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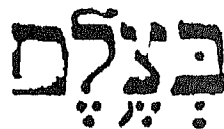
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REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL
IN ACCORDANCE WITH RESOLUTION 672 (1990)

Addendum

The present addendum contains the report received from B'Tselem referred to in paragraph 8 of the Secretary-General's report.



מרכז המידע הישראלי לזכויות האדם בשטחים

بیتسيلم' مركز المعلومات الاسرائيلي لحقوق الانسان في الأراضي المحتلة

B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories

LOSS OF CONTROL

The Temple Mount Events - Preliminary Investigation

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14 October, 1990

INTRODUCTION

Temple Mount, Jerusalem, Monday 8 October, 1990. about 10:30 in the morning: clashes broke out between police and border police forces, and the thousands of Muslims gathered in the Temple Mount complex - Al-Haram al-Sharif.

In the course of the confrontation, Muslims attacked security force members at the scene, threw stones and most probably other projectiles too over the Wailing Wall into the square below, and set fire to the police point on Temple Mount. The police and border police used teargas, rubber bullets and a large amount of live ammunition to disperse the thousands of people gathered inside the Temple Mount complex.

The events took place over a period of one to two hours. By the end, there were 21 Palestinians killed and more than 200 hundred Palestinians injured. Two police and four border police were reported lightly injured. In addition, 22 Israeli citizens were reported injured, hit by stones. Most of the Israeli casualties were discharged from hospital in the 24 hours following the incident.

B'Tselem's investigation found that the security forces shot indiscriminately, and that even if policemen's lives did appear to be in danger, as official sources claim to be the case, the shooting carried on for a long time after this danger had passed. According to the Investigation's finding, a particularly serious incidence of indiscriminate shooting concerns the attacks on ambulances and medical teams.

The investigation presented below is based on official public statements - especially those made from within the senior ranks of the Israeli police - and on affidavits and testimonies collected by B'Tselem teamworkers and volunteers from Palestinians who witnessed the actual incident, or the events which occurred immediately afterwards.

This report does not present a chronological account of the events from beginning to end. Each one of the eye-witnesses saw a small part of the whole mosaic and B'Tselem does not have enough witness accounts to put together a complete and true picture of the event. Therefore unlike the usual B'Tselem reports, this report does not

1/ On 25 October 1990, B'Tselem added the following: "According to the latest information available to B'Tselem, at least 17 Palestinians died as a result of shooting by security forces on the Temple Mount. Another Palestinian died from wounds sustained by shots fired, according to some sources, by an Israeli civilian in the Old City at the time of the Temple Mount events."

give a detailed, through description of incidents of unjustified violations of human rights. This is not to say that this inquiry is less reliable or less precise than others but that it concentrates on a number of general phenomena that describe the event. It analyses them on the basis of the experience and information that B'Tselem has gained in incidents of a similar nature in the past.

B'Tselem chose to publicize this report now in order to contribute from this experience and to draw attention to the serious problems in the methods of the security forces in the events on the Temple Mount, and in relation to the information given to the public about these events.

You may ask why B'Tselem saw the need to publicize this report when a commission of inquiry has been appointed by the Minister of Police? The answer to this is on several levels. B'Tselem seeks, by this report, to contribute to the Commission of Inquiry its findings and experience in analyzing these kinds of events. This could have been done in the usual way by appearing before the Commission of Inquiry, and not by publication of a report. B'Tselem chose this public way because of the strong and unambiguous messages given to the Commission of Inquiry by the Prime Minister and the Minister of Police: that the security Services acted according to the law, that they were justified and that the only guilty people are the disorderly Muslims on the Temple Mount. These Messages are an unjust interference in the work of the committee and create a framework of government pressure to draw certain conclusions. Things explicitly in this spirit were said - amongst others - by the Minister of Police in an interview he gave the "Morning News" on Army Radio on 12.10.90. The doubts that are raised in this report point to the necessity of setting up a through investigation of what happened, to be held by a state Commission of Inquiry with wide-ranging powers and headed by a judge. As much relevant information as possible should be presented before such an inquiry, including testimonies of key witnesses, who, it appears from this preliminary report, are to be found among the Arab population. Only an independent Commission of Inquiry could compel these witnesses to appear before it.

BACKGROUND

For the two weeks preceding the confrontation a very tense atmosphere hung over east Jerusalem and the Muslim community in general, in the light of reports that the "Temple Mount Faithful" group intended going up on Temple Mount on the Monday of Succot, as they do every year at this time, to perform the ceremony of laying a cornerstone for the Third Temple. The Muslims were called to gather for prayers at the mosques on Temple Mount on the Monday. We do not know of any preparations for violent action.

Because disturbances had broken out in east Jerusalem's Schools a year ago on this date, the Jerusalem municipality closed the schools in the east of the city on Monday, and the students were sent home. After the event, it emerged that the closure of the schools meant that many of the students joined the large gathering on Temple Mount that Monday morning.

The "Temple Mount Faithful" group petitioned the High Court for permission to hold the stone-laying ceremony on Temple Mount but their plea was rejected. The state attorney presented a declaration on behalf of the police, in response to the petition, from which it emerges that the police had intelligence that disturbances were expected on Temple Mount during the week of Succot as a result of the planned actions of the "Temple Mount Faithful" group. (For contents of the declaration, see appendix A).

Chief Superintendant Arie Bibi, Jerusalem police commander, says that he sent a policeman to inform the Mufti's deputy that the "Temple Mount Faithful" group's plea had been rejected, and that they would not be going onto the mount. But it seems that this was not enough to defuse the tension, and the rumor spread in the crowded mosques on Temple Mount that the Jews planned to enter the mosques.

The Israeli Police deployment for Monday consisted of a force of 45 border policemen under the command of Deputy Superintendant Qa'tabi, Commander of the Wailing Wall section. This group was stationed within the Temple Mount complex, along the wall between the Mugrahbi gate and the Mahkama building, with its back to the Wailing Wall. A few more border police (five or six) were stationed in a look-out post on top of the Mahkama. (See map of Temple Mount, appendix J).

