

FORCED POPULATION TRANSFER:

The Case of the Old City of Hebron

BRIEF



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Credit and Notations

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Table of Contents

Introduction	5
Legal Framework	7
Methodology	8
Findings	9
Recommendations	10
Hebron: An Overview	11
Manifestation of the Policies in Hebron's Old City	16
1. Installment of a Permit Regime	16
2. Discriminatory Zoning and Planning	19
3. Denial of Access to Natural Resources and Services	21
4. Oppression of Resistance	23
5. Non-state Actions	28
6. Segregation	33
7. Denial of Residency	35
8. Property Confiscation and Denial of Use	37
9. Denial of Reparations	41

Introduction

This brief supplements BADIL's series *Forced Population Transfer: The Case of Palestine*, which aims to provide an overview of the range of policies that Israel employs to coerce both the forcible transfer of Palestinians within the occupied Palestinian territory (oPt) and the unlawful forced displacement of Palestinians inside Israel.¹ This brief is part of a more extensive case study² exploring how these policies work in Hebron's Old City, where their effects can clearly be seen by the significant numbers of Palestinians forced to leave their homes.³ The process of forcible transfer in the Old City is particularly egregious due to its unique context. First, it is the only city other than East Jerusalem where colonies exist inside the city itself. And second, it is subject to a special framework, the 1997 Protocol Concerning the Redeployment of Hebron (hereafter referred to as the Hebron Protocol), that facilitates Israeli colonial domination of the area.⁴ Despite this exceptionality, however, an examination of the Old City enables better understanding of the situation unfolding throughout Mandate Palestine.⁵

BADIL has identified and categorized nine Israeli policies taking place in the Old City, which are presented in this brief. First, the permit regime which interferes with multiple aspects of Palestinian life and is exacerbated by conditions outlined in Hebron Protocol and the presence of colonies. Second, discriminatory zoning and planning is utilized to create and expand colonies and bring new colonizers to the Old City. Third, the denial of Palestinian access to natural resources and services in the Old City leaves Palestinians in a vulnerable and perilous situation. Fourth, the oppression

1 For more information see: BADIL Resource Center, *Forced Population Transfer: The Case of Palestine. Introduction*, Working Paper No. 15, 2014, Palestine. Available at: http://www.badil.org/phocadownloadpap/Badil_docs/publications/wp15-introduction.pdf

2 To download the full case study see: BADIL Resource Center, *Forced Population Transfer: The case of the Old City of Hebron*, August, 2016. Available at: [http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/CaseStudyFPT-Hebron\(August2016\).pdf](http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/CaseStudyFPT-Hebron(August2016).pdf).

3 For the purposes of the case study and this brief, BADIL considers the 'Old City' to be those parts of the city composed of the historic center of Hebron that are inside H2 and the closely surrounding areas, such as Tel Rumeida and the surroundings of the Ibrahimi Mosque.

4 Protocol Concerning the Redeployment in Hebron, Israel and PLO, 17th January 1997, Available at: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/protocol%20concerning%20the%20redeployment%20in%20hebron.aspx>.

5 Mandate or Mandatory Palestine refers to the territory that was under British administration between 1920 and 1948. This territory today encompasses the oPt and Israel.

of any Palestinian resistance against the occupation, a resistance that is enshrined in international law, creates an environment of intimidation, fear and collective suffering. Fifth, Israeli complicity with non-state actions against Palestinians in the Old City – often committed by the colonizers – results in physical injuries, constant insecurity, psychosocial distress, loss of livelihoods and a state of fear. Sixth, segregation occurs on both physical and legal levels, separating Palestinians from the colonizers and from each other. Seventh, denial of residency takes place when Israel denies Palestinians in the Old City the right to choose residency or to maintain residency in certain neighborhoods of the city. Eighth, property confiscation and denial of use in the Old City is manifested in significant restrictions through ‘seizure for military purposes,’ expropriation orders and the creation of colonial outposts. Finally, Palestinians who were forcibly displaced, either inside the West Bank or abroad, are denied their right to reparations.

An analysis of Israel’s policies in the Old City reveals a system that infiltrates every aspect of daily life for Palestinian residents and creates a coercive environment that triggers forcible transfer in direct violation of international humanitarian and human rights law.

Population in the Old City ⁶	
Period/Year	Palestinian Population
1950s	10,000
1967	7,500
1970	6,000
1985	1,620
1990	1,501
1996	400
2015	6,500

Although the decline in the Palestinian population in the Old City is quite apparent on the ground, there is a lack of accurate quantitative data. This scarcity is due to, among other reasons, the different definitions of the ‘Old City’ by different organizations and institutions,⁷ the lack of accurate monitoring and documentation mechanisms for forcible transfer, and the

6 Data from interview with Hebron Rehabilitation Committee, Ma’an Development Center, Hebron Destroyed from Within: Fragmentation, Segregation and Forced Displacement, (September 2008), available at: <http://www.badil.org/en/resources/documents/individual-studies.html?download=75:hebron-destroyed-from-within-fragmentation-segregation-and-forced-displacement>; Patricia Sellick, The Old City of Hebron, Can it be saved?, (Summer 1994), available at: <http://www.palestine-studies.org/sites/default/files/jps-articles/2538213.pdf>.

7 The numbers shown in the table do not necessarily refer to the population of the area as defined by BADIL as ‘Old City’; the area covered by this data might be bigger or smaller, but the numbers are still an accurate indicator of the demographic changes and the sharp decrease in population.

lack of comprehensive census initiatives specifically for the Old City and for the H2 area more generally. Moreover, there has been an inflow of new residents into the Old City following the restoration and renovation of many abandoned homes by the Hebron Rehabilitation Committee (HRC) and other organizations, coupled with economic incentives for those Palestinians who are willing to endure the coercive environment. HRC has managed to renovate around 1,000 homes in the Old City, which has allowed for around 6,000 Palestinians to move back or to relocate there.⁸ The presence of these new residents and the resulting positive demographic growth rate have also hindered the documentation and monitoring of forcible transfer cases in the Old City. Despite the absence of accurate numbers, there are some estimates of the decrease in population of the Old City throughout the last decades.

The Palestinian Bureau of Statistics estimates that the annual growth rate of Palestinians between 1967 and 2005 is 3.5 percent, which means that by 2005 there should have been over 25,000 Palestinians in the Old City. Instead of a steady growth, the Palestinian population has decreased significantly, the biggest drops taking place following the establishment of the first colony and the arrival of the first colonizers in 1969, and following the Ibrahimi Mosque massacre and subsequent additional restrictions imposed by the Israeli forces in 1994. Even considering socio-economic factors in the area, the lack of space and the capacity of absorption of new residents of the Old City, a decrease in population of around 95 percent from 7,500 in 1967 to 400 in 1996 is abnormal. Such a dramatic decline, in the absence of any major external causes such as natural disaster or war, can only be explained by the Israeli enterprise targeting Palestinian presence in this area. This brief analyzes how Israel commits the crimes of forcible transfer, colonization, and apartheid through the aforementioned policies.

Legal Framework

In Hebron's Old City Case Study and the Forced Population Transfer working paper series, BADIL utilizes both International Humanitarian Law (IHL) and International Human Rights Law (IHRL) to draw a rigorous legal analysis of forcible transfer.

Forcible transfer is a term that commonly evokes images of people being loaded onto trucks or trains and driven away, usually by violent force.⁹ It should be noted that the 'forcible' dimension of this offence is interpreted broadly, and *"is not restricted to physical force, but may include threat of*

⁸ Data from interview with Hebron Rehabilitation Committee.

⁹ Deportation denotes displacements that involve the crossing of an international border while forcible transfer relate only to displacements within a State (Stakić, IT-97-24-A, Judgment of 22 March 2006) or territory, without crossing an international border.

*force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.”*¹⁰ This coercive environment is intended to cause – and frequently results in – forcible transfer. As such, ‘force’ is not limited to acts already committed but extends to threats, or a reasonably perceived likelihood of future acts. In this regard, the various Israeli policies including those explained in this brief create a coercive environment which triggers the forcible transfer of Palestinians.

Accordingly, forcible transfer is considered both a war crime when committed in the context of an international or non-international armed conflict, and a crime against humanity when committed as a part of a widespread or systematic attack against any civilian population.¹¹ Forcible transfer, as in the case of Palestine, is typically accompanied by a multitude of violations of human rights and fundamental freedoms. Each policy of forcible transfer identified by BADIL has different human rights implications, with the degree of coerciveness also influencing the rights and freedoms affected.¹²

Thus this brief features the Israeli policies, the human rights violations associated with them and their devastating impact on the lives of Palestinians. Each policy is addressed separately in order to analyze the Israeli laws and other mechanisms that create the coercive environment that induces the forcible transfer of Palestinians in Hebron’s Old City. BADIL hopes that this brief and the rest of the series will inform stakeholders, policy makers, and activists, and ultimately facilitate advocacy efforts which will contribute to the dismantling of a structure that encompasses crimes and systematically violates Palestinian rights.

Methodology

Similar to the Forced Population Transfer working paper series, this paper combines both field and desk research. Field research consists of case studies

10 The Rome Statute Elements of Crimes, Article 6(e). Available at: <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>

11 International Criminal Court, Rome Statute of the International Criminal Court, 1998, Articles 8(2)(a)(vii), 8(2)(b)(viii) and 7(1)(d); In seeking to identify instances of forcible transfer, jurisprudence of the ICTY has identified the following requisite elements: i. The forced displacement of protected persons by expulsion or other forms of coercion; ii. From areas in which they were lawfully present (though remaining within a national border); iii. The removal taking place without grounds permitted by international law. See ICTY, Prosecutor v. Popović et al., Case Number. IT-05-88 -T, Trial Judgment, (hereafter ‘Popović et al’) para. 891.

12 See BADIL Resource Center, *Installment of a Permit Regime, Force Population Transfer: The Case of Palestine*, December 2015. Available at: <http://www.badil.org/en/publication/press-releases/60-2015/4518-pr-en-281215-38.html>; or other Working Papers of the Force Population Transfer Series, available here: <http://www.badil.org/en/publication/research/working-papers.html>

drawn from over 20 individual and group interviews with Palestinians living in the Old City affected by forcible transfer policies, and experts such as lawyers or employees of organizations active in the area. Most of the data used is qualitative in nature, although where quantitative data was available – or could be collected – it was included in the research. Desk research contextualizes policies of forcible transfer by factoring in historical, social, political and legal conditions in order to expose the human rights violations of Palestinians living in the Old City. The analysis is supplemented with secondary sources such as scholarly articles and reports.

Findings

The forcible transfer of Palestinians residing in Hebron's Old City through the creation of a coercive environment is the result of a combination of all the aforementioned Israeli policies. However, the case study demonstrates that of all the policies mentioned, the main ones in play in the Old City are the permit regime, actions of non-state actors with the state's consent, property confiscation and denial of use, discriminatory zoning and planning, and segregation.

Prominent consequences of these policies in the Old City include, but are not limited to: closures and movement restrictions; physical attacks; daily humiliation, ill treatment and intimidation; Judaization¹³ of the area; and destruction of social, economic and physical coherence of Palestinian life, resulting in ubiquitous and intensifying fear among Palestinians. All these features create and establish an environment that makes the exercise and enjoyment of a normal life impossible, as even the most basic of activities such as going to school, work, shopping or visiting relatives are detrimentally affected by the policies. As such, it could be concluded that Palestinian presence in the Old City (just as elsewhere in the oPt) is challenged by the Israeli policies and thus constitutes resistance.

The strategic and successful coupling of the transfer of the occupied population *out* of the territory and the transfer of the population of the occupier *into* the territory is starkly visible in the case of the Old City. As such, the occurrence of forcible transfer, which is a grave breach of international law, is on one hand clearly manifested in the sharp drops in Palestinian population residing in the Old City, and on the other in the ongoing increase of colonizers and the expansion of colonies.

13 The Judaization of the area has taken place through the creation of Jewish residential neighborhoods in parts of the Old City, the linking of these colonies with the larger Kiryat Arba colony in the outskirts of Hebron in order to create a geographically contiguous 'Jewish-only' area, the destruction of historic Mamluk and Ottoman era buildings to build roads for the colonizers, and the establishment of a synagogue in part of the Ibrahimi Mosque.

The Hebron Protocol, which was intended to be an interim agreement for the redeployment of Israeli forces based on the commitment of the Palestine Liberation Organization (PLO) and Israel to maintain a fully normal life for the residents of Hebron, has become an instrument used by Israel not only to practice but also to legitimize the human rights violations and crimes on the ground. In other words, it is a means for justifying, entrenching and expanding the forcible transfer of Palestinians and the Israeli colonization enterprise in Hebron.

