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## Report

# Israeli Settlers Acts of Violence and Attacks in the Occupied Territory of the De Jure State of Palestine

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**Men under the age of 50 have been banned from entering al-Aqsa Mosque compound [Reuters]**

## Introduction

The conduct of the partial transfer of the occupant's civilian population into the occupied territory of the de jure State of Palestine which has been initiated since 1967 have gradually triggered acts of violence and attacks. Amidst the increase in the waves of colonial settlers and the establishment of colonial settlements, Israeli settlers have carried out extensive and systematic acts of violence and attacks since the 1970s targeting Palestinian civilian population, civilian property and livelihood. A new systematic wave of acts of violence, intimidation and attacks named, as 'price-tag' has been launched by a number of groups of settlers since 2008. The so-called 'price-tag' policy was initiated as a reprisal to Israel's limited measures in dismantling few so called 'settlement outposts'.

Settlers living in colonial settlements established in Hebron and Nablus governorates initiated the highest levels of violence and attacks. In the Southern West Bank city of Hebron, four small settlements are located in the heart of its old city; these are Beit Hadassah, Admot Yishai (Tel Rumedia), Beit Romano, and Avraham Avinu. In addition, several settlements and so-called settlement outposts exists in the vicinity of the old city of Hebron. Settlers violence, which originated from colonial settlements in Nablus Governorate in the Northern West Bank include Yitzhar, Itamar and Bracha settlements and their settlement outposts. The majority of the settlers' population in the settlements located in Hebron and Nablus governorates are identified as ideological, radical or so-called religious settlers.

Similar to establishing settlements in the old city of Hebron, Israel the occupying power, has established and facilitated the establishment of settlement enclaves within Palestinian residential neighbourhoods in the heart of the old city of East Jerusalem and

the rest parts of East Jerusalem including Ma'ale David and Ma'ale Zeitim in Ras Al-Amud , Beit Orot and Beit Hoshen in At-Tur, Ir David in Siwlan and Shimon HaTzadik in Sheikh Jarrah. Settlers who are transferred to live in such settlement enclaves within Palestinian residential neighbourhoods in East Jerusalem are also identified as radical and ideological. Israel has further extensively created larger settlements in East Jerusalem and the expanded municipal boundaries of the city, which was subsequently annexed on a de facto basis.

As a result of the sensitivity of the city of Jerusalem in general and its old city in particular (which includes Al-Aqsa Mosque compound, the Holy Sepulchre Church and the Western Wall), high level of tensions have existed between various group of settlers and/or the army of occupation forces on one side and Palestinian nationals on the other. The latest of which was Israel's closure of Al-Aqsa Mosque in 2017 for the first time since 1969 after an exchange of fire between Palestinian citizens of Israel and Israeli police.

## **1. Acts of Violence and Attacks against**

### **(i) The Lives of Persons or their Physical Integrity**

One of the occupying power obligations under the Hague Regulations of 1899 and 1907 is to restore and ensure public order and safety<sup>(1)</sup> and as a corollary it must prevent any acts of violence and attacks against civilians and their property. Acts of violence and attacks that targets civilians runs contrary to the spirit of articles 43 and 46 of the Hague Regulations.<sup>(2)</sup> Several thousands of Palestinians were either killed or injured as a result of settlers' waves of violence and attacks.

By way of example, Israeli settlers from Kiryat Arba settlement in Hebron governorate killed two children on 15 March 1979.<sup>(3)</sup> The then Palestinian Mayors of Nablus (Bassam Shaka) and Ramallah (Karim Khalef) were subjected to bomb attacks by Israeli settlers in 1980 and as a result, the first lost both of his legs and the second lost his left foot. In addition, the then Mayor of AlBireh (Ibrahim Tawil) has also been targeted by Israeli settlers but has successfully escaped injury. Security Council Resolution number 471 of 1980 'Condemns the assassination attempts on the lives of the mayors of Nablus, Ramallah and Al Bireh. Expresses deep concern that Israel, as occupying Power, has failed to provide adequate protection to the civilian population in the occupied territories...'<sup>(4)</sup>

