

**Al-Haq Case Study:
The Killing of Umran Abu Hamdieh**

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West Bank Affiliate of the International Commission on Jurists - Geneva
In Special Consultative Status with the Economic and Social Council of the United
Nations**

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Introduction

At approximately 20:00 hrs on the 30th of December 2002, 18 year-old Umran Abu Hamdieh was with friends in the old city of Hebron. At the time of the events related below the area was under curfew, which means that the Israel military is in control of all movement and people are forbidden to leave their homes. As Umran and his friends walked in the street a jeep containing four Border Police stopped beside them. The Border Police checked the men's identity cards, forced Umran into the jeep, and left the area. Umran's friends, knowing that Palestinians taken by the Border Police and Soldiers are often beaten, followed the jeep on foot. After walking some distance the men found Umran's beaten body lying in the street. They immediately took Umran to the local hospital, but Umran was declared dead upon arrival. The time between Umran being taken and the arrival of his body at the hospital was approximately 40 minutes.

This case study will look at the killing of Umran Abu Hamdieh from the standpoint of International Law. However, the killing of Umran must be considered in the light of other severe beatings that occurred in the same area and not as an isolated or 'freak' incident. The beating and death of Umran is merely one incident in a series of severe beatings of Palestinian civilians by Israeli soldiers and border police carried out in the Hebron Area. The only factor that distinguishes this particular beating from others is that it resulted in the death of the victim. While this report focuses on Umran and Hebron, it should be noted that beatings by soldier do not only occur in the Hebron area. In general, beatings occur regularly everywhere in the occupied territories. However, at the time of the killing of Umran there were many reports of beatings of Palestinians by Israeli Border Police in the area where Umran was taken, which marked a dramatic increase. This upsurge in violence seems to have started after the 15th of November 2002 when an Islamic Jihad attack in Hebron resulted in the deaths of five Border Guards, four IDF soldiers, and three armed settlers from the Kiryat Arba emergency response squad.

The Killing of Umran

After Umran's death, Al Haq's fieldworkers collected statements from witnesses to the event as a part of their routine work. The following are extracts from three of these affidavits.

Witness statement by Naim Ar Rajabi:

About eight o'clock in the evening, the 30th of December 2002, I was close to the Tareq Ben Ziad mosque in the old city in the city of Hebron. I was standing with a group of people when I saw an Israeli military jeep with soldiers from the Border Police. They stopped close to me. One of them spoke in Arabic and demanded our ID cards. I gave them my ID card, as did the others. When I came closer he said to me, "we don't want you", so I returned back. I watched and I saw him speaking to two others,

Raed Ar Rajabi (30) and Fallah Abu Hamdieh (22). The soldier returned their ID cards to them. The soldier then asked the third boy, Umran Abu Hamdieh, a question and I heard him answer, "18 years". The soldier then said speaking to him, "we want to speak with you, and you others, go away". The soldier was speaking fluent Arabic and we went a little distance away. The jeep drove away taking Umran with it. When the young men saw the jeep driving away some of them followed it, because it is usual that the soldiers beat people they have taken from the street. Afterwards, I heard that the young men that followed the jeep discovered Umran lying in Fahes Street in a coma, and that he died the same evening because of the beating. I went to his funeral. The area was under curfew¹.

Witness statement by Fallah Abu Hamdieh:

At about eight o'clock on Tuesday the 30th of December 2002 I was close to the Tareq Ben Ziad Mosque in the city of Hebron with three other people. A jeep with 4 Border police stopped close to us. They demanded our ID cards in Arabic. I believe one of the soldiers was old, around 45 years, and he asked Raed Ar Rajabi about his age. Raed answered 30 years old. He then asked me and I answered and the soldier then asked the fourth person, Umran Abu Hamdieh, and he said 18 years old. Three of us were ordered to leave, and the soldier said, "I want to ask this one [Umran] some questions". He then put Umran in the jeep. I heard Raed saying, "What are you doing". The soldier answered, "Nothing, I want to ask him some questions". Raed told the soldier that Umran's father had recently died. The soldier said, "We will bring him back".

The jeep left taking Umran with it. I saw the jeep leaving in the direction of Fahes, which is south of Hebron. I followed together with three others, going in the direction that the jeep went until we came to the area of Fahes. When we arrived there at a gas station I saw something lying on the ground in the main street. We moved closer and saw that it was Umran. He was on his last breaths or maybe he was already dead. He didn't move and blood was running from his nose and mouth. I yelled to the gas station, as did the people with me, so they would call for help. A car came close and stopped. We climbed into it and it took us to Muhammed Ali Muhtaseeb hospital, which is half a kilometer away. After five minutes a doctor came out to us and announced that Umran had died due to internal bleeding. It was then forty past eight o'clock. One of the soldiers was short and the other three were tall and fat and one had olive coloured skin².

Witness statement by Nu'man Ar Rajabi:

¹ Affidavit No. 951, Name: Naim Ar Rajabi, Employment Status: Worker, From: Hebron, Born: 1955

² Affidavit No. 952, Name: Fallah Abu Hamdieh, Employment Status: Worker, From: Hebron, Born: 1979

At about five past eight in the evening on the 30th of December 2002 I was standing in front of my house, which is situated in the neighbourhood of the Tareq Ben Ziad School in the city of Hebron. This area had been placed under a continuous curfew since around the 15th of November 2002. I saw an Israeli Border police jeep speeding south towards an area known as Fahes. There are a large number of stone and other factories in this area.