SEQUENCE OF EVENTS

Stage One - the Start of the Clashes

10:00

About 50 members of the "Temple Mount Faithful" group set out with a police escort in the direction of the cave of Shiloah, and perform the ceremony of "pouring the water" there. The "blessing of the priests" is meanwhile taking place in the square before the Wailing Wall, with 25-30,000 worshippers in attendance according to Rabbi Yehudah Getz, the officiating rabbi at the Wailing Wall.

10:40 (approximately)

The "blessing of the priests" at the Wailing Wall finishes. Most people disperse, leaving some 10,000 worshippers in the square.

At this point, young Muslims in the courtyard before the mosques attack Border Police members with stones (We have not managed to clarify what triggered the attack at this point. It appears from certain testimonies that a rumor spread claiming that the "Temple Mount Faithful" group were about to come up on the mount). The forces respond with teargas. Thousands of Muslims standing at some distance away, between the mosques, who are probably unaware of the stone-throwing, are under the impression that teargas was fired for no reason. They charge towards the police and throw stones and other objects at them (Many of the witnesses we interviewed claimed that the teargas was fired without any provocation from the Muslims gathered on Temple Mount). The forces respond with teargas and rubber bullets, but three or four minutes later, after many of the forces have been hit by stones, they retreat from Temple Mount leaving by the Mugrahbi gate, which closed behind them.

The forces on the roof of the Mahkama building remain in position, and are probably firing teargas and live ammunition at the throng. The first casualties occurred at this point. A short while later, a police helicopter arrives and circles

above Temple Mount. At the same time, teargas is fired at the crowd (According to Palestinian sources, the gas was fired from the helicopter itself. We do not have firm evidence that this was the case. It could in fact have been fired from the roof of the Mahkama building).

Another group of rioters attacks the police point on the mount. Two people are inside the station at this time: a log-recorder, Daud 'Alan, a resident of Jabel Mukabbar, and a cleaner, Kamal 'Asil. The cleaning worker escapes and hides in the Waqf stewards' rooms, next to the police point.

The log-recorder informs his commanders by means of communications equipment at his disposal that "they are coming up to the police point", then contact is cut off. Immediately afterwards, the Waqf stewards arrive and rescue the log-recorder who is not injured, and he too takes refuge in the Waqf stewards' rooms.

The rioters set the police point on fire. A police look-out (probably the police on the Mahkama roof) reports to the police command that the police point is on fire.

10.45

After the Border Police force has vacated the area, the rioters advance and throw stones over the wall. Stones rain down onto the Wailing Wall square below. Most of the Jewish worshippers find cover, and within a few minutes, the square has emptied. The stone-throwing continues for some 15-20 minutes.

Stage Two - the Security forces Break Back in to the Temple Mount Complex

11:00 (approximately)

A force of about 200 police and border police rush into Temple Mount in two groups, the first through the Chain gate, and the second through the Mugrahbi gate. They fire bursts of live bullets from automatic weapons at the crowd standing before them. This according to police and Border Police quoted in the press, occurred without a command to open fire

having been given. AT this stage, Border Police members stated to the media, the crowds assault on the was much fiercer than it was before the withdrawal.

Most of the casualties are hit at this point, and fall in the courtyard between the Al-Aqsa mosque and the Dome of the Rock, at a distance of 40-70 meters from the gates through which the border police burst in. According to some versions, the shooting went on for 30-40 minutes. Alternative versions have the shooting continuing for more than an hour.

11:10 (approximately)

According to some eye-witness accounts, the Imam of the mosque calls through a loud-speaker for the security forces to stop shooting, and his instructions to the people in the courtyard are that the men should go into the al-Aqsa mosque and the women into the Dome of the Rock. The shooting doesn't stop.

The wounded are taken into the mosques. The first ambulances arrive through the Lions' gate to remove the injured. Border police and regular police carry on chasing Palestinians. The shootings of live bullets goes on, even though at this stage, clearly, the forces were not in any obvious danger. Security force members detain large numbers of people and gather them together in the courtyard before the mosques.

FACTS AND FIGURES

In the clashes, 21 Palestinians were killed (see appendix B for a list of names of the victims). About 200 were injured, and about 120 were detained (among which were more than 30 minors). About 20 Jewish worshippers were lightly injured by stones, and 6 police were injured. Most of the Jewish casualties were sent home from hospital within 24 hours.

Two of those killed were buried quickly in the Temple Mount area. The Augusta Victoria hospital received seven bodies of people killed by live bullets. Also, the body of a woman who died from teargas inhalation was brought there, and about 120 people who were injured, most of whom suffered light injuries and were sent home during that same day. By Thursday, 11 October, five of the injured remained in the hospital. Their injuries were described as "medium".

Al-Maqassed Hospital received the bodies of nine people killed by live fire, along with 90 injured. Two of those injured (by live bullets) died on the operating table, 12 were transferred to other hospitals, and about 37 suffering from the effects of teargas and beatings were treated and sent home. By Thursday, 11 October, 30 of the injured remained in the hospital, including 25 who suffered light injuries from plastic and rubber bullets, and five whose injuries were described as medium, having been shot in the upper body with live bullets.

Several injured people arrived at the French hospital, but we do not have precise details of their numbers or types of injury.

Hadassah hospital at Ein Kerem received two injured Palestinians, one of whom lost a lung and was admitted to intensive care, and the other of whom received a slight injury to his ankle. 22 Israeli casualties also arrived at Hadassah Ein Kerem, all of whom were lightly injured.

THE USE OF LIVE BULLETS

The general principles pertaining to orders for opening fire (which are given full explanation in the police and IDF instructions on opening fire) state that the use of lethal weapons is justified only as a last resort, when there is perceived to be an immediate and grave danger to police or army forces, or to persons the police or army are mandated to protect.

The opening of fire, particularly by a large force, has to be controlled. The orders on opening and holding fire include an absolute ban on indiscriminate shooting over an extended area where there are civilians who do not present any real danger to human life. It is prohibited to shoot bursts from an automatic weapon (shooting from the hip without taking aim). Such use of firearms is justified only as an instinctive reaction for survival, when faced with an immediate threat that leaves no time for a more considered response.