Unfortunately, neither governmental institutions nor non-governmental organizations – Palestinian or international – are able to accurately monitor and/or document this phenomenon in the Old City or elsewhere in Mandate Palestine. Further, the residents of the Old City, Palestinian institutions, human rights organizations and activists lack the minimum standards of protection due to the failure of national and international duty bearers to enforce international law and to hold Israel accountable.

Recommendations

The situation created by these policies significantly limits and may render impossible any assurance of Palestinian residents' rights in the Old City. The coercive environment created by these policies results in gross and repetitive human rights violations and, when forcible transfer occurs, war crimes. The combination of crimes, forcible transfer and colonization in the Old City and elsewhere in the occupied Palestinian territory should elicit the activation of third party states' obligations to hold Israel accountable.

Therefore, BADIL recommends that all stakeholders activate and implement measures to bring Israel into compliance with international law to end both the forcible transfer of Palestinians and colonial domination. Specifically, it calls on the PLO and the Palestinian Authority (PA) to secure sufficient human and financial resources to challenge Israeli policies, measures and practices in the Old City with the aim to ensure Palestinian presence, sustainability and sovereignty. BADIL calls on United Nations (UN) member states, agencies and Special Procedures to support the PLO/PA in this endeavor and end the inconsistency of the Hebron Protocol with international law, while expanding and enhancing the mandate and support of the international presence in Hebron to ensure Palestinians' protection. Finally, it recommends that international civil society and human rights organizations take measures to influence national and international duty bearers to address the aforementioned recommendations and organize campaigns to end the financial support to Zionist organizations which implement and sustain colonization projects, colonies and colonizers.

Hebron: An Overview

Hebron (al-Khalil in Arabic) is one of the oldest cities in the world and home to the Ibrahimi Mosque, one of the most sacred religious sites for Jews and Muslims. It is believed that the tombs of several biblical prophets such as Abraham, Jacob and Isaac, are located there.¹⁴ Hebron's Old City grew around this religious site, developing into clusters of houses built around courtyards and separated by narrow medieval alleys. The Old City is the historic and cultural heart and soul of Hebron, and its architecture and the structure of its quarters can be traced back to the Mamluk period, also known as 'The Golden Age' of Hebron.¹⁵

Today Hebron is home to about 215,450 residents¹⁶ and has an area of 74.102 km², making it the second largest city in the West Bank after East Jerusalem.¹⁷ Although the city itself still remains one of the most important commercial centers in Palestine, this activity has moved out of the Old City, which is now characterized by closed shops and businesses, empty homes and streets, and constant Israeli military and colonial presence. As of 2015, the Old City has an area of about one square kilometer and a population of around 6,500 residents.¹⁸

Due to its religious and political significance, Hebron became a focal point for the colonizing movement,¹⁹ which enjoys both the direct and indirect support of the Israeli government.²⁰ It should be noted that the colonization of the Old City is not an individual initiative of radical colonizers but rather a well-planned Israeli endeavor carried out by Zionist movements (non-state

14 Hebron Rehabilitation Committee, *Hebron's Old City; Preservation and Revitalization Master Plan*, 2014.p. 30-34. Available at: <http://www.hebronrc.ps/images/stories/MP%20English.pdf>

15 Ibid.

16 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.

17 Applied Research Institute of Jerusalem (ARIJ), *Hebron City Guide*, 2009. p. 13, available at: <http://proxy.arij.org/vprofile/hebron/ar/pdfs/Hebron%20City%20profile%20AR.pdf>.

18 Interview with the Hebron Rehabilitation Committee.

19 Müller, P., Alternative Information Center, *Occupation in Hebron*, 2004. p. 13. Available at: https://www.ochaopt.org/documents/opt_prot_aic_hebron_dec_2004.pdf.

20 Idith Zertal and Akiva Eldar, *Lords of the Land: The War over Israel's Settlements in the Occupied Territories, 1967-2007*, New York: Nation Books, 2007. p. 16.

actors) which almost immediately receive support, privilege and sustenance from Israeli authorities and Zionist 'charitable' organizations. During the early 1980s, four Israeli colonies were established in the Old City: Beit Hadassah (al-Dabbayah), Avraham Avinu (Hay al-Yahud), Beit Romano (Osama Ben Munqez School) and Tel Rumeida.²¹ Later, in 2014, a formal fifth colony,²² also recognized and supported by Israel, was established in al-Rajabi house. The exact number of colonizers living in the colonies of the Old City varies according to sources,²³ with numbers ranging between 450 and 800.²⁴ In addition, a large contingent of Israeli forces is deployed in and around Hebron to protect the Israeli colonies and colonizers in the area.²⁵

The Oslo I Accord (1993) and the Oslo II Accord (1995)²⁶ marked the start of the Oslo process and granted Palestinians a limited measure of self-government in the Gaza Strip and the West Bank, excluding East Jerusalem, through the establishment of the PA.²⁷ Subsequently, intermittent negotiations ensued between Israel and the PA, mediated by the United States of America (USA), to address issues not included in the Oslo Accords. These negotiations, which have been ongoing for over two decades, have been dubiously dubbed the 'peace process.'

21 Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 13. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>

22 Establishing Israeli colonies occurs within two forms. Formally when Israel uses a complex legal and bureaucratic mechanism to take control of Palestinian lands, provide services to the colonies and encourage Jewish-Israeli citizens to migrate to them. Informally when individual Jewish-Israeli citizens take control of Palestinian lands by force, and then seek Israeli recognition and support (outposts).

23 The exact number of colonizers has not been made public. Moreover, the numbers fluctuate, since some of the residents in the colonies are yeshiva students or foreign visitors who might spend some time in Hebron visiting family or for other purposes.

24 Amnesty International, *International Public Statement: Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, 2016. p. 5. Available at: <https://www.amnesty.org/en/documents/mde15/3529/2016/en/>; Interview with Tawfiq Jahshan, Hebron Rehabilitation Committee lawyer, 23 March 2016.; Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 12. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>

25 Amnesty International, *International Public Statement: Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, 2016. p. 5. Available at: <https://www.amnesty.org/en/documents/mde15/3529/2016/en/>

26 Council on Foreign Relations, *Oslo I Accords (Declaration of Principles on Interim Self-Government Arrangements)*, Washington D.C., September 1993. Available at: <http://www.cfr.org/israel/oslo-accords-declaration-principles-interim-self-government-arrangements/p9674>; Council on Foreign Relations, *Oslo II Accords (Interim Agreement on the West Bank and the Gaza Strip)*, Taba (Egypt), September 1995. Available at: <http://www.cfr.org/israel/oslo-ii-accords-interim-agreement-west-bank-gaza-strip/p9676>.

27 Article I of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*. Available at: <http://www.cfr.org/israel/oslo-ii-accords-interim-agreement-west-bank-gaza-strip/p9676>.

On 25 February 1994 during Ramadan, the holy month for Muslims, US-born Israeli colonizer Baruch Goldstein gunned down 29 Palestinians and injured more than 100 others who were praying at the Ibrahimi Mosque.²⁸ It is believed that Goldstein committed this massacre in objection to the peace process and the possibility of the creation of a Palestinian state.²⁹ He had been a member of the Jewish Defense League, an anti-Arab militant group that is a declared terrorist organization by the USA.³⁰ After moving to Israel in 1983 and finishing his military service, Goldstein joined Rabbi Meir Kahane's Kach political party,³¹ known for its extreme anti-Palestinian views. Goldstein was a reserve captain in the Israeli forces, wore his uniform and used his army-issued gun while committing the massacre.³² He was killed during the attack after being struck in the head with a fire extinguisher and beaten by Palestinians in the Mosque.³³

After the massacre, the Israeli army banned Palestinian access to more than half of the Mosque and transformed a significant portion of it into a synagogue.³⁴ Other restrictions imposed on the Old City's Palestinian community included banning Palestinian vehicles from most roads leading to the Israeli colonies as well as pedestrian access in several areas of the Old City, including the partial closure of ash-Shuhada Street.³⁵

On 17 January 1997, PLO representatives and Israel signed the Hebron Protocol, a mechanism for managing the Israeli military presence in the city. Several security and civil arrangements were addressed in the Protocol through administrative provisions that affected all aspects of life in the Old City, including access to the holy sites and the transfer of civil powers and responsibilities such as; planning, zoning, building, infrastructure, and transportation.³⁶ While the opening of ash-Shuhada Street was a stipulation

28 Müller, P., Alternative Information Center, *Occupation in Hebron*, 2004. p. 17. Available at: https://www.ochaopt.org/documents/opt_prot_aic_hebron_dec_2004.pdf

29 Tuman, J. S., *Communicating Terror: The Rhetorical Dimensions of Terrorism*, Sage Publications, Inc., 2003. p. 93.

30 Institute for Middle East Understanding (IMEU), *The Ibrahimi Mosque Massacre: 20 Years Later*, 27 February 2014. Available at: <http://imeu.org/article/the-ibrahimi-mosque-massacre-20-years-later>

31 Ibid.

32 Ibid.

33 Edward F. Mickolus and Susan L. Simmons, *Terrorism, 1992-1995: A Chronology of Events and a Selectively Annotated Bibliography*, Greenwood, First Edition, 18 June 1997. p. 565.

34 B'Tselem and Association for Civil Rights in Israel, *Ghost Town: Israel's Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, 2007. p. 10. Available at: <http://www.acri.org.il/pdf/ghosttown.pdf>

35 OCHA oPt, *Fragmented Lives Humanitarian Overview 2012*, 2013, p. 38. Available at: http://www.ochaopt.org/documents/ocha_opt_fragmented_lives_annual_report_2013_english_web.pdf

36 Applied Research Institute of Jerusalem (ARIJ), *Palestinian-Israeli Peace Process*, 2007. Available at: <http://www.arij.org/atlas40/chapter3.2.html>

of the Hebron Protocol,³⁷ almost 20 years later it remains inaccessible to Palestinians.

The Hebron Protocol divided Hebron into two administrative areas: Hebron 1 (H1), comprising 80 percent of the city, was allocated to the PA and Hebron 2 (H2), comprising the remaining 20 percent of Hebron including the Old City and all the colonies, which came under full Israeli control.³⁸ According to the Protocol, the Israeli authorities retain full power over the internal security and public order of H2 as well as responsibility for the security of the colonizers. The PA was to have control over civil affairs for the Palestinian communities of H2, but their civil services have been considerably hampered by the Israeli restrictions imposed for 'security' reasons.

Article 9 of the Hebron Protocol specifies that:

“Both sides reiterate their commitment to the unity of the City of Hebron, and their understanding that the division of security responsibility will not divide the city. [...] both sides share the mutual goal that movement of people, goods and vehicles within and in and out of the city will be smooth and normal, without obstacles or barriers.”³⁹

In violation of the Protocol, as well as international law, Palestinian residents of H2 have been subject to several military orders, movement and access restrictions, forced closing of businesses, violent military actions and countless attacks by colonizers since 1997.

The Second Intifada, a Palestinian popular uprising that began in September 2000, resulted in further deterioration of the circumstances of Palestinians through ongoing incursions, killings and arrests by the Israeli forces, as well as colonizer attacks and harassment. The situation in the Old City was even worse, with the imposition of more than 600 days of curfew during the first three years of the uprising.⁴⁰ Additionally, about 480 shops and businesses along ash-Shuhada street including two gas stations were shut down by

37 According to article 7. a. 2. of the Protocol: *“The movement of vehicles on the Shuhada Road will be gradually returned, within 4 months, to the same situation which existed prior to February 1994.”* Available at: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/protocol%20concerning%20the%20redployment%20in%20hebron.aspx>

38 Article 2/a/1 of the Protocol Concerning the Redeployment in Hebron, Israel and PLO, 17 January 1997. Available at: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/protocol%20concerning%20the%20redployment%20in%20hebron.aspx>

39 Protocol Concerning the Redeployment in Hebron, Israel and PLO, 17th January 1997, Available at: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/protocol%20concerning%20the%20redployment%20in%20hebron.aspx>.

40 Müller, P., Alternative Information Center, *Occupation in Hebron*, 2004. p. 32. (citing Christian Peacemaker Teams, which has monitored the situation in Hebron for more than five years). Available at: https://www.ochaopt.org/documents/opt_prot_aic_hebron_dec_2004.pdf

military orders, which were periodically renewed.⁴¹ In 2002, the Israeli army completely fenced off ash-Shuhada Street, strengthening the partial closure of the surrounding area.⁴²

Twenty-three years after the Oslo Accords Palestinians are faced with exacerbated implementation of the forcible transfer policies and continued gross violations of their rights. As such, clashes intensified in October 2015, characterized by alleged⁴³ stabbings of Israeli soldiers and colonizers by Palestinians which resulted in the excessive use of lethal force and increased oppressive measures by the Israeli regime. Twenty-two Palestinians were killed by the Israeli forces in the Old City or in close proximity to its colonies between October 2015 and March 2016, the majority of them in the ash-Shuhada Street and Tel Rumeida areas.⁴⁴ Upon investigation by Palestinian and international human rights organizations, several of these killings were found to be extra-judicial executions.⁴⁵ During the same period, one Israeli civilian was killed in the Old City.⁴⁶

41 OCHA oPt, *Humanitarian Monitor Monthly Report*, 2013. p. 10, available at: https://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2013_03_25_english.pdf.

