



Urgent Appeal to the United Nations Special Procedures on Intensified Yitzhar Settler Violence

Date: 17 February 2021

For the attention of:

- The United Nations Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk;
- The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms. Tlaleng Mofokeng;
- The United Nations Special Rapporteur on the right to adequate housing, Mr. Balakrishnan Rajagopal;
- The United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Pedro Arrojo-Agudo, and
- The United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume.

1. Overview

Settler attacks against the protected Palestinian population and their properties in the occupied West Bank are a widespread, long-term, and worsening phenomenon. Such attacks are reinforced by Israel's systematic failure to conduct effective investigations and prosecutions of offending settler, creating a climate of impunity. Highlighting this failure, the United Nations International Fact-Finding Mission on Settlements concluded in its 2013 report that "there is institutionalised discrimination against the Palestinian people when it comes to addressing violence."¹

While Al-Haq does not document every settler violence attack carried out, Al-Haq's field researchers documented 197 settler attacks in 2020,² representing merely a reflection of the types and the severity of the attacks carried out. According to B'Tselem, there were 248 incidents of settler violence against Palestinians in the West Bank in 2020, which resulted in

¹ UNHRC, "Report of the independent international factfinding 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," 7 February 2013, UN Doc A/HRC/22/63, para 107.

² Figures provided by Al-Haq's Monitoring and Documentation Department covering the period from 1 January 2020 until 31 December 2020.

the injury of 75 Palestinians, and damage to over 3,000 trees as well as damage to homes and cars.³ Al-Haq's continuous documentation of settler violence, has observed constant and increased attacks by the settlers from the Yitzhar settlement.

Presenting selected Yitzhar settler violence attacks, this urgent appeal, addressed to the relevant United Nations (UN) Special Procedures, exemplifies Israel's institutionalised and systematic impunity, showcasing not only how the Israeli Occupying Forces (IOF) illegally stand by passively as Palestinians are attacked by Israeli settlers, but also how the IOF further resort to using force against the targeted Palestinians.

As such, Al-Haq addresses this urgent appeal, urgently requesting your immediate intervention to protect the Palestinian protected population from systematic and ongoing settler attacks, which are conducted with institutionalised impunity, including by publicly condemning and addressing these attacks, and urging Israel, the Occupying Power, to immediately halt the planning, construction and expansion of its unlawful settlement enterprise, and to guarantee the protection of the Palestinian civilian population in the OPT by taking all necessary measures to ensure effective law enforcement against Israeli settler perpetrators and investigation into incidents of settler violence.

2. Introduction on the Settlement of Yitzhar

In 1983, the unlawful settlement of Yitzhar was built on top of Jabal (Mount) Salman, on lands belonging to six Palestinian villages in Nablus Governorate: 'Asira al-Qibliyya, Huwwara, Bourin, Madama, 'Einabus, and 'Ourif. Ever since, it has continued to expand on lands belonging to farmers from the six villages, with at least eight settlements⁴ built in part on privately owned Palestinian land.⁵ As of 2014, out of the 1,354 dunums that the settlement area covered, 1,321 dunums were appropriated from the six Palestinian villages, in violation of international law.⁶ On 7 December 2020, the Israeli Civil Administration delivered notices to the villagers of Bourin and 'Asira al-Qibliyya with the intention to change the classification of parts of their villages from agricultural to residential lands. By this reclassification, Israel aims at appropriating the land in favour of expanding the Yitzhar settlement and opening roads to serve the settlers.⁷

Illegally transferred in settlers from the Yitzhar settlement are notorious for their frequent violent attacks, and acts of harassments and intimidation against Palestinians, including by the targeting of livestock, agricultural lands and trees, homes, cars, and properties belonging to

³ B'Tselem, "2020 in the Occupied Territories: Heinous killings, settler violence and a home demolitions spike," 04 January 2021, available at:

https://www.btselem.org/press_releases/20210104_2020_in_the_occupied_territories_criminal_killings_settler_violence_and_a_spike_in_home_demolitions.

⁴ These eight settlements are 'unofficial settlement outposts' and are built by Israeli settlers around Yitzhar settlement, with the ultimate aim to expand and maintain Israel's settler-colonial regime, appropriating more Palestinian land. Critically, even when Israeli outpost settlements are built in contravention of Israeli [domestic law](#), they still benefit from administrative leniency and are often formally legalised *post facto*.

⁵ Yesh Din, "Yitzhar – A Case Study: Settler violence as a vehicle for taking over Palestinian land with state and military backing," August 2018, p. 9.

⁶ See Village Profiles by the Applied Research Institute–Jerusalem in 2014: 'Asira al Qibliya Village Profile; Huwwara Town Profile; Burin Village Profile; Madama Profile; Einabus Village Profile; 'Urif Village Profile, available at: <http://vprofile.arij.org/nablus/vdata.php>.

⁷ Al-Haq Affidavit 316A/2020, given by Hafeth Mohammad Salah, 55, a resident and head of the village council of 'Asira al-Qibliyya in Nablus Governorate, on 09 December 2020.

Palestinians residing in the surrounding villages.⁸ Such attacks include beatings, throwing stones, shooting at villagers with live ammunition, torching agricultural lands, trees and cars, uprooting trees, confiscating and pillaging natural resources, including land and water, attacking and suppressing peaceful assemblies, denying access to property and to sources of livelihood, and spray-painting hate speech on cars, walls and other Palestinian properties. Most of these attacks happen under the watchful eye of the IOF, if not actively encouraged by them. The security guard of the Yitzhar settlement, Isaac Levy known as ‘Yaqoub’, is particularly infamous for his role in organising frequent attacks on the six villages and for giving orders to the IOF during the attacks.⁹

The Yitzhar settlers are known for being behind the ‘Price Tag’ attacks against Palestinians since 2008.¹⁰ ‘Price Tag’ attacks are acts of violence and/or vandalism committed by settlers in response to perceived threats on settlement construction and/or expansion in the Occupied Palestinian Territory (OPT), particularly when relevant measures are taken by the Israeli government.¹¹ ‘Price Tag’ attacks have resulted in systematic attacks against Palestinians on both sides of the Green Line.¹² The attacks are partially driven by the ideology that “every attack on settler interests should draw a response.”¹³ Accordingly, when the IOF attempt to impose restrictions on settlement construction and/or expansion, for the affected settlers - Palestinians ought to pay an additional price.

3. Selected Cases on Violence by Yitzhar Settlers from July 2020 to January 2021

i. Yitzhar Settlers Attacking a Child in front of Her Home in Madma

On 17 January 2021, at about 2:30 pm, the ten-year-old Hala Mohammad Mashhour Qitt was attacked by a group of settlers while she was in front of her home in Madama village, south of Nablus. Hala was hit by a stone in the face by an Israeli settler, injuring and bruising her face. After she was attacked, Hala fell on the ground and almost lost consciousness and the settler who attacked her attempted to kidnap her, by dragging her. In her affidavit to Al-Haq, Hala recounted the following:

“I am a fifth grader at Madama Secondary Mixed School. On Sunday, 17 January 2021, at about 2:00 pm, I took my Islamic education book and asked my mother if I can go to my uncle’s house to study with my cousins. My uncle’s house is about 20 meters away from our house and only one street separates our homes. When I went to my uncle’s home, he told me that my cousins were asleep so I headed back home. I started walking and studying in front of my home. My sister, Masa, who is five years old, was also sitting on the door’s steps of our home. After about 15 minutes, I heard the voice of someone walking. Then, I saw a masked tall person, wearing jeans and covering his

⁸ Article 49, of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entry into force 21 October 1950) 75 UNTS 287 (hereinafter ‘Fourth Geneva Convention’).