Superintendent Danny Chen, Firearms Officer of the Israeli police force, testified in the Jerusalem district court (in the case of Ze'evi vs. the State of Israel) that shooting from the hip is not exact, and is very dangerous. In the same case (Criminal Appeal 26/89, Ze'evi v. State of Israel, Judgments 43(4) 633) Supreme Court Justice Dov Levin stated:

"Shooting from the hip is dangerous, imprecise and uncontrolled. Firing of this kind other than in a situation of severe stress, such as self-defense and the need to survive, is undesirable, although it does occur in high-pressure situations. Therefore, as a rule, it can be stated that a person who opens unaimed fire from the hip is using his weapon with considerable negligence, bordering on gross negligence or criminal negligence (emphasis added).

The rules of engagement of the Israel Police state that the use of firearms is justified only in defined special cases, and only if it is clear that the policeman who opens fire has no other means to ensure the implementation of his task. The orders add that a policeman who is about to open fire must first state his intention to do so. (See: Israel Police Standing Orders, 06.02.14--Use of Firearms.)

The international standards for the use of force also affirm categorically the principle that firing shall be carried out only in case of necessity, and the principle of proportion (between the degree of danger and the nature of the reaction).

From the sequence of events described above, it is not certain that the necessity to open fire existed and that the police had no possibility of getting control of the rioting mob and of defending themselves against the danger they faced by using other means.

In the first stage, a relatively small Border Police force was attacked by a wild crowd, and the descriptions in our possession indicate that the force was in fact in danger. According to the testimony of the force commander (Yediot Ahronot, Oct. 10), at this stage his men fired rubber bullets and used teargas, but not live ammunition. It bears noting that the force was not equipped with standard means of protection that are in use everywhere, such as fiberglass shields.

In the second stage, a large force of police and Border Police broke into the Temple Mount complex. They fired in bursts into the crowd (i.e., their rifles were set to "automatic" and not to "single-shot"). Firing of this kind, which is inherently indiscriminate, cannot be considered justified even in a situation of mortal danger. Even if the lives of the policemen were in concrete danger at the start of the incident, and even if they had no choice but to open fire--as the Minister of Police and the Chief of Police claimed--single-shot firing could have achieved the goal.

We did not form the impression that in the second stage of the incident--in which there was shooting in bursts from the hip--the police and Border Police found themselves in such an extreme state of self-defense that the immediate fear of survival could not enable a judicious reaction and controlled firing. The Supreme Court's comments concerning criminal negligence, which referred to a single person's firing in bursts, become far more pointed and trenchant when the shooting is done by a large number of persons firing automatic weapons into a big crowd some of whom are fleeing--as is evidenced by the appalling results of the shooting. Although the second stage of the incident saw a counter-offensive initiated by the police and Border Police, we did not form the

impression that this offensive was planned thoroughly or that a minimal hierarchy of command, control and supervision existed. In particular, it is our impression that there was no firing-control whatsoever, that no command to open fire was given from any single source, and that no single source was on hand who had the ability to stop the shooting. Police and Border Police fired automatic bursts of live ammunition indiscriminately into the crowd.

This is apparent from the comments of the policemen themselves, as quoted in the media--their remarks suggest that no order was given to open fire--and from statements by eye-witnesses, all of whom tell of indiscriminate fire into the crowd across a very broad area, in which people in flight were also shot. We did not form the impression that at this stage either the Border Police, the police or the worshippers at the Wailing Wall were in mortal danger. Indeed, by this time the Wailing Wall square had already been vacated.

Nor did we form the impression that at this stage consideration was given to the use of alternative means. We did not discern the gradual use of increasingly potent means--i.e., teargas, "rubber" bullets, plastic bullets, and only then live ammunition. It appears that all these means were used simultaneously, with live ammunition being fired at the same time that teargas and less lethal ammunition were in use. Likewise, no attempt was made to speak with those on the Temple Mount or to individuals at the scene who might have been able to use their influence to calm passions.

The question of the intensity of the danger is crucial when one examines the justification for opening fire. As noted, the standing orders of the Israel Police stipulate that fire shall be opened only in case of concrete danger to life and if it is not possible to make use of other means.

The security forces who took part in the Temple Mount incident were equipped with limited means of self-defense. They had helmets, but, as mentioned, they did not have fiberglass shields which could have helped protect them against the volleys of stones they faced and thus eliminated the necessity to defend themselves by opening fire. It is not clear whether the force that broke in to the Temple Mount complex had sufficient quantities of teargas

and rubber bullets.

The findings about firing at ambulances and medical teams show a particularly grave instance of indiscriminate shooting (see below: Evacuation of Casualties). The ambulances were properly marked and easily identifiable, and their activity at the scene in evacuating casualties and extending medical aid was open and apparent. There is no justification for attacking medical personnel and ambulances. If the shooting at them was deliberate, this is a serious crime by any criteria; and if it was accidental, with ambulances being hit because they were in an area that was being sprayed with live fire, this is proof of the eye-witnesses' allegations of indiscriminate shooting. The fact that ambulances and medical personnel were hit shows also that the firing went on beyond the brief initial stage of danger and continued into the stage when there were already fatalities and wounded, when rescue crews and medical teams had reached the scene. One way or the other, the very fact that ambulances and medical teams came under attack by shooting and teargas, obligates a thorough investigation which will examine this aspect of the incident as well.

EVACUATION OF CASUALTIES AND ATTACKS ON MEDICAL TEAMS

Some testimonies by members of the medical teams refer to the difficulties of evacuating the casualties, and especially the manner in which the work of the teams was interfered with.

B'Tselem has the testimony of a male nurse who was shot in the chest with live ammunition as he ran to give first aid, carrying an infusion apparatus and other medical equipment. (See Appendix H)

A nurse from Al-Maqassed Hospital was hit by three live bullets and her right hand shattered while treating casualties in an ambulance. teargas was also fired at the ambulance. (See Appendix F)

A doctor from Al-Maqassed Hospital testified that live ammunition was also fired at his ambulance. (See Appendix G)

The Red Crescent Organization stated that one of its ambulances was stopped three times on its way from the Red Crescent clinic in al-Bira to the Temple Mount at the outset of the clashes. Police and Border Police made a thorough search of the vehicle thus delaying its arrival at the Temple Mount by at least 15 minutes. At the Lions' Gate the ambulance was stopped once more and the crew was forced to make its way to al-Aqsa mosque (where the wounded were brought) on foot, again wasting precious time. The Red Crescent statement adds that Border Police aimed their weapons at the crew on several occasions (even though they wore medical uniforms) and fired teargas at the ambulance.