Suddenly I saw one of my friends, Fallah Abu Hamdieh (23) running in the same direction the jeep had gone. I asked him what was the matter and he said that he was following the path of the army, which had taken Umran Abu Hamdieh. He continued on, and I followed with him and others who were with him. It is known that soldiers usually beat the men they take in the Fahes area. Previously I had heard of a large number of people that they had beaten and left in the streets in an uninhabited area where it was hard for the men to reach either the hospital or their houses. I followed in order to help Umran after they had beaten him. I know Umran from before, and he is about 17 years old.

We followed the road until we reached the Fahes area. There were still Israeli soldiers in the area, so we continued carefully in order that none of us would become a new victim at their hands. When we were close to the Gas station in Fahes we saw a body, but it was not clear since it was very dark. We could see the body from the reflection of the light from behind it. We hurried towards it, and there was nothing else in the street. When we arrived we saw that the body was that of Umran Abu Hamdieh. He didn't move and when we came very close we saw blood coming from his mouth and nose. I screamed in order to wake him up, but there was no movement. We called for help and I approached a car with Israeli license plates. The driver was a young man from Hebron. He stopped and we put Umran in his car.

When we arrived at the Muhammed Ali Muhtaseeb hospital, which is about half a kilometer away, we exited the car and carried Umran into the hospital. Doctors and nurses hurried to help him in the emergency room, and we went out of the room. A doctor came out after less than five minutes. He looked at us and asked who were with him. We were 4 boys (young men) and the doctor said that he had passed away. This news was an enormous evil. We argued with the doctor and demanded from him an examination and to make sure, but there was no hope. Umran had died and his fate was the worst of all those who had been beaten at the hands of those bloodthirsty soldiers³.

³ Affidavit No. 953, Name: Nu'man Ar Rajabi, Employment Status: Worker, From: Hebron, Born: 1979

The Development of the Case

Very few cases of violations of Palestinians' rights committed by the Israeli Army are investigated. Even fewer are brought to trial. The cases that have been investigated have usually first received some kind of international attention or have been being pursued relentlessly by Human Rights groups. However, in most everyday violations committed by soldiers no one is held accountable. This seems to imply that there is a state of impunity for soldiers regarding crimes committed against Palestinians. The authorities do not prevent their crimes, nor are they punished after crimes have been committed. This may even serve as an encouragement to soldiers to continue criminal behaviour. Indeed, Al-Haq has even documented cases in which soldiers have reportedly video taped their violative actions⁴.

The death of Umran was widely publicised in the media and received a great deal of attention, at least in part due to the rash of beatings in the area⁵. The Israeli military decided to perform an autopsy on the body of Umran. However, in order to perform the autopsy his body had to be exhumed and permission had to be received from Umran's family. Initially Umran's family declined the autopsy request. When Palestinians die or are killed at the hands of the enemy they die as martyrs and they are usually buried almost immediately in the clothes in which they died. Autopsies are seldom performed. This is in part due to Islamic tradition, which looks down upon the disturbance of a body after death. However, Al-Haq intervened with the family, and after lengthy discussion among themselves and with the local mufti, Umran's family gave a power of attorney to Al-Haq which B'tselem sent to the police investigation unit in the Israeli Ministry of Justice allowing the Israeli Army to perform the autopsy. If they had not allowed the autopsy it would have been very easy for the Israeli Army to close the case using their unwillingness to co-operation as an excuse. At the request of the family an independent doctor, Professor Jørgen Thomsen from the Centre For International Forensic Assistance in Denmark, was brought in by Al Haq and B'tselem to witness the exhumation and autopsy.

On the 26th of January 2003 around midnight Umran's grave was opened and his body was removed to the Abu Kabir Forensic centre in Tel Aviv where the autopsy was performed the next day in the presence of Professor Thomsen, who was also able to participate. Dr. Thomsen later issued a report on his findings from which the following excerpt is taken.

“The identity of the body was established by DNA. The body was in a rather advanced state of decomposition. The internal organs did not show any signs of existing disease at the time of death. There were findings relating to physical violence. The right temple had a large haematoma due

⁴ Affidavit No. 948

⁵ Arnon Regular, Department for the Investigation of Police to Investigate Murder of Palestinian Youth in Hebron, Ha'aretz News paper, 1 January 2003, Michal Kafra In Cold Blood: The Israeli Public, Which was once agitated by the Line 300 Incident, Remains Apathetic, Maariv Newspaper 7 February 2003

to bruising; there were small bruises in the back of the head; there was a large fracture in the back of the head; on the left side of the back there was a large bruising with a haematoma going deep into the muscles; there were abrasions on the lower part of the back and there was also a deep haematoma in the right leg. There were other cuts not revealing other bruises and there were no petechial bleedings in the eyelids.