42 B'Tselem and Association for Civil Rights in Israel, *Ghost Town: Israel's Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, 2007. p. 22. Available at: <http://www.acri.org.il/pdf/ghosttown.pdf>; Müller, P., Alternative Information Center, *Occupation in Hebron*, 2004. p. 52. Available at: https://www.ochaopt.org/documents/opt_prot_aic_hebron_dec_2004.pdf

43 Amnesty International, *Israeli forces in Occupied Palestinian Territories must end pattern of unlawful killings*, 27 October 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/10/israeli-forces-must-end-pattern-of-unlawful-killings-in-west-bank/>

44 Hebron Rehabilitation Committee, *Two Palestinians Killed in Tel Rumeida on March 24, 2016*, 24 March 2016. Available at: <http://www.hebronrc.ps/index.php/en/news/2038-2038>

45 "An extra-judicial execution is the illegal killing of an individual by either the state government, the state authorities like the armed forces and the police or criminal outfits. A punishment imposed without the permission of a court or a legal authority." Thessismun 2013, "The question of extra-judicial, arbitrary and summary executions," 2013. Amnesty International, *Israeli forces in Occupied Palestinian Territories must end pattern of unlawful killings*, 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/10/israeli-forces-must-end-pattern-of-unlawful-killings-in-west-bank/>. Amnesty International, *Israel/OPT: Investigate apparent extrajudicial execution at Hebron hospital*, 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/11/israel-opt-investigate-apparent-extrajudicial-execution-at-hebron-hospital/>.

46 Amnesty International, *International Public Statement: Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, 2016. p. 4. Available at: <https://www.amnesty.org/en/documents/mde15/3529/2016/en/>

Manifestation of the Policies in Hebron's Old City

1. Installment of a Permit Regime

Israel's permit regime exceeds a mere restriction on – or regulation of – the freedom of movement. Instead, the regime commonly results in the complete denial of access to land, work, services, and basic humanitarian needs. In this case 'permit' is understood in a broad sense, not so much as a physical document but as 'permission' to do something, since several rules and procedures can be considered as 'hidden' permits that severely interfere with Palestinians' lives. For instance, in 2011 the Knesset (Israeli parliament) authorized 'admission committees'⁴⁷ in communities in the Naqab (Negev) and Galilee regions with fewer than 400 families, thereby creating a 'hidden' permit which made it practically impossible for Palestinians with Israeli citizenship to move there.

Denial of Freedom of Movement

In Hebron a specific permit regime was imposed through the Hebron Protocol. As the Old City is located within H2, it then fell under Israeli administration through military orders and control on the ground. Although checkpoints and closed areas are not unique to Hebron, the number of blockades and impact of the closures have rendered the Old City a 'ghost town'. As of December 2015, there are 95 physical obstacles, including 19 permanently staffed checkpoints in the H2 area, impeding the freedom of movement of thousands of Palestinians on a daily basis.⁴⁸

47 The "Admissions Committees Law" was approved by the Knesset on 2 February 2011. One of Israel's discriminatory laws targeting Palestinians inside Israel by enabling these committees to deny Palestinians the right to live in certain Israeli towns located in the Galilee and the Negev regions. See: Adalah – The Legal Center for Arab Minority Rights in Israel, "Israeli Supreme Court upholds 'Admission Committees Law' that allows Israeli Jewish communities to exclude Palestinian Arab citizens", 17 September 2014. Available at: <http://www.adalah.org/en/content/view/8327>

48 OCHA oPt, *Hebron: Access restrictions amidst increased violence further undermine living conditions*, 2015. Available at: <https://www.ochaopt.org/content/hebron-access-restrictions-amidst-increased-violence-further-undermine-living-conditions>.

“Life here is abnormal. We cross the checkpoint every single day, and we find difficulties whenever we want to bring in anything to the house including the groceries and basic things like a gas tank. As for the big stuff, such as a refrigerator, a washing machine, or even a couch, we have to coordinate with the commander, and then the commander must give his orders to the soldiers and the process takes so much time. Sometimes we have to wait four hours before they allow us to bring a gas tank to the house.”

*Imad A. S., resident of Tel Rumeida, in the Old City.
Interview: 16 March 2016*

Changes in the number of checkpoints and closures often occur in response to the political situation and are used as a tool to collectively punish all residents of the area. Having to undergo searches and questioning multiple times on a daily basis while trying to go from one place to another for work, school, social visits or shopping significantly affects the normality of life for Old City residents, and has a particularly strong impact on children⁴⁹ and women.⁵⁰

Between 29 October 2015 and 19 May 2016 the Israeli military closed off the Tel Rumeida neighborhood and declared it a closed military zone.⁵¹ This forced its residents to register with the Israeli army from November 2015 until mid-May 2016 and then pass through a checkpoint where soldiers verified their residency in order to get home. Soldiers denied access to all non-residents. As a result of this situation, Tel Rumeida residents only left their homes for work, school or other urgent matters, and their relatives or friends were not allowed to visit them. These harsh conditions triggered the forcible transfer of at least three families out of the area.⁵² However, even when no official ‘closed zones’ are declared, in practice it is the Israeli soldiers themselves who have the last word on who can pass through the checkpoints in the Old City, and they often exceed their mandate by

49 Weibel, C., *Protective accompaniment helps children reach school safely in Hebron’s troubled Old City*, 2016. Available at: http://www.unicef.org/oPt/Story_-_protective_presence_in_Hebron_-_March_2016.pdf.

50 Couzinet, J., *Fear and exhaustion in the Old City of Hebron*. Middle East Eye, 21 March 2016. Available at: <http://www.middleeasteye.net/news/fear-and-exhaustion-old-city-hebron-495610099>.

51 International Solidarity Movement, *Open The Zone: Palestinians are people – not numbers*, 2016. Available at: <https://palsolidarity.org/2016/05/open-the-zone-palestinians-are-people-not-numbers/>; Amnesty International, *International Public Statement: Israeli authorities must end collective punishment of Palestinians in Hebron, protect human rights defenders in the city*, 2016. p. 5. Available at: <https://www.amnesty.org/en/documents/mde15/3529/2016/en/>

52 B’Tselem, *New restrictions on movement in Hebron and environs disrupt lives and constitute prohibited collective punishment*, 2015. Available at: http://www.btselem.org/freedom_of_movement/20151105_hebron_area.

arbitrarily deciding to close a specific checkpoint, denying access to all Palestinians.⁵³

Access restrictions affect homes, rooftops and the areas located in the vicinity of colonies, including the streets that connect colonies with each other. For example, Israel has alternately opened and closed ash-Shuhada Street for Palestinian vehicular traffic since the massacre at the Ibrahimi Mosque in 1994, with only a small part of the street currently open for Palestinian pedestrians, and none for Palestinian vehicles⁵⁴ – in contradiction with Article 9 of the Hebron Protocol. This causes residents to take considerably more time moving around the Old City. The welding shut of front doors of buildings by the Israeli army, moreover, forces families to use alternative routes over rooftops in order to enter or leave their homes.⁵⁵

Denial of Social and Cultural Rights

The permit regime also affects the right to adequate housing of Palestinian Old City residents. For construction and renovation of buildings, Israel intervenes in the permit application process, citing ‘security reasons’. This was the case with the Sharabati family, whose roof was seized by the Israeli army to install a military observation post. They have since been prevented from renovating their home.⁵⁶ Renovating and building homes becomes a burdensome undertaking, from the legal aspect to the logistics.

The permit regime in Hebron’s Old City infringes on other rights as well, such as the right to education and worship.⁵⁷ There are 4,200 children who study in 15 schools across the city that are forced to pass through checkpoints

53 Interviews with Abdul Majeed K. and Tawfiq.; Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 32 & 40. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>.

54 As of 5 May 2016 the only roadway accessible for Palestinians is located between Shuhada and Daboya checkpoints – source: International Solidarity Movement, *Open The Zone: information on CMZ and Hebron*, 3 May 2016. Available at: <http://palsolidarity.org/2016/05/open-the-zone-information-on-cmz-and-hebron-2/>.

55 Eye on Palestine, *Israeli Forces Weld Shut the Doors of an Elderly Palestinian Woman's House on Shuhada Street*, 19 January 2015. Available at: <http://www.poica.org/details.php?Article=7464>.; Hebron Rehabilitation Committee, *On the Old City of Hebron*, 2016. Available at: <http://www.hebronrc.ps/index.php/en/old-city/political-situation>.

56 Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 41. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residentsfrom-hebrons-old-city.pdf>.

57 For the shop owners in Shuhada Street, for example, a work permit or permission to open the shop is not even considered, since two other hurdles prohibit their business there – the Military Order closing the street and the Military Order closing the shops.

every day on their way to and from school.⁵⁸ They are often subjected to bag or body searches, long waiting times, harassment or detention at these checkpoints.⁵⁹ Children need to take long bypass roads in order to reach their schools, and in some cases, like the 'Prayers' Road', a fence divides the asphalted road (for colonizers' use) from a dirt road next to it (for Palestinian use).⁶⁰ This situation severely hinders the access to education for these children.⁶¹ Moreover, Israeli restrictions and colonizer attacks on students on their way to school have also affected the performance of students in class and the quality of their education.⁶²

2. Discriminatory Zoning and Planning

Palestinian residents of the Old City are subject to an oppressive zoning and planning framework consisting of selectively-deployed Ottoman, British Mandate and Jordanian-era land laws, the regulations of the Hebron Protocol, and an extensive web of Israeli military orders. It is a framework designed to displace non-Jewish inhabitants and to replace them with Jewish-Israeli colonizers. As such, full control of the planning and construction process – from conception of an overarching strategy to its realization and enforcement on the ground – is retained by the occupying power.

Dividing Hebron into areas H1 and H2, as described above, in and of itself is a zoning decision that has had a considerable impact on Old City residents. This division gave Israel complete control over the urban planning of the H2 area, in which around 40,000⁶³ Palestinians reside and allows Israel to determine present and future use of space, while leaving Palestinians without any opportunity to influence or participate in planning and zoning decisions over their neighborhoods and homes.

Israeli dominance in planning and zoning can also be seen in archaeological discoveries, for example the excavation in Tel Rumeida that began in January

58 Reliefweb, *Hebron Violence Takes a Toll on Children*, 2016. Available at: <http://reliefweb.int/report/occupied-palestinian-territory/hebron-violence-takes-toll-children>.

59 SOS Children Villages International, *Hebron Violence Takes a Toll on Children*, 2016. Available at: <http://www.sos-childrensvillages.org/publications/news/http-daisy8-zz-en-test-sos-kd-org-publications-n>.

60 Levy, E., *Hebron: Separate Roads for Jews, Palestinians*, 2013. YNet News. Available at: <http://www.ynetnews.com/articles/0,7340,L-4353235,00.html>.

61 Lorber, B., *The Daily Ordeal of Getting to School in Hebron*, Electronic Intifada, 16 December 2011. Available at: <https://electronicintifada.net/content/daily-ordeal-getting-school-hebron/10698>.

62 Ma'an Development Center, *Hebron Destroyed from Within*, September 2008. Available at: <http://www.badil.org/en/resources/documents/individual-studies.html?download=75:hebron-destroyed-from-within-fragmentation-segregation-and-forced-displacement>.

63 OCHA oPt, *The Humanitarian Impact of Israeli Settlements in Hebron City*, November 2013. Available at: https://www.ochaopt.org/documents/ocha_opt_hebron_h2_factsheet_november_2013_english.pdf.