⁹ Information obtained by Al-Haq field researcher on 19 September 2020, on file with Al-Haq.

¹⁰ Chaim Levinson, “‘Price Tag’ Crime Crosses the Green Line into Israel,” Haaretz, 01 May 2014, available at: <https://www.haaretz.com/.premium-price-tag-crime-crosses-into-israel-1.5246827?lts=1603803737794>.

¹¹ See, Al-Haq, “Unmasking the ‘Freeze’: Israel’s alleged Moratorium on Settlement Construction Whitewashes Egregious Violations of International Law,” 26 September 2010. See also, M Shmulovich, “Netanyahu reportedly freezes new settlement construction,” Times of Israel, 7 March 2013, available at: <https://www.timesofisrael.com/netanyahu-enforces-settlement-construction-freeze/>.

¹² Chaim Levinson, “Price Tag’ Crime Crosses the Green Line into Israel,” Haaretz, 01 May 2014, available at: <https://www.haaretz.com/.premium-price-tag-crime-crosses-into-israel-1.5246827?lts=1603803737794>.

¹³ *Ibid.*

face with a piece of cloth [approaching]. He was carrying a big stone. Behind him, there were around 15 people across the street and between the olive trees. The described settler was about four metres away from me. He approached me quickly and hit me with a stone on my face. I fell in front of my home next to the street where I partially lost consciousness. Before I completely lost consciousness, I felt that someone was pulling me from my hand and I could not move at all. After that I completely lost consciousness.”¹⁴

Hala’s 31-year-old mother, We’am Abdelkarim Mohammad Qitt, was doing household chores at home when her daughter Masa entered the house, looking pale and scared. We’am recalls the following:

“At around 2:30 pm, my five-year-old daughter Masa, entered the house, looking pale and scared. Masa said: “they hit me with a stone.” She did not say who ‘they’ were, so I immediately rushed towards our home’s yard. Our yard’s door was open and when I stood in front of the house, I saw my daughter Hala, lying on the ground on her face and not moving. She was around three meters away from our house’s door. I was shocked from what I saw. Blood was heavily flowing from her face. I ran towards her and began to drag her [inside the house] while screaming hysterically in fear. While I was near Hala, stones began to be thrown at us from the eastern side, so I looked and saw a group of around 20 masked people. I identified one of them, who was tall, wearing jeans and had a piece of cloth covering his face. I first saw him running away from my daughter when I first got out of the house. As I was trying to move Hala inside the house, I was hit with two stones in my right thigh. When I reached the front of the house’s door, my [nine-year-old] son Karam came and helped me. The settlers continued to throw stones at us and I heard the sound of our house’s windows cracking. I immediately closed the main door. Blood was pouring from Hala’s face heavily. The settlers continued to throw stones at our house for about ten minutes. My children were terrified as a result of this continuous attack. Hala was still unconscious from the moment I dragged her into the house. Later on, Hala woke up shocked and afraid. I screamed for help, and after about five minutes, our neighbours arrived. My youngest daughter Lucinda, a one and a half month old [infant], was sleeping in my bedroom during the attack. I checked on her and found that the stones had broken the glass windows in the bedroom, and there were shards of glass filling the room. I thank God that my baby was not hit by the settlers’ stones as she was sleeping in her crib in our bedroom”¹⁵

¹⁴ Al-Haq Affidavit 19A/2021, given by Hala Mohammad Mashhour Qitt, 10, a resident of Madama village in Nablus Governorate, on 18 January 2021. (hereinafter ‘Al-Haq Affidavit 19A/2021.’)

¹⁵ Al-Haq Affidavit 20A/2021, given by We’am Abdelkarim Mohammad Qitt, 31, a resident of Madama village in Nablus Governorate, on 18 January 2021.



Hala's injury and blood after the conducted-attack by Yitzhar settlers
(Source: a resident of Madama)

Hala was transferred to Rafidia Governmental Hospital in Nablus city. The doctors found that she had bruises on the nose and lower right eye. Hala later told her mother that the settler who hit her with a stone in the face was trying to pull her and drag her, but when her mother came out, the settler ran away. In her affidavit to Al-Haq, Hala, terrified of future possible attacks, expressed the following:

“Currently, we live in a state of fear and extreme horror due to what happened with us. My mother was hit with two stones while she was trying to save me and my sister Masa was also hit with a stone in the left thigh at the beginning of the attack. We did not sleep at all after I was discharged from the hospital. We stayed awake fearing another attack by settlers.”¹⁶

ii. *Yitzhar Settlers and the IOF Attacking Olive Harvesters in Huwwara*

7 October 2020 marks the first day of the olive harvest season in Palestine. A solidarity event to pick olives was organised to inaugurate the season in al-Lahf area, northwest of Huwwara village, south of Nablus. The event was attended by a group of 40-50 people from Palestinian organisations, the municipality of Huwwara, journalists, and the [Faz3a](#) grassroots campaign.¹⁷ On that day, Yitzhar settlers, with the support of the IOF, violently attacked and suppressed the solidarity event, injuring three Palestinians, and setting fire to olive trees.

Sabe' Salim Ahmad 'Odeh, a 52-year-old Palestinian farmer and owner of a 30-dunum-plot in al-Lahf area, is constantly under the threat of settler violence, due to the close proximity of his land to the Yitzhar settlement, and specifically, the settlers' caravans, which have been set up 500-700 meters away from his agricultural land. Yitzhar settlers, who call themselves “Paying

¹⁶ Al-Haq Affidavit 19A/2021.

¹⁷ *Faz3a* is a volunteer-based campaign by the Popular Struggle Coordination Committee, which aims at standing in solidarity with Palestinian farmers against settler violence and Israel's settler-colonial and apartheid regime.

the Price Group” and “Hilltop Youth,” have perpetrated frequent attacks against Sabe’, including by torching and uprooting his olive trees. In solidarity with Sabe’, a group of volunteers of *Faz3a* joined him in harvesting his 150 olive trees. In his affidavit to Al-Haq, Sabe’ recalled the following:

“Each year, I used to coordinate with the Israeli Military Liaison [Office], which allocates specific days in the season for us to reach our lands to harvest the olive trees. But in 2020, the Israel-Palestinian security coordination was halted, which led to an uncertainty about the mechanism by which Palestinians can access their own lands which are close to Israeli settlements. We [Sabe’, the volunteers, people from the municipality, and journalists] walked on foot, carrying our agricultural equipment. Immediately after our arrival, a group of five masked Israeli settlers, with photographic cameras, arrived and started [intimidating us] by taking photos of me and the volunteers that were with me. This happened while additional large groups of settlers arrived on top of a hill, from the eastern and western sides. At first, I saw [around] ten Israeli settlers, standing 20 meters away, holding big stones, throwing them at me and the aforementioned volunteers, and approaching us in an attempt to attacks us. This coincided with the increase in the number of Israeli settlers in the place, and the arrival of an [Israeli] military jeep.”¹⁸

Following the arrival of the IOF, Israeli settlers continued and intensified their attacks against the Palestinians, under the protection of the IOF. In his affidavit to Al-Haq, Sabe’ recounted the following:

