

Petition

High Court in Jerusalem

In the matter of:

1. Mahmud Nablil Halabi, ID 98824516
2. Hana Abu Hikel, ID 938420130
3. Anaam Hashalmun, ID 948238738
4. Fathan Alhusaini, ID 919768705
5. Wafa Alhusaini, ID 95063125
6. Muhammed Najib Sharabati, ID 986872133
7. Yousef Ibrahim Abu Sabha, ID 921251377
8. Shahinaz Yousef Sharabati, ID 977804277
9. Akram Alrazam, ID 996880449
10. Jihad Rushdi Jabari, ID 987940145
11. Jamil Jabar, ID 904612868
12. Amna Mahmud Bakri, ID 996885224

Petitioners 1-12 are all residents of Hebron

13. Al Haq organisation

Represented by Attorney J. Kuttab, and/or S. Huri and/or
M. Hanna, from 2 Abu Obeidah Street, Jerusalem 19543
Tel: 02-6273723, Fax: 6281218

The Petitioners

v.

Prime Minister
Minister of Defence
Minister of Interior Security

The Respondents

Petition for an Interim Injunction

With this a petition is submitted to the honourable court for interim injunctions directed toward the respondents and which instruct them to explain:

1. Why the law will not be enforced on the Jewish settlers of Hebron?
2. Why complaints of the petitioners about violations committed against them by the settlers of Hebron will not be investigated?
3. Why the petitioners will not be informed of the results of the investigations of complaints filed by them if investigations were indeed conducted?
4. Why offenders from amongst the Jewish settlers of Hebron who attacked the petitioners and their property will not be prosecuted?

5. Why will defense not be provided, to the petitioners in particular and to the Arab residents of Hebron in general, from the attacks of Jewish settlers against them and their property?
6. Why will petitioner 6 not be permitted to return to his home?
7. Why will petitioners 12 and 13 not be permitted to return to their homes and be allowed to enter and leave their homes freely?

Contentions of the Petition

General

Introduction

According to agreements between the Palestinian National Authority (PNA) and the State of Israel, Hebron was divided into two parts: H1 under Palestinian control and H2 under full Israeli control and in which reside 30,000 Palestinian residents and approximately 500 Jews.

For a lengthy period already the law has not been enforced on the Jewish settlers resident in Hebron. The Respondents permit the Jewish residents of Hebron to injure the Palestinian residents at will and do not punish the perpetrators, thus in essence awarding them immunity from punishment. This policy of the Respondents encourages the settlers of Hebron to injure the Arab residents and their property. This situation has resulted in many of the Arab residents of Hebron, who lived in the section under Israeli control, to leave their homes and the area. It should be noted that this area is often under extended curfew which is enforced only on the Arab residents.

The Respondents responsible for the area do not take the necessary measures to protect the Palestinian residents. The multiplicity of similar cases demonstrates that a system has been created by the Respondents of not dealing with the violence of Jews toward the Arabs of Hebron and that there is a custom of the Respondents of not exhausting legal possibilities with Jewish settlers who attack Arabs. The Respondents have created a situation in which the lives of Arab residents of Hebron are forsaken, particularly following attacks, and their personal security has become dependent on the will of the Jewish residents.

Testimonies of the Petitioners demonstrate that even when a large number of offences are committed in front of police officers and soldiers, the latter do not lift a finger to protect the Arab residents, but intervene only against Arabs attempting to defend themselves. Accordingly, Arab residents no longer see a point in complaining about violence perpetrated against them.

It is appropriate to note here the case exposed recently of a Border Police Company that abused Arabs and even killed a youth by throwing him from a moving vehicle - this was

made known only following the confession of a police officer whose conscience bothered him and not due to the complaints of those injured. Tens of cases were discovered of abuse by these officers and due to the situation as described in the petition, the Arab residents of Hebron have despaired of filing complaints. When the Respondents finally act, they expel the attacked residents from their homes in order to appease the attackers instead of dealing with the offenders themselves!

