



AL-HAQ



INSTITUTIONALISED **IMPUNITY**

**Israel's Failure to Combat Settler Violence
in the Occupied Palestinian Territory**

EXECUTIVE SUMMARY

Summary

Attacks by Israeli settlers in the occupied West Bank against members of the Palestinian population and their property are an extensive, long-term, and worsening phenomenon. According to the United Nations Office for the Coordination of Humanitarian Affairs, the number of settler attacks resulting in Palestinian casualties and property damage increased by over 144 percent in 2011, compared to 2009, with an average of eight incidents per week, and over 400 incidents throughout the year. Al-Haq has documented a significant increase in incidents of settler violence against the Palestinian population of the West Bank since 2011. In 2013, the report of the United Nations International Fact-Finding Mission on Settlements highlighted the failure of the Israeli authorities to enforce the law by investigating such incidents and taking measures against their perpetrators. The Fact-Finding Mission came to the “clear conclusion that there is institutionalised discrimination against the Palestinian people when it comes to addressing violence.”¹

Acts of settler violence are intended, organised, and publicly represented to influence the political decisions of Israeli State authorities. For settlers, some acts of violence facilitate the transfer of Palestinians off their land to make way for the construction of settlements, in the expectation that the Israeli authorities will eventually formally recognise the settlement’s establishment or expansion. Other acts of settler violence are intended to exert a toll on the Israeli government for any measure that negatively affects settler interests, as a form of retaliation against restrictions on settlement construction or evacuations of settlements. Settler groups, who often refer to such acts of violence as ‘Price Tag’ attacks, have mobilised a public campaign that advocates for the use of physical violence against the Palestinian civilian population and their property.

Israel’s legislative and administrative regime in the West Bank, coupled with its institutional unwillingness to prosecute offending settlers, shields settlers from the consequences set out in law and has allowed such violence against the Palestinian civilian population to continue and intensify. Settlers involved in the planning and perpetration of such acts have remained largely immune from the enforcement of the law and, in some cases, have even benefited from official support from State authorities for educational, social and religious activities. Such attacks have severely harmed the rights and livelihoods of the Palestinian population in the occupied territory. This systematic lack of law enforcement against settlers as well as the failure to investigate such incidents have led to the creation of a culture of impunity and contributed to an increase in the frequency and severity of such attacks.

¹ United Nations International Fact-Finding Mission on Settlements, ‘Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem’, Advanced Unedited Version (January 2013) UNHRC 22nd session, paragraph 107.

This report examines the effects of such acts of violence by settlers, including those under the ‘Price Tag’ label, and Israel’s deficient institutional practice of law enforcement to prevent and punish settler attacks. As an Occupying Power, Israel has a responsibility under both international humanitarian and human rights law to ensure the protection of the Palestinian civilian population subject to its control, including by preventing both the carrying out and incitement of acts of violence against them. Israel’s failure to protect the occupied Palestinian population entails its international responsibility for wrongful acts.² Some criminal acts committed by settlers against Palestinians in the OPT may not only result in sanctions against individual settlers by certain countries, but might also entail their individual criminal responsibility.

Acts of settler violence also entail the responsibility of third party States, as they have a duty under customary international law not to recognise, aid or assist serious breaches of peremptory norms of international law. Support of such violent acts by private entities in Third States may have consequences under the national law of those States. Third States are under an obligation to combat organised crime in accordance with their domestic laws and public policy, as well as their international law obligations.

The report calls on the Israeli government to take effective law enforcement measures to combat settler violence, and recommends that Third States and international actors take steps to ensure that individuals or groups under their jurisdiction do not lend support, financial or otherwise, to violent settler groups in the interest of ensuring their own domestic rule of law. It further calls on Third States, in particular European countries to take risk averse measures to ban the entry of individual settlers involved in such violent acts to their territory.

² Article 1 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries, International Law Commission (ILC), United Nations, 2001 (ILC Draft Articles on State Responsibility).

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