“Around four to five Israeli soldiers, armed and wearing military uniforms, dismounted from the jeep and approached us, while stone throwing by settlers continued heavily. One of the Israeli soldiers asked me to leave the land, while the settlers continued to attack us. I told the soldier, in Hebrew, that rather than asking us to leave my land, he has to stop the settlers from throwing stones at us, because they are the attackers and I am in my own land. Then, the soldier, who was about four meters away from me, fired a bullet in the air. Then, a group of five masked settlers, wearing civilian clothes, approached and surrounded me. One of them, who was shirtless, grabbed me from my left shoulder from the back and started punching me with his hands. While I was blocking the punches, the other settlers were throwing stones at me, with the help of an Israeli soldier. The soldier, who was wearing his military outfit and helmet, pushed me from behind, with the help of the settler who was attacking me, into rocks from a height of about one and a half meter. After I fell on the ground, [the settlers continued throwing stones at me. Stones were hitting me all over my body, as I was hit by stones in my chest, head and shoulders.”¹⁹

¹⁸ Al-Haq Affidavit 238A/2020, given by Sabe’ Salim Ahmad ‘Odeh, 52, a resident of Huwwara village in Nablus Governorate, on 10 October 2020. (hereinafter ‘Al-Haq Affidavit 238A/2020.’)

¹⁹ Al-Haq Affidavit 238A/2020.



Yitzhar settlers attacking the 52-year-old Sabe' Odeh, during the presence of the IOF
- Jaafar Ashtiyeh/AFP © 2020

A video footage capturing the moment Sabe' was injured can be accessed [here](#).

After he was pushed to the ground, Sabe' got up, in pain, and walked about 500 meters towards the village, until a Palestinian ambulance reached the scene and transferred him to Rafidia Governmental Hospital in Nablus city. At the hospital, and following some medical examinations and x-rays, the doctors found that Sabe' had severe bruises to the chest, left shoulder, right arm, forearm, and forearm joint.²⁰

During the same attack, Jihad Ahmad Salim Odeh, a 53-year-old Palestinian resident of Huwwara village and an owner of land, located in al-Lahf area, was also severely injured by the settlers. In his affidavit to Al-Haq, Jihad recalled the following:

*"I was surrounded by the stones, thrown by the settlers, which coincided with the IOF firing tear gas canisters and sound bombs at the Palestinian Faz3a volunteer group. In the midst of that, I was trying to retreat, as the settlers were following us and the Israeli soldiers were accompanying them. After I had walked a distance of about 50 meters, an unmasked, well-built Israeli settler, wearing civilian clothes, and medical glasses and has long sideburns, threw a stone at me, from a distance of about ten meters, as I was trying to retreat. An Israeli soldier, wearing his military uniform, was standing next to that settler. The stone hit me in my left leg, I fell directly on the ground into rocks, and my phone and wallet dropped as I fell. After I fell on the ground, the same settler approached me, at a distance of two meters, while carrying a large rock and raised it with the intention to hit me, but the Israeli soldier stopped him from doing that, and another young man from my village shouted at the settler, which prevented him from hitting me with it. If the settler had thrown the stone at me while I was on the ground, he would have killed me or seriously injured me, because the rock was big and weighted about five kilogrammes, according to my estimation. The settlers' attack on me was violent, and it was carried out with the protection and support of the Israeli occupying soldiers, who provided them with protection during their assault on me and the Palestinians."*²¹

A young man carried Jihad for about 150 meters, until they reached a Palestinian ambulance, which transferred Jihad to Rafidia Governmental Hospital in Nablus city. In the emergency

²⁰ Al-Haq Affidavit 238A/2020.

²¹ Al-Haq Affidavit 237A/2020, given by Jihad Ahmad Salim Odeh, 53, a resident of Huwwara village in Nablus Governorate, on 10 October 2020. (hereinafter 'Al-Haq Affidavit 237A/2020.')

room, the doctors carried out medical examinations and x-rays, which showed that Jihad had been wounded in his left leg, and had severe bruising to his right leg and shoulders.²²

After receiving the needed medical treatment, both Sabe' and Jihad were discharged and went back home.

Notably, this is not the first time Sabe' was attacked by Yitzhar settlers. In his affidavit to Al-Haq, Sabe' recounted other attacks, the last of which was on 3 October 2020, when two armed settlers chased him and Murad Najjar, a Palestinian resident of Bourin village, as they were working on surveying land in order to compete the land ownership registration process 'tabu'. On 3 October 2020, at approximately 12:30 pm, as Sabe' and Murad were surveying Sabe's land, two settlers, one of whom is the security guard of the settlement, approached them. Scared about what the settlers might do, Sabe' and Murad ran away, and the settlers chased them with the settlement's guard's car, and blocked their path. The security guard of the settlement dismounted from the car, pointed his M16 rifle at the two Palestinians, asked Sabe' for his ID card and took it, photographed him with his mobile phone, and told him that there is no security coordination for his entry into his land and that it is forbidden to access his land. The security guard of Yitzhar settlement cursed Sabe' and detained him for about 15 minutes, before he was allowed to go back home.²³

iii. *Yitzhar Settlers and the IOF Attacking a Family at Their Home in 'Asira al-Qibliyya*

On 24 October 2020, the 52-year-old Abdel Basit Mohammad Abdelrahman Ahmad was attacked by Yitzhar settlers at his home in 'Asira al-Qibliyya village, south of Nablus. Injured in the head, his wound was described, by the doctors, as deep and was stitched up with six stitches. In his affidavit to Al-Haq, Abdel Basit recalled the following:

"On 24 October 2020, at 3:00 pm, I received a phone call informing me that Yitzhar settlers were approaching my house. I went directly to my home's roof, and saw around 20 settlers, in their twenties and thirties, about two meters away from my home's fence. The settlers began to cover their faces by taking their shirts off and putting them on their heads. Later, a group of settlers began collecting stones from the ground. When I saw these settlers, I went outside the house to drive them away from my house. When I reached my home's yard, which is surrounded by fences and has a gate from the eastern side, stones began to fall on the house and on the yard heavily by the settlers who were about three meters away from me. I was hit with multiple stones, which were falling on me like rain from the sky. I was hit in my left thigh, left shoulder, my back, and neck. Then I felt severe pain and I recognised a loud whirring sound in my ears after I was hit with a stone in the middle of my head. After being hit with stones, I jumped off the fence of the house and carried a wooden stick to defend myself and the house. Despite my injury, when the Israeli settlers saw me, they ran away towards the southern side of the house for a distance of about 50 meters. Ten minutes after the attack, a group of around 20 residents of the village arrived. Then I saw an Israeli military patrol, a Hummer jeep, coming from the military post located south of the village. Then, six Israeli armed soldiers, dressed in their military uniform, dismounted from the jeep. The residents of the village told me that my head was bleeding and that my clothes were covered in blood. I put my hands on my head to stop the bleeding. The Israeli [occupying] soldiers, who were around four meters away from me, started firing sound

²² Al-Haq Affidavit 237A/2020.