A group of settlers movement known as the 'Temple Mount Faithful' intended to put a cornerstone for the Third Temple in 1990 in the location of the Dome of the Rock in Jerusalem which led demonstrations and casualties. Security Council Resolution 672 of 13 October 1990 'Expresses alarm at the violence which took place on 8 October at the Al Haram Al Shareef and other Holy Places of Jerusalem resulting in over twenty Palestinian deaths and to the injury of more than one hundred and fifty people, including

Palestinian civilians and innocent worshippers;’(5) Another massacre occurred in the old city of Hebron in 1994 when an Israeli settler opened fire on Palestinian civilians in the Tomb of the Patriarchs (Alharam Alabrahimi). Security Council resolution 904 of 1994 ‘Strongly condemn{d} the massacre in Hebron and its aftermath which took the lives of more than 50 Palestinian civilians and injured several hundred others.’(6)

The Office for the Coordination of Humanitarian Affairs had documented 76 cases of settler violence resulting in death or injury to Palestinians in 2007, which represented a 17 per cent increase over 2006.(7) Israeli settlers arsoned a Palestinian family home in Duma village in Nablus governorate in July 2015 and as a result three family members were killed including a child. Israeli settlers’ attacks and acts of violence run contrary to articles 27 and 33 of the Fourth Geneva Convention. The first paragraph of article 27 of the Fourth Geneva Convention states clearly that ‘Protected persons are entitled, in all circumstances, to respect for their persons, their honour...They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof...’(8) The Commentary on the Fourth Geneva Convention provided that the right of respect for persons includes the right to physical, moral and intellectual integrity whereas any acts impairing the person lives or health is prohibited.(9)

Not only is there a prohibition against the actual acts of violence under international law but it also extends to any threats of violence. Article 33 of the Fourth Geneva Convention prohibits collective penalties, all measures of intimidation or terrorism.(10) The Commentary on Article 33 of the Fourth Geneva Convention mentions that measures of intimidation or of terrorism ‘...are opposed to all principles based on humanity and justice and it is for that reason that the prohibition of collective penalties is followed formally by the prohibition of all measures of intimidation or terrorism with regard to protected persons, wherever they may be.’(11) Settlers have used acts of intimidation against Palestinian civilian nationals, which caused moral suffering for the inhabitants. Additional Protocol I of 1977 provides that ‘The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.’(12) Several acts of violence and attacks initiated by Israeli settlers may amount to acts of terrorism.

The acts of violence and attacks caused by settlers resulting in bodily injury and/or fatal injury violates the right to life and the security of person. The first paragraph under article 9 of the International Covenant on Civil and Political Rights provides that, ‘Everyone has the right to liberty and security of person.’(13) Article 6 of the International Covenant on Civil and Political Rights provides that, ‘Every human being has the inherent right to life...No one shall be arbitrarily deprived of his life.’(14) The former Commission on Human Rights (now the Human Rights Council) had condemned

the practices of the arming of settlers, which resulted in initiating acts of violence against individuals, causing injury and death.(15) The Human Rights Committee established under the International Covenant on Civil and Political Rights interpreted the right to security of person to mean the freedom from bodily injury, including fatal injury.(16) It further expounded that 'The right to personal security also obliges States parties to take appropriate measures to protect individuals...from known threats to life or bodily integrity proceeding from either governmental or private sources.'(17)

## **(ii) Appropriation or Damages or Destruction of Property**

The Hague Regulations, the Fourth Geneva Convention and Additional Protocol I do not only call for the respect of the lives of persons but also for private property.(18) Several settlers' attacks have resulted in damages or destruction or appropriation of moveable or immovable property. Private property owned by Palestinians have been extensively appropriated and/or destroyed and/or damaged without military necessity by both the Israeli army of occupation and its civilian settler population so as to among others establish civilian settlements, expand them and establish so-called "Settlement outposts".