Conclusion: There was evidence of repeated blunt force injury, in the right side of the head, in the back of the head, on the left side of the back, on the lower part of the back and behind the right knee. The exact nature of this blunt violence could not be determined. There were fractures of the vault and base of the skull, which were the result of heavy blunt injury. It could not be determined if it was the result of a fall on the back of the head or a blow with a blunt instrument. Due to the pattern of the fractures it was more likely to be the result of a fall than a direct blow. The cause of death is most likely to be brain lesions due to blunt force injury.”

A Pattern of Beatings

The autopsy report indicates by its evidence of repeated violence to Umran’s body that he was beaten to death. The fatal blows delivered to Umran were not witnessed by anyone other than the perpetrators. However, while Umran was being killed his friends were already looking for him. The time span between when he was taken in Israeli jeep and the discovery of his body is very short. Indeed, only 40 minutes after he was detained by the Border Guards he was declared dead at the Hebron hospital. Further, the area was during the relevant time under curfew. This evidence leads Al-Haq to the conclusion that for anyone other than the Border Police who took Umran have inflicted the injuries on Umran that caused his death during this limited time is unrealistic.

In addition, his death also fits neatly into the pattern of the other beatings that occurred in the area at this time. The case of Umran together with the other beatings show the systematic violence perpetrated against the Palestinian victims. Umran’s death is not a separate incident from the other beatings. He was beaten as were the other victims only they lived to tell what happened to them. As the statements from these victims will show the victims are able to describe their aggressors⁶. These statements can also help to shed light on what happened to Umran after the Israeli Border Police took him away.

“He slammed the back of my head against a wall in the place where they stopped us. My nose began bleeding and I fell to the ground. Things did not stop at that point. He continued kicking me with his foot and the butt of his gun until I even lost the ability to protect my head and face from his blows. He beat me all over my body, but concentrated on my head, genitals, stomach, and back. When I fell to the ground he stepped on my

⁶ For more details on this phenomena please refer to attached affidavits and statements detailing these violations at the end of the report.

body. He put one foot on my chest and the other on my genitals. He then stepped on my face. When the soldiers finished beating us they began yelling at us in Arabic "Go home quickly" and "the area is under curfew"⁷.

The victims in each of the cases below are completely at the mercy of their attackers. They have no option but to comply with the orders given by the Israeli soldiers. Sometimes the soldiers give an excuse for the beatings, for example saying that they are beating the victim because the victim violated curfew, while at other times no reason is given at all. In one incident documented by Al-Haq the victim was forced to draw one slip of paper from among several in a situation similar to what reports in the media have referred to as "the lottery".⁸ In several of the witness statements it appears that the victims are describing the same soldiers. The statements clearly show the cruel and criminal behaviour of the soldiers involved in these attacks.

Al Haq holds that the Israeli military authorities must know exactly who is responsible for the killing of Umran. Israeli soldiers are in contact with their commanders who do keep track of where soldiers are at all times. Patrols and soldiers are not sent out at random. It is also clear that by not punishing those responsible the Israeli authorities are encouraging criminal behaviour.

On the 18th of April 2003 it was reported in the media that four members of the Israeli Border Police were arrested by the Israeli Authorities. They were arrested on the suspicion that they killed Umran Abu Hamdieh as revenge for their colleague's death. According to the different reports in the media it appears that one of the Border Guards confessed to the crime and he also confessed to the fact that they had filmed by video the beating which led to Umran's death. The video was later destroyed. Al Haq hopes that the Israeli Authorities will deal with this matter seriously. As will be explained below it is imperative that the Israeli Authorities investigate the death of Umran properly. By not punishing the perpetrators or giving them a mock sentence the individuals in the Israeli Authorities also make themselves responsible for the death of Umran as if they themselves had killed him. The Israeli Authorities have not issued any official statement regarding the arrests.

Legal Findings

The West Bank and Gaza have been occupied by Israel since 1967. Under international law the *Fourth Geneva Convention Relative to the Protection of Civilians Persons in Time of War of 1949* lays out the rights and duties of the Occupying Power. The purpose of Convention is to provide protection for civilians in situations of armed conflict⁹.

⁷ Affidavit No. 945 Ziad Muhammad, see full statement at the end of the report.

⁸ News report regarding the lottery describe it as a game where the participant are forced to chose from a number of options how he will be injured. Al Haq has found another similar incident in the Ramallah area but has been unable to confirm any additional incidents of this practise to date.

⁹ Prosecutor v Kordic and Cerkez, Case IT-95-14/2-T, Judgment, 26 Feb 2001, para 152

Palestinians are, and have since 1967, been living under the authority of an Occupying Power and are therefore considered protected persons in accordance with the Convention.

Additionally, the Rome Statute of the International Criminal Court has made it clear that the term “international armed conflict” includes military occupation¹⁰. Grave breaches of the Geneva Conventions committed by the Israeli Armed Forces against Palestinians therefore also constitutes war crimes, as do other violations of the laws or customs of war. What distinguishes a war crime from a domestic crime is that it is committed in the context of a conflict. In general, war crimes do not need to be supported by a policy, but in the Rome Statute a jurisdictional threshold has been stipulated. The Court has jurisdiction in respect to war crimes in particular when they are committed as a part of a plan or policy or as a part of a large-scale commission of such crimes¹¹. From the cases outlined above it is clear that there is a policy carried out on behalf of the Israeli authorities to discriminate against Palestinians, and not to punish beatings of Palestinians, thus encouraging further misdeeds.