2014.⁶⁴ Israel intends to build a ‘biblical pathway’⁶⁵ that will cut the Palestinian neighborhood in half to provide a panoramic view of both the ancient city of Hebron and the Ibrahimi Mosque.⁶⁶ This plan would be a *de facto* expansion of the existing colony in Tel Rumeida⁶⁷ and will attract more colonizers to the area. Thus, if the excavations continue expulsion of Palestinian residents and an increase in the colony’s population would become a real possibility.⁶⁸

Building Permits

When it comes to building permits and house renovations in the Old City, Article 11 of the Hebron Protocol together with Annex 3 impose restrictions on construction and renovation of buildings in the vicinity of certain areas. Coordination with Israeli authorities is required for any Palestinian construction above two floors (six meters) within 50 meters of the Ibrahimi Mosque, the four colonies of the Old City (Abraham Avinu, Beit Romano, Beit Hadassah and Tel Rumeida), Jewish cemeteries, the Tomb of Ruth and Yishai, Tel al-Jaabra, and the road connecting the Ibrahimi Mosque and Kiryat Arba. Furthermore, coordination is also necessary for: construction above three floors (nine meters) between 50 and 100 meters from the listed areas, construction of non-residential/non-commercial buildings within 100 meters of these areas, and construction of buildings and institutions in which more than 50 persons are expected to gather together. Construction of buildings above two floors (six meters) on both sides of the road connecting Kiryat Arba and the Ibrahimi Mosque compound also require coordination. These restrictions do not allow Palestinian expansion for natural population growth or development purposes.

“I built a three story apartment building in front of the old house. We carried all

64 EAPPI, *Archaeological excavations in Tel Rumeida in Hebron expand and destroy more Palestinian land*, 19 June 2014. Available at: <https://www.eappi.org/en/blog/archaeological-excavations-in-tel-rumeida-in-hebron-expand-and-destroy-more-palestinian-land>; Hanna, M., *The Dark Role of Archaeology in the Battle for Hebron's Tel Rumeida*, Ma'an News Agency, 29 November 2015. Available at: <https://www.maannnews.com/Content.aspx?id=769069>; EmekShaveh, *Update: The Archaeological Excavations in Tel Rumeida, Hebron*, 2014. Available at: <http://alt-arch.org/en/update-the-archaeological-excavations-in-tel-rumeida-hebron>; Eye on Palestine, *The Israeli authorities conduct excavations and uproot trees in Hebron*, 2014. Available at: <http://www.poica.org/details.php?Article=6256>; Strickland, P.O., *Settler-Driven Archaeology Plan Threatens to Push Hebron Family off Farmland*, Electronic Intifada, 23 January 2014. Available at: <https://electronicintifada.net/content/settler-driven-archaeology-plan-threatens-push-hebron-family-farmland/13104>.

65 EAPPI, *Archaeological excavations in Tel Rumeida in Hebron expand and destroy more Palestinian land*, 19 June 2014. Available at: <https://www.eappi.org/en/blog/archaeological-excavations-in-tel-rumeida-in-hebron-expand-and-destroy-more-palestinian-land>.

66 Ibid.

67 Ibid.

68 Emek Shaveh, *Update: The Archaeological Excavations in Tel Rumeida, Hebron*, 2014. Available at: <http://alt-arch.org/en/update-the-archaeological-excavations-in-tel-rumeida-hebron>.

the equipment and the materials we needed over our shoulders and on wagons. The Israeli Civil Administration (in fact a pseudonym for the Israeli Military Administration in the 1967 occupied Palestinian territory) came and said that the building was not allowed because it was in a closed military zone. I said that I had a license from the Hebron Municipality and that I paid all my bills to the municipality. They said that I couldn't build a building higher than nine meters, so I wasn't allowed to build a roof over the third floor."

*Abdul Majeed. A. K., resident of Tel Rumeida, in the Old City.
Interview: 25 February 2016*

3. Denial of Access to Natural Resources and Services

Israel unlawfully controls the natural resources of the oPt through military, administrative and political mechanisms. In addition to denying Palestinians access to these resources, Israel also systematically denies them access to basic services, such as, water, electricity, health services, fire services, sanitation or basic maintenance services, among others. Often, these denials deprive Palestinians of their fundamental human rights, such as the right to education and the right to a standard of living adequate for the health and well-being of themselves and of their families, including the rights to food, clothing, housing, medical care and necessary social services.⁶⁹ It also infringes on the right to freedom from discrimination, as colonizers receive more and better quality of services. Between October 2015 and February 2016 alone, Israeli forces and colonizers have been responsible for 123 incidents of denied medical access in the West Bank.⁷⁰

In the case of the oPt, IHL establishes that the occupying power "must take measures to restore and ensure, as far as possible, public order and safety," and also "must ensure sufficient hygiene and public health standards, as well as the provision of food and medical care to the population under occupation." Article 56 of the Fourth Geneva Convention specifies that "Medical personnel of all categories shall be allowed to carry out their duties."⁷¹

The reality in Hebron, however, is quite different. Israelis do not extend service provisions to Palestinians in H2, even in emergency situations. Israeli

69 1948 General Assembly resolution 217(III), The Universal Declaration of Human Rights, 10 December, Articles 25 and 26. Available at: <http://www.un.org/en/universal-declaration-human-rights/>.

70 Medical Aid for Palestinians, *Healthcare Denied: The impact of checkpoints on ambulance access*, 2015. Available at: <http://www.map-uk.org/news/archive/post/369-healthcare-denied-the-impact-of-checkpoints-on-ambulance-access>.

71 ICRC, *Occupation and international humanitarian law: questions and answers*, 4 August 2004. Available at: <https://www.icrc.org/eng/resources/documents/misc/634kfc.htm>; Fourth Geneva Convention, Article 56.

forces also often hinder the provision of services by Palestinian counterparts. In this context, it could be said that the reality created by the Hebron Protocol has made the infringement of Palestinian rights possible, which supports the argument that the Hebron Protocol is not fully aligned with international law or human rights, but is rather the result of the power imbalance of the two signatories. The ongoing violations of IHL and IHRL by Israel, which justifies its actions on the provisions of the Hebron Protocol, could serve as a basis to seek the annulment, or at least the amendment of the Protocol to the extent where its text and provisions become fully consistent with international law and its principles.

Palestinian residents of the Old City are denied emergency services such as ambulances or fire trucks. The restricted access to area H2 delays or even denies ambulance access to Palestinian patients and medical evacuations, which violates multiple international agreements.⁷² The Palestine Red Crescent Society (PRCS) estimates that the time to reach their patients increased from seven to 17 minutes on average due to the closures in the Old City, and when they need to coordinate their services with the Israeli army – usually when they need to pass through a checkpoint – the average time to reach a patient is 47 minutes.⁷³ This is often too late, and several Palestinians have died as a result of the delay in the medical assistance.⁷⁴

“We’re suffering every single day. Before 2010, the ambulance didn’t have access to my house, which caused many troubles for my family. We lost two babies while my wife was giving birth. The first time was in 2006. It was midnight when my wife started to have contractions. If I had called the Red Cross and asked them to coordinate with the ICA, then it would have taken too much time and the child would have died in the meantime. Therefore, I decided to take her to the hospital on foot. As soon as we arrived at the hospital, the baby was dead. Next year, my wife was pregnant with twins. We coordinated with the Palestinian Civil Liaison a month before the babies were due. When my wife was about to give birth, we called the Red Cross to send us an ambulance. The ambulance arrived to the border [of H2] but the soldiers detained it for an hour. When we arrived to the hospital in the ambulance, one of the babies was dead but luckily, the other survived. If the Red Cross wasn’t in front of us while we were in the ambulance, the soldiers wouldn’t have let us cross and we wouldn’t have made it to the hospital. My child is now in the third grade and his name is Issa. In addition, I had an uncle living near my house. One day, he had a heart attack, and the soldiers didn’t allow the ambulance to

72 ICRC, Explanatory note to the Memorandum of Understanding and the Agreement on Operational Arrangements, 18 November 2011. Available at: <https://www.icrc.org/eng/resources/documents/redcross-crescent-movement/31st-international-conference/31-international-conference-mou.htm>.

73 OCHA oPt, Humanitarian Update. Special Focus: The Closure of Hebron’s Old City, 2005. Available at: https://www.ochaopt.org/documents/ochahu0705_en.pdf.

74 Interview with Abdul Majeed K. Interviewed on 25 February 2016.

reach his house. One of the soldiers was standing at the door and refused to help him, so he passed away.”

*Tayseer A. A., resident of Tel Rumeida, in the Old City.
Interview: 22 February 2016*

“Last year, our neighbor’s house burned down because the fire truck had to wait until they were done with the coordination. Our house burned down last year too, when a settler threw a torch on it. They refused to let the Palestinian fire truck in.”

*Abdul Majeed A. K., resident of Tel Rumeida, in the Old City.
Interview: 25 February 2016*

The situation of Palestinians contrasts with that of the colonizers living in the Old City, who have continuous access to all services. Regarding transportation, for example, colonizers from Kiryat Arba and the Israeli colonies in the Old City enjoy access to buses that go from Hebron to Jerusalem. These routes are *de facto* segregated: while Palestinians are not officially forbidden from using them, only Israelis are able to ride them.⁷⁵ As for water, the colonies are connected to a water grid⁷⁶ and each colonizer receives around 300 liters of water daily, in contrast to West Bank Palestinians who receive between 73 and 136 liters daily.

4. Oppression of Resistance

Different UN Resolutions have reaffirmed throughout the years the legitimacy of Palestinian resistance against Israel’s belligerent occupation. United Nations General Assembly (UNGA) Resolution 33/24 of 29 November 1978, for instance, “Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, particularly armed struggle.”

However, Israel’s illegal suppression of resistance is an ongoing reality as it further colonizes Palestinian land and forcibly transfers its people. The policy includes systematic and mass military attacks/wars, invasions, unlawful killings, collective punishment, closures, blockades, incarceration, torture and the suppression of freedom of expression and assembly, as well as the criminalization of civil opposition or disobedience. This oppression and criminalization of resistance affects individuals, families and communities, creating an unstable environment of intimidation, fear and collective suffering.

75 Maan News Agency, *Israeli report details services to settlers in West Bank*, 8 June 2015. Available at: <https://www.maannews.com/Content.aspx?id=765849>.

76 Ibid.

The large number and constant presence of Israeli forces in Hebron's Old City induces tension, violence, excessive use of force and abuse of power by the soldiers. Many Palestinian families have left the area in search of safer places, or simply to have a normal life away from the daily reality of home incursions, seizure of property, harassment, arbitrary detentions or humiliating and abusive treatment.⁷⁷ Those families who remain in the Old City live within the coercive environment created by Israel, staying in their homes and continuing with their life despite the pressure and constraints this policy and other policies cause.

Extra-judicial Killings

Article 43 of the 1907 Hague Regulations, which is reflective of customary law, provides that Israel as the occupying power has a duty to restore public order and safety in the oPt. In a situation of occupation that does not rise to the level of armed hostilities, to fulfill its duty Israel must resort to law enforcement that is governed by international human rights law. As such, the human rights based norms of law enforcement operate within the framework of international human rights and humanitarian law during belligerent occupation.⁷⁸

Between 1 October 2015 and 24 March 2016, 22 Palestinians were killed by the Israeli forces in the Old City,⁷⁹ several of which were extra-judicial killings.⁸⁰ Extra-judicial killings have been a common occurrence in the Old City, even before the so-called 'wave of violence' that began in October 2015. On 22 September 2015, a 19-year old Palestinian girl was unlawfully killed at a checkpoint in the Old City. She was shot by a soldier when she presented no real threat, and was left bleeding on the ground until her death.⁸¹ These incidents serve as an illustration of a wider Israeli shoot-to-kill policy against Palestinian civilians. These acts are not duly investigated by

77 B'Tselem and Association for Civil Rights in Israel, *Ghost Town: Israel's Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, 2007. Available at: <http://www.acri.org.il/pdf/ghosttown.pdf>.

78 Al-Haq, *Unlawful Killing of Palestinians by Israeli Occupying Forces*, 2015. Available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/982-unlawful-killing-of-palestinians-by-israeli-occupying-forces?format=pdf>.

79 Hebron Rehabilitation Committee, *Two Palestinians Killed in Tel Rumeida on March 24, 2016*, 24 March 2016. Available at: <http://www.hebronrc.ps/index.php/en/news/2038-2038>.

80 Al-Haq, *Unlawful Killing of Palestinians by Israeli Occupying Forces*, 2015. Available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/982-unlawful-killing-of-palestinians-by-israeli-occupying-forces?format=pdf>; for a list of Palestinians from the OPT killed in the OPT and Israel since 1 October 2015 see: <http://www.alhaq.org/publications/list.of.palestinians.killed.pdf>.

81 Al-Haq, *Special Focus: Unlawful Killings of Palestinians by Israeli Occupying Forces since September 2015*, 2015. Available at: <http://www.alhaq.org/documentation/field-updates-2015/970-al-haq-special-focus-unlawful-killings-of-palestinians-by-israeli-occupying-forces-since-september-2015>.

the Israeli authorities and, in fact, are often applauded by members of the Israeli government and the army.⁸² Moreover, following the killing of several Palestinians since October 2015, audiovisual recordings appeared in the media showing evidence of tampering of the crime scene by the Israeli army, often by throwing knives next to the alleged Palestinian attackers in order to justify the killings as self-defense from stabbing attacks.⁸³

“I was sitting with my wife drinking coffee when we heard shooting; I went with my camera to the street. I saw a young man lying on the ground wearing a black jacket and pants [Abed al-Fattah Al-Sharif]. I heard a voice, turned my eyes and camera to the direction of the soldiers, and I saw another young man on the ground wearing a gray jacket, blood was flowing from his face. I turned my camera to the direction of the soldiers who were walking to the first young man. This young man was moving and it was obvious that he was still alive at that point. After a few seconds, a big group of soldiers came together and they kicked me out of the street.

