



## **Joint Urgent Appeal to United Nations Special Procedures on Israeli Suppression of Palestinian Resistance at Jabal Sbeih Against Settlement Expansion**

06 November 2021

### **Submitted by:**

- Addameer Prisoner Support & Human Rights Association
- Al-Haq, Law in the Service of Man
- Jerusalem Legal Aid and Human Rights Center
- Palestinian Centre for Human Rights

### **For the Attention of:**

- The United Nations (UN) Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk;
- The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Clément Nyaletsossi Voule;
- The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor;
- The UN Special Rapporteur on the right to adequate housing, Mr. Balakrishnan Rajagopal;
- The UN Special Rapporteur on the right to physical and mental health, Ms. Tlaleng Mofokeng;
- The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ms. Irene Khan;
- The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume; and

### **1. Overview**

Since its establishment, Israel has designed, implemented and enforced discriminatory policies, practices and laws, forming the foundation of its institutionalised regime of racial domination and oppression over the Palestinian people as a whole, and fulfilling its settler-

colonial goal of grabbing the maximum land with minimum Palestinian presence. In the occupied West Bank, the Israeli occupying authorities' efforts to materialise such aim are apparent through, *inter alia*, the appropriation of Palestinian land; including through declaring land as abandoned property, appropriating land for military purposes, expropriating land for public needs, and declaring vast areas of land as 'State Land'.<sup>1</sup> The illegal appropriation of Palestinian land, mainly serve to build and expand Israeli settlements and exploit Palestinian natural resources.

With around 300 illegal settlements in the West Bank, including in occupied Jerusalem, with more than 680,000 Israeli settlers,<sup>2</sup> the international community's failure to align themselves with their legal obligations and to bring to end Israel's grave violations of international law, is allowing Israel to continue to expand and maintain its settlement enterprise with impunity, while denying the Palestinian people from exercising their inalienable right to self-determination, including permanent sovereignty over their natural resources.

On 3 May 2021, Israeli settlers established the Evyatar colonial outpost on Sbeih Mountain (hereinafter Jabal Sbeih), which is located on the lands of three Palestinian villages in occupied Nablus: Beita, Yitma, and Qabalan. In an abnormal speed and within less than one month, the settlers managed to establish around 50 structures, and set up water and electricity networks to the colonial outpost, spanning over 35 dunams at Jabal Sbeih, taking into advantage of the violent and widespread Israeli repression against Palestinians on both sides of the Green Line in the context of the Unity Uprising. In effect, the Evytar colonial outpost has seized private Palestinian land and prevented the access of some 30,000 residents of the three villages to their land, including agricultural land that they ploughed and cultivated.<sup>3</sup>

Since 5 May 2021, Palestinians from Beita and neighbouring villages have been protesting against the colonial outpost which was established on their land, but more broadly against the denial of their right to self-determination. Calling themselves the 'Guardians of the Mountain', the protesters have vowed their lives until the last structure of the colonial outpost is removed from Jabal Sbeih, providing a creative and resilient popular resistance model.

As part of Israel's intent to maintain its apartheid regime, it has systematically suppressed Palestinian opposition through excessive use of force, mass arbitrary detention, torture and other ill-treatment, as well as widespread measures of collective punishment, with the ultimate goal of undermining any effort seeking to challenge its apartheid. The case of Jabal Sbeih exemplifies the use of such suppressive measures. As soon as Palestinians started protesting at Jabal Sbeih, the Israeli Occupying Forces (IOF) have responded with excessive, disproportionate and indiscriminatory use of force, killing seven protesters,

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<sup>1</sup> Al-Haq, "Settling Area C: The Jordan Valley Exposed" 2018, 20.

<sup>2</sup> OHCHR, "Occupied Palestinian Territory: Israeli settlements should be classified as war crimes, says UN expert" 9 July 2012, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27291&LangID=E>

<sup>3</sup> JLAC, "Petition for the cancelation of Evytar Deal" available at:

<https://www.jlac.ps/details.php?id=i8bt4da2256ygj5x0p0gu>

including two children. According to the Palestinian Red Crescent Society, 4508 Palestinian protesters were injured in the context of Jabal Sbeih protests between 10 May and 29 October 2021, including 143 injuries with live bullets, and 720 with rubber-coated bullets, dozens of whom have been left with disabilities.

As part of its collective punishment measures and efforts to deter Beita residents from proceeding their struggle, Israel has closed the entrances and routes leading to Beita on more than one occasion; raided the village several times at dawn hours in search and arrest operations, arresting 55 of its residents between as of 14 October 2021, 26 of whom remain in Israeli prisons as of 1 November 2021; punitively revoked work permits for residents working inside the Green Line; and levelled routes where protests usually happen to impede mass protesters and ambulance movement.