This policy of the Respondents has resulted in an emptying out of the areas close to those in which the Jews reside from their Arab residents. It appears that the Respondents prefer a reality such as this over dealing with the settlers who attack the Arab residents.

Attached in an affidavit about the situation in Hebron from a volunteer with the Christian Peacemakers Team (CPT), marked as n/1.

The Factual Background

Petitioner Number 1

Into the home of Petitioner 1 near Beit Hadassah in Hebron broke a Jewish resident on the night of 4 November 2001. The intruder attempted to stab the son of the Petitioner, Ashraf aged 11, with a steel pole, and he was injured on his hand. The intruder ran from the house, but not before his identity card fell in the home of those attacked.

The entire area was under curfew - and the son was not taken to the hospital until the following day. The military governor and the police arrived at the home of the Petitioner, who gave them the identity card of the settler which had fallen during the break-in. To the amazement of the Petitioner, he saw the settler walking around freely the next day and in the following days, even though as noted the identity card was with the police.

The Petitioner filed complaints with the police for attacks by residents of Beit Hadassah, but with no result and without receiving any form of protection for his family and home. The Petitioner completely despaired of filing complaints in light of the absolute lack of action by the police, who do not bother to arrest a man who broke into a home in the middle of the night and stabbed a boy, even when the identity card of the intruder falls and his identity is known.

Petitioner 2

In the afternoon of 25 June 2001 and like innumerable times in the past, the Petitioner was attacked by settlers with eggs and water on her way home. Only after approximately 20 minutes of attack did soldiers accompany her home. The Petitioner has been attacked innumerable times and even threatened with weapons, and she has filed numerous complaints with the police. She was never told that there was any investigation of her complaints and no results of any investigation were ever given to her. As far as she knows the law was never carried out with any offender acting against her and she feels that her life is completely forsaken.

Attached is a complaint from 4 September 1995, marked as n/2 (1)

Attached is a complaint from 22 September 1991, marked as n/2 (2)
Attached is a complaint from 31 March 1993, marked as n/2 (3)
Attached is a complaint from 25 April 1994, marked as n/2 (4)
Attached is a complaint from 1 May 1994, marked as n/2 (5)
Attached is a complaint from 1 May 1994, marked as n/2 (6)
Attached is a complaint from 20 August 1995, marked as n/2 (7)
Attached is a complaint from 20 August 1995, marked as n/2 (8)
Attached is a complaint from 20 September 2001, marked as n/2 (9)
Attached is a complaint from 1 August 2001, marked as n/2 (10)
Attached is a complaint from 19 June 2001, marked as n/2 (11)

Petitioner 3

Nivin Gamgum, the 14 year old daughter of the Petitioner, was murdered on Sunday 28 June 2002. At 1.30 on that same day, the Petitioner heard shooting and shouting. The Petitioner looked out her window and saw Jewish residents together with soldiers. The Petitioner shut her window and then saw her daughter shouting and falling. A bullet entered the eye of the daughter and exited from her head. Her 14-year-old daughter Nivin passed away and the son of the Petitioner, 22-year-old Marwan, was injured from a bullet to his leg. To this very day the Petitioner is told through her attorney Abulhir Abugbal that the matter of the murder of her daughter "is under investigation." As all Arab residents of Hebron, she does not expect any result from the investigations of the Respondents and has utterly despaired of the law being carried out concerning the murderers of her daughter.

Petitioners 4 and 5

The home of the Petitioners, located in the Kasbah of Hebron, was attacked innumerable times with rocks and Molotov cocktails. The Respondents did not intervene to halt this phenomenon, which repeated itself time and time again, resulting in their brother Haled, aged 2 years and four months, being killed by a Jewish settler on 7 September 2001 during a curfew. The family was never told about the existence of an investigation of any type, if there was an investigation or of the results of any investigation, and to the best of their knowledge nothing was done to investigate the matter and/or notify the grieving family of what was done.

