

Israel's Forcible Transfer of Palestinians from and within Hebron

The BADIL Resource Center for Palestinian Residency and Refugee Rights (BADIL), Al-Haq and the Cairo Institute for Human Rights Studies (CIHRS) bring to the attention of the international community the devastating impact of discriminatory Israeli policies on Palestinian residents of the Old City area of Hebron, in the occupied West Bank. Despite this focus, BADIL highlights that these and similar policies are implemented by Israel throughout the occupied Palestinian territory (oPt).

Such policies - including severe movement restrictions and regular violence and harassment from Israeli military and police personnel, as well as from Jewish Israeli settlers - have fostered a deeply oppressive living environment for the occupied civilian population, resulting in forced displacement consistent with legal definitions of forcible transfer.

Hebron (*Al-Khalil* in Arabic), is the largest city in the southern West Bank, with a population of 208,000-215,000 residents,¹ the majority of whom are Palestinian Arabs. Hebron has long been a hub for trade and commerce,² and today accounts for roughly one third of the West Bank Gross domestic product (GDP).³

In accordance with the 1997 Hebron Protocol, signed by Israel and the Palestinian Liberation Organization, Hebron was divided into two administrative areas: 'H1', and 'H2'. The former, inhabited at the time by roughly 140,000 Palestinians, was assigned to the control of Palestinian authorities, while control of H2 - in which 30,000 Palestinians and some 450-800⁴ illegal Jewish Israeli settlers reside, with the latter accompanied by a large contingent of Israeli soldiers, border police and other personnel - was retained by the Israeli Occupying Power.

In 1994, following the murder of 29 Palestinians by an Israeli settler inside the Ibrahimi Mosque, Israeli authorities closed Shuhada Street - a busy thoroughfare - for Palestinian vehicular access. Later, most of this same street was also closed to Palestinian pedestrian movement following the outbreak of the Second Intifada in 2000. Additionally, some 480 businesses along the street were shut down by military

¹ The Palestinian Central Bureau of Statistics, *Localities in Hebron Governorate by Type of Locality and Population Estimates, 2007-2016*, available at: http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/hebrn.htm [Accessed 29 February 2016].

² Ma'an Development Center. (2008). *Hebron Destroyed From Within Fragmentation, Segregation and Forced Displacement*, P. 5.

³ TIPH, *Hebron Today*, available at: http://www.tiph.org/en/About_Hebron/Hebron_today/ [Accessed 29 February 2016].

⁴ Estimates vary as to the precise number of settlers present inside H2. See, for instance, Amnesty. (2016) International Public Statement: *Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, P. 5. Tawfiq Jahshan, Hebron Rehabilitation Center lawyer. Interview, 23 March 2016. Adamczyk, S. (2013). *Driven Out. The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, Norwegian Refugee Council, P. 12.

orders, which are periodically renewed.⁵ According to 2013 report from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA):

The harsh access restrictions have forced the vast majority of Palestinians living along [Shuhada] street to abandon their homes and be displaced elsewhere. The few families that remained face difficult living conditions. While some of them are exceptionally allowed to use a small section of the street to enter their homes, other families must rely on back entrances, or their neighbours' rooftops to enter their homes. As a result, otherwise normal activities, such as bringing home foodstuff or furniture, became complicated operations; receiving visitors became almost prohibitive.⁶

Late 2015 witnessed a marked escalation in protest and unrest throughout the West Bank, with Hebron becoming a noted flashpoint. Between 1 October 2015 and 25 February 2016, 20 Palestinians were killed by Israeli forces in the Old City of Hebron or in close proximity to its settlements,⁷ with a number of these killings identified by Amnesty International as constituting extra-judicial executions.⁸ Further, since 1 November 2015, the Tel Rumeida area and neighboring Shuhada Street have been declared by Israel as a 'closed military zone'. This closure was initially implemented for a period of one month, but was then subject to ongoing extension⁹ until late May 2016. At the time of writing, this closure remains partially in place.

Such measures operate in the context of severe movement restrictions which have been imposed upon Palestinian residents of Hebron since the 2nd Intifada, and by November 2015, across H2 there were 95 physical obstacles in situ, including 19 permanently-staffed checkpoints.¹⁰

There also exists a pervasive threat of violence and harassment from the Israeli settler population. In 2015, OCHA recorded more than 220 attacks by settlers on Palestinians and their property across the

⁵ OCHA, 2013 *Humanitarian Monitor Monthly Report* (February 2013), P.10, available at: https://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2013_03_25_english.pdf

⁶ Ibid

⁷ Amnesty International Public Statement, (25 February 2016) *Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, P. 4.