²³ Al-Haq Affidavit 238A/2020.

bombs and live bullets in the air and at the residents, who came to counter the settler's attack. When the settlers saw the soldiers attacking us, their drive increased, approached us and started throwing stones at us until they reached my house again."²⁴

After an hour of Abdel Basit's injury, a Palestinian ambulance arrived at the scene. The paramedics provided Abdel Basit with first aid, bandaged his head wound, and asked him to go to the nearest hospital. Abdel Basit Mohammad was later transferred to Rafidia Governmental Hospital in Nablus. At the hospital, and following some medical examinations and x-rays, the doctors stitched up his wound, which was described as deep, with six stitches. After receiving the needed medical treatment, Abdel Basit Mohammad was discharged at around 7:00 pm of the same day.

In his affidavit to Al-Haq, Abdel Basit Mohammad, further explaining the IOF's failure to hold the Israeli perpetrators to an account, recounted the following:

*"My house has been subjected to constant attacks by the Yitzhar settlers. Most of these attacks are carried out with the protection and support of the IOF, and without any accountability to prevent the continuation of these attacks. My house's windows were broken and my private car was burned and currently my house is surrounded by an iron grid to prevent further attacks."*²⁵

iv. *Yitzhar Settlers Attacking a Family While Picking Olives in Their Land in Bourin*

On 23 October 2020, the 32-year-old Mohammad 'Imad Hamzeh Zaban was deeply wounded in the head and had a fractured skull after Yitzhar settlers attacked him and his family and relatives as they were picking olives in their agricultural land southern of Bourin village. His 64-year-old uncle Bashir Hamzeh Yousef Zaban, and 35-year-old cousin Ahmad Bashir Yousef Zaban were also injured during the attack. In his affidavit to Al-Haq, Mohammad recalled the following:

"At about 12:30 pm, I was surprised by stone throwing while my family, relatives and I were picking olives in our agricultural land. I saw around 20 Israeli masked settlers five meters away from me. The settlers were carrying wooden sticks, and iron pipes. They started throwing stones at my family, relatives and I from a very close distance in an intense and continuous way. I felt scared because my father, mother and relatives are elderly people and they cannot defend themselves. I defended my family from the settler's attacks from a less than three meters distance. At that time, I was hit by a stone in the right side of my head. I felt dizzy and fell to the ground. My cousin Ahmad helped me to get up, while the settlers continued throwing stones at us. Then, Ahmad was hit by a stone in his hand and my uncle Bashir was injured by a stone in his right foot. The settlers continued to throw stones for around 15 minutes. I decided to mount a horse, which was with us in the land, to stop the settlers' attacks and protect my family. I rode the horse and followed the settlers despite my head injury and despite the blood that was flooding from my head. The settlers continued to throw stones at me and I was hit by a stone in the back. Then, nearby farmers started to approach us. At about 12:45

²⁴ Al-Haq Affidavit 267A/2020, given by Abdel Basit Mohammad Abdelrahman Ahmad, 52, resident of Asira al-Qibliya, south of Nablus on 24 October 2020. (hereinafter 'Al-Haq Affidavit 267A/2020.')

²⁵ Al-Haq Affidavit 267A/2020.

pm, I saw the settlers withdrew towards Yitzhar settlement after they smashed the right rear window of our private car, a white Renault Kangoo 2004.”²⁶

Mohammad, Ahmad, and Bashir were transferred to Rafidia Governmental Hospital in Nablus. In the emergency room, the doctors carried out medical examinations and x-rays, which showed that Mohammad had a fracture in the skull. Mohammad further had a large and deep wound in the head, which was stitched up with five stitches. Mohammad was then admitted to the hospital for two days for medical observation, before he was discharged on 25 October 2020.²⁷

v. *Yitzhar Settlers Attacking a Palestinian Land Surveyor in Huwwara*

On 11 August 2020, Mustafa “Mohammad Saher” Mustafa Masri, a 30-year-old Palestinian who works as a land surveyor, was wounded and bruised as he was running away from the bullets of four armed settlers in al-Souma’a area, northwest of Huwwara village, south of Nablus city, where he and his colleague were surveying lands.

At about 9:00 am that day, Mustafa, along with his colleague Hasan Bassam Qadous, left their office, and headed to the al-Souma’a area, in order to survey Huwwara lands, as part of a coordinated project with the Palestinian Land and Water Settlement Commission. Upon their arrival, they started to conduct a field survey of plots of lands, around 200 meters away from the settlers’ caravans. At about 12:00 pm, an Israeli vehicle arrived to the scene, and four armed Israeli settlers dismounted. In his affidavit to Al-Haq, Mustafa recalled the following:

“A white patrol vehicle with Israeli yellow plates arrived, and four Israeli settlers, wearing civilian clothes, and armed with automatic rifles, dismounted from it. The four settlers approached us while pointing their weapons at me and my colleague Hasan. They walked about 20 meters towards us, while shouting at us to stop and not move. Indeed, I told Hasan not to move, fearing that they would harm us. During that time, one of the settlers was acting violently and pointing his weapon at us, and it seemed to me, at that moment, that he wanted to shoot us, so I told Hasan to run away, in order to preserve our safety and the equipment that we had and used for our work. When my colleague Hasan moved, one of these settlers fired a bullet, hitting the ground and rocks. I [immediately] took a prone position to avoid getting shot. After about 10 seconds of being on the ground, I tried to get up and run away, but I heard another bullet, which did not hit me. I started [crawling] between the rocks and dry thorns while the four settlers, who were about 30 meters away from me, started throwing stones at me. Then, I felt something hitting my left leg, and I realised that it was a big stone, which caused a lot of pain. I also felt pain in my left elbow. I stood up despite the pain and ran in the direction of Huwwara, while the settlers were following me, until I got close to ‘Huwwara Country Swimming Pool.’ Then, I tried to call an ambulance, but I [realised] that I had lost my phone during the attack. I found Hasan and called a Palestinian ambulance from the Palestinian Red Crescent Society after I saw my left leg bleeding. Unable to move, I sat down [waiting for the ambulance].”²⁸

²⁶ Al-Haq Affidavit 266A/2020, given by Mohammad ‘Imad Hamzeh Zaban, 32, a resident of Bourin village in Nablus Governorate, on 26 October 2020. (hereinafter ‘Al-Haq Affidavit 266A/2020.’)

²⁷ Al-Haq Affidavit 266A/2020.

²⁸ Al-Haq Affidavit 179A/2020, given by Mustafa “Mohammad Saher” Mustafa Masri, 30, a resident of Madama village in Nablus Governorate, on 12 August 2020. (hereinafter ‘Al-Haq Affidavit 179A/2020.’)

A couple of days prior to the attack, on 8 August 2020, the security guard of Yitzhar settlement saw Mustafa and one of his colleagues working on the land, and ‘warned’ them about Yitzhar settlers. In his affidavit to Al-Haq, Mustafa recounted the following:

“On 8 August 2020, my colleague and I were [working on] a location near the Yitzhar settlement. The settlement guard came, drew borders, and told us that we should not get close to the borders that he had drawn for us, because the settlers in Yitzhar are crazy [insanely dangerous] and they may commit any action against us. In other words, he was trying to tell us that we will be subject to harm by the settlers, and this is what happened.”²⁹

Almost 15 minutes after Mustafa called the Palestinian Red Crescent Society, a Palestinian ambulance arrived and transferred him to Rafidia Governmental Hospital in Nablus. The medical examinations and x-rays revealed that Mustafa has several bruises in his left leg, knee and hand, as well as a cruciate ligament rupture in his left knee.³⁰

vi. *Yitzhar Settlers and the IOF Suppressing and Attacking a Peaceful Assembly to Plant Olive Trees in ‘Asira al-Qibliyya*

On 18 September 2020, in ‘Asira al-Qibliyya village, south of Nablus, the IOF and settlers forcefully suppressed and attacked a peaceful assembly to plant olive trees. Since August 2020, The Union of Agricultural Work Committees started a project to cultivate the eastern part of the village’s land, which is privately owned by 11 Palestinians. Whenever Palestinians attempt to cultivate their lands, the IOF, along with the security guard of Yitzhar settlement, harasses, threatens, and attacks them.

