of Order No. 12.03.02 stipulates that during detention, a mother shall not be separated from an infant for whom she is caring.

⁶³ Testimony given to **B'Tselem** researcher Yuval Ginbar on 7 October 1994 in Hebron.

⁶⁴ In a letter dated 21 May 1994 from Eran Shender, head of the Department for the Investigation of Police Officers, to Anat Cohen. A copy of the letter was sent to **B'Tselem**.

CONCLUSIONS AND RECOMMENDATIONS

"At this point, coexistence in Hebron is impossible. We cannot abandon anyone, neither settler nor any other resident of Hebron, but the soul-searching has to be not just military, but comprehensive, in the broadest sense of the term." *Foreign Minister Shimon Peres*⁶⁵

For more than twenty years, innumerable violent incidents have occurred between Jewish settlers in Hebron and the city's Palestinian residents. Whereas the Israeli authorities acted vigorously, often in flagrant violation of the human rights of Palestinians, in order to protect the settlers and to punish those who harmed them, those authorities have failed to protect the lives, integrity, and property of the Hebron's Palestinian residents from repeated attacks by Jewish settlers in the city.

Over the years, law enforcement vis-a-vis settlers, and particularly settlers in Hebron, has been deficient in spite of repeated undertakings by Israeli authorities to respond vigorously to violent acts. As early as 1982, the Karp Commission determined that law enforcement against settlers had many flaws. Twelve years later, the Shamgar Commission found that

Much ink has been spilt on this issue, and lots of words have been uttered, but everything that has been done has been too slow, too little, too late.... Not every complaint was handled as it should have been, not every crime was investigated, or investigated fully, and not every suspect was brought to trial.⁶⁶

B'Tselem's investigation proves that after the Shamgar Commission, and in spite of its unequivocal recommendations concerning necessary improvements in this area, security forces continue to act half-heartedly with regard to repeated acts of violence by settlers in Hebron against Palestinians.

The increased presence of security forces in Hebron only exacerbates the situation and causes additional violations of Palestinians' human rights. This presence disrupts their daily lives much more severely than disruptions faced by residents of any other city in the West Bank.

The conclusion required by the unique situation of Hebron's Jewish settlement - located within a large Palestinian city and creating constant friction between local Palestinians and settlers - is unavoidable: the continued presence of Jewish settlers in Hebron will inevitably lead to further violations of the human rights of Palestinian residents.

It is ostensibly possible to preserve the Jewish settlement in Hebron and transfer overall responsibility for Hebron to the Palestinian Authority, provided that it undertakes to protect the rights of the settlers. However, because of the long history of ongoing confrontation between the

⁶⁵ In an interview to "Mabat l'Hadashot" (Evening News), quoted in *Al Hamishmar*, 28 March 1994.

⁶⁶ Shamgar Commission Report, p. 192.

two populations and the positions of the Palestinians and the settlers, this solution is clearly not realistic.

B'Tselem urges the government of Israel to dismantle the Jewish settlement in Hebron and remove Israeli security forces from the city. The absurd reality of Hebron, where the presence of 450 settlers dictates the lives of 120,000 Palestinians, and the illegality of the settlement in Hebron (like other Jewish settlements in the Territories) under international humanitarian law, require that these actions be taken. In doing this, the Israeli authorities must ensure that the settlers' human rights are also respected during the evacuation.

This solution does not constitute a political position; its goal is to put an end to violations of Palestinians' human rights in Hebron, many of which result from the existence of Jewish settlement in the city. Any political solution which preserves Jewish settlement in the city and Israeli control over the city, wholly or partially, will lead inevitably to additional violations of the human rights of the city's Palestinian residents.

RESPONSE OF THE IDF

IDF Spokesman
Information Branch
September 18 1995



The IDF Spokesman Response to the *Betzelem* Report

The IDF and the Security Forces are responsible for maintaining security, law and order in Judea and Samaria including the Hebron region. In order to accomplish this goal, the IDF employs different measures including operations against terrorist groups, putting up road blocks, imposing closures, etc.

These measures are employed only after much consideration, and while trying to minimize the adverse effect on the lives of residents in the area. The IDF had to resort to the abovementioned measures, because the number of terrorist attacks in the Hebron area exceeds those of other areas.

Since the Oslo agreement, 9 Israelis were killed in Hebron, as a result of increased terrorist activity by Hamas in the area. While searching for wanted terrorist groups, the IDF eased restrictions in an effort to reach normalization to the extent possible.

Betzelem's report ignores the fact that since 1994, 6 Israeli civilians and soldiers were killed, 17 were injured by gunfire in Hebron. 30 bombs were planted, 6 grenades were thrown and 10 attempted stabbings from which 6 Israeli civilians and soldiers were injured, took place. As to claims regarding debasing the city residents, the IDF sees with extreme severity any case of unbecoming behavior and deviation from procedure and prosecutes soldiers caught acting against orders.

It should be noted that *Betzelem* published its report before receiving a response from the IDF and chose to disregard security concerns which form the basis of IDF behavior.

RESPONSE OF THE ISRAEL POLICE DEPARTMENT

Unclassified

National Headquarters/Investigations
Investigations and Claims Department
Telephone: 02-309330
Fax: 02-309111

4 December 1995

Mr. Yizhar Be'er
B'Tselem
43 Emek Refaim Street
Jerusalem 93141

Dear Sir:

Re: Draft of Report about Violation of Human Rights in Hebron
since the Massacre at the Cave of the Patriarchs
Ref: Your letter S.M. 5000 of 14 September 1995

1. In response to your aforementioned letter, I acknowledge receipt of the chapter dealing with the police activities concerning enforcement of the law vis-a-vis Jewish residents in the Territories.
2. The Israel Police Department did, and continues to do, everything it can to enforce the law in the Territories. However, it is clear that because of the many existing problems, some of which were raised in your report, law enforcement there is very difficult.
3. Because of the many cases, matters, and allegations raised in the report, I anticipate that it will take some time to make a thorough review. In some of the cases, I assume that you have already received a response.
4. For your information.

Sincerely,
s/
Yoni Zioni, Superintendent
Supervision Section Officer, on behalf of the
head of the Investigations and Claims
Department

Unclassified