I turned off my camera and I went to another area to document what was happening. Two ambulances came and they went to a third young man lying on the floor, it was clear to me that it was the wounded soldier. I directed the camera to him; it was clear from the video that his injury was minor. After he was taken to the ambulance, I heard another soldier preparing to shoot; I focused my camera on him because I was afraid he would shoot me. He [the soldier] took about two steps forward and shot Abed al-Fattah Al-Sharif in the head, he was killed immediately.”

*Imad A. S., resident of Tel Rumeida, in the Old City.
Interview: 16 March 2016*

Arbitrary Arrests

Arbitrary arrests and administrative detentions are other methods used by the Israeli army to suppress resistance and protests.⁸⁴ In October 2015 alone, 245 Palestinians were arrested by the Israeli army in Hebron.⁸⁵ They have also been used as a punishment and a means to apply pressure on residents

82 Deger, A., *Israeli soldier filmed killing wounded Palestinian finds support among Israeli politicians*, Mondoweiss, 27 March 2016. Available at: <http://mondoweiss.net/2016/03/israeli-soldier-filmed-killing-wounded-palestinian-finds-support-among-israeli-politicians/>; Bergman, R., *Israel's Army Goes to War With Its Politicians*, New York Times, 21 May 2016. Available at: http://www.nytimes.com/2016/05/22/opinion/sunday/israels-army-goes-to-war-with-its-politicians.html?_r=0.

83 Mamoon Alabbasi and Linah Alsaafin, *Questions raised over possible Israeli planting of knives on Palestinians*, Middle East Eye, 16 November 2015. Available at: <http://www.middleeasteye.net/news/questions-raised-over-possible-israeli-planting-knives-palestinians-1955592660>.

84 “Administrative detention is a procedure that allows the Israeli military to hold prisoners indefinitely on secret information without charging them or allowing them to stand trial.” On Administrative Detention, Addameer, December 2015.

85 Addameer, *Israeli Occupation Arrests 1,195 Palestinians and Issues 128 Administrative Detention Orders*, 2015. Available at: <http://www.addameer.org/news/addameer-israeli-occupation-arrests-1195-palestinians-and-issues-128-administrative-detention>.

to leave the Old City. During BADIL's interviews, many residents mentioned being arbitrarily arrested multiple times by the Israeli forces. Those active in documenting abuses by the Israeli army or the colonizers are the most likely to be detained arbitrarily.

"My husband taped a video of a soldier while he was beating up my brother. Then he uploaded the video to the internet. The soldier held a grudge against me and my husband, so whenever we walked in the street, he would search our bags. One day, during Ramadan, my husband and I were walking in the street, going back from my parent's home to our home (which was near the market of the Old City). That soldier stopped us. He told my husband to go on. My husband refused; he said he wanted to wait for me. The soldiers yelled at him and told him to walk away, but my husband again refused to go. The soldier said he wanted to see my identification document [ID]. I replied: "this is the fourth time you check my ID and I'm sure you know what it contains better than I do." The soldier said "Go near the wall" and he handcuffed me. My husband wanted to come and sit next to me but the soldier yelled at him to go to other side of the street. After that, an Israeli police jeep passed by, so my husband ran after it to tell the police to release me. Meanwhile, the soldier wanted to take me towards the settlement. No one was in the street and I forgot my phone at my mother's house. So, the only choice left to me was to scream. I screamed so much that my throat was filled with blood. The TIPH,⁸⁶ Red Cross, and other organizations started to come one after another. The soldiers blindfolded and handcuffed my husband. The Israeli police arrived and ordered the soldiers to release my husband, but the soldiers ignored their orders. As they were pushing us towards the settlement, they tore my husband's shirt, broke my bracelet, and one of the soldiers kicked me with his foot on my knee so hard that even now I can't move it. When we arrived to the settlement, the soldier wanted me to enter a room near an olive tree. I refused to enter, and I made it clear to him that I don't enter hidden places, and that I should stay where people can see me. He said: "I'm not asking you; I'm giving you an order. Go and sit at the chair over there." I said: "I will never enter. If you want me to sit on the chair, go bring it here to the street." He brought me the chair and started to shove me. I kept telling him not to touch me. My non-cooperation and resistance enraged him. Anyways, the people of that area gathered and wanted to come where the soldiers arrested us, but the soldiers didn't allow it. After a few hours, the soldier released us. I was so angry because a 20-year-old soldier can control all of us."

*Arwa A. H., resident of Tel Rumeida, in the Old City.
Interview: 22 February 2016*

Often the victims are children who are arrested from their homes in the middle of the night or, on occasion, directly from the street. Under international law, both the children and their parents/legal guardians must be informed

⁸⁶ Temporary International Presence in the City of Hebron (TIPH). TIPH is a civilian observer mission comprised of representatives from six countries, and monitors the effects of the occupation on the ability of the Palestinians of Hebron to lead normal lives.

of the reasons for the arrest, and the arrest must take place with a parent or a lawyer present.⁸⁷ Once under arrest the child should have a lawyer as soon as possible, and should never suffer from physical or psychological ill-treatment. The actions of the Israeli army towards Palestinian children led the United Nations International Children's Emergency Fund (UNICEF) to announce in 2013 that the “ill-treatment of Palestinian children in the Israeli military detention system appears to be widespread, systematic and institutionalized.”⁸⁸ The accuracy of this statement was emphasized shortly afterwards when the Israeli army arrested over 20 children in a single week near their school in Hebron’s Old City without their parents or a lawyer present.⁸⁹ Many of these children were threatened by the soldiers with torture or long imprisonment if they did not provide the desired information. Interrogations were also done without the presence of a lawyer.⁹⁰ Women are also affected by Israeli arrests, and in November and December of 2015 four Palestinian women from Hebron were arrested.⁹¹

Harassment and Intimidation

Many of the residents of the Old City have also denounced the ongoing harassment and humiliating treatment they suffer from the Israeli forces. The harassment of Palestinians by Israeli soldiers in the Old City happens every day in different forms. Children are often harassed on their way to school, which has prompted international accompaniment programs.⁹² Protective presence organizations monitoring checkpoints and areas of military presence near schools in H2 report regular harassment of school children and teachers by Israeli soldiers, including searching of school bags and verbal intimidation.⁹³

87 Al-Haq, *Israeli Military Arrests More than 20 Palestinian Children in Hebron*, 2013. Available at: <http://www.alhaq.org/documentation/weekly-focuses/691-israeli-military-arrests-more-than-20-palestinian-children-in-hebron>.

88 UNICEF, *Children in Israeli Military detention; Observations and Recommendations*, 2013. Available at: http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.

89 Al-Haq, *Israeli Military Arrests More than 20 Palestinian Children in Hebron*, 2013. Available at: <http://www.alhaq.org/documentation/weekly-focuses/691-israeli-military-arrests-more-than-20-palestinian-children-in-hebron>.

90 Ibid.

91 Addameer, *No Mothers’ Day for Palestinian Mothers inside Israeli Prisons*, 2016. Available at: <http://www.addameer.org/news/no-mothers%E2%80%99day-palestinian-mothers-inside-israeli-prisons>.

92 Weibel, C., *Protective accompaniment helps children reach school safely in Hebron’s troubled Old City*, 2016. Available at: http://www.unicef.org/oPt/Story_-_protective_presence_in_Hebron_-_March_2016.pdf; EAPPI, *Southern West Bank: Bethlehem & Hebron Governorates*. Available at: <http://eappi.org/en/where-we-work/locally/southern-west-bank>

93 Protection Cluster occupied Palestinian territory, *Protection concerns and humanitarian impacts of settlement activity in Hebron city (H2)*, 2014. Available at: http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Occupied_Palestinian/files/oPt_PC_factsheet_Hebron_City_H2_2014_EN.pdf.

Women are also victims of harassment, which, on occasion, takes the form of verbal or sexual harassment.⁹⁴

“Throughout the four months they [the Israeli soldiers] occupied my home, from time to time, the unit in our home would leave and another unit would come to take their place and so on. The lawyer promised to get them out of my home, and he did “succeed”: they left for four days and then came back with military orders, which stated that they could stay for another 40 days. They left three weeks ago and haven’t come back. My family lives in fear because the soldiers were in my home every day and every night. The soldiers didn’t let any of us enter unless they checked us. I remember once I wanted to take my wife to the doctor because she was very sick, and the soldiers refused to let us leave. I told them that it was my home and that I had the right to leave and enter whenever I wanted. They detained me for half an hour before they allowed me to leave.”

*Abdul Shakoor A., resident of the Old City.
Interview: 25 February 2016*

5. Non-state Actions

This policy encompasses the actions of non-state actors such as colonizers, colonizer movements, and organizations against Palestinians that are carried out with the complicity, and often assistance, of the Israeli authorities.

Actions by Colonizers

The establishment of colonies in Hebron has led to many violent acts perpetrated by the colonizers against Palestinians. It has also resulted in routine property damage.⁹⁵ Colonizers have long attacked and harassed the residents of the Old City through different means, including physical assault, verbal harassment, entering their homes and, on occasion, killing them.

As the occupying power, it is the duty of Israel to investigate violence by colonizers against the occupied population, as such acts constitute a violation of IHL and IHRL. Israel fails to stop or diligently investigate these actions, and indeed often protects the perpetrators. Under Article 4 of the Fourth Geneva Convention, Israeli forces as the occupying power in the West Bank have an

94 Couzinnet, J., *Fear and exhaustion in the Old City of Hebron*, 2016. Available at: <http://www.middleeasteye.net/news/fear-and-exhaustion-old-city-hebron-495610099>; B'Tselem, *Collective punishment continues in central Hebron: Closed neighborhoods and shops closed and repeated checkpoint inspections*, 2016. Available at: http://www.btselem.org/hebron/20160121_hebron_restrictions.

95 B'Tselem, *Status Report: Hebron, Area H-2. Settlements Cause Mass Departure of Palestinians*, 2003. p. 10. Available at: http://www.btselem.org/download/200308_hebron_area_h2_eng.pdf.

obligation to protect Palestinian civilians living under occupation. According to the Hague Regulations previously mentioned, Israel also has the obligation to maintain public order in the occupied territory, which entails not only the minimum measures but enforcing law and order and addressing any criminal activity.

Israel systematically disregards its obligations in the oPt, which is especially evident in the Old City as Israeli colonizers frequently attack Palestinian civilians and their property, often in the presence of Israeli forces who fail to intervene.⁹⁶

Most colonizers in Hebron's Old City are religious-nationalists who believe that the land between the Jordan River and the Mediterranean Sea is exclusively for the Jewish people,⁹⁷ and that it is their duty to reclaim this land by settling there and expelling the non-Jewish population. This collective ideology of the colonizers is not a coincidence nor solely connected to their religious views, but stems from the influence of historic colonizer movements, such as Gush Emunim, and right-wing Israeli parties like Kach.

Israel's complicity in regards to colonizers and their actions is clear both by providing support to them as well as denying equal enforcement of law and order. Not only do they fail to stop attacks against Palestinians, but they also protect the colonizers and the colonies with security, military and financial support. Public and administrative services are provided to the colonies via the Hebron Municipal Committee, which was established by the Israeli Ministries of Defense and Interior. Moreover, the Israeli Ministry of Housing and Construction established the Association for the Renewal of the Jewish Community in Hebron, which is in charge of carrying out development projects in the colonies. This Association receives funding from the Israeli state budget.⁹⁸

Colonizer violence

Some of the attacks or harassment against Palestinians include beatings, stone throwing, throwing sewage water at Palestinians or on their property, destroying shops, theft, attempting to run people over, poisoning water wells or making holes in Palestinian water tanks.⁹⁹

96 Amnesty International, *Report 2015/16; The State of the World's Human Rights*, 2016.p. 203. Available at: <https://www.amnesty.org/download/Documents/POL1025522016ENGLISH.PDF>.

97 Institute for Palestine Studies, *Settler Violence in Palestine*, 2006. Available at: <http://www.palestine-studies.org/resources/special-focus/settler-violence-palestine>.

98 Lara Friedman and Dror Etkes, Peace Now, *Hebron – Settlements in Focus*, October 2005. Available at: <http://peacenow.org.il/eng/content/hebron-settlements-focus>.