Petitioner 6

The home of the family of the Petitioner is located near Avraham Avinu. On Friday 26 July 2002, settlers broke into the home of the Petitioner and took it over. The Petitioner and his family members attempted, together with police officers, soldiers and journalists, to return home, but they were thrown out. On 19 August 2002, the Petitioner returned once again with journalists and found that the house was locked from the inside. The Petitioner turned to the Civil Administration and was told that he could return following the building of a fence - a fence that the settlers destroyed! The

Petitioner was essentially expelled from his home and to this very day the Respondents prevent him from returning to his home in order to appease his attackers.

Petitioner 7

On 3 July 2001, settlers entered his sheep shed, slaughtered 20 sheep and destroyed his water containers. They threatened that he must leave or they will kill him. The Petitioner filed 8 complaints with the police but for naught, and finally the Petitioner was forced to leave his home. The settlers completely destroyed his residence and his crops. Despite numerous complaints, nothing was done and lacking in all defense, the Petitioner was in essence expelled from his home.

Petitioner 8

The petitioner is a nurse in a hospital in Hebron.

Her home is comprised of 7 persons and is located near the Avraham Avinu Yeshiva in Hebron.

The petitioner and her family members are exposed to daily attacks. Since September 2000, a large number of Molotov cocktails have been thrown at their home. Settlers broke into the garden of the house and set fire to the furniture and attempted to set fire to the house. In other attacks, she and her husband were attacked with rocks and her sister was injured, requiring 3 stitches. It should be noted that visitors are frightened to come near their house. Despite appeals to the police, the Petitioner received no protection and she lives in constant fear of attacks and violence.

Petitioner 9

The Petitioner and his family members are the victims of violence and abuse by their Jewish neighbours for more than ten years already. The Petitioner lives near Kiryat Arba and he and his family members are the victims of daily abuse from the Jewish settlers of Kiryat Arba. Rock throwing is constant, particularly on weekends when Saturday guests arrive from outside. At times he and his family members are the victims of live shooting and there are numerous bullet markings in his walls.

The rock throwing results in the breaking of windows of his home and car. In the past, attempts were made to set fire to the home of his brother.

The Petitioner filed a complaint with the police - after waiting for hours - but for naught.

Attached is an article from Haaretz on 17 July 1998 which testifies to the difficult situation existing already then, marked as n/3 (1).

Attached is a complaint about burning a vehicle from 1 June 1998, marked as n/3 (2).

Attached is a complaint about breaking a car's windshield from 20 March 1993, marked as n/3 (3).

The fact that the Petitioner suffers for more than ten years from daily abuse with no real action on the part of the Respondents proves that they are not at all protecting the

Palestinian residents of Hebron or their property. The opposite is in fact true - their non-treatment of this abuse in actuality encourages even more abuse.

Petitioner 10

The Petitioner is a resident of Hebron who lives approximately 50 meters from Road 60. On Wednesday 2 June 2001, settlers attacked the vehicles of Arabs who traveled on Road 60. After a time the police prevented Arabs from using the road, and then the settlers began to attack the home of the Petitioner with rocks. They broke the windows of the house and those of his two vehicles. After fifteen minutes of attack, the Arab residents attempted to defend themselves and then soldiers arrived who shot rubber coated bullets on the residents under attack.

This incident repeated itself on 21 June 2001 and 22 June 2001, and the soldiers defended only the settlers. The soldiers did not intervene at all when the Jewish residents attacked the Arab residents and destroyed the crops and fields of the Petitioner. All of the attacks and the destruction were committed under the protection of the soldiers and the police, who closed the road every time and allowed the Jewish residents to attack the Arab residents at will. The Petitioner did not see any point in complaining when all of the attacks were done before the eyes and with the protection of the Israeli authorities.

Petitioner 11

On Monday 9 July 2001 at 3 p.m. Petitioner 4, traveling together with his mother to the home of his aunt in his car, saw Jewish residents approaching him in a threatening manner. He and his mother ran from the car, which was destroyed by the Jewish residents, while the soldiers did not prevent them from doing anything. The Petitioner, like a majority of Hebron residents, despaired of complaining with the police in light of their bitter experience and the waste of time. The very attack was committed before the eyes of soldiers and he did not see any point in complaining to another Israeli authority.