⁸ Amnesty, (27 October 2015) *Israeli forces in Occupied Palestinian Territories must end pattern of unlawful killings*, available at: <https://www.amnesty.org/en/latest/news/2015/10/israeli-forces-must-end-pattern-of-unlawful-killings-in-west-bank/> [Accessed on 22 March 2016] and Amnesty, (12 November 2015) *Israel/OPT: Investigate apparent extrajudicial execution at Hebron hospital*, available at: <https://www.amnesty.org/en/latest/news/2015/11/israel-opt-investigate-apparent-extrajudicial-execution-at-hebron-hospital/>

⁹ Al-Khalil Team. (2016) *Closed military zone in Shuhada Street and Tel Rumeida extended yet*, International Solidarity Movement. available at: <http://palsolidarity.org/2016/02/closed-military-zone-in-shuhada-street-and-tel-rumeida-extended-yet-another-month/>

¹⁰ OCHA, *Humanitarian Bulletin occupied Palestinian territory* (November 2015), P. 4. Available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_12_11_english.pdf

West Bank, including East Jerusalem.¹¹ Yet, this figure is likely to fall far short in portraying the true prevalence of such attacks, as many instances go unreported by victims on account of the difficulty of filing official complaints – often done at police stations located inside settlement blocs – or due to the belief that reporting such attacks will produce little response. This belief appears well-founded, and according to Yesh Din, between 2005 and 2014, just 7.4% of investigations into settler attacks on Palestinians and Palestinian property resulted in indictments being issued by Israeli authorities, whilst 85.2% of these files were closed due to inadequate investigation by Israeli forces.¹² The result is an almost complete impunity for settlers, and an often impossible living environment for resident Palestinians.

In interviews conducted by BADIL with Palestinians who had abandoned their homes in Hebron in late 2015, the underpinning factors for the individuals' 'decision' to leave - or to remove family members from - the area were given as economic and social hardships resulting directly from Israeli-implemented closures and movement restrictions, as well as the continual threat of violence and/or harassment from Israeli military/police personnel, and from settlers.

As such, a demonstrably coercive environment which had already effected the forced displacement of many Palestinian individuals and families from H2, has become even more so, with those Hebron residents who have thus far remained in their homes now coming under increased pressure to leave. This pressure results from the fear of violence and harassment from settlers and/or Israeli military or police personnel, as well from the grave social and economic consequences of other acts and policies attributable to the Israeli Occupying Power.

Under Article 49 of the Fourth Geneva Convention, an occupying power is strictly prohibited from conducting individual or mass transfers of the occupied civilian population, either by acts of expulsion or through creation of a coercive environment. Such transfers are also recognized as a grave breach of the same convention, conferring an obligation on state signatories to search for individuals alleged to have committed – or to have ordered to be committed – acts of forcible transfer, and to bring such persons before a domestic court or, alternatively, to extradite such persons to another High Contracting Party for this purpose.¹³ In addition, Common Article 1 of the Fourth Geneva Convention requires that state signatories take all available measures to ensure respect for the Convention.

UN bodies and agencies have made significant strides towards identifying instances of Israeli-perpetrated forcible transfer of Palestinian Bedouin and herder communities, but it is essential that this lens of analysis now be applied throughout the oPt as a whole, including the toxic living environment which has been created for Palestinians in Hebron.

¹¹ OCHA, 2016. *Protection of Civilians. 8 – 14 March 2016*. Available at: <http://www.ochaopt.org/poc8march-14march-2016.aspx>

¹² Yesh Din, Nov 2014. Data Sheet: Increase in Rate of Police Investigation Failure in cases of Ideological Offences against Palestinians. Available: <http://www.yesh-din.org/infoitem.asp?infocatid=636>

¹³ Article 146, Fourth Geneva Convention

Furthermore, Israel's conduct in H2 also acts in direct contravention of International Human Rights Law which is recognized as being fully applicable – in conjunction with International Humanitarian Law – during periods of military occupation. For instance, Israeli acts deprive Palestinians in Hebron of, *inter alia*, the right to life; freedom of movement, equality, self-determination; adequate housing and the right to freedom from discrimination.

Accordingly, BADIL, Al-Haq and CIHRS:

- i. Call upon third party states and regional bodies, UN bodies and agencies, to condemn Israel's creation of a coercive environment inside Hebron, which leaves Palestinians no option but to abandon their homes and communities;
- ii. Call upon High Contracting Parties to honor their obligation under Article 146 of the Fourth Geneva Convention to identify and bring to justice individuals alleged to have committed – or to have ordered to be committed – acts of forcible transfer inside the oPt;
- iii. Call upon High Contracting Parties to honor their obligation under Common Article 1 of the Geneva Conventions to ensure Israel's respect for the Conventions.