In light of the above, this urgent appeal to the concerned United Nations (UN) Special Procedures mandates underscores Israel's maintenance of its settler-colonial and apartheid regime over the Palestinian people as whole, exemplified in the Israeli suppression of Palestinian resistance in Beita against settlement expansion. We urge relevant UN Special Procedures mandates to call on the Occupying Power, to immediately bring to an end the construction and expansion of settlements, including the Evyatar colonial outpost, as well as to bring their rules of engagement for the use of live ammunition in line with international human rights law standards. The urgent appeal further calls on the UN Special Rapporteurs to urge the international community to refrain from rendering aid or assistance, and to cooperate, including through sanctions, to bring the illegal situation to an end.

## **2. Introduction on the Evyatar Colonial Outpost**

Israeli occupying authorities distinguish between the legality of a settlement and an outpost. According to the Sasson report, an Israeli settlement is legal if it cumulatively meets the following four criteria: (a) the Israeli government issued a 'resolution' or a decision to establish the settlement; (b) the settlement is established on 'State Land', (c) the settlement is established according to a "lawful designed building scheme," and has a detailed, approved master plan; and (d) the settlement has a defined jurisdiction area determined by the Commander of the area, following an approval by the Israeli government.<sup>4</sup>

On the other hand, colonial outposts, which are built by Israeli settlers, are considered unlawful under Israeli domestic laws - which are discriminatory in nature, and inherently serve Israel's colonial purposes. Nevertheless, the Israeli public authorities still facilitate the establishment of colonial outposts, including by funding their construction and development, allotting land, and issuing permits for water and electricity networks.<sup>5</sup>

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<sup>4</sup> UN, "Summary of the Opinion Concerning Unauthorized Outposts" 10 March 2005, available at: <https://unispal.un.org/UNISPAL.NSF/0/956AA60F2A7BD6A185256FC0006305F4>.

<sup>5</sup> OCHA, "The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank" July 2007, available at: [https://www.ochaopt.org/sites/default/files/ocharpt\\_update30july2007.pdf](https://www.ochaopt.org/sites/default/files/ocharpt_update30july2007.pdf).

Regardless of its legal status under Israeli domestic law, any settlements, including colonial outposts, are unlawful under international law.<sup>6</sup> The transfer of the Occupying Power's civilian population into occupied territories constitutes a grave breach of the Fourth Geneva Convention, and is considered a war crime according to the Rome Statute of the International Criminal Court (ICC).<sup>7</sup>

Moreover, inherent in the construction and maintenance of illegal Israeli settlements and colonial outposts are various other forms of rights violations and international crimes. These include: manifest breaches of the rights to freedom of movement, freedom from discrimination, the right to work, to health, to education and to an adequate standard of living.<sup>8</sup> Furthermore, the location of the Israeli settlements and colonial outpost impede on the contiguity of Palestinian land, creating further physical fragmentation between Palestinian communities, while connecting between unlawful Israeli settlements. In effect, the Palestinian people have been denied from exercising their right to self-determination and permanent sovereignty over their natural resources.<sup>9</sup>

On 3 May 2021, Israeli settlers built and set up a number of caravans on Jabal Sbeih, which is located on the lands of three Palestinian villages: Beita, Yitma, and Qabalan, southeast of Nablus city, thereby establishing the Evyatar colonial outpost.

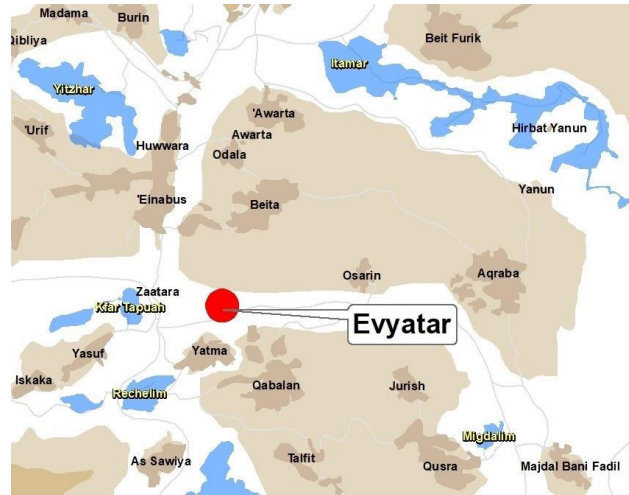
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<sup>6</sup> Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Wall Advisory Opinion) [2004] ICJ Rep 136, [115]-[122]. See also, UN Security Council (UNSC) Resolution 237 (14 June 1967) UN Doc S/RES/237; UNSC Res 465 (1 March 1980) UN Doc S/RES/465; UNSC Res 2334 (23 December 2016) UN Doc S/RES/2334.

<sup>7</sup> Articles 49 and 147, 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 (henceforth "Fourth Geneva Convention"); Article 8(2)(b)(viii) of the Rome Statute of the ICC (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3 (hereinafter 'Rome Statute').

<sup>8</sup> Wall Advisory Opinion [2004] ICJ Rep 136.

<sup>9</sup> Wall Advisory Opinion [2004] ICJ Rep 136.



Map showing the location of Evyatar colonial outpost. *Source:* Peace Now.