The fact that there are currently more than one hundred "settlement outposts" in the occupied territory of the de jure State of Palestine proves that not only the Israeli army of occupation is seizing property but also Israeli settlers are seizing public and private property through the use of violence, attacks and/or intimidation. In 2012, thirty water springs in the West Bank have been taken over by Israeli settlers and 26 others were at a risk to be taken over by the Israeli settlers.(19) Several acts of vandalism have been recorded against Palestinian property, for example, 188 acts of vandalism occurred in 2009.(20) The so-called price-tag acts of violence, attacks and intimidation were also directed against religious places including various churches and mosques in the West Bank. For example, settlers have posted threats of violence on a Benedictine monastery situated in Jerusalem in 2016.(21)

The International Covenant on Economic, Social and Cultural Rights codified the right to adequate standard of living, which includes the right to housing.(22) The Committee on Economic, Social and Cultural Rights interpreted the right to adequate housing to mean among others, the right to live in security, peace and dignity.(23) On its comments on the right to adequate housing, the Committee on Economic, Social and Cultural Rights provided that safe drinking water is but one of the aspects for that right.(24)

## **(iii) Livelihoods**

Many incidents of violence or attacks were initiated against Palestinian crops, trees (especially olive trees and vineyards); these incidents included uprooting of trees, spreading toxic chemicals and burning crops. For example, settlers from Kiryat Arba

settlement in Hebron governorate uprooted 500 vines in a vineyard in Hebron city were uprooted on 26 April 1979.(25) 7,500 Palestinian-owned trees had been destroyed and almost 10,000 damaged by Israeli settlers in 2012, which amounts to a loss of millions of dollars in income for Palestinian owners.(26) On its commentary on the availability of food, the Committee on Economic, Social and Cultural Rights mentions that, 'Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems...'(27)

Settlers' acts of violence or attacks against Palestinian olive groves are conducted throughout the year but a particular wave of violence or attacks is initiated during the harvest season in October of every year. Settlers have also attacked Palestinian harvesters and in other cases prevented them from approaching to their property. '... settlers often destroy Palestinians' water infrastructure or pollute or prevent access to Palestinian water sources, with due negative impacts on Palestinian agriculture and personal hygiene and health.'(28)

## **2. Israel's Failure of Action: Enforcing a Racial Discrimination Régime**

Israel, the occupying power fails to protect Palestinian civilian persons and objects and further fails to track down the suspects to a greater extent. The Israeli police and the army of occupation conduct of omissions in relation to settlers' violence and attacks are attributable to the responsibility of the Israeli State. The Commentary on the Fourth Geneva Convention mentions that a State is responsible for the internationally wrongful acts of its private nationals 'if it has failed to give proof of the requisite diligence and attention in preventing the act contrary to the Convention and in tracking down, arresting and trying the guilty party.'(29)

The 1984 Karp Report mentioned that out of the 70 cases, which the Karp special inquiry commission received information on, 53 were closed without any result.(30) The Karp Report further mentioned that several incidents of violence were closed on the basis of 'offender unknown', when no action was taken to locate the offender.(31) The 2005 Sasson Report recognized Israel's failure of action; it notes that, 'The attitude towards law breaking settlers is mostly forgiving. The result is a large increase in law violations.'(32) In many cases, Palestinian victims or their next of kin do not file complaints against settlers' conduct of violence or attacks within the Israeli police stations because of the ineffectively of Israeli domestic remedies. The Karp Report had already noted that:

***The potential reasons for this absence of complaints may range from fatalism and natural tendency not to complain, to a lack of desire to come in contact with the authorities, to fear resulting from a threat or fear of an act of revenge,***

***to drawing conclusions from a lack of results in previous complaints to the police or from police refusal to handle complaints.***(33)

The International Convention on the Elimination of All Forms of Racial Discrimination calls for the elimination of any distinction, restriction, exclusion or preference based on race, colour, descent, or national or ethnic origin in the enjoyment of human rights.(34) Israel's omissions in relation to settlers' violence and attacks demonstrate that the occupying power is establishing and enforcing a racial discrimination régime by its distinction, restriction, exclusion and preference in relation to the enjoyment of the right to life, the right to security of person, the right to property and the right to adequate standard of living based on ethnic origin. The perpetrators from the settler's population and/or the members of the armed forces remain free and immune to any legal proceedings at Israeli courts to a greater extent while Palestinians who initiate attacks against Israeli civilians or combatants are tracked down, arrested and put on trial.