Organised by the Colonization and Wall Resistance Commission, and the residents of the village, the assembly aimed at standing in solidarity with the farmers and confronting frequent attacks by settlers and the IOF on the village. At approximately 10:30 am, around 50 participants arrived, carrying Palestinian flags and chanting slogans protesting colonisation and assuring the Palestinian identity of their land against threats of confiscation by Israeli settlers. The participants proceeded with their peaceful assembly and started planting olive trees. At 11:00 am, the participants were disrupted by a group of 20 Israeli settlers and the guard of the Yitzhar settlement, accompanied by another 30 Israeli occupying soldiers.



Israeli settlers attacking a Palestinian and trying to take his flag
- Jaafar Ashtiyeh/AFP © 2020

²⁹ Al-Haq Affidavit 179A/2020.

³⁰ Al-Haq Affidavit 179A/2020.

The IOF began harassing the participants by surrounding them. For his part, the guard of the Yitzhar settlement initiated his intimidation by removing the Palestinian flag that the protesters had set on the ground, and by cursing and verbally harassing the protesters.

As the protesters resisted the guard's harassment, the IOF fired tear gas canisters and sound bombs to disperse the protesters, leading to tens of injuries from suffocation, outbreak of fire in the dry uncultivated land, and the forceful suppression of the peaceful assembly. Under the protection of the IOF, the settlers proceeded to attack the protesters with stones and sticks.



Palestinians withdrawing from the peaceful assembly in 'Asira al-Qibliyya after settlers started a fire
- Ayman Noubani © 2020

At about 11:20 am, journalist Jaafar Ashtiyeh of Agence France-Presse, who was covering the event, was attacked by four Israeli settlers. Recounting the events, Jaafar stated the following:

“Considering my job as a journalist with Agence France-Presse, I was covering a peaceful event in ‘Asira al-Qibliyya village, south of Nablus. As I was covering the events, a group of four settlers, wearing civilian clothes, attacked me. One of the settlers was trying to prevent me from taking photos of the assembly from a one-meter distance, ignoring my clear press vest. The settler verbally harassed me and cursed me and my family. Then, he pushed me to the ground. When I stood up, he physically assaulted me, by beating me up with his hands. As I was attempting to defend myself, he pushed me again to the ground, as he was trying to take my camera from me. I was able to prevent him and pushed him away, and was able to run away.”³¹

³¹ Information obtained by Al-Haq field researcher on 19 September 2020, on file with Al-Haq.



A settler attacking and pushing the journalist Jaafar Ashtiyeh while covering a peaceful assembly
- Ayman Nobani © 2020

During the settlers' attack on Jaafar, the IOF watched in silence from a ten-meter distance. Jaafar tried to stand for himself and finally ran away to avoid injury and the loss of his camera.

After the IOF and Yitzhar settlers forcefully suppressed and attacked a peaceful assembly to plant olive trees, three Israeli military patrols vehicles raided the centre of 'Asira al-Qibliyya village, firing tear gas canisters at the villagers who had just finished their Friday prayers.

vii. Appropriation and Pillage of Water Resources in Madama

Madama village, located approximately five kilometres south of Nablus city, is well-known for its springs. Ein al-Sha'ra well, located 500 meters from the last house, south of the village, has existed since the British Mandate period. Ein al-Sha'ra spring consists of two wells: upper and lower, which are 200-300 meters apart and are connected to the village through pipelines. With a population of approximately 2,000 Palestinians, who depend on agriculture as a main source of livelihood, the residents of Madama village rely on Ein al-Sha'ra spring for their water supply. In his affidavit to Al-Haq, the 47-year-old head of the Madama Village Council, Hazem Nuseir Mahmoud Nassar, noted:

*"The residents of the village depend on the well water for drinking, household work, irrigation and agriculture. There are pipelines connected from the well to a water tank which holds about 50 cups of water and reaches the houses and lands inside the village, feeding it with water."*³²

Madama village and its residents are repeatedly and continuously attacked and targeted by Yitzhar settlers, including by burning and cutting olive trees, harassing and attacking shepherds while they graze sheep in the lands surrounding the village, and damaging and sabotaging the Palestinian property. The Ein al-Sha'ra spring is no exception. Since 2000, Israeli settlers have constantly targeted the Ein al-Sha'ra spring, including by littering the well. In 2017, settlers cut off the pipelines of the upper well that are connected to the village. The settlers further

³² Al-Haq Affidavit 168A/2020, given by Hazem Nuseir Mahmoud Nassar, 47, a resident of Madama village in Nablus Governorate, on 21 July 2020. (hereinafter 'Al-Haq Affidavit 168A/2020.')

harass and attack residents of Madama as they attempt to access the well. In his affidavit to Al-Haq, Hazem provided the following:

“Since 2000, Yitzhar settlers have been attacking the well, including by throwing dirt, dust and rocks into it. The attacks on the well continued since then. In 2006, British Oxfam International renovated and repaired the waterlines and pipelines, which extend from al-Sha’ra well to the main reservoir inside the village, after replacing the old lines and pipes with new ones. [Until 2017,] the residents were 100 percent dependent on the well for water, which they use for the various aforementioned reasons. This situation continued until 2017, when the settlers cut the pipelines inside al-Sha’ra well and renovated a pool, which was used to collect water, turning it into a pool for swimming... It should be noted that they have cut the pipelines of the upper well, whereas the lower well continued to feed the village with drinking water and water for agricultural use. Due to the continued attacks by settlers in the aforementioned area, it has become difficult for residents and citizens to reach al-Sha’ra well, as many citizens have been subjected to harassment and attacks by settlers.”³³

During the most recent attack against al-Sha’ra well, and in an attempt to put further pressure and harm on Palestinians in Madama village, Yitzhar settlers cut off the water from the lower well, appropriating and pillaging Palestinian water resources. In his affidavit to Al-Haq, Hazem recounted the following:

“On 4 July 2020, Yitzhar settlers completely cut off the water from the lower well [of Ein al-Sha’ra,] which fed and provided the village with water. Wooden construction, such as benches, were set up for leisure purposes in the area. After this attack, the Village Council has not been able to access the area to detect and perceive the extent of the damage caused by the settlers.”³⁴

In 2017, the Madama Village Council filed a case in the Israeli courts, in an attempt to seek legal remedy. As of the time of taking the affidavit, no decision was taken yet. In his affidavit to Al-Haq, Hazem stated the following:

“It is worth noting that the Village Council, in 2017, filed a case in the Israeli courts, through the Jerusalem Legal Aid and Human Rights Center, against Israeli settlers after cutting [the pipelines of the upper well] and stopping the arrival of water from the upper well to the village. We did not get any response until today. The Israeli Yitzhar settlers, through their attacks on Ein al-Sha’ra, aim to take control of the place and prevent the citizens from benefiting from the water that they have mainly depended on since ancient times for drinking and agricultural uses. Now, the residents have now lost their main source of water, whereas the Israeli settlers enjoy [Ein al-Sha’ra] after they have stolen it.”³⁵

viii. *Land Appropriation and Arson in Bourin*

On 19 July 2020, Yitzhar settlers set agricultural lands in al-Mayadeen area, south of Bourin village, south of Nablus city, on fire, burning a number of dunums of land, which are planted with olive trees. Ammar Isma’il Mahmoud Eid, a 50-year-old Palestinian farmer and resident

³³ Al-Haq Affidavit 168A/2020.