The Crime of Wilful Killing

The killing of Umran Abu Hamdieh qualifies as a wilful killing, which is a grave breach of the Fourth Geneva Convention and a war crime. Any killing of a civilian that is intentional or is not justified by military necessity qualifies both as a grave breach of the Fourth Geneva Convention under Article 147 and as a war crime. In International Criminal Law intent is present where there is demonstrated an intention on the part of the accused to kill or to inflict serious injury in reckless disregard of human life¹².

The Crime of Wilfully Causing Great Suffering and Serious Injury to Body and Health

The war crime of willfully causing great suffering or serious injury to body or health has been defined as any act or omission that is intentional, being an act which, judged objectively is deliberate and not accidental, which causes serious mental or physical

¹⁰ Rome Statute of the International Criminal Court, (1998) U.N. Doc. A/CONF.183/9, Elements of Crimes, footnote 34 to Article 8(2)(a). See also Prosecutor v Kunarac and Others, IT-96-23-T & IT-96-23/1-T, Judgment, 22 Feb 2001, para 568 “*Humanitarian law continues to apply in the whole of the territory under the control of one of the parties, whether or not actual combat continues at the place where the events in question took place. It is therefore sufficient that the crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict. The requirement that the act be closely related to the armed conflict is satisfied if, as in the present case, the crimes are committed in the aftermath of the fighting, and until the cessation of combat activities in a certain region, and are committed in furtherance or take advantage of the situation created by the fighting.*”

¹¹ For definition of policy see discussion on Crimes Against Humanity. The proposal was first submitted by the USA. Herman von Hebel and Darryl Robinson, “Crimes within the Jurisdiction of the Court, The International Criminal Court, The making of the Rome Statute”, ed by Roy S. Lee, p 107, *Although the ICC Statute does not necessarily represent the present status of international customary law, it is a useful instrument in confirming the content of customary international law. These provisions obviously do not necessarily indicate what the state of the relevant law was at the time relevant to this case. However they do provide some evidence of state opinio juris as to the relevant customary international law at the time at which the recommendations were adopted*, Prosecutor v Kunarac et al. supra note 15, footnote 1210.

¹² Prosecutor v. Zejnil Delalic et al., Case No. IT-96-21-T, Judgement, 16 November 1998, para. 439.

suffering or injury¹³. According to the official commentary to the Fourth Geneva Convention it is also defined as suffering inflicted as a punishment, in revenge or perhaps out of pure sadism¹⁴. Willfully causing great suffering or serious injury to body or health is a Grave Breach of all four of the Geneva Conventions¹⁵.

The Crime of Torture

The crime of willfully causing great suffering is distinguishable from the crime of torture by the fact that to be deemed the first, the acts do not need to be committed for a prohibited purpose as is required for acts to reach the threshold for torture¹⁶. The purpose of an act for it to qualify as torture during armed conflict can be determined from the behaviour of the torturer or from determining if the acts were committed with the aim of the coercion, intimidation, punishment, or discrimination of or against the victim. The prohibited purpose must however only be a part of the motivation behind the conduct and does not need to be the predominate or sole purpose for the act¹⁷. Traditionally, an act of torture must be committed by, or at the instigation of or with the consent or acquiescence of, a public official or person acting in an official capacity¹⁸.

The perpetrators of these beatings acted as members of the Israeli armed forces¹⁹. Official capacity is broadly interpreted and extends to officials who take a passive attitude or turn a blind eye to an act, most obviously by failing to prevent or punish torture under national penal or military law²⁰. Thus it is quite possible to argue that these beatings can fall under the crime of Torture, with the prohibited motives being either punitive (beating individuals for violating curfew) or discriminatory (beating Palestinians because they are Palestinians) ends. Torture is considered to be a *jus cogens* crime.

The Crime of Cruel Treatment

Cruel treatment is a violation of the laws or customs of war. The prohibition of this crime is found in Common article 3 of the Geneva Conventions, which has acquired the status of customary international law²¹ and is thus binding upon all states regardless of applicability of treaty law. The “Celebici” Judgement of the International Criminal Tribunal for the Former Yugoslavia outlined and elaborated on this offence. The Tribunal held that this crime constitutes an intentional act or omission, that is an act which judged

¹³ Prosecutor v. Zejnil Delalic et al., supra note 11, para. 511, Report of the Preparatory Commission for the International Criminal Court, Finalised Draft Text of the Elements of Crimes, 6 July 2000, PCNICC/2000/INF/3/Add.2., article 8 (2) (a) (iii).

¹⁴ Commentary to the Fourth Geneva Convention p 599.