According to the Red Crescent statement, a Border Policeman threatened to kill one of the wounded if he was treated by a Red Crescent doctor. "He's an Arab, he has to die," the Border Policeman said, according to the doctor.

From about 11:30 a.m., wounded people who had been evacuated from the Temple Mount began arriving at Al-Maqassed. At approximately noon, teargas was fired next to the hospital, apparently in an attempt by the security forces to disperse people who had gathered there in order to look for relatives. A few tear-gas canisters were fired at the hospital's maternity ward, breaking three windows and a glass door. The ward was filled with teargas and the hospital staff had to evacuate patients and infants from their

rooms. (See Appendix I)

Attacks on medical teams, ambulances and hospitals constitute a grave infringement of universal humanitarian rules that afford special protection to medical personnel and medical vehicles that are engaged in evacuating casualties. Articles 35-37 of the First Geneva Convention, Articles 16-21 of the Fourth Convention, and Articles 8-21 of the 1977 Geneva Protocol stipulate categorically that free access must be given to medical teams bent on assisting casualties, that such teams are entitled to special protection, and that under no circumstances are hospitals and vehicles intended to extend medical aid to wounded persons to be attacked. These directives set international standards which are accepted by all civilized nations.

SECURITY FORCES' BEFORE DEPLOYMENT AND DURING THE EVENTS

According to statements made to the media by the police and an affidavit submitted to the High Court of Justice in response to a petition by the Temple Mount Faithful, the police had information that the presence of the Temple Mount Faithful was liable to trigger rioting. This information confronted the police with a dilemma: it was feared that Muslims would regard the reinforcement of the forces stationed on the Temple Mount as a provocation.

The police thought, as reported in the media, that the court's rejection of the Temple Mount Faithful's petition--thus cancelling the ceremony the group had planned to carry out on the Temple Mount--was sufficient to ensure that there would be no rioting. It was evidently this assessment which underlay the decision to station only 45 Border Policemen on the Temple Mount. In retrospect, this was clearly a mistaken decision.

The leaving of a single policeman at the police point on the Temple Mount was undoubtedly a major mistake. It is probable that had the police point been vacated altogether, or, alternatively, had a full complement of police been deployed there, a situation would not have arisen in which contact with the point was cut off, leading to the fear that the log-recorder was being lynched.

B'Tselem's investigation shows that the log-recorder escaped unharmed (see below: Flaws in Reporting), but because contact was cut off with the police point, this fact was not known to his superiors. The latter feared, and with reason, that a delay in the entry of reinforcements to the Temple Mount complex might cost the life of this policeman. In an interview with Nahum Barnea (Yediot Ahronot, Oct. 10), Jerusalem police chief Arie Bibi was asked: "Had it not been for that policeman, would different means have been used to restore order?" Bibi's reply: "It is possible that we would have exercised greater moderation in going in."

The testimonies in our possession about the actions of the security forces during the events raise a number of searching questions:

- * Was there a detailed plan of action in the event of riots, and were the forces briefed in detail in advance?
- * Who was the responsible commander in the field? In view of

- the information about expected disturbances. why was the national police chief not present?
- * How was the combined operation of the different forces present (police and Border Police) coordinated?
 - * Was a situation appraisal carried out following the withdrawal of the Border Police force from the Temple Mount?
 - * In what forum was the decision made to break in to the Temple Mount complex?
 - * Was the breaking-in operation planned in detail?
 - * Were the police and Border Police who took part in the breaking-in operation briefed?
 - * What orders did the breaking-in force get about opening fire?
 - * Who was in command of the force?
 - * Did the force have sufficient quantities of teargas and rubber bullets?
 - * Why was the force not equipped with fiberglass shields?

FLAWS IN REPORTING

On Monday afternoon, just hours after the end of the Temple Mount clashes, the media were given the police version of events--that this had been an organized attack planned well in advance. According to this version, as provided to the media by the Minister of Police, the national Chief of Police and the Jerusalem police chief, Muslims had prepared large caches of stones and iron rods on the Temple Mount in order to attack the Jewish worshippers at the Wailing Wall below. Police Minister Milo: "The attack on the worshippers at the Wall was well-planned, without reason and without warning. This was a pre-planned provocation. It is probable that the rioters were sent into action by outside instructions, with the aim of diverting world public opinion [sic] from the Gulf" (Hadashot, Oct. 9).

In the police version it was clear that the police on the Temple Mount faced concrete mortal danger and had no choice but to open fire in order to get control of the mob. National police chief Turner: "The police were in danger of their lives; they had no choice but to react as they did" (Ha'aretz, Oct. 9). Milo: "The forces behaved with great restraint, and not until the police were in mortal danger did we open fire at anyone" (Yediot Ahronot, Oct. 9).

It was also stated that the rioters severely beat a policeman--the log-recorder in the police point on the Temple Mount. (See Jerusalem police chief Bibi's remarks, Hadashot, Oct. 9.)

In the 24 hours that followed, a new version began to be voiced, to the effect that the attack had been spontaneous and unplanned. It turned out that the stones which ostensibly had been prepared in order to attack the worshippers at the Wall were in fact stones which had been brought to the Temple Mount as part of ongoing renovation work there.

At the same time, it emerged that, effectively, when the Border Police opened fire, the Jewish worshippers at the Wailing Wall were no longer in danger--they had been evacuated within minutes in a commendable operation. Nor was the Border Police force in danger at this time.

The log-recorder, said by the Jerusalem police chief to have been

severely beaten by the rioters and hospitalized. in fact escaped unscathed according to B'Tselem's investigation (see above, p. 15). Another wounded policeman whose name was mentioned is Murashad al-Tawil, who according to B'Tselem's investigation was stationed at one of the gates (Bab Khuta) and sustained a scratch on his forehead from a live bullet (evidently a stray bullet fired by the force that broke in to the Temple Mount complex). Another policeman, Amir Abd. who was stationed at the Iron Gate, was in fact attacked and beaten by rioters. He was later extricated by an employee of the Waqf.

CONCLUSIONS

This report is a preliminary investigation which does not pretend to present the full picture. We do not have enough facts about the sequence of events on the Temple Mount and about the actions of the security forces. We have not cited facts about - which we had doubts or which were unclear, and we have stated our reservations about any such facts that we have cited.