³⁴ Al-Haq Affidavit 168A/2020.

³⁵ Al-Haq Affidavit 168A/2020.

of Bourin village, is one of the owners of the targeted lands. Along with his family, Ammar owns a 72-dunum plot of agricultural land, which is planted with 70-year-old olive trees, and has ‘*tabu*.’

On 19 July 2020, at approximately 1:30 pm, Ammar received a phone call on his mobile phone from a resident of the village, informing him that a fire was burning his agricultural lands in the al-Mayadeen and al-Uqda area, located about one kilometre south of the Yitzhar Street, a settler bypass road, and about two kilometres from the Israeli Yitzhar settlement. Immediately after the call, Ammar rushed to his lands. In his affidavit to Al-Haq, Ammar recalled:

“Immediately after I found out about the fire, I drove an agricultural tractor to the area. I arrived after about five minutes. When I arrived, I saw about 40 Israeli settlers from the Yitzhar settlement, with tractors, accompanied by around six Israeli soldiers, wearing their military uniforms, standing on a hill around 50 meters away from me and watching the fire that is eating our agricultural lands and olive trees. The hot weather and wind contributed to the spread of the fire through the dry grasses and the olive tree. Once I got to the land, I began to extinguish the burning fires... but it was big and difficult to control on my own. During [my attempts to control and put out the fire], young people from the village came to help. The occupying soldiers and the settlers, who were just looking and watching what we are doing, did not interfere. I also notified the Palestinian Civil Defense and a fire engine came. Due to the bumpy road, the fire engine had to stop at Bourin Street, but some firefighters came and helped us put out the fire.”³⁶



Agricultural lands and trees burning after Yitzhar settlers set up a fire in Ammar’s lands
(source: a resident of Bourin)

While Ammar, some of the Bourin residents, and Palestinian firefighters were trying to control and put out the fire, the IOF and Yitzhar settlers, including its security guard, attacked the Palestinians. In his affidavit to Al-Haq, Ammar recounted the following:

“During our work in extinguishing the fire, the guard of the settlement of Yitzhar, accompanied by some of the settlers and the occupying soldiers, approached us and were shouting at us not to extinguish the fire, which was extending towards the south of our land and consuming olive trees. The guard of the settlement threw a gas canister at us and the occupying soldiers helped him by throwing tear gas canisters at us so that

³⁶ Al-Haq Affidavit 167A/2020, given by Ammar Isma’il Mahmoud Eid, 50, a resident of Bourin village in Nablus Governorate, on 20 July 2020. (hereinafter ‘Al-Haq Affidavit 167A/2020.’)

we stop putting out the fire. At about 7:00 pm, I left the site after the fire consumed approximately 30 dunums planted with fruitful olive trees. The fire continued, but we controlled the fire in most of the lands planted with olives. The lands that were burned by the Yitzhar settlers are owned by a number of Palestinians...including my family's land."³⁷

Highlighting that this was not the first attack carried out against his lands, Ammar mentioned that his family's land had been subject to previous attacks, including by razing 30 dunums of land on 29 April 2020. In his affidavit to Al-Haq, Ammar recalled:

*"On 29 April 2020, my family's land, which was burned by the fire set by the Israeli settlers, was subjected to razing by an Israeli settler, who used five bulldozers to raze 30 dunums of the plot of land. The settler further created a water network that connects my family's land after he extended it to the network from Yitzhar settlement."*³⁸

In an attempt to protect his privately owned land from further appropriation, Ammar and his family contacted Yesh Din, an Israeli human rights organisation, to follow up on this case in the Israeli courts. In his affidavit to Al-Haq, Ammar recounted the following:

*"After this settler appropriated our privately owned land, I followed up the issue with the human rights organisation Yesh Din and provided them with the necessary documents of land ownership, registration and inheritance inventory, to follow up the case in the Israeli courts. Later, whenever I went to the land, the security guard of Yitzhar settlement and the Israeli occupying soldiers would come and evict me from my land on the pretext that it needs security coordination to enter it."*³⁹

As of 20 July 2020, the Israeli courts did not issue any decision regarding the settlers' appropriation of a Palestinian privately owned lands. Rather, Israeli settlers can reach and access the lands whenever they please, whereas Palestinian owners are prevented from accessing their own lands by the IOF. In his affidavit to Al-Haq, Ammar stated the following:

*"Settlers are allowed to enter the land whenever they want. They have taken control of our land, planted it with grape vines and supplied it with water. I assume that the Israeli settlers set up the fire because they want to control the plots surrounding the plot of land that they have already taken control of and planted with grape vines."*⁴⁰

ix. *Attack on a Quarry and Spray-Painting Hate Speech in 'Asira al Qibliyya*

A clear example of 'Price Tag' attacks is exemplified in this attack carried out in 'Asira al-Qibliyya village, south of Nablus, when a group of Israeli settlers from Yitzhar settlement raided a quarry, belonging to the 35-year-old Mohammad Abd al-Karim Omar Hamdan, and the 45-year-old 'Issa Suleiman Makhoulf, and set fire to an excavator in the quarry. Yitzhar settlement is located about one kilometre to the north of the targeted quarry.

On 13 August 2020, at around 12:00 am, Mohammad received a call, informing him about a fire in his quarry. When he arrived at the quarry, he found a gathering and a fire engine,

³⁷ Al-Haq Affidavit 167A/2020.

³⁸ Al-Haq Affidavit 167A/2020.

³⁹ Al-Haq Affidavit 167A/2020.

⁴⁰ Al-Haq Affidavit 167A/2020.

extinguishing the fire, which had caught in a large excavator. In his affidavit to Al-Haq, Mohammad recalled the following:

“I was home, which is in ‘Asira al-Qibliyya village, when I got the call, and I immediately left, in my private car, heading to the quarry. Once I arrived, I saw a gathering of a number of citizens and a private fire engine belonging to the Sakher al-Shamal Company, which is located in the area, working on putting out the fire, which had caught a large 2001 Komatsu excavator. The process of extinguishing the fire that had caught the excavator took about 15 minutes, until the fire was brought under control.”⁴¹

Going through the quarry, to detect and perceive the extent of the damage, Mohammad noticed graffiti, written in Hebrew, which read “demolition leads to ruin”. In his affidavit to Al-Haq, Mohammad recounted:

“I inspected the site and saw Hebrew graffiti written in red. After translating it, it stated that ‘demolition leads to ruin’. Next to this graffiti, I also saw the Star of David. I linked this attack to Israeli settlers of Yitzhar settlement, which is one kilometre to the north of the quarry, because such attacks on quarries in the area have been repeated. Settlers who call themselves “Paying the Price Group” previously burned a bulldozer in my quarry in 2018. The attack comes after the occupying soldiers and the Israeli police attempted to evacuate and demolish a settlement outpost and caravans inside Yitzhar settlement on 12 August 2020. This means that the attack that we were subjected to by torching the excavator is a retaliation from these settlers.”⁴²



The graffiti that reads “demolition leads to ruin” which was found in the targeted quarry
(source: a resident of ‘Asira al-Qibliyya)

At approximately 12:30 am of the same night, the IOF, along with the security guard of Yitzhar settlement arrived to the scene, asked the residents questions, took some pictures, and left after about five minutes. In his affidavit to Al-Haq, Mohammad recalled:

“At about 12:30 am on 13 August 2020, an Israeli force, consisting of two armed Israeli soldiers wearing military uniform, accompanied by the security guard of Yitzhar settlement, arrived. The soldiers talked with the citizens and with us about what had

⁴¹ Al-Haq Affidavit 182A/2020, given by Mohammad Abd al-Karim Omar Hamdan, 35, a resident of ‘Asira al-Qibliyya village in Nablus Governorate, on 13 August 2020. (hereinafter ‘Al-Haq Affidavit 182A/2020.’)