Petitioner 12

The Petitioner and her husband are the owners of a plot of land and house in the area within what is Kiryat Arba today. With the building of Kiryat Arba in 1970, their home remained within the area of Kiryat Arba. In 1987 a barbed wire fence was placed around their home and they couldn't leave or enter. They broke through the fence several times and were heavily fined for this, until it was decided to place a steel gate and the keys to the gate would remain with them. Over the years the home was attacked innumerable times by residents of Kiryat Arba with shootings, rocks, Molotov cocktails and even shells. The Petitioner was not notified if anyone was tried for these offences. The Petitioners went to Hebron for four days to visit their grandson, who left the hospital at the beginning of August 2002. When they returned on 6 August 2002, they found that the lock on the gate had been replaced. They turned to the mayor of Hebron, who after an investigation told them they would be allowed to return to their home in a week. On 14 August 2002, when the Petitioners arrived in order to return to their home, they saw that

workers were again placing a barbed wire fence around their home. They phoned an acquaintance of theirs from Kiryat Arba by the name of Shlomo Mansura, who called an officer who arrived at the place. The officer told them they would be allowed into their house but they were to leave the barbed wire fence around their house and it would be forbidden for them to exit. They asked for keys and a way to access their home, but the officer told them that if they want to leave their home they must call him and he would attempt to help, but he refused to give them keys. They were very fearful and of course refused these conditions – in actuality they were expelled from their home. The next day they turned to the Red Cross and filed a complaint about the expulsion from their home. Since then and until May of this year the Petitioners have made endless contacts with the Hebron Municipality, the governor and human rights organisations to return to their home, but for naught. On 10 May 2003 the Petitioners received a telephone call from the Alrazam family, who notified them that their house was on fire. With the assistance of their friend Shlomo they entered their house and saw that the entire house was burnt and that nothing remained of it. They filed a complaint with the police.

Attached is the complaint from 12 May 2003, marked as n/4.

Today the Petitioners are left with nothing and are homeless and are staying with friends.

Petitioner 13 is an organization which deals with preserving the law in the territories and focuses on subjects connected to human rights. Following is a summary of the damage caused to property in Hebron as recorded by researchers of Petitioner 13

Amongst other things, the researchers of Petitioner 13 have documented the destruction done by settlers on several occasions.

The shops which were destroyed and/or burned and/or stolen from on 1 April 2001

Owner of the shop: Mahmud Ibrahim Abu Hadid, ID 964440713 and his family members: 11 persons.

The shop is "super market", 14 m x 8m.

The shop was broken into, stolen from and burned. The contents of the shop were stolen.

Name of shop owner: Nidal Abu Halaf, aged 28 and his family members: 20 members. Market, 14m x 5m.

His shop was burned and damaged.

Name of shop owner: Azmi Shweiki aged 25, in partnership with Azmi Abu Sneh aged 35, together with their families: 50 persons.

The shop is a bakery and is 800 square metres in size.

The place was burned and destroyed – a loss of more than half a million shekels.

Name of shop owner: Faisal Mahmud Muhammed Abu Hadid aged 35 and his family, 7 members.

Owner of a shop which sells chickens, 40 square metres in size.

The shop was burned and stolen from.

Name of shop owner: Rajai Abed al Rauf al Nazar, ID 979386489 and his family, 13 members. The shop is a hairdressers, 10 square meters in size, all of the equipment was

burned.

Name of shop owner: Azmi Abu Maila, ID 995310737, owner of a carpentry shop. The shop was burned along with all of its equipment.

Name of shop owner: Alian Abed Alrauf Ali Alhadad, ID 949480933. The shop is a welding workshop which was burned.

Name of shop owner: Bani Younis Abed Almagid Abu Kabana, 10 family members. The shop is a warehouse for nylon bags and is 50 square metres in size. The shop was burned.

Name of shop owner: Ismail Shahin, ID 914185310 and his 18 family members. The shop is a grain warehouse, 50 square metres in size. The shop was burned.