¹⁵ Art 50 of Geneva Convention I; Art 51 Geneva Convention II, Art. 130 Geneva Convention III; and Art 147 of the Fourth Geneva Convention

¹⁶ Prosecutor v. Zejnil Delalic et al., supra note 11, para 442

¹⁷ Prosecutor v. Zejnil Delalic et al., supra note 11, para 471 470

¹⁸ Prosecutor v. Zejnil Delalic et al., supra note 11, para 473

¹⁹ Prosecutor v. Kunarac et al. Case No IT- 96-23& IT-96-23/1-A, Judgement, 12 June 2002, para 147

²⁰ Prosecutor v. Zejnil Delalic et al., supra note 11, para 474

²¹ Prosecutor v Kordic and Cerkez, supra note 9, para 260 Prosecutor v Tadic, IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 Oct 1995, para 129, Prosecutor v Kunarac et al. supra note 11, para 406

objectively to be deliberate and not accidental, which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.²²

Crimes Against Humanity

These crimes (murder and inhuman acts) also qualify as crimes against humanity. The incidents presented in this study only constitute few cases that occurred in one particular area during a limited time period. However, criminal acts committed by Israeli soldiers (and settlers) are committed all over the Occupied Territories. Furthermore, they are committed in a repetitious and systematic manner.²³ The beatings of the Palestinians are being committed on a large-scale, and are part of a widespread attack on a civilian population. They are a part of an Israeli policy that discriminates against Palestinians, and that allows soldiers to act with impunity. The existence of a policy may be inferred from relevant incidents²⁴ and from statements made by politicians.²⁵

These are crimes of a collective nature where the individual is victimised not because of his individual attributes, but rather because of his membership of a targeted civilian population.²⁶ Additionally, even a single isolated act, if linked to a systematic and widespread attack, can constitute Crimes against Humanity.²⁷ The perpetrator of the act must have knowledge concerning the fact that there is an attack on a civilian population. One must assume that a member of the Israeli armed forces that wears a uniform while enforcing the occupation has such knowledge.

The killing of Umran and other similar killings, and the mentioned beatings can also be seen as persecution. These victims were targeted because they are Palestinians. It is their ethnic identity that determines whether or not they will be beaten.

Superior Responsibility

According to International Criminal Law persons effectively acting as military commanders are criminally responsible for crimes where the military commander failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to competent authorities for investigation and prosecution after the fact.²⁸ Such failure in the cases above entails responsibility on

²² Prosecutor v. Zejnil Delalic et al., supra note 11, para 552

²³ The “Blaskic” trial defined the systematic requirement as follows: *1) the existence of a political objective, a plan pursuant to which the attack is perpetrated or an ideology, in the broad sense of the word, that is, to destroy, persecute or weaken a community; (2) the perpetration of a criminal act on a very large scale against a group of civilians or the repeated and continuous commission of inhumane acts linked to one another; (3) the preparation and use of significant public or private resources, whether military or other; (4) the implication of high-level political and/or military authorities in the definition and establishment of the methodical plan.* Prosecutor v Blaskic, IT-95-14-T, Judgment, 3 Mar 2000, para 203

²⁴ Prosecutor v Blaskic, supra note 23, para 214

²⁵ For example, the late Prime minister Rabin ordering his troops to break the bones of the Palestinians during the first intifada, a statement taken quite literally, or formulated ideas concerning Greater Israel, see also Prosecutor v. Jelusic, Case IT-95-10-T, Judgment, 14 December 1999, para 54 footnote, 60.

²⁶ Prosecutor v Tadic, Case IT-94-1-T, Judgment, 14 July 1997, para 644, Prosecutor v Kordic and Cerkez, supra note 9, para 178

²⁷ Prosecutor v Tadic, supra note 21, para 649

²⁸ Rome Statute of the International Criminal Court, U.N. Doc. A/Conf.183/9 (1998), Article 28

behalf of the officers or other superior authorities as if they committed the beatings and killing themselves²⁹.

Should information on a crime be submitted, the subsequent investigation and criminal proceedings must be conducted independently or impartially in accordance with the norms of due process recognised by international law. They must not be conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.³⁰ The Israeli Authorities systematically neglect their duty to investigate alleged crimes, even though incidents are brought to their knowledge. In the few instances where soldiers actually have been sentenced for criminal behaviour, the punishments have been so menial that they only further solidify the notion that the violation of a Palestinians rights is not a serious matter, but is only a minor misdemeanour. Sham prosecutions or derisory punishment are not recognised as legitimate under International Law.³¹ If a crime like the killing of Umran is investigated in a serious manner and the perpetrators are punished accordingly it precludes any responsibility on behalf of the commanders. If not, it is quite possible to bring charges of war crimes against the commanders and individuals of superior authority in an international forum where no statutes of limitation apply. Also such lenient punishments serve to encourage soldiers' to treat Palestinians brutally.

Conclusion

Umran Abu Hamdieh was without doubt killed by the Israeli Border Guards. As has been shown these soldiers from the Border Guard have a complete disregard for human life in their abuse of the victims, if the beatings lead to death or not is of no concern to them. Whether Umran was unlucky to die as a result of the beating or if the surviving victims were lucky to escape death only the Border Guards can tell. Umran's case has received a lot of media attention also in the Israeli press. Exceptionally, the Israeli Authorities have arrested individuals suspected of involvement in the killing. However, Al Haq would like to severely stress that beatings leading to injuries or even death is not uncommon in the occupied territory, they happen on a daily basis, and the case of Umran is not unique.

Al-Haq therefore calls on Israel to investigate the killing of Umran Abu Hamdieh and punish the responsible for his death according to due process. The sentences must reflect the gravity of the crimes. Al Haq also calls on Israel to take measurements to prevent such deeds in the future and also look into all the hundreds of cases that never received any attention. Should Israel fail to act Al-Haq requests that the International Community take action to hold Israel responsible for its ongoing violations against the Palestinian people.