The testimonies collected by B'Tselem point to a series of faults (specified below) which apparently occurred during the actions of the police, the Border Police and their superiors. We believe that each of these faults must be examined thoroughly by whatever body has been appointed or will be appointed to investigate the events on the Temple Mount.

1. The Temple Mount incident exacted a very heavy price in human life and in injury to persons who were in the vicinity of the Temple Mount. These lethal results are consistent with well-documented situations of indiscriminate fire into a large crowd of people.
2. The small number of casualties among the security forces and Jewish civilians, and the relatively light character of their wounds, raises questions about the degree of danger that confronted the security forces personnel and the people whom they were charged with protecting--and thus about the justification for the acute reaction.
3. If there were stages in which concrete mortal danger existed, these were brief stage at the outset of the riot, this being the stage in which most of the security personnel and the worshippers were hurt--yet precisely in this stage virtually no use was made of live fire.
4. As the testimonies show, in the stage of the security forces' counter-attack, shooting took place in bursts of unaimed automatic fire from the hip, spraying a large area. This is an extremely dangerous and prohibited form of shooting, and according to a ruling of the Supreme Court it constitutes an act of criminal negligence on the part of those who did the shooting.

5. According to our investigation, the firing continued even while the crowd was dispersing in every direction and many were fleeing, as well as at the stage in which ambulances and medical teams arrived at the scene.
6. The investigation shows that no gradual use was made of alternative means to live ammunition, and that no attempt was made to talk with people who were on the Temple Mount and who might have been able to calm the situation.
7. The investigation shows that no hierarchy of command, supervision and fire-control existed at the site, and if there was such a hierarchy it did not function properly. According to their own testimony, security forces personnel opened fired without being ordered to do so. There was no source with the ability to order and oversee the execution of the standing rules of engagement.
8. Ambulances and medical teams were hit in the course of the shooting. Whether this was deliberate or whether it occurred as a result of indiscriminate fire, it constitutes a grave violation of universally accepted humanitarian and legal principles.
9. In B'Tselem's assessment, the information given to the public about the events was for the most part imprecise, thus raising the suspicion that attempts were made to hide facts, mislead the public, give "backing" to the security forces, and evade responsibility.

A Commission of Inquiry has been set up which has no powers and which is not headed by a judge, meaning that it has no independent standing. This committee will not be able to compel witnesses from the Arab population--who for various reasons will hesitate or even refuse to cooperate with an examining committee--to appear before it.

Furthermore, the Prime Minister, the Police Minister and other ranking political figures have publicly communicated to the Committee the message and the expectation that it will find that the security forces acted properly.

B'Tselem believes that only a judicial Commission of Inquiry, with the power to compel witnesses to testify before it, will enjoy the

independent standing that will enable it to disregard the kind of message that the present committee is getting from the Israeli government, which with good reason views the matter as extremely sensitive and important--an issue with far-reaching implications for Israel's international standing and its connection with the holy places in Jerusalem.

APPENDIX A

Excerpt from the response by the State Prosecutor's Office to a petition filed by the Temple Mount Faithful (High Court of Justice 4184/90)

1. Prior to the Tabernacles Festival in 1989, the petitioners requested to lay a symbolic cornerstone to a house of prayer on Temple Mount. The request to lay the cornerstone was refused. The petitioners requested a route - similar to the one requested this year - for carrying the cornerstone from Dung Gate to the Shiloah Fountain and back. This plan did not materialize as will be explained below.
2. Even before the truck carrying the cornerstone arrived at Dung Gate (which was to be the gathering point), serious disturbances broke up in the Temple Mount area and the nearby periphery which included: stone throwing at passers by, blocking roads and traffic routes and mass gatherings on Temple Mount.
Many of the rioters were questioned and it appears from their questioning that the reason for the mass rioting was the intention of the Temple Mount Faithful to lay the cornerstone. Further strengthening to this statement regarding the reason for the rioting was found in talks conducted with Waqf personnel.
3. It should be clear that before the event which was to take place last year, the Temple Mount commander briefed the Islamic Waqf personnel to the effect that the police would not allow the Temple Mount Faithful entry into the Temple Mount area with the cornerstone. Despite the police' announcement, and before the cornerstone had been laid down, the serious disturbances broke out, as described above.
4. Daily rioting on the roads leading to the Wailing Wall, and in the Silwan area at the present, including occasional disturbances on Temple Mount itself, have led to the inevitable conclusion that carrying the

cornerstone in the vicinity of Temple Mount would evoke serious disturbances on a very large scale, which would render them difficult to control, while it should be added that on the very same day and hours, events in which masses participate take place in Jerusalem, which necessitate the deployment of very large forces for security and traffic control. The events include: the Jerusalem march, with about 50,000 participants, crowd drawing events in Sacher Gardens, intended for about 50,000 people, open house events in Israel's Presidential Residence with many thousands participating, the traditional pilgrimage to Jerusalem in which many thousands participate, most of whom will reach the Wailing Wall area, the Birkat Kohanim (the blessing of the priests) ceremony at the Wailing Wall square in which many thousands will participate.

- d. As for the tabernacle that the petitioners request to erect on the path leading to the Mugrahbi Gate a few meters from the gate, the following should be clarified:

The path under discussion is narrow, runs over a raised mound of earth and is used for passage by worshippers and visitors to Temple Mount. This path is a major route for the deployment and entry of police forces into Temple Mount during disturbances.

The erection of a tabernacle in the requested location would block the passage for those entering or exiting and greatly hamper the deployment of police forces in the area.

The location of the tabernacle in the vicinity of the Mugrahbi Gate, and near the holy sites of other religions, upsetting the delicate balance presently existing on Temple Mount and the roads leading to it, may cause serious disturbances both by those present on Temple Mount and by elements present in its vicinity.

It should be emphasized that the petitioners request to erect the tabernacle on the raised path that is situated above the Wailing Wall on its Southern side, and below Temple Mount. The police possesses intelligence information regarding expected disturbances on Temple Mount resulting from the

Temple Mount Faithful's intention to carry out the traditional pilgrimage to the Mount during the intermediate days of the Tabernacles Festival and the additional intention of erecting a tabernacle on the narrow path at the entrance to the Mugrahbi Gate.