⁴² Al-Haq Affidavit 182A/2020.

happened and took photographs of the excavator and the graffiti written on a rock inside the quarry. They only stayed for about five minutes and then they left.”⁴³

x. *Attacks on Civilian Vehicles in Huwwara*

On 11 August 2020, at about 10:30 pm, as the 54-year-old Hisham Abd al-Jalil ‘Idwan, and his family were driving home, a group of Israeli Yizhar settlers threw stones at them. Hisham, along with his 42-year-old wife, ‘Adla Mustafa Sulieman ‘Idwan, and 27-year-old son, Fathi Hisham Abd al-Jalil ‘Idwan, were driving a 2014 red Polo car, owned by ‘Adla’s brother, by Huwwara Bypass road, south of Nablus. At the junction that leads to the Yitzhar settlement, Hisham and his family were surprised by a car, with Israeli plates, parked to the right of the road. Around eight masked settlers, who were about 10-15 meters away from the car, started throwing stones at the car. Panicked and terrified, Hisham decided not to stop, fearing for the safety of his family. He continued driving towards Huwwara village. When they arrived to Huwwara, Hisham and his son, came out of the car and inspected the car, identifying that the front windshield had been hit by three stones, and the front car body had been hit by two stones.⁴⁴



Pictures of the attacked and damaged car, which Hisham was driving when the settlers attacked
(source: a resident of ‘Awarta)

Similarly, on 6 September 2020, at around 3:00 am, a group of settlers from Yitzhar settlement attacked resident’s vehicles in Huwwara village, south of Nablus city. The incident was fully filmed with surveillance cameras at the location. While the family of Malik Ahmad Mahmoud Sa’ada were sleeping in their house, which is located near the Huwwara Country Swimming Pool, west of Huwwara village, a group of eight masked settlers, dressed in civilian clothes, arrived, on foot, at the family’s yard. One of the settlers damaged the rubber tires of the family’s vehicle, which is a 2014 Hyundai Accent, using a sharp tool. Then the five settlers surrounded the car, which was parked under the children’s bedrooms, and started throwing stones at the front and rear windshields.⁴⁵

⁴³ Al-Haq Affidavit 182A/2020.

⁴⁴ Information obtained by Al-Haq field researcher on 17 August 2020, on file with Al-Haq.

⁴⁵ Information obtained by Al-Haq field researcher on 9 September 2020, on file with Al-Haq.



Pictures of the attacked and damaged car of the Sa'ada family
(source: a resident of Huwwara)

4. Legal Analysis

The Israeli settlements are illegal under international law, as reaffirmed by the international community in numerous UN Security Council and General Assembly resolutions,⁴⁶ as well as by the International Court of Justice (ICJ) in its 2004 Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT.⁴⁷ The transfer of the Occupying Power's civilian population into occupied territories constitutes a breach of the Fourth Geneva Convention, and is considered a war crime according to the Rome Statute of the International Criminal Court (ICC).⁴⁸ Instead of upholding its legal obligation under international law to safeguard the rights of the protected people in occupied territory, Israel continues to extensively and unlawfully appropriate Palestinian land and allow for settlement expansion.

The incidents above exemplify the widespread, long-term, and worsening phenomenon of settler attacks against the Palestinian population and their property. Such attacks are a direct result of the transfer of Israeli civilians into occupied territory perpetrated by Israel, the Occupying Power.

Israel, as Occupying Power, is obliged to “ensure, as far as possible, public order and safety” in the occupied Palestinian territory.⁴⁹ Settler violence entails serious violations of Israel's obligations under international humanitarian law including its obligations to ensure the well-being and safety of the protected population and to ensure that they are not mistreated by either the Occupying Power's authorities or by private actors.⁵⁰ This is in addition to its obligation to

⁴⁶ United Nations Security Council (UNSC) Resolution 237 (14 June 1967) UN Doc S/RES/237; UNSC Res 271 (15 September 1969) UN Doc S/RES/271; UNSC Res 446 (22 March 1979) UN Doc S/RES/446; UNSC Res 465 (1 March 1980) UN Doc S/RES/465; UN General Assembly (UNGA) Res 56/60 (10 December 2001) UN Doc A/RES/56/60; UNGA Res 58/97 (17 December 2003) UN Doc A/RES/58/97; UNSC Res 2334 (23 December 2016) UN Doc S/RES/2334; and UNGA Res 70/89 (15 December 2015) UN Doc A/RES/70/89.

⁴⁷ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004] ICJ Rep 136, [115]-[122]. In particular, the Court declared that Article 49 of the Fourth Geneva Convention prohibits not only forcible transfers, “but also any measures taken by an Occupying Power in order to organise or encourage transfers of parts of its own population into the occupied territory.”

⁴⁸ Articles 49 and 147, Fourth Geneva Convention (1949); Article 8 of the Rome Statute of the International Criminal Court (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3 (hereinafter ‘Rome Statute’).

⁴⁹ Article 43, of the 1907 Hague Regulations annexed to the Hague Convention IV Respecting the Law and Customs in War on Land (hereinafter ‘Hague Regulations’).

⁵⁰ JS Pictet, Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, ICRC, Geneva, 1958, pp. 274-283; Article 43, the Hague Regulations.

ensure that the protected persons are treated humanely and “protected especially against all acts of violence or threats thereof and against insults.”⁵¹

The scale and frequency of settler violence has created a coercive environment in which the Palestinian people are forced to live, and which may result in their forcible transfer, by the Israeli authorities who have failed to provide an adequate response. Forcible transfer is also a war crime under the Rome Statute of the ICC, and a grave breach of the Fourth Geneva Convention.⁵²

In addition, under international human rights law, settler attacks infringe upon Palestinians’ rights, including freedom of movement and residence, freedom from interference with home and family life, as well as the rights to health, education, work and an adequate standard of living.⁵³ Moreover, the suppression of the peaceful assemblies in ‘Asira al-Qibliyya and Huwwara, stands in violation of the Palestinian’s right to peaceful assembly.⁵⁴ In effect, Palestinians are prevented from enjoying their right to self-determination.

The attack on journalist Jaafar Ashtiyeh stands in violation of Israel’s obligation to specifically protect journalists as civilians.⁵⁵ The attack on the journalist represents a violation of the right to freedom of expression including the right to “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁵⁶

As indicated in the cases above, the IOF not only stand as bystanders while Palestinians are under attack by settlers, they have gone further to shield and support settlers who carry out violent attacks with impunity, perpetuating an environment in which these attacks thrive.