In the Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 advisory opinion, the International Court of Justice provided that 'To establish instead, and to enforce, distinctions, exclusions, restrictions and limitations exclusively based on grounds of race, colour, descent or national or ethnic origin which constitute a denial of fundamental human rights is a flagrant violation of the purposes and principles of the Charter.'<sup>(35)</sup>

## **Conclusion**

Settlers' violence and attacks have resulted in loss of life, injury to body or health, appropriation, destruction or damages of property. The acts of violence and attacks are violations of international humanitarian law and/ or international human rights law. The number and form of the violent incidents and attacks initiated by Israeli settlers against Palestinian civilians and property shows beyond doubt that these are not mere incidents but rather systematic and widespread. The governorates of Hebron, Nablus and Jerusalem remains centres of violence, attacks and tensions as a result of the particularities of these areas and the transfer of radical settlers into colonial settlements and settlement outposts thereto.

The conduct of Israeli settlers' violence and attacks leaves no room for doubt that it is attributable to the responsibility of the Israeli State under international law on the legal basis that the internationally wrongful acts in question are attributed to the relevant Israeli State organs omissions. Israel, the occupying power is establishing and enforcing a racial discrimination régime by among others its distinction in relation to the protection of the lives of persons and property, which aims at impairing and diminishing the

Palestinian people's civil, political, economic, social and cultural rights based on their ethnic origin.

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## References

- (1) Article 43, Annex to the Convention: Regulations respecting the laws and customs of war on land- Laws of War: Laws and Customs of War on Land (Hague IV); October 18, 1907.
- (2) See Article 46, *ibid*.
- (3) See Paras 208, 215, 23 of the Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, A/34/631 13 November 1979.
- (4) S/RES/471 (1980) 5 June 1980.
- (5) Security Council Resolution 672 of 12 October 1990.
- (6) S/RES/904 (1994) 18 March 1994.
- (7) Para 41, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/63/273 13 August 2008.
- (8) Article 27, Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.
- (9) Jean S. Pictet, ed., *The Geneva Conventions of 12 August 1949. Commentary IV: Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), 201.
- (10) Article 33, Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.
- (11) Pictet, *op. cit.*, 226.
- (12) Article 51(2), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.
- (13) Article 9, International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49.
- (14) Article 6, *ibid*.
- (15) Resolutions 1982/1 A and B adopted by the Commission on Human Rights at its 17th meeting, on 11 February 1982. 1982/1. Question of the violation of human rights in the occupied Arab territories, including Palestine.
- (16) Human Rights Committee - General Comments (Article 9) , 107th session Geneva, 11 – 28 March 2013, Item 5 of the provisional agenda.
- (17) *Ibid*.
- (18) See articles 23 and 46 of the Hague Regulations, article 147, Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, article 52(2) of Additional Protocol I.



- (19) The United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, The humanitarian impact of the takeover of Palestinian water spring by Israelis Settlers, 2012,1.
- (20) Data supplied by The Office for the Coordination of Humanitarian Affairs quoted in Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, Distr.: General 9 September 2009.
- (21) Christian holy site in Jerusalem vandalized, available at URL: <http://www.aljazeera.com/news/2016/01/christian-holy-site-jerusalem-vandalised-160117113938060.html>
- (22) Article 11 in the International Covenant on Economic, Social and Cultural Right provides that '1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.'
- (23) The right to adequate housing (Art.11 (1)): 12/13/1991. CESCR General comment 4. (General Comments).
- (24) Ibid.
- (25) Para 225, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, A/34/631 13 November 1979.
- (26) Para 31, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories Distr.: General 2 November 2012.
- (27) Committee on Economic, Social and Cultural Rights - General Comments, The right to adequate food (art. 11), para 12- General Comment 12 (Twentieth session, 1999).
- (28) Para 31, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories Distr.: General 2 November 2012.
- (29) Pictet,op. cit.,213.
- (30) The Karp Report: An Israeli government inquiry into settler violence against Palestinians on the West Bank (Washington, D.C.: Institute for Palestine Studies, 1984), 35.
- (31) Ibid, 42.
- (32) Talya Sason, Adv. Summary of the Opinion Concerning Unauthorized Outposts, March 2005, available at URL <http://unispal.un.org/UNISPAL.NSF/0/956AA60F2A7BD6A185256FC0006305F4>
- (33) The Karp Report, op. cit., 39.
- (34) Article 1, International Convention on the Elimination of All Forms of Racial Discrimination Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 entry into force 4 January 1969, in accordance with Article 19.
- (35) Paragraph 131, Legal Consequences for States of the continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16.