A tabernacle placed on such a sensitive spot is liable, according to respondent no. 1, to create an additional focus of rioting and spur further serious disturbances, including stone-throwing at the tabernacle from the direction of Temple Mount. Past experience has taught that throwing stones in the direction of the uplifted embankment may inadvertently hit worshippers at the Wailing Wall square.

In view of the disturbances which take place in the area daily, the cumulative intelligence information regarding the requested event and in light of past experience, there is real danger of disturbances in the pattern and on the scale of last year, and even worse.

The petitioners were presented with an assessment according to which adding the event of carrying the cornerstone, with the great symbolism attached to it, is liable to increase disturbances to an extent that would force the police to prevent the holding of the additional events planned by them.

5. Despite the grave incidents which have occurred recently and which reached their climax on Yom Kippur with the organized gathering of dozens of masked men who intended to go up toward Dung Gate and the Wailing wall carrying various destructive weapons, the police is not opposed at this stage to holding the events for which it had granted permission on September 12 1990, subject to its assessment of the circumstances prevailing in that area as the time of the event approaches.

Israeli police is responsible, among other things, for maintaining public order and the safety of life and property as stipulated by section 3 of the Police Order (new version) 1971.

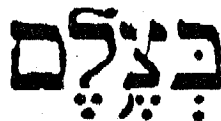
It appears from the above that in view of the daily incidents in the area, in addition to existing intelligence

information, and past experience regarding events such as this, there is a near-definite probability to Israeli police assessment that the erection of a tabernacle in the vicinity of the Mugrahbi Gate, and carrying the cornerstone designated for the erection of the Third Temple on the requested route would cause disturbances of public order and harm public safety.

6. It is estimated that erecting the tabernacle on the entrance path to Temple Mount, in the vicinity of the Mugrahbi Gate, and carrying the cornerstone designated for the erection of the Third Temple on Temple Mount are more liable to inflame emotions in the area than other events planned by the petitioners.

As explained above, there was readiness to allow the petitioners to ascend the Temple Mount, as well as a tour and guidance for the Temple Mount Faithful during the intermediate days of the Tabernacles Festival (6.10.90), and praying in the vicinity of the Mugrahbi Gate on Yom Kippur. Regarding the procession - for which the petitioners have so far seen no need to seek permission - and holding a short ceremony at the Shiloah Fountain, no opposition has been raised, in principal, to these either, all subject to the circumstances prevailing in the area at the time of their occurrence.

Thus a proper balance has been struck between the right of procession or expression of opinion of the petitioners and the need to defend public safety and security at the requested time and place.



מרכז המידע הישראלי לזכויות האדם בשטחים

مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة

OTOCLECM The Israeli Information Center for Human Rights in the Occupied Territories

APPENDIX B

List of people killed in the events on Temple Mount 8.10.90

	Name	Age	Residence
1.	Abd al-Karim Muhammad Za'atra	26	Jabel Mukabbar/J'lem
2.	Fayez Hussein Husni Abu Sneine	18	Al-Azariye/Bethlehem
3.	Nimer Ibrahim Nimer Dweik	24	Wadi Joz/J'lem
4.	Burhan al-Din Abd al-Rahman Kashur	19	Jerusalem/J'lem
5.	Ribhi Hasan al-Rajbi	55	Dahyat al-Barid/Ramallah
6.	Ibrahim Muhammad Ali Frahat Adkidak	17	Sho'afat R.C./J'lem
7.	Maryam Hussein Zahran Mahtub	45	Qibya/Ramallah
8.	Majdi Abd Hamidan Taha Abu Sneine	18	Wadi Joz/J'lem
9.	Jadi Muhammad Rajeh Zahade	26	Al-Zayem, J'lem
10.	Majdi Nazmi Abu Sbeih	18	Al-Ram/Ramallah
11.	Muhammad Arif Yassin Abu Sneina	30	Silwan/Ramallah
12.	Mussa Abd al-Hadi Murshad al-Sweiti	26	Old City/J'lem
13.	Ibrahim Abd al-Gaffar Gurab	32	Wadi Joz/J'lem
14.	Ayman Muhi Ali al-Shami	18	Wadi Joz/J'lem
15.	Fauzi Sai'd al-Sheikh	63	Kharbata/Ramallah
16.	Izz Jihad Mahmud Hamid al-Yassini	15	Old City/J'lem
17.	Adnan Khalaf Jenadi	28	Tamra/Israel

APPENDIX C

Affidavit

I the undersigned, M.T. (full details kept at B'Tselem's office), a resident of the Old City and employee of the Waqf, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

On October 8th 1990, at about 10:55 in the morning, I was standing by the weights on the roof of the Dome of the Rock. I saw a teargas canister which fell on the Al-Kirk square Southeast of the Dome of the Rock where almost all of the schoolgirls had gathered. The canister fell after a yellow helicopter had flown above the place. The helicopter had flown low. The schoolgirls started screaming, the people who were present in the open spaces facing Al-Aqsa Mosque started running in the direction of the schoolgirls who were shouting.

At that moment teargas canisters began falling from the West on the open spaces facing Al-Aqsa Mosque and on the roof of the Dome of the Rock. Then I saw border police and soldiers fleeing from the Mugrahbi Gate.

At that moment the police ordered its men to shut the gates of Temple Mount, the gates were shut and not a single soldier or border policeman remained within Temple Mount except for the Arab policemen who are always present at the Temple Mount gates.

Although the gates were shut I heard shooting of live ammunition. I don't know where exactly the shooting came from but I wouldn't rule out the possibility that it came from the observation post on the Mahkama building, which is located South of the Chains Gate and North of the Mugrahbi Gate.

For about 30 minutes there were no soldiers or border police like I mentioned, and then the border police broke into Temple Mount through the Khuta and Mugrahbi Gates. When the soldiers broke into Temple Mount they entered shooting in mass. Before the entry of the soldiers a few had been wounded but there were no martyrs but when they broke in there immediately were about 4 dead by Khuta Gate and I know of an old man aged 62 who was killed by the

Mugrahbi Gate.