Name of shop owner: Ahmad Salam Nassar, ID 921281218, store size 50 square metres. The shop is a grain warehouse and was burned.

Name of shop owner: Rashad Yaqoub Abu Ramuz, ID 969438956. Two shops which were burned.

Name of shop owner: Issa Amar, ID 997726757 and his 14 family members. His shop was burned.

Name of shop owner: Abed Alfathah Albaid, a warehouse that was burned.

Name of shop owner: Mahmud Abu Sneineh, a warehouse that was burned.

Name of shop owner: Abed Aludud Abed Alhalim Kasrawi, a welding workshop that was burned.

Name of shop owner: Shahade Ramadan Samuch, a shop and factory for shoes that was burned.

Name of house owner: Daimazen Salhav, an uninhabited home that was burned.

Name of house owner: Abdu Maswada, an uninhabited home that was burned.

Name of shop owner: Ibrahim Atta Jabar, a welding shop from which things were stolen.

Summary

It is clear that for a long period the law has not been enforced on the Jewish settler residents of Hebron. The Petitioners represent only the smallest part of those hurt in Hebron, which proves that the Respondents permit the Jewish residents of Hebron to injure the Palestinian residents at will, and in essence provide them with immunity from punishment.

For a long period there is a reoccurrence of similar cases, which demonstrates that a system of not dealing with Jewish violence toward the Arabs of Hebron has been created by the Respondents, who also have a habit of not applying the law to Jewish offenders who attack Arabs. The Respondents have created a situation in which the lives of the Arab residents of Hebron are forsaken. The testimonies demonstrate that even when a large number of offences are committed before the very eyes of soldiers and the police, they do not lift a finger to defend the Arab residents and only intervene against Arabs who are attempting to defend themselves. Accordingly, the Arab residents do not see any point in complaining about violence against them.

This policy of the Respondents resulted in the areas close to the areas in which the Jews live emptying out of their Arab residents. It appears that the Respondents prefer a reality such as this over dealing with the offenders themselves, who attack the Arab residents.

From attachment n/1 to this petition and from previous reports of human rights organisations, it is apparent that the Respondents can easily predict that after attacks and/or during the funerals of settlers the violence of settlers will reach an apex, but they do nothing and it appears they allow the settlers to 'take out their fury' on the Arab residents.

In the beginning of April 2001, the Respondents permitted the settlers to burn property and riot at will - the damages are described by Petitioner 13.

During three days in July 2002, following an attack, the Respondents permitted the settlers to run amuck and injure the Arab residents of Hebron at will. The daughter of Respondent 3 was killed in this outbreak of violence.

Moshe Givati, advisor to the Minister for Internal Security, even described in the Haaretz newspaper in July 2002 what happened as a 'pogrom,' but it doesn't appear that anything was done by the Respondents to prevent a reoccurrence of additional 'pogroms'; the opposite is in fact true.

The Legal Aspect

Legality of the Acts of the Respondents

The law is clear - with revelation of the commission of an offence, the police must commence an investigation. A police officer at the rank of chief inspector and higher who is authorised to order that an investigation not be conducted can do so only if two conditions exist:

1. This is an offence that is not a crime.
2. He reasons that there exists no public interest in the matter or when another authority is legally authorised to investigate the offence.

A fundamental and necessary condition for upholding the law is provision of the ability to file a complaint. The very act of filing a complaint by the Arab residents of Hebron has become, due to the policy of the Respondents, a humiliating act involving hours of

fruitless waiting prior to taking the statement.

In the Hebron police station, every Arab interested in filing a complaint is forced to wait hours until he is given another time to come and file the complaint. There is no explanation as to why one interested in filing a complaint is forced to wait hours only in order to receive another time to come and file the complaint, apart from the desire to dissuade people from filing complaints. Even if there is no authorised person to take the statement and/or an Arabic speaker, it is possible to give the other time for filing the complaint immediately.