²⁹ Prosecutor v Blaskic, supra note 23, para 336 Prosecutor v Kordic and Cerkez, supra note 9, paras 444, 446

³⁰ Rome Statute of the International Criminal Court, U.N. Doc. A/Conf.183/9 (1998). Article 20

³¹ The Princeton Principles on Universal Jurisdiction: The Princeton Project on Universal Jurisdiction (Princeton, New Jersey 2001) p.33

Witness Statements Concerning Beatings

Witness statement by: Thekri al- Zarou:

On 22 November 2002 at about 6 pm I was on my way to my father's home in the Al-Kassarah area near the settlement of Kiryat Arba when an Israeli Border Police jeep stopped me at the Bani Na'im junction. A short black soldier got out of the jeep followed by another three soldiers. The first soldier talked to me in Hebrew, which I do not understand. He then started beating me with the butt of his gun. Another soldier asked me in Arabic where I was going. I answered his question, but he told me that the area was under curfew and added, "Didn't you know that?" I told him that I was aware of this, but that I wanted to visit my father to make sure that he was safe and in good health because I had not visited him for ten days. He translated what I was saying to the other soldiers. At that point the black soldier came and hit my left arm hard. I shouted and fell down. They then left me and went away. The one who was speaking to me in Arabic told me, "Go home".

I went back to my home, which is about 300 meters away. My arm was still hurting, and when I reached my home my wife tried to relieve the pain bandaging it. My condition deteriorated and my arm became swollen. The next day I snuck between houses and managed to reach the Al-Ahli Hospital. It turned out that my arm was broken. The doctors put it in a cast, gave me some medicine, and I returned home. I could neither bring a medical report nor see the doctors again. On 20 December 2002 Israeli occupation forces demolished my house under the pretext that it had been constructed without a license outside the Hebron municipal borders.³²

Witness statement by: Hayel Abu 'Amir al- Sweiti:

On Tuesday 17 December 2002 at about 2:30 pm I was on my way to Bir al-Sabe' (Beersheva) to look for a job. I was in a taxi driven by a Bedouin from Bir al-Sabe' together with ten other passengers. When we reached the al-Ramadin area an Israeli Border Police jeep with four soldiers stopped us. The Border Police took our ID cards to check them. About thirty minutes later they returned the ID cards to everybody except for me. I was the only person who had a West Bank ID card.

The soldiers allowed the taxi to leave with the other passengers. Then they began beating me over my whole body. I fell down. At that moment a black soldier hit my left arm hard me with his baton. I screamed out in pain. They then left me on the ground and went away.

³² Affidavit No. 942, Name: Thekri al- Zarou, Employment Status: Worker, From: Hebron, Born: 1963

About one hour later a man who I know was passing by the area in his Fiat Uno. He drove me to the Beit 'Awwa Hospital where my condition was diagnosed. A doctor there told me that my arm was broken and referred me to the Hebron Hospital. Doctors there x-rayed my arm and confirmed that it was broken. I was admitted in that hospital for one day. I was then allowed to go home after my arm was put in a cast.³³

Witness statement by Rajeh al- Rajabi:

I live in the al-Rajabi neighborhood of Hebron. I raise livestock and therefore I move between the city of Hebron and the village of Bani Na'im where I built a house. I shelter my livestock in caves in the area. I usually use a cart to go to the city.

In December 2002, I cannot remember the exact date, while I returned home with a load of wood in my cart an Israeli border police jeep stopped beside me on the main street. Two Border Guard soldiers exited the jeep and advanced towards me with their guns pointing at me. They ordered me to raise my hands and I did. They talked to me in Arabic, and I obeyed their orders. One of the two soldiers searched the cart.

After approximately ten minutes the two of them yelled at me. One of them was short and black while the other was and tall and huge. The black soldier asked me why I was in that area. I told him that I lived there, pointing with my hand to my house. He shouted at me again and said, "You are not allowed to be here". He beat me with the butt of his gun on the lower part of my back. I fell down and he kicked me twice. The other soldier came up to me and hit my left shoulder with the butt of his gun. Then they left me and went away in the jeep that had other soldiers inside. I barely managed to reach my home. I stayed in bed for two days but I did not see a doctor. I still suffer from pains in my back.

It is worth mentioning that the area where I live (the area is called Berin) is located approximately 2km away from the settlement of Bini Hever. The settlers often assault our livestock and us. About 5-10 armed settlers attack us. During the current Intifada they have assaulted us four or five times. They attacked us last week and tried to steal my horse, but they failed because I held on to it and shouted for help. I now feel helpless, as I do not know how to prevent their attacks. I informed the Israeli soldiers who used to be in the area about their attacks, but they did nothing to prevent the settlers' assaults.³⁴

³³ Affidavit No. 990 Name: Hayel Abu 'Amir al- Sweiti, Employment Status: Worker, From: Beit 'Awwa-Hebron, Born: 1980

³⁴ Affidavit No. 943, Name: Rajeh al- Rajabi, Employment Status: Farmer, From: Hebron, Born: 1955

Witness statement by Ziad Muhammad:

On Wednesday 18 December 2002 at about 2:30 am Badi'a Gheith, 25 years old, and I were together in his car. I was driving the car when an Israeli Border police jeep stopped us in the al-Fahes area of Hebron. There were four soldiers in the jeep. They ordered us to get out of the car and started beating us harshly after they took our ID cards. They smashed the car's windows with the butts of their guns and slashed its tires using a sharp knife.