The soldiers entered and spread all over Temple Mount. People stopped throwing stones and everyone tried to find a place to hide. People ran into Al-Aqsa Mosque and into the Dome of the Rock, and whoever couldn't escape into these places was either killed, wounded or arrested.

The stoning went on at first for about 15 minutes until the soldiers entered through the two gates.

I can't tell at what time the shooting stopped but I know it lasted steadily for about two hours.

During the shooting when we saw very many wounded we opened the Lions' Gate, and through it entered private cars in order to take the wounded to the hospital. When the cars came in the intensity of the shooting decreased, ambulances reached the place. The ambulance would stop right at the gates of Al-Aqsa Mosque or of the Dome of the Rock. The first ambulances took in the wounded but coming out of Lions' Gate the police transferred the wounded to police patrol cars and they were taken to custody. I got a few radio messages to that effect from the steward who is positioned at Lions' Gate.

The place where the wounded fell was near the Dome of the Rock, as well as opposite Al-Aqsa Mosque, about 50 meters from the Mugrahbi gate. To the best of my knowledge all those killed fell inside Temple Mount and I don't know of any who were shot outside the gates of Temple Mount.

Each year when the Temple Mount Faithful announce their intention of entering in order to lay the cornerstone, people come from all over the country to defend their holy site.

Last year it was the same. That time the police used teargas only. This is the first time the police have used live ammunition.

I, advocate Yosef Arnon, hereby certify that on October 9th 1990 appeared before me Mr. M.T., who identified himself by identity card no. -----, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX D

Affidavit

I the undersigned, M.A.T. (full details kept at B'Tselem's office), ID no. -----, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. On October 8th 1990 at 9:25 p.m. I received instructions through my beeper to proceed to the Al-Aqsa Mosque immediately. I promptly went there and saw some 200 male and 50 female worshippers around the Dome of the Rock Mosque.
2. There were about 25 border police present, who stood between the Dome of the Rock and the Wailing Wall. The situation was quiet.
3. Suddenly I heard the women shouting that the border police were breaking into the Mosque. About half a minute later I heard shots from where the policemen had broken in, as well as from the direction of the policemen who had been present earlier.
4. Immediately afterwards I saw youths throwing stones at the border policemen.
5. The Imam in the Mosque requested the border police through the loudspeaker to stop shooting and leave the area. He also requested male worshippers to go into Al-Aqsa Mosque and female worshippers to go into the Dome of the Rock.
6. I saw soldiers go up to Temple Mount and shoot automatically. I was at the clinic on Temple Mount at the time and saw many of the wounded reach the place. The soldiers' shooting was at a straight angle and from a kneeling position, in the direction of the crowds.
7. There were about ten of us inside the clinic and the soldiers began shooting into the clinic. I hid away from the shooting.
8. I went out of the clinic and into a house to the West of the Mosque. I saw the shooting. During the shooting I saw a soldier shoot a boy in the head from a range of about 30 meters. Later I was informed that the boy had died of the injury.

9. I do not speak Hebrew and this affidavit was translated for me word by word into English.
10. This is my name, this is my signature and the contents of my affidavit are true and accurate.

I, advocate Asaf Shaham, hereby certify that on October 9th 1990 appeared before me Mr. M.A.T., who identified himself by identity card no. -----, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX E

Affidavit

I the undersigned, Bassem Eid, ID no. 8067393-2, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

On October 10 1990 at 12:00 noon I was at Temple Mount in order to take testimonies on what had happened on Temple Mount on October 8th 1990. On the open space to the West of the Dome of the Rock I saw many stains of blood as well as trails of clotted blood indicating the areas where those who got wounded, or part of them, had been hit.

I also saw holes that looked like bullet holes in the windows and walls of the Dome of the Rock and photographed them.

The place is more than 200 meters away from the Mugrahbi Gate.

I, advocate Yosef Arnon, hereby certify that on October 10th 1990 appeared before me Mr. Bassem Eid, who identified himself by identity card no. 8067393-2, at B'Tselem's office on 18 Keren Hayesod, Jerusalem, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX F

Affidavit

I the undersigned, Fatimah Abd al-Salam Abu Hadir, ID no. 8040592, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. I work as a first aid nurse in East Jerusalem.
2. On October 8th 1990 I was working with Dr. Tarek Abu al-Hawa. Dr. Tarek was given a radio message that there are injured people on Temple Mount. I went there in an ambulance which was driven by Dr. Tarek. With us was another person named Isa Abu Sbeitan.
3. Dr. Tarek parked the ambulance near the entrance to Temple Mount. I remained inside the ambulance and people began bringing the wounded into the ambulance. I was treating them inside the ambulance. Suddenly I felt, while I was inside the ambulance treating the wounded, pain in my right hand. I saw that a bullet had hit my right hand and two other bullets hit the upper part of my chest.
It is important to note that the bullet which hit my right hand crushed it completely.
4. It is important to note that we had entered the Temple Mount and reached the entrance to Al-Aqsa by ambulance.
5. It is important to note that I did not get off the ambulance throughout the incident and was treating injured people who were brought into the ambulance, and that I was hit by three bullets which had penetrated the ambulance.
6. After I had been wounded teargas canisters were thrown at the ambulance and we were almost suffocated.
7. Dr. Tarek, who had gone out of the ambulance in order to bring in seriously wounded people, was shot in the leg and was late in returning to the ambulance. The key was inside the ambulance and another male-nurse drove us to Al-Maqassed hospital. During the Journey shots were fired at the ambulance and as a result its front windscreen was smashed.

8. This is my name, this is my signature and the contents of my affidavit are true and accurate, having been translated for me into Arabic.