99 B'Tselem, *Footage from Hebron: Israeli military enables 5-day settler attack*, 2015. Available at: http://www.btselem.org/settler_violence/20151020_5_days_of_settler_attacks_in_hebron.

Probably the most well-known case of Israeli colonizer violence against Palestinians occurred in Hebron's Old City in February 1994, when US-born Baruch Goldstein walked into the Ibrahimi Mosque during prayer and opened fire with a rifle killing 29 Palestinians and injuring over 100.¹⁰⁰ Despite being well-known for his anti-Palestinian fanaticism, Goldstein was allowed to serve as a reserve captain in Hebron at the time of the massacre.

In the following years there have been other Palestinians killed by colonizers in Hebron, and hundreds more have been attacked. In April 1997, two colonizers killed a 23-year-old Palestinian man near the Ibrahimi Mosque.¹⁰¹ In 2002 a 14-year-old Palestinian girl was also killed near the Ibrahimi Mosque at the doorway of her home.¹⁰² Daily attacks are a reality in the Old City, which is evidenced by the widespread use of nets and metal mesh to protect Palestinians from the garbage and rocks thrown at them by the colonizers.¹⁰³ This situation has deteriorated even further in the months following 1 October 2015.¹⁰⁴ On the night of 17 October 2015, colonizers threw a Molotov cocktail and injured a 13-year-old Palestinian. Eyewitnesses stated that the Israeli forces were present when the attack happened, but failed to intervene.¹⁰⁵ Moreover, on 21 January 2016, a group of colonizers accompanied by Israeli soldiers attacked several homes near ash-Shuhada Street, throwing stones and insulting the residents.¹⁰⁶ Israeli colonizers in the Old City therefore present an ongoing threat to the local Palestinian population, as they enjoy preferential treatment and protection by the Israeli army and often government-issued firearms.¹⁰⁷

“I had a car with an Israeli yellow plate. I once parked it 50 meters away from my home [in Tel Rumeida]. The settlers came that day and burned my car and the cars of two other Palestinian families. After a while, I bought a new one,

100 Al-Jazeera, *Remembering the Ibrahimi Mosque massacre*, 2014. Available at: <http://www.aljazeera.com/indepth/inpictures/2014/02/remembering-ibrahimi-mosque-ma-2014223105915230233.html>.

101 Greenberg, J., *3 Palestinians Killed and 100 Wounded in Clashes With Settlers and Troops in Hebron*, The New York Times, 9 April 1997. Available at: <http://www.nytimes.com/1997/04/09/world/3-palestinians-killed-100-wounded-clashes-with-settlers-troops-hebron.html>.

102 Gilmore, I., *Jewish settlers kill girl, 14, in funeral rampage*, The Telegraph, 29 July 2002. Available at: <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/1402968/Jewish-settlers-kill-girl-14-in-funeral-rampage.html>.

103 OCHA oPt, *The Closure of Hebron's Old City*, July 2005. Available at: https://www.ochaopt.org/documents/ochahu0705_en.pdf.

104 Amnesty International, *Israel/OPT: Israeli authorities must protect Palestinian civilians in wake of settler attacks in Hebron*, 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/10/israel-opt-israeli-authorities-must-protect-palestinian-civilians-in-wake-of-settler-attacks-in-hebron/>.

105 Ibid.

106 Ma'an News Agency, *Israeli settlers attack Palestinian homes in Hebron's Old City*, 21 January 2016. Available at: <https://www.maannews.com/Content.aspx?id=769912>.

107 Al-Jazeera, *Israeli settler attacks deepen fears among Palestinians*, 2016. Available at: <http://www.aljazeera.com/news/2016/01/israeli-settler-attacks-deepen-fears-palestinians-160122140349464.html>.

but the settlers broke the back window. The soldiers also broke the windows of our home during one of their holidays. We asked the Hebron Rehabilitation Committee to help us and so they fixed it and installed metal wire mesh on the windows. One day, my two sons were carrying water from my neighbor's home on a wagon. On their way home, there were four settlers holding gas spray and sprayed my elder son in his face. As a result, he fell down and fainted. My younger son hit the settlers. So the soldiers arrested and interrogated him. We had to pay 1000 shekels in order to get him released."

*Rajab O., former resident of Hebron's Old City, forcibly transferred to H1.
Interview: 23 March 2016*

Verbal harassment and threats

The experiences of the 150 students of Cordoba School are representative of what many Palestinian children face on a daily basis. The school is located directly across from Beit Hadassah colony on ash-Shuhada Street, meaning that students must pass through the portion of ash-Shuhada Street open to Palestinians where they are exposed to being attacked or harassed. The alternative is to take a several kilometer detour.¹⁰⁸ The windows of the school are covered by wire mesh to protect the children from attacks by colonizers, who often throw rocks, Molotov cocktails or glass bottles inside. Colonizers also wrote graffiti near the school that says "Gas the Arabs!"

Seizure of property

Colonizers in Hebron's Old City are constantly attempting to seize new properties in order to expand the existing colonies and create new ones. In April 2014, a fifth formal colony was established in the al-Rajabi house in Hebron. In the meantime, there have been ongoing efforts to expand existing colonies and to link them together through Israeli-only roads and closures.

The al-Rajabi house is a four story building owned by the Rajabi family strategically located between the Ibrahimi Mosque and the Kiryat Arba colony, just outside the Old City.¹⁰⁹ In March 2007, a group of colonizers illegally occupied the building, claiming they had purchased it. They were later evicted by an Israeli Court order after their purchase documents were proven to be forged, but this was overturned by the Israeli Supreme Court in

108 Defense for Children International – Palestine, *Palestinian schoolchildren terrorized by settler vigilantes, soldiers*, 2014. Available at: http://www.dci-palestine.org/palestinian_schoolchildren_terrorized_by_settler_vigilantes_soldiers.

109 UN Special Rapporteur, OHCHR, *Hebron: Israeli settlers must be stopped from taking over Al-Rajabi House*, 15 April 2014. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14512>.

2012,¹¹⁰ when it ruled the purchase of the property by the colonizers valid.¹¹¹ The creation of this new colony will be accompanied by the imposition of new restrictions on the residents living nearby, and increase the potential for attacks and harassment of Palestinians.

Other areas of concern regarding colony expansion are the Abu Rajab house (where the legal dispute regarding the alleged purchase of the property is still ongoing), some properties near the Ibrahimi Mosque, and the archaeological excavations in Tel Rumeida, where Palestinian residents fear that the excavations might lead to the expansion of the existing colony into their neighborhood.

“One night (in December 2015) – and it was one of the most difficult nights of my life – three months ago, around 50 settlers tried to invade my home. My father was in the hospital and no one was at home except me and my wife, who was pregnant at that time. My wife and I live on the ground floor, which has a door that leads to the backyard. The settlers, guarded by the soldiers, tried to break into the home. My wife tried to stop them, and she started to bleed so I took her to the hospital. Some people called me and I immediately went back to the home and found the Israeli Civil Administration there. The Civil Administration officer said that they didn’t have anything against the settlers to evict them from the home.”

*Hazem A. R., owner of the Abu Rajab house and resident of the Old City.
Interview: 17 March 2016*

Actions by Organizations: The Hebron Fund

The Hebron Fund is a Brooklyn-based organization that fundraises in the USA and uses this money to support the colonies in Hebron. Although the Fund is an independent entity, it was created as an affiliate organization to support colonizers in Hebron and works together with them to respond to their needs.¹¹² In 2007, for example, they held a fundraiser in New York to support the recent occupation of the al-Rajabi house by colonizers.¹¹³

110 Hebron Rehabilitation Committee, *The Hebron Rehabilitation Committee Calls for an Urgent Action Following the Decision of the Israeli Supreme Court to Hand Over Al-Rajabi Building in Hebron Old City to the Settlers*, 11 March 2013, Hebron. Available at: <https://cptpalestine.wordpress.com/al-rajabi-building-project/>.

111 Protection Cluster occupied Palestinian territory, *Protection concerns and humanitarian impacts of settlement activity in Hebron city (H2)*, 2014. Available at: http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Occupied_Palestinian/files/oPt_PC_factsheet_Hebron_City_H2_2014_EN.pdf.

112 The Hebron Fund, *The Hebron Fund Mission Statement*. Available at: <https://hebronfund.org/about-us/about>.

113 Malsin, J., *New York charity abets Israeli settler violence*, Salon, 15 December 2011. Available at: http://www.salon.com/2011/12/15/new_york_charity_abets_israeli_settler_violence/.

Allegedly, the Fund has revenues of 2.25 million USD,¹¹⁴ and it provides a vast range of services and benefits exclusively to the colonies and colonizers. These include parks, recreation centers, libraries, youth activities and public, cultural and educational events.¹¹⁵ Although it describes itself as a “not-for-profit charitable organization,” the Fund’s support of a foreign military engaged in an illegal occupation can hardly be considered charity. Both the Hebron Fund and the other organizations or funds that donate money to it are actively contributing to the current situation of forcible transfer of Palestinians from the Old City and the colonization in their place with Israeli Jews. Their financial support facilitates the expansion of colonies, the arrival of new colonizers to the city and consequently the attacks on Palestinians and their property.

6. Segregation

Segregation has physical, legal and administrative manifestations. Segregation is applied as a means of apartheid – aiming not only to separate colonizers from Palestinians but to separate Palestinians from each other. Throughout the amalgam of Israeli policies of Palestinian confinement and containment in Israel and the occupied territory, various aspects of segregation can be distinguished.¹¹⁶ *Residential* segregation is pursued by the delineation of areas where access is controlled and restricted based on one’s identity. Cases in point are the Jewish-only colonies. *Legal* separation is pursued by the application of different legal frameworks according to whether the person is a Palestinian or a Jewish-Israeli,¹¹⁷ and by transferring the Palestinian population to delineated areas or preventing them from living and traveling freely throughout the oPt. Segregation as a mechanism of apartheid in Hebron is bluntly present not only in the *material* segregation of space, but also in the different *legal* regimes that apply to people living in the Old City.

"While movement restrictions imposed on Palestinians in Hebron change from time to time, they are always governed by the 'principle of separation,' a regime of physical and legal segregation between the around 800 Israeli settlers living in a string of settlement points around Hebron’s Old City, who receive the

114 Haber, M., *Why Is Goldman Sachs Funding the Violent, Racist Jewish Settlers of Hebron?*, Haaretz, 11 April 2016. Available at: <http://www.haaretz.com/opinion/.premium-1.713790>.

115 The Hebron Fund, *The Hebron Fund Mission Statement*. Available at: <https://hebronfund.org/about-us/about>.

116 BADIL Resource Center, *Survey of Palestinian Refugees and Internally Displaced Persons, 2013-2015*, 2015, p. 4. Available at: <http://www.badil.org/en/publication/survey-of-refugees.html>.

117 Israeli civil and criminal law is being applied to Israeli civilians and to colonizers in the occupied Palestinian territory – while military orders rule Palestinians living in the same territory. See Jonathan Lis and Chaim Levinson, *Justice Minister Ayelet Shaked Pushes Plan to Apply Israeli Law in West Bank Settlements*, Haaretz, 2 May 2016. Available at: <http://www.haaretz.com/israel-news/.premium-1.717398>.

state's protection, and the Palestinian majority, who pays the price of this protection."¹¹⁸

Institutionalized discrimination in Hebron's Old City can be found in the fact that Israeli domestic legislation applies extraterritorially to colonizers, while Palestinian residents in H2 are governed by Israeli military orders issued by the Military Commander.¹¹⁹ Colonizers in Hebron's Old City are thus governed by Israeli Civil Law even though they are living in a territory that is subject to Israeli military rule and the colonies have not been formally annexed to Israel.¹²⁰ Enforcement of Israeli Civil Laws in the colonies ensures that colonizers are in fact treated in the same way as local and regional municipalities inside Israel.¹²¹ This constitutes an illegal expansion of Israeli jurisdiction into the occupied territory.

Differences in legal protection are obvious with respect to the authority to arrest a suspect, the maximum period of detention prior to trial, the right to an attorney, minimum due process protections at trial, the maximum applicable punishment¹²² and release prior to completion of a sentence.¹²³ This results in impunity and preferential treatment of colonizers.

Israeli policies also separate Palestinians from each other and target the unity of Palestinian society itself. With military zoning policies, segregation takes place within the Palestinian population as well, as the social fabric of families and friends is severely damaged by movement restrictions. Visits are hampered, family ties are harder to maintain, and marriage considerations are dependent on whether the family lives in a closed area or not.¹²⁴ Parents from the H1 part of Hebron or other parts of the West Bank often do not want their daughters to marry someone from the Old City because in Palestinian culture the bride usually moves to the husband's home and her family might

118 Michaeli, S., *One Hebron Neighborhood has Become a Prison for Palestinian Residents*, Newsweek, 17 January 2016. Available at: <http://www.newsweek.com/one-hebron-neighborhood-has-become-prison-palestinian-residents-416256>

119 Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 42. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>.