Settler violence is a direct result of Israel’s failure to take the necessary measures to prevent settler violence. The systematic lack of any law enforcement by the Israeli police forces on criminal acts perpetrated by settlers against Palestinians reveals an institutional unwillingness to hold settlers to account. This constitutes a further violation of international law by the Israeli occupying authorities in so far as they deny to Palestinians an effective legal remedy for such attacks.⁵⁷ This systematic lack of law enforcement against settlers, coupled with institutional unwillingness to investigate and prosecute settlers, encourage settlers to repeat their violence knowing that they enjoy impunity for crimes against Palestinians and benefit from the protection of Israeli domestic laws, in violation of international law.⁵⁸

According to Yesh Din, between January 2008 to March 2018, Palestinians from the villages of ‘Asira al-Qibliyya, Huwwara, Bourin, Madama, ‘Einabus and ‘Ourif filed 167 complaints with the Israel police over physical injury and property damage by the Yitzhar settlers, of which only five cases, constituting only three percent of the cases, resulted in indictments. The failure

⁵¹ Article 27, Fourth Geneva Convention.

⁵² Article 8, Rome Statute; Articles 49 and 147, Fourth Geneva Convention.

⁵³ Al-Haq, “Institutionalised Impunity: Israel’s Failure to Combat Settler Violence in the Occupied Palestinian Territory,” 2013, p. 29.

⁵⁴ Article 21 of the International Covenant on Civil and Political Rights (adopted 16 December 1966, entry into force 23 March 1976) 16 December 1966, 999 UNTS 171 (henceforth the “ICCPR”).

⁵⁵ Article 79, First Additional Protocol to the Geneva Conventions; Rule 34, ICRC Study on the customary rules of International Humanitarian Law.

⁵⁶ Article 19, ICCPR.

⁵⁷ Article 2(3), ICCPR.

⁵⁸ See, Al-Haq, “Institutionalised Impunity: Israel’s Failure to Combat Settler Violence in the Occupied Palestinian Territory,” 2013, p. 29.

to prosecute these cases was based on the grounds of an inability to locate or identify offenders, or of not having sufficient evidence.⁵⁹ The 2013 international fact-finding mission to investigate the implications of the Israeli settlements stated that “the identities of settlers who are responsible for violence and intimidation are known to the Israeli authorities, yet these acts continue with impunity. It is led to the clear conclusion that institutionalised discrimination is practiced against the Palestinian people when the issue of violence is addressed. The mission believes that the motivation behind this violence and the intimidation against the Palestinians and their properties is to drive the local populations away from their lands and allow the settlements to expand.”⁶⁰

5. Conclusion and Recommendations:

The illegal presence of settlers in the occupied West Bank and their close proximity to Palestinian civilians have resulted in increased incidents of settler violence. Disregarding its legal obligations, as Occupying Power, Israel has failed to protect the Palestinian protected populations, as Israeli settlers, who are illegally present in the OPT, continue to attack Palestinians with impunity and with the protection of the IOF.

Israel’s failure to adequately respond to acts of violence by settlers violates a range of its international legal obligations, including ensuring the safety and well-being of the civilian Palestinian protected population, prohibiting incitement to violence, and ensuring prompt, thorough, independent and impartial investigations into incidents of violence perpetrated by private actors, including Israeli settlers, against Palestinians and their properties.

Recognising the state of impunity existing in Israel, which decisively renders the State unable and unwilling to hold itself accountable, it is crucial for international community to support and fully cooperate with the Office of the Prosecutor to prevent the further continuation of international crimes against the Palestinian people. Accordingly, Al-Haq welcomes the principled position and statement by the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk, further endorsed by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Nils Melzer, in which the importance of the recent decision of the Pre-Trial Chamber of the ICC⁶¹ in ending impunity and achieving justice was highlighted, and the international community was called upon to support the ICC process.⁶²

In light of the above, Al-Haq urges the relevant UN Special Procedure mandates to immediately intervene to ensure the protection of the Palestinian protected population, and in particular, to:

- i. Demand Israel, the Occupying Power, to immediately halt the planning, construction and expansion of its unlawful settlement enterprise and progressively

⁵⁹ Yesh Din, “Yitzhar – A Case Study Settler violence as a vehicle for taking over Palestinian land with state and military backing,” August 2018, p. 31.

⁶⁰ UNHRC, “Report of the independent international factfinding 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,” 7 February 2013, UN Doc A/HRC/22/63, para 107.

⁶¹ Al-Haq, “Landmark Decision of the Pre-Trial Chamber of the International Criminal Court Welcomed by Human Rights Organizations, 6 February 2021, available at: <https://www.alhaq.org/advocacy/17878.html>.

⁶² OHCHR, “ICC ruling on jurisdiction in occupied Palestinian territory welcome step towards justice: UN expert,” 9 February 2021, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26732&LangID=E>.

- undertake measures to dismantle all existing settlements and their infrastructure and withdraw Israeli settlers from the OPT;
- ii. Call on Israel to guarantee the protection of the Palestinian civilian population in the OPT by taking all necessary measures to ensure effective law enforcement against Israeli settler perpetrators and investigation into incidents of settler violence;
 - iii. Call on Israel to afford all victims of settler violence access to justice and effective remedies, including by ensuring the investigation of incidents, the prosecution of potential perpetrators, and reparations for its wrongful inaction;
 - iv. Call on Israel to cease all policies and practices that form part of its apartheid regime against the Palestinian people, particularly with regards to law enforcement and access to justice;
 - v. Call on Third States to comply with their obligations to respect and ensure respect for the Geneva Conventions, by immediately adopting effective measures to pressure Israel to abide by its obligations under international humanitarian law;
 - vi. Call on Third States to take immediate actions and measures against Israel's settlement enterprise, including by instituting a ban on settlement imports, supporting and endorsing available mechanisms to counter the expansion of Israel's unlawful settlement enterprise, including the UN Database of all business enterprises involved in or with settlements, and undertaking necessary measures that guarantee Israel's genuine law enforcement and investigation into incidents of settler violence;
 - vii. Urge UN Member States to take concrete measures to further the implementation of the recommendations of the United Nations International Fact-Finding Mission on Settlements and previous reports and resolutions;
 - viii. Urge the European Union, specifically, to adopt restrictive measure on the import of products, goods, and services originating from illegal Israeli settlements in the OPT, namely by supporting the proposal for a wide ban of trade with and support for illegal settlements;⁶³
 - ix. Publicly call for international justice and accountability for Israel's widespread, long-established, and systematic human rights violations committed against the Palestinian people, including war crimes and crimes against humanity, including by publicly supporting the recent decision of the Pre-Trial Chamber of the ICC, urging the Prosecutor to immediately begin, without any further delay, a full, thorough, and comprehensive ICC investigation into the Situation in the State of Palestine; and
 - x. Urge Third States and the international community to fully cooperate with the Office of the Prosecutor as per the obligations set forth in Article 86 of the Rome Statue, and in line with Common Article 1 of the four Geneva Conventions and

⁶³ Al-Haq, "Al-Haq Calls on the EU to Support the Proposal for a Wide Ban of Trade with and Support for Illegal Settlements," 28 December 2020, available at: <https://www.alhaq.org/advocacy/17724.html>.

Article 146 of the Fourth Geneva Convention, to ensure the arrest and transfer to the Hague of persons investigated and accused of international crimes in the OPT, to prevent the further continuation of international crimes against the Palestinian people.