Initially I could not figure out what they wanted, but later on I understood that they had no reason. I have heard much about Israeli soldiers beating Palestinian men whenever they meet them. I have also heard that a black Israeli soldier was the most vicious among them. Now I know that what I heard before was true. The black soldier was the one who beat me the most brutally. He slammed the back of my head against a wall in the place where they stopped us. My nose began bleeding and I fell to the ground. Things did not stop at that point. He continued kicking me with his foot and the butt of his gun until I even lost the ability to protect my head and face from his blows. He beat me all over my body, but concentrated on my head, genitals, stomach, and back. When I fell to the ground he stepped on my body. He put one foot on my chest and the other on my genitals. He then stepped on my face. When the soldiers finished beating us they began yelling at us in Arabic "Go home quickly" and "the area is under curfew". As we began to move away they began throwing stones at us to force us to run despite the fact that we were exhausted from beating. We went to the Ali al-Muhtaseb Hospital. The doctors there referred us to the Hebron Hospital. The medical examination revealed that we suffered from bodily trauma.³⁵

Witness statement by Mustafa Allan:

On Wednesday 18 December 2002 at about 12:00 am I was charging some goods to a customer when an Israeli military jeep advanced towards me. Four soldiers exited it and walked towards me. The company where I work is situated in the al- Fahes area in Hebron. This area is under complete Israeli control, and it was under curfew on that day.

As the soldiers exited the jeep they began yelling at Ghandi Nassar Ghieth, the customer, and me. They didn't ask us for our ID cards or inquire into the reason why we were in the area. Rather, they immediately began beating us. Two soldiers beat me. One of them was black and short while the other was blond, tall and thin. They used their hands and the

³⁵ Affidavit No. 945, Name: Ziad Muhammad, Employment Status: Worker, From: Jabal Johar- Hebron, Born: 1987

butts of their guns to beat me. They beat me until I lost my balance and fell into a puddle of mud. They then kicked me in the head. I surrendered and thought that I was going to die. I heard Ghandi, who was also being beaten, screaming. He was about fifteen meters away from me. I started to bleed and I wanted to throw up. One of the soldiers yelled at me in Arabic while he was beating me, "Go home, the area is under curfew". I tried to get up, but I fell down. He hit me again in my back and said, "Go home". I gathered some strength and managed to walk several steps. I saw Ghandi in front of me. The soldiers then left in the jeep. I soon lost my consciousness and fell down.

I came to in an ambulance where someone was removing mud from my mouth, eyes and nose. I was taken to the Muhammad Ali al-Muhtaseb Hospital, which is approximately 350 meters away from my work place. I know that area well. Doctors in the hospital provided me with first aid care. I could not believe that I was still alive. I was then taken to the Hebron Government Hospital. X-ray images and other medical examinations indicated that I did not sustain any fractures.

The soldiers beat me for about fifteen minutes. The beating left me with many bruises, the worst ones on my head and back. While I was in the hospital I saw four young men who had also been beaten. After hearing their descriptions of a black soldier and a thin blond soldier I concluded that the soldiers who assaulted them had also beaten me. When I was allowed to leave the hospital I was in need of rest. I learned that since 15 November 2002 the Israeli soldiers beat people in that area whenever they find them. That was the first time I was ever beaten in such a brutal manner.³⁶

Witness statement by Badi' Abu Hamdieh Gheith:

On Wednesday 18 December 2002 at about 2:30 am I was driving my Renault in the al-Fahes area of Hebron. Ziad Sa'ed Banat, 17, and Badi' al-Karaki, 22, were accompanying me. While I was driving an Israeli Border police jeep approached us from the opposite direction and blocked the road in front of my car. I parked and one of the soldiers came up to me while I was still inside the car. He hit me with his hand and ordered us to get of the car. He spoke in Arabic. He ordered us to stop off the road near a closed store. The area was under curfew. There were four soldiers. They smashed the car windows and damaged its tires and body.

They then started to beat us with their batons and with the butts of their guns. This lasted for about fifteen minutes. Before beating us they took our ID cards. There were NIS 500 inside my ID card. My head, back, and

³⁶ Affidavit No 941, Name: Mustafa Allan, Employment Status: worker in a commercial company, From: Halhoul- Hebron, Born: 1974

other parts of my body were harshly beaten. I came close to losing consciousness.