120 The Law Amending and Extending the Validity of the Defense Emergency Regulations (Judea and Samaria) – Jurisdiction of Offences and Legal Aid, 2007.

121 Association for Civil Rights in Israel, *One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank*, 2014. Available at: <http://www.acri.org.il/en/wp-content/uploads/2015/02/Two-Systems-of-Law-English-FINAL.pdf>.

122 See for example the petition in HCJ 4057/10 *Association for Civil Rights in Israel v. Military Commander in Judea and Samaria*, submitted on 25 May 2010.

123 Adamczyk, S., Norwegian Refugee Council, *Driven Out: The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 43. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>.

124 See also the section on "Denial of residency."

have concerns about her moving to an area where she and her children's safety would be compromised.¹²⁵ This situation greatly affects the residents of the Old City and is a strong incentive to move out to safer areas.

"In 2000, the situation got really bad: Israeli soldiers did not allow anyone to visit our home unless they got a permit, whether they were relatives or not. At the beginning, people used to coordinate with Red Cross in order to get a permit, and after a while, they had to coordinate with the PA. This situation lasted for 5 or 6 years, until a human rights organization intervened and convinced the soldiers to allow the relatives to visit us without a permit. Therefore, the soldiers made a list of our relatives, which included my daughters, their husbands, and their kids. Whenever they visit us, the soldiers check whether their names are on the list or not. They often claim they do not have their names on the list and force them to leave. Sometimes, the soldiers allow them to enter but the colonizers force them to leave.

None of my daughters were given away from our home on their wedding days [this is the tradition in Palestine]. Even when my mother died, we had to receive condolences outside our home. My daughters were allowed to visit our home in the past, but now they are not. Imagine if one of them had a fight with her husband, where would she go? She's not allowed to enter her parents' house! The areas where I live, Palestinians, except for the members of my household, are prohibited from accessing it."

*Tayseer A. A., resident of Tel Rumeida, in the Old City.
Interview: 22 February 2016*

7. Denial of Residency

Both IHL and IHRL provide the lenses through which to analyze the denial of rights of all Palestinians subject to Israeli rules and regulations that determine their residency status in the oPt and Israel.¹²⁶ Israel has imposed a residency system in the oPt that has two versions: one that applies Israeli civil law in Jerusalem and one that applies Israeli military law in the rest of the West Bank and the Gaza Strip. Both include mechanisms for severely restricting – as well as revoking – residency statuses. Almost all Palestinians suffer from constraints imposed on residency rights as they interrelate with and are infringed on by other Israeli policies and practices, such as the installment of a permit regime, zoning and planning, restriction of freedom of movement and denial of family unification.¹²⁷

125 Interviews with: Kifah M., Tayseer A. A., Um Abed S., Fayzeh A. S.

126 Under international law, a state does not exercise jurisdiction outside of its national borders. Israel however, does exercise jurisdiction over the occupied Palestinian territory (oPt).

127 BADIL Resource Center, *Denial of Residency*, BADIL's Working Paper No.16, Forced Population Transfer Series, April 2014. Available at: http://www.badil.org/phocadownload/Badil_docs/publications/wp16-Residency.pdf.

Denial of residency in Hebron takes the form of denying Palestinians the right to choose and maintain their residency in certain neighborhoods. Efforts by the Israeli forces to limit Palestinian presence in the Old City take various forms such as confiscation of residential property and eviction of the Palestinian residents, denial of residency in and restriction of access to certain areas of the Old City, and denial of family unification and/or withdrawal of residency rights – temporarily or permanently – as a punishment. Additionally, the establishment of colonies in the Old City has contributed to the denial of residency of Palestinians.¹²⁸ Not only are the colonies exclusively for Jewish-Israelis, but Palestinian residency in and around the areas surrounding the colonies is also restricted.¹²⁹ Palestinians living in Tel Rumeida and ash-Shuhada Street are particularly affected by this policy.

Multiple areas of the Old City have been designated as closed military zones by Israel, and even though the military order designating Tel Rumeida as such expired in May 2016, some restrictions remain. Retaining residency in closed military zones is dependent on continuous residence within its premises, as the right to residency is lost as soon as one relocates outside of the designated zone.¹³⁰ As a result, families face many difficulties when they relocate for safety, security, or movement issues but still want to look after the home they were forced to vacate.¹³¹ Moreover, several testimonies underline the burdensome nature of the procedures to register as an Old City resident.¹³² Procedures for residency registration are not based on any written source but exist solely in practice on the ground. As such, the procedures can change without notice or warning.

"Throughout the past few months, in the current uprising, all of the residents of Tel Rumeida have been obliged to add their names to the list in order to be able to cross the border [checkpoint]. At the beginning, we did not add our names because they were already on the list since 2000, but when we tried to cross the checkpoint [to enter Tel Rumeida] they [the soldiers] refused to let us cross, claiming that they didn't have our names on the list. They said they wanted us to add our names at the Israeli Civil Administration (ICA), but the ICA refused to take the names and said we should add our names at the Palestinian Civil Liaison Office. The liaison told us that they don't add

128 Avraham Avinu, Beit Romano, Beit Hadassah, Tel Rumeida and al-Rajabi House - source: Al-Haq, *Special Focus on Hebron: A Microcosm of the Israeli Occupation*, 19 November 2015. p. 3. Available at: <http://www.alhaq.org/images/stories/PDF/2012/Special.Focus.on.Hebron.Nov.2015.pdf>.

129 Israel uses "security of the colony population" as a pretext to impose residency restrictions upon Palestinian residents of Hebron's Old City. See Al-Haq, *Special Focus on Hebron: A Microcosm of the Israeli Occupation*, 19 November 2015. p. 13. Available at: <http://www.alhaq.org/images/stories/PDF/2012/Special.Focus.on.Hebron.Nov.2015.pdf>.

130 Interview with Kifah M. and Rajab O.

131 Ibid.

132 Interview with Tawfiq J., Arwa A. H. and Tayseer A. A.

the names [it is unclear whether this institution lacks the authority or does not add the names in rejection of the policy] and that we had to go to the [Palestinian] governor, and so on. For two weeks, until the soldiers took our IDs and put our name on the list, we had to suffer and were not able to enter our home.”

*Tayseer A. A., father of eight, resident of Tel Rumeida, in the Old City.
Interview: 22 February 2016*

As recognized in Article 23(1) of the International Covenant on Civil and Political Rights, “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” The second paragraph adds that “the right of men and women of marriageable age to marry and to found a family shall be recognized.” Rule 105 of Customary IHL also establishes the obligation to respect family life as far as possible.¹³³ While IHL and IHRL allow Israeli authorities to restrict certain rights for security reasons, these restrictions must be directed to a specific threat. Israel’s restrictions on all Palestinians’ rights to freedom of movement, a home, and family life greatly exceed this limitation. Since the outbreak of the Second Intifada in 2000, Israel, which is in control of the Palestinian population registry, put a freeze on all family unification requests in the oPt (excluding East Jerusalem) which remains in place until today. The particular characteristics of Hebron’s Old City increase the impact of the denial of family unification, as the risk of getting caught and deported for those who decide to stay while awaiting a response on submitted applications for unification is much higher than in other areas of the oPt, considering the Israeli military presence and large number of checkpoints.

8. Property Confiscation and Denial of Use

As the occupying power, Israel is prohibited from implementing new legislation in the oPt,¹³⁴ with only two exceptions. The first exception is when military need (a notion that is strictly interpreted) of the occupying power in the occupied territory requires it, and the second, when the humanitarian needs of the population under occupation require it.¹³⁵ Israeli amendments

133 ICRC, Rule 105 of Customary IHL. Available at: https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule105.

134 This principle is encoded in international law in article 43 of the Hague Convention (IV) respecting the Laws and Customs of War on Land, 1907 and its Annex: Regulations concerning the Laws and Customs of War on Land, The Hague, 18 October 1907. “The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”

135 Dinstein, Y., *Legislation Under Article 43 of the Hague Regulations: Belligerent Occupation and Peacebuilding*, Program on Humanitarian Policy and Conflict Research, Harvard University, Occasional Paper Series, 2004. p. 4-8.

to the existing legal framework applicable in the oPt should meet either or both of these criteria.¹³⁶

Not only is there a lack of accordance with above mentioned legal requirements, Israeli policies in the West Bank also support land confiscation and denial of use. Confiscation results in transfer of Palestinian ownership of land to Israeli bodies and authorities, while denial of use includes military seizures in which certain floors or the roofs of Palestinian houses are occupied by the Israeli army and often result in permanent confiscation.¹³⁷ It further includes the closing of shops, the denial of access to Palestinian lands and houses, the denial of rehabilitation or building of houses and denial of use of public space and infrastructure.

Throughout history, Israel has utilized a significant amount of legal creativity in adjusting the pre-1948 patchwork of laws applicable in Hebron's Old City. It maintains certain provisions from the Ottoman Land Code (1858), British legal inheritance, and Jordanian laws, combined with the implementation of military orders. This legal concoction results in Palestinian property owners in Hebron's Old City having to prove ownership with a 'legal source of possession' that was not required at the time of the establishment of the ownership. It is questionable how this interpretation of the occupier's duty under Article 43 of the Hague Regulations – especially *"to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country"* – restores public order and safety. In fact, this vague *mélange* of legal provisions is a crucial component of the coercive environment, leaving numerous Palestinians uncertain of their properties' legal status. Additional tools used by colonizers to confiscate Palestinian property are claiming pre-1948 Jewish property as their own or purchasing of Palestinian property through questionable transactions, for example on the basis of forged property documents.¹³⁸

136 For a more detailed account on this subject, see: Sfard, M., Schaeffer, E. & Anderson, J. H., Norwegian Refugee Council, *A Guide to Housing, Land and Property Law in Area C of the West Bank*, 2012. Available at: <https://www.nrc.no/globalassets/pdf/reports/a-guide-to-housing-land-and-property-law-in-area-c-of-the-west-bank.pdf>.

137 In 1979, the High Court of Justice deemed this practice of converting land seized for military use into civilian settlements as illegal (HCJ 390/79 *Dweikat v. Government of Israel* 34 (1) PD 1 (also known as the "ElonMoreh case")). However, land that was seized before the verdict was rendered was not returned to the Palestinian owners.

138 Levinson, C. *Israel Supreme Court Rules Hebron Jews Can't Reclaim Lands Lost After 1948*, Haaretz, 2011. Available at: <http://www.haaretz.com/israel-supreme-court-rules-hebron-jews-can-t-reclaim-lands-lost-after-1948-1.344090>; Adamczyk, S., Norwegian Refugee Council, *Driven Out. The Continuing Forced Displacement of Palestinian Residents from Hebron's Old City*, 2013. p. 26. Available at: <https://www.nrc.no/globalassets/pdf/reports/driven-out-the-continuing-forced-displacement-of-palestinian-residents-from-hebrons-old-city.pdf>.

De facto Confiscation

Israel officially states that private Palestinian land is not to be seized for the purpose of colonization,¹³⁹ yet 21 percent of West Bank lands that were used for the creation of colonies are privately owned.¹⁴⁰ Seizure/requisition orders and expropriation orders impede Palestinian land ownership in Hebron's Old City. Furthermore, when legal approaches are not or cannot be utilized, *de facto* confiscation often takes place.¹⁴¹ *De facto* confiscation restricts or completely denies the use of and access to land – effectively taking it over, since the owners are only able to use the land sporadically, if at all.¹⁴² Denial of access to shops in ash-Shuhada Street or military seizure of rooftops or floors of houses without military warrant also constitute *de facto* confiscation.

“The Israeli army closed around 500 shops from as-Sahleh to ash-Shuhada Street. The closure of our [clothing] shop in ash-Shuhada Street had an economic and psychological effect on our family. It was supporting 120 members of our family as my father and my uncle owned it, and my cousins worked in it. It cost my father and my uncle about 10,000 JD (14,000 USD) to renovate it. My uncle had three heart attacks when they closed it. Whenever he sees the shop from Tel Rumeida, he cries. We cannot reach the shop since ash-Shuhada Street is closed and no Palestinian is allowed to enter. We tried many times to get permission to let us take our machines out of the shop, but they never allowed us. It has been 15 years since they closed the shop; I'm sure the machines are ruined now and will never be useful again.”