Three failed attempts have previously been made to build a colonial outpost at this site, in 2013, 2016 and 2018.<sup>10</sup> The first of which in 2013 was spurred following the killing of settler Evyatar Borovsky (thus the name of the colonial outpost), who was unlawfully residing in Yitzhar settlement,<sup>11</sup> allegedly by Salam Zaghaf, a Palestinian who is currently serving a life sentence in Gilboa Prison, located inside the Green Line, in contravention of international law. During his arrest, the Israeli occupying forces shot Salam with live bullets, injuring his leg. Salam required surgery which led, after the removal of some bone and muscle, to a permanent 3-4cm difference in height between his left and right legs. Nevertheless, the Israeli Prison Services repeatedly denied Salam's request for special-needs shoes that would accommodate his condition and allow him to walk properly,<sup>12</sup> illustrating the broader dangerous phenomenon of medical neglect and retaliatory, punitive treatment of Palestinians in Israeli occupation prisons.<sup>13</sup>

On 3 May 2021, Israeli settlers reconstructed the colonial outpost, following the killing of an Israeli settler near Za'tara checkpoint, almost two kilometres away to where the colonial outpost is established, allegedly by Muntasir Shalabi, who is currently imprisoned in Rimon prison. Upon his arrest, the IOF shot him in the waist, leg, and back. In further retaliation, Muntasir's son, Ahmad, was detained and interrogated for 13 days by the IOF,<sup>14</sup>

<sup>10</sup> Hagar Shezaf, "Settler Leader Moves Headquarters to Illegal West Bank Outpost," Haaretz, 7 June 2021, available at: <https://www.haaretz.com/israel-news/.premium-samaria-regional-council-chief-moves-headquarters-to-illegal-west-bank-outpost-1.9882115>.

<sup>11</sup> Amnesty International, "Israel must remove new settler outpost in the West Bank," 2 May 2013, available at: <https://www.amnesty.org/en/latest/press-release/2013/05/israel-must-remove-new-settler-outpost-west-bank/>.

<sup>12</sup> According to Addameer's documentation.

<sup>13</sup> See: Addameer, "Medical Negligence", January 2016, available at: [https://www.addameer.org/key\\_issues/medical\\_negligence](https://www.addameer.org/key_issues/medical_negligence); Addameer, "Imprisonment and Medical Negligence: Two Locks on One Cell", 26 May 2019, available at: <https://www.addameer.org/publications/imprisonment-and-medical-negligence-two-locks-one-cell>

<sup>14</sup> According to Addameer's documentation.

while his family home was illegally demolished on 8 July 2021 by the Israeli occupying authorities,<sup>15</sup> in what constitutes unlawful collective punishment.<sup>16</sup>

While Israeli settlers have routinely established colonial outposts, the high speed of the construction of the Evyatar colonial outpost as well as the growth rate of the number of its settlers was abnormal. It is worth mentioning that the colonial outpost was established amidst the violent Israeli repression against Palestinians on both sides of the Green Line in the context of the Unity Uprising.

The settler organisation Nahala, headed by Daniella Weiss, a former mayor of the unlawful Kedumim settlement, spearheaded the establishment of the Evyatar colonial outpost, with the coordination of the so-called Samaria Regional Council.<sup>17</sup> Around 50 Israeli settler families moved from other unlawful Israeli settlements, established around 50 structures,<sup>18</sup> and set up water and electricity networks, spanning over 35 dunams at Jabal Sbeih. Palestinian residents of surrounding villages have reported that Israeli occupying soldiers, in their official uniforms, have assisted in the construction of the Evyatar colonial outpost.<sup>19</sup> In effect, the Evyatar outpost has seized private Palestinian land and prevented the access of some 30,000 residents of the three villages to their land, including agricultural land that they ploughed and cultivated.<sup>20</sup> Weiss, who is also the spokesperson of the Evyatar colonial outpost, stressed that the colonial outpost has the potential to expand across 600 dunams.<sup>21</sup>

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<sup>15</sup> According to Al-Haq's documentation.

<sup>16</sup> Article 33, Fourth Geneva Convention; see also Al-Haq, "Israel's Punitive House Demolition Policy: Collective Punishment in Violation of International Law," 19 June 2011, available at: <http://www.alhaq.org/publications/8101.html>.

<sup>17</sup> Judah Ari Gross, "Gantz, Shaked squabble over settlements as cabinet sorts out a West Bank policy" Times of Israel, 4 July 2021, available at: <https://www.timesofisrael.com/gantz-shaked-squabble-over-settlements-as-cabinet-sorts-out-a-west-bank-policy/>

<sup>18</sup> Kelly Kunzl, "Beita Fores Settlers to Evacuate... For Now," The Electronic Intifada, 12 July 2021, available at: <https://electronicintifada.net/content/beita-forces-settlers-evacuate-now/33581>.

<sup>19</sup> Hagar Shezaf, "Israeli Soldiers Photographed Helping Build Illegal West Bank Outpost" Haaretz, 11 June 2021, available at: <https://www.haaretz.com/israel-news/.premium-israeli-soldiers-photographed-helping-build-illegal-west-bank-outpost-1.9897082>

<sup>20</sup> JLAC, "Petition