After this they ordered us to go away without returning our ID cards to us. In order to force us to leave they began throwing stones at us. Together with the other guys I went to my brother's house, which is located about 200 meters distance from the area where we were beaten. My 28 years old brother Abd al-Hakim took us to the Muhammad Ali al-Muhtaseeb Hospital. It is situated about two kilometres from his house. When we reached the hospital we were sent on to the Hebron Government Hospital where we were treated. I sustained injuries to the back and my head. Ziad suffered from a broken nose and sustained injuries all over his body, while Wadi' sustained serious injuries to his head, back, and legs.³⁷

Witness statement by Hamzeh al- Rajabi:

On Monday, 30 December 2002 at about 6:00 pm I was on my way to the mosque, which is located about 100 m from my house, when an Israeli Border Police jeep containing four soldiers stopped me. One of soldiers spoke to me in Arabic. He ordered me to give him my ID card. He checked my ID and I heard him reading my ID number on the radio to a colleague at a military headquarters office. I have never been arrested or wanted. After the ID check was finished one of the soldiers ordered me to get into the jeep, which I did. As I entered the jeep one of them ordered me to lower my head. The jeep moved. I did not know where they were taking me. After a while the jeep parked and the soldiers ordered me to exit it. Then they asked me to stand near a wall in the al-Fahes area. I know that area, and I was not blindfolded.

A few minutes later one of the soldiers came up to me and asked me to say that I was a collaborator. When I refused he and other two soldiers started to beat me harshly. They used the butts of their guns and hit my shoulders. They also hit my legs with batons. They beat me violently. I fell to the ground. I noticed that a soldier was filming me while I was being beaten. They beat me for about ten minutes.

When they finished beating me they left. I could hardly stand up. I found my ID card near me. My whole body was hurting. Some young men came up and helped me. They took me to the Muhammad Ali al-Muhtaseeb hospital, which is approximately 500 meters away from where we were. Doctors there asked me to go to the Hebron Government Hospital, but I could not reach it due to the curfew. I did not file a case against the soldiers, and I must stress that I did not commit any offence. That night I heard that soldiers had assaulted Umran Abu Hamdieh (18). I heard the

³⁷ Affidavit No. 944, Name: Badi' Abu Hamdieh Gheith, Employment Status: Worker, From: Jabal Jorar, Born: 1977

neighbours describing the soldiers who hit him. I believe that they were the same soldiers who hit me. One of the soldiers was short and the other three were tall. One of the three tall soldiers was huge.³⁸

Witness statement by Nasser Dofash:

I live in the al-Kasrah area in Hebron. On 2 January 2003 at approximately 8:00 pm I was returning home from work. The area was under curfew. I usually move between houses to reach my house when a curfew is imposed over the area. While I was on my way home and near a bakery I heard someone speaking Hebrew. I looked around but I did not see anyone. I continued walking, but the voice that I heard became louder. Someone was saying "Bo - come here". I looked around, but again I did not see anyone. When I began walking again an Israeli soldier came out of an old empty store and grabbed my shoulder. The store was very dark and I could not see anything inside. The soldier said in Arabic: "come with me". He took me to the store. There I saw four soldiers and an Israeli Border Police jeep. They were using a bright flashlight to light up the place. One of the soldiers ordered me to stand up against a wall, which I did. He then asked me in Arabic where I was going. I told him that I was going home. He then asked me, "Don't you know that that this area is under curfew?" I said yes. He then replied, "Don't you think that we are nice to you?" I asked him what he meant. He answered me saying, "The area is under curfew and we allow you to move." I made no comment.

He and another soldier then started violently beating my legs and neck. They were laughing as they beat me. Next one of them asked me, "Do you know about the person who was killed yesterday?" I believe that he meant the martyr Umran Abu Hamdieh who was killed by Israeli soldiers when they beat him severely. I said yes. He then said, "Many people will be faced with the same fate". He then showed me four to five small folded papers. The papers were small and uniform so that they looked the same. They reminded me of the lottery papers. I looked at the papers as they were laughing. He said while nodding his head, "Draw one paper". I told him that I would not draw one unless I knew what the papers were. He said, "Haven't you heard of them?" I answered, "I have heard that you ask people to draw a paper to determine their fate. Some people then have their legs or arms broken or get their head smashed". He said, "You get it, and now you will draw." I told him that I would not.

At that moment two soldiers got out of the jeep and started beating my neck, legs, and back using their feet and hands. The beating lasted for about five minutes. The same soldier then asked me, "What did you say?"

³⁸ Affidavit No. 948, Name: Hamzeh al- Rajabi, Employment Status: Worker, From: al-Mashraqh al-Tahta- Hebron, Born: 1980

Will you draw one now?" I felt helpless. I had no choice except to take on of the papers. I drew a paper while they were all laughing. I was afraid not knowing what they wanted to do with me. Then he opened the paper that I drew and laughed and spoke to the other soldiers in Hebrew. They looked at me and I was extremely frightened, especially since I had learned that these soldiers or some others had killed Umran. The soldier kept laughing for ten minutes and then the same soldier said, "Go home." I did not believe what I had heard. After I had walked a few steps one of them yelled at me saying, "Come here." I went back to them. Next he said, "Ok, ok you may go." When I was about 50 meters away from them they yelled at me again. They wanted me to come back. They pointed at me with the flashlight that they had with them. I went back to them. When I reached them again I remembered that they had taken my ID card when they first stopped me. I asked them to give it back to me, but they refused and ordered me to go away. After I had walked 20 meters distance one of them yelled at me again. I went back. He gave me my ID card and said; "Go away". I then returned to my home, which is about one kilometre from that area. I could not believe that I had escaped from them that night.³⁹

Acknowledgements

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³⁹ Affidavit No. 947 Name: Nasser Dofash, Employment Status: Worker, From: Hebron, Born: 1985