*Nasser G., resident of the Old City.
Interview: 22 February 2016*

Another example of *de facto* confiscation is outposts. Outposts are colonies created through the occupation of Palestinian-owned houses or land by colonizers which have no official Israeli approval or permission at the time of their creation. These outposts are often established near existing colonies as a strategy for expansion of the colony in the future.¹⁴³ *De facto* confiscation turns into *de jure* confiscation as soon as Israeli government approval of the

139 As was stated on the Israel Ministry of Foreign Affairs website in May 2001. B'Tselem, *By Hook and by Crook – Israeli Settlement Policy in the West Bank*, 2010. p. 21. Available at: http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf.

140 B'Tselem, *By Hook and by Crook – Israeli Settlement Policy in the West Bank*, 2010. p. 20, 30-31. Available at: http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf.

141 Eye on Palestine, *Demolition Orders on Three Houses in Hebron*, 2014. Available at: <http://www.poica.org/details.php?Article=6701>; Eye on Palestine, *Unraveled Wave of Occupation Razes the Homes of the Families of al-Qawasmi and Abu-Eisha*, 2014. Available at: <http://www.poica.org/details.php?Article=6685>.

142 BADIL Resource Center, *Israeli Land Grab and Forced Population Transfer of Palestinians: A Handbook for Vulnerable Individuals and Communities*, June 2013. p. 20. Available at: http://www.badil.org/phocadownload/Badil_docs/publications/handbook2013eng.pdf.

143 Applied Research Institute of Jerusalem (ARIJ), *Locality Profiles and Needs Assessment in the Hebron Governorate*, 2009. p. 34. Available at: <http://www.arij.org/files/admin/2009-integratedprofiles.pdf>

outpost is granted. Both *de facto* and *de jure* confiscation of Palestinian land and property by Israel as an occupying power are illegal under international law.

The Old City, still a 'Ghost Town'

Hebron's Old City was once a busy commercial area, serving not only local residents and merchants but also the rest of Mandate Palestine and beyond. Hebron was also a tourist destination for many people, primarily religious pilgrims.¹⁴⁴ However, following the First Intifada in 1987 and the Ibrahimi Mosque massacre in 1994 the situation worsened and increasing restrictions led to a decline in tourism and business, especially those in the area around the Mosque which was the main tourist attraction and surrounded by many shops.¹⁴⁵ The outbreak of the Second Intifada was an even harder blow on the Old City's economy. The imposition of curfews and additional restrictions on Palestinian movement prevented potential customers from accessing shops and the market on a regular basis.

A study conducted by the HRC of the economic situation in 2009 focused on the entire Old City. The report documents the closure of around 2,320 shops. Israeli military orders had shut down 512 (22 percent) commercial businesses during the Second Intifada and another 1,120 (48 percent) shops were closed as a result of the restrictions, closures and the deterioration of the situation in the Old City.¹⁴⁶ The remaining 30 percent of the shops had limited commercial activity. This situation has led to an increase in the number of businesses that have been closed by the owners as a result of their forcible transfer since 2009.¹⁴⁷ The living standards in H2 have become much lower than in the H1 part of the city, and there has been a decline in the average monthly income of families. In January 2016, a B'Tselem report¹⁴⁸ highlighted further restrictions and closures of businesses in the Old City by the Israeli forces, in response to the alleged attacks against Israeli soldiers and colonizers during the last three months of 2015. At least 20 shops were shut down by military orders near the Ibrahimi Mosque.

The economic consequences of the policy of property confiscation and denial

144 Hebron Rehabilitation Committee, *Hebron's Old City: Preservation and Revitalization Master Plan*, 2014. Available at: <http://www.hebronrc.ps/images/stories/MP%20English.pdf>.

145 Ibid.

146 Ibid.

147 Ibid.

148 B'Tselem, *Collective punishment continues in central Hebron: Closed neighborhoods and shops closed and repeated checkpoint inspections*, 21 January 2016. Available at: http://www.btselem.org/hebron/20160121_hebron_restrictions.

of use, coupled with other policies such as restrictions in movement and closures, have left parts of the Old City completely deserted and lifeless. In 2016, the Old City remains a 'ghost town'. Most streets are empty and the shops are welded shut, a far cry from the busy and lively streets just on the other side of the checkpoint in H1 where the Palestinian commercial activity has moved.¹⁴⁹

9. Denial of Reparations

The population of the Old City declined by 80 percent between 1967 and 1990.¹⁵⁰ Those who were forcibly transferred and remained in the West Bank became Internally Displaced Persons (IDPs) and are entitled to reparations according to international law. Reparations include the right to return to their properties in the Old City, the right to restitution of their properties, and the right to compensation for material and non-material damages and losses. Despite the gravity of the policies and practices implemented by Israel that have resulted in the internal displacement and forcible transfer of Palestinians from the Old City, no UN agency or other authoritative body has been designated as primarily responsible for the protection of these displaced persons.

The Old City experienced the lowest numbers of Palestinian residents following the massacre in the Ibrahimi Mosque in 1994 and the extreme restrictions imposed by the Israeli forces following the attack. By 1996, the Palestinian population had decreased by almost 75 percent, from 1,501 to 400. It was this year that organizations such as HRC were established and started to revitalize the Old City and strengthen the Palestinian presence there. Some of those new residents that moved to the Old City following 1996 were returnees who had been internally displaced. The majority however, were Palestinian families from the Hebron Governorate, drawn into the Old City by the newly restored homes and financial incentives offered to them. Although in the last two decades Palestinian efforts have transformed the area and achieved a positive demographic growth rate, ongoing displacement of Palestinians out of the Old City still occurs. Many families left their homes during the Second Intifada, some of which are covered in this section. The increase in oppressive policies against Palestinians following the increase in clashes that took place between October 2015 and the first half of 2016, and

149 B'Tselem and Association for Civil Rights in Israel. *Ghost Town: Israel's Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, 2007. p. 33. Available at: <http://www.acri.org.il/pdf/ghosttown.pdf>.

150 Sellick, P., *The Old City of Hebron: Can It be Saved?* Journal of Palestine Studies, Vol. 23, No. 4, Summer 1994. p. 73. Available at: <http://www.palestine-studies.org/sites/default/files/jps-articles/2538213.pdf>.

the intensification of colonizer attacks that took place in that period, also pushed several families out of the Old City.¹⁵¹

The ongoing displacement of Palestinians from the Old City by various Israeli policies makes reparations for those displaced impossible for the time being, since the circumstances that caused the forcible transfer or deportation, namely the targeting of Palestinian residents, is ongoing. There is no place within the Israeli regime of occupation, forcible transfer, colonization, and apartheid for reparations, as all the potential pathways to obtain them are closed to Palestinians. The Prevention of Infiltration Law (1954) used extensively against Palestinian refugees, and the bias of the Israeli judicial system illustrate the impossibility to seek reparations through legal avenues, as both are designed to perpetuate the displacement rather than to end it.¹⁵² This is what makes Denial of Reparations a policy of forced population transfer and an essential part of the Israel's Zionist goals.

In light of the ongoing Israeli policies and colonial enterprise and the lack of national or international protection, there is well-founded fear that the guarantees of non-repetition cannot be fulfilled and therefore those Palestinians who have been displaced cannot safely return to their homes.

“One of the Israeli police officers once told me: “if you don’t feel afraid for yourself, you should be afraid for your children.” It was threatening and intimidating, as I knew my sons wouldn’t remain silent if they saw their father get humiliated, so, my fear grew, which made me decide to find a home for my family outside the Old City. Before we had a good life and the situation was fine. However, as life became tougher, I bought a house in Farsh el-Hawa [in H1, roughly 5km from Hebron’s Old City] for my wife and children. They have been living in it for three months now, since 1 December 2015. I only stay with them on Thursdays and Fridays when my brother takes my place and stays in our home in the Old City to protect it and take care of my sister, who lives with her kids in the house, from the settlers’ attacks. We never leave the house empty. Now, as soon as I leave the house [in H1], they [my family] call to check on me. They are very worried about me. I’m 10 minutes away from my family, yet I get to see them in the weekends only. Life shouldn’t be like this. I can’t move and live with my family because I can’t leave our home and my sister. Her children are still too young. If I left the house, the settlers would occupy it and take it. Also, maybe in the future one of my brothers will want to come back to our home and live in it, because all of my brothers live in rented apartments and they are not comfortable there. All of my brothers, my mother and sisters, left our home because of the curfews [imposed by

151 Information gathered from interviews with residents of Hebron’s Old City.

152 Smith A., *Israel’s latest law confirms bias in judicial system*, Middle East Monitor, 24 January 2014. Available at: <https://www.middleeastmonitor.com/20140124-israels-latest-law-confirms-bias-in-judicial-system/>.

the Israeli army]. When they wanted to visit, I used to tell them not to come because it's dangerous. My wife and daughters don't visit this area at all. I remain worried about my wife and children because I don't live with them. (When we were living in the Old City) I used to take my daughters to visit our relatives, especially their grandmother, because no one visited us in our home. I didn't want them to be sad and feel like they were alienated from this world. All of these circumstances forced me to move my family outside the Old City."

*Kifah M., resident of the Old City.
Interview: 3 March 2016*

Conclusion

Palestinian residents of Hebron's Old City are subject to the same Israeli policies of forced population transfer as other Palestinians throughout Mandate Palestine, but some specific policies and special circumstances of the Old City exacerbate their impact and the coerciveness of the environment. The division into H1 and H2 and Israeli military rule over H2, combined with the topographical features of the Old City's center, provide for conditions in which day to day life of Palestinian residents becomes a struggle.

While the general permit regime applies to Old City residents as with the rest of Palestinians in the oPt and Israel, such as having to get a permit in order to enter Jerusalem or to build or renovate their homes, they face particular restrictions simply for living in the Old City. These restrictions are forced upon them either by military orders, oral warrants or implemented in practice with no previous warning.

The lack of any Palestinian planning committees or any other form of participation of Palestinian residents in Hebron's Old City results in the absolute derogation of equality in the use of public and private space. Israel has used this exclusive power to discriminate against Palestinians and to give preferential treatment to colonizers. Colonies in the Old City considerably restrict Palestinian use of property in that Palestinian lands are confiscated and only Israeli-Jewish residency is allowed in the colonies and their surroundings. Israel uses both *de jure* and *de facto* confiscation of Palestinian property in the Old City which has transformed the once vibrant and bustling city center into a 'ghost town'. The socio-economic situation of Palestinians is further affected by the denial of services, which leaves the Palestinian residents of the Old City in a very vulnerable situation, often unable to have access to basic medical assistance or emergency services. These circumstances have led to the temporary displacement of some Palestinians, for example to access

medical treatment, and when this displacement takes on a more permanent form, the persistent forcible transfer of Palestinians occurs.

Israeli oppression through the excessive use of force, collective punishment and arbitrary arrest has an extreme impact on the residents of the Old City, who live constantly surrounded by Israeli soldiers and colonizers and are obliged to interact with them on a daily basis. The consequences can be fatal, as evident in the cases of extra-judicial executions, and those who are not killed face a constant risk of injury at the hands of the Israeli army or colonizers. The presence of colonizers has a considerable impact on the Palestinian residents who live nearby. Not only due to physical assault, intimidation and verbal harassment, but also due to the restrictions on movement and access that accompany their presence and the role of non-state actors (such as the Hebron Fund) that serve to fortify and expand the colonies. This situation often results in constant insecurity, psychosocial distress and trauma. By allowing and supporting (with assistance and impunity) these non-state actions, Israel contributes to and is complicit in the deteriorating living conditions for Palestinians in the Old City.

Segregation in Hebron's Old City is materialized in spatial and legal segregation. On top of the physical separation between colonizers and Palestinians, the legal distinction comes with the extraterritorial application of Israeli civil law to colonizers while Palestinian residents are subjected to Israeli military rules. Moreover, segregation within the Palestinian community is manifested through the severe restrictions on Palestinian residency and freedom of movement in Hebron's Old City, which affects family and social life significantly, as many Palestinians are unable to visit their relatives or friends. The ever increasing coercive environment created by Israeli policies results in the ongoing forcible transfer of Palestinians from Hebron's Old City and the violation of a host of fundamental rights. A large number of families have been forced to leave the area in the past few decades, and as long as the crimes of colonization, apartheid and forced population transfer continue in Hebron's Old City, those Palestinians who were forcibly transferred will continue to be unable to exercise their right to reparations which is essential to the fulfillment of many other human rights.

This Series of Working Papers on Forced Population Transfer constitutes a digestible overview of the forced displacement of Palestinians as a historic, yet ongoing process, which detrimentally affects the daily life of Palestinians and threatens their national existence. This case study provides a unique addition to the Series as it will explore the interrelation and interaction of each of the policies in one specific location, Hebron's Old City. BADIL hopes to produce additional case studies with the aim of supplementing the Forced Population Transfer Series by illustrating the implementation of the nine policies throughout Mandate Palestine.