When a complaint is filed, the decision of the police concerning dealing with the complaint must meet all the requirements of proper administration, including reasonableness, non-discrimination, fairness, lack of external considerations, etc. Even the investigation itself must meet the rules of proper public administration and must be fair, comprehensive, efficient and lacking in all irrelevant foreign considerations. It is clear that this is not the situation in Hebron. Even the first stage of filing a complaint has become a nightmare for the Arab residents of Hebron, and it appears that in the majority of cases there are also no additional stages.

When a complaint is filed it is not dealt with at all and/or dealt with in a negligent manner and/or with irrelevant external considerations concerning the nationality of the complainant and nationality of those against whom the complaints are registered. Family members complaining even in cases of murder do not receive any information on the existence and/or conduct of an investigation.

The Respondents must permit the Arab residents of Hebron to file complaints in a convenient and efficient manner, and not force them to wait hours 'to punish' one who wants to file a complaint. The Respondents must efficiently deal with filed complaints and try those who commit the offences. The Respondents must supply defence to all residents of Hebron with no distinction on the basis of nationality and origin.

Deviation from Proper Public Administration

Even when the authority has wide discretion, it must deal with the matter efficiently and fairly. The situation as it is in Hebron today is unacceptable, in which police officers receive tens of complaints and even, as in the case of Petitioner 1, the identity card of the attacker, and do nothing to deal with the violations. It appears that police officers and/or soldiers and/or police clerks and/or the army who would obtain these same results in treating complaints of violations in any other area would be replaced by different and more efficient people.

Irrelevant External Considerations

The sole possible logical explanation of why the police do not deal with at all and/or in a most incompetent manner the complaints of the Arab residents of Hebron is racist and/or nationalistic and/or political and/or out of considerations of convenience and/or irrelevant considerations and other external considerations. The Respondents prefer to ignore the

existing situation in Hebron, the security of the Arab residents is forsaken and there is no enforcing the law on the attackers. It is prohibited that irrelevant external considerations enter into the considerations of the law enforcement authorities in any area and for any reason.

Lack of Reasonableness

A situation in which tens of complaints are not handled and/or there is investigation and no prosecution in their wake is on the face of things unreasonable. There is no explanation for this phenomenon and the non-handling of settlers' violence by the Respondents in Hebron apart from the origins of the two sides - the Arab of those attacked and the Jewish of the attackers.

Protection of Civilians Under Occupation

The policy of the Respondents which permits settlers to do as they will and injure the Palestinian residents of Hebron and attack them at will is in contravention to international law. The Fourth Geneva Convention determines that occupation forces must be responsible for the security of the residents and public order.

The policy of the Respondents in essence encourages the settlers to continue injuring local residents. The de facto provision of immunity for the violence of Jewish settlers forsakes the lives and property of the Palestinian residents solely because they are Arab. As can be seen from the tens of complaints filed by the Petitioners, the police do not handle at all and/or treat the complaints in a most negligent manner, and this cannot be explained apart from the ethnic origin of the attackers who are Jewish and the attacked, who are Arab.

Instead of dealing with the attackers, the Respondents prefer to expel the victims from their homes in contravention of the law. Article 49 of the Geneva Convention prohibits the expulsion of residents under occupation. Petitioners number 6, 7, 12 and 13 were in essence expelled from their homes in order to appease the attackers.

The Petitioners, through not dealing with and/or dealing with in a negligent manner and/or not investigating and/or the conduct of failed investigation and/or the lack of provision of defense to the Palestinian residents of Hebron, create a situation in which the Arab residents of Hebron who reside close to the homes of settlers are expelled from their homes. The Respondents created a situation that is known to all - both the settlers and the Palestinian residents - that it is permissible for the Jewish settlers to injure the Arab residents at will.

The Right to a Normal Life

According to international law, it is mandatory for the Respondents to guarantee the minimal welfare of the residents of H2 and guarantee them a normal life with personal security and dignity.

The policy of the Respondents results in these fundamental rights being violated and the residents at the mercy of the Jewish settlers of Hebron.

Accordingly, the honourable court is requested to award interim injunctions as noted in the beginning of this petition. Additionally, the honourable court is requested to charge the Respondents with the court and legal fees.