I, advocate U. Sa'di, hereby certify that on October 9th 1990 appeared before me at Al-Maqassed hospital, Fatimah Abu hadir who identified herself by identity card no. 8040592, and after I had warned her that she was obliged to tell the truth and that should she not do so, she would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX G

Testimony of Dr. Habas Wahdi, a doctor at Al-Maqassed hospital, taken by Daphna Golan on October 9th 1990 at the hospital:

I was in the first ambulance to reach Temple Mount (at about 10:50). When we reached the square outside the Mosque, there were about 15 wounded and 3 dead. Whoever could flee did so. Many people hid inside the Mosque whose gates had been shut. When we came we saw soldiers kick the wounded and the dead and beat them with clubs. There was ceaseless shooting in all directions. The shooting did not stop while we were evacuating the wounded. Our ambulance's loudspeaker and windscreen were damaged by bullets. Evacuating the wounded was extremely frightening, with the shooting never stopping. The soldiers were very close, at times less than 10 meters away. They deliberately shot at the ambulances, although there couldn't have been any mistake about the fact that we were evacuating the injured. I went backwards and forwards between the hospital and Temple Mount several times. Each time they shot at the ambulances. I stayed there to help with the evacuation until 15:00. For a long time I stayed inside the Mosque to assort the wounded according to their condition and the urgency of their evacuation. Inside the Mosque there was a strong smell of teargas and although

I was wearing a mask it was hard to breath. The other doctor asked me to evacuate only those seriously wounded, and I heard later that the slightly injured were not allowed to be evacuated and that the soldiers were checking those who were.

APPENDIX H

Testimony of Muhammad Abu Riali, 25 years old, who works as a nurse at the clinic adjacent to the Al-Aqsa Mosque, taken by Daphna Golan on October 9th 1990 at Al-Maqassed hospital:

I had been at Al-Aqsa Mosque since morning. I was asked to treat two of the injured. I ran along the Eastern side of the Mosque, far from the people, with an infusion kit and other first aid gear, and was shot. I was hit in the right side of my chest by a live bullet. Shots were fired in all directions. I think I was shot from above, from a distance of about 100 meters. I saw that people who were escaping were shot, everyone was. They shot indiscriminately.

APPENDIX I

Affidavit

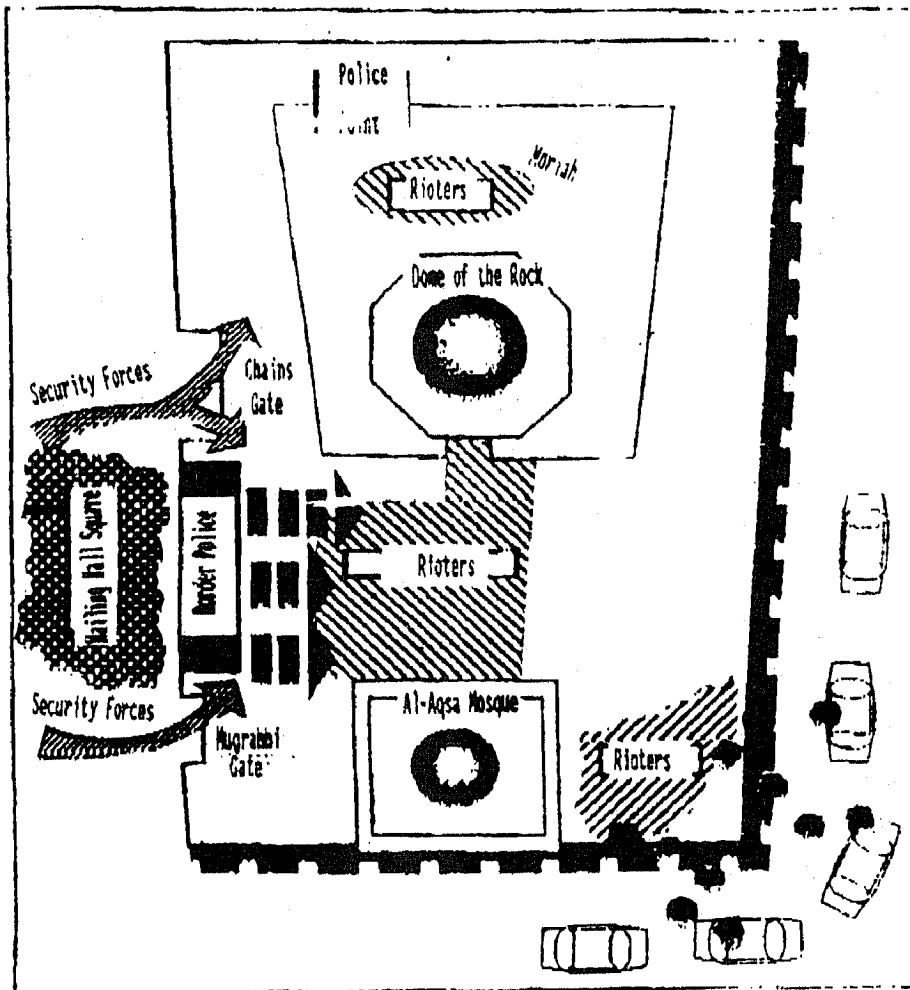
I the undersigned, DR. Mana Abu Shaqra, ID no. 81079618, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. I serve as head of the maternity ward at Al-Maqassed hospital.
2. On October 8th 1990 I was in the ward. At around 12:00 noon a few teargas canisters were thrown at the hospital and especially at the maternity ward. One canister caused the breaking of three windows in the delivery room and penetrated a room in which there were five women. Other canisters were thrown at the corridors in the maternity ward and broke a glass window.
3. As a result of the throwing of the teargas canisters, the maternity ward was covered with teargas and we had to evacuate a large part of the ward.
4. It is important to note that even today, October 9th 1990, one can still smell the teargas where the canisters were thrown.
5. This is my name, this is my signature and the contents of my affidavit are true and accurate, having been translated for me into Arabic.

I, advocate U. Sa'di, hereby certify that on October 9th 1990 appeared before me at Al-Maqassed hospital, Mr. Mana Abu Shaqra who identified himself by identity card no. 81079618, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX J

Map of Temple Mount (Al-Haram al-Sharif)



(source: Yediot Ahronot, 9.10.90)

The area defined as "Temple Mount" ("Har ha-Bayit" or "Al-Haram al-Sharif") is over an area of about 140 dunums, surrounded by walls. To the North of the compound lies the Old City of Jerusalem, South of it the City of David excavations, to the East - Ha-Ofel Road and to the West - the Wailing Wall.

Within the compound surrounded by walls there are two large Mosques - Al-Aqsa and the Dome of the Rock. Also within the compound are about 14 other buildings which house various Islamic religious and educational institutions. South of Chains Gate is the Mahkama Building, a tall building on whose roof a Border Police observation point was situated during the event.

Ten gates lead into the compound from the North and West. Four additional gates, from the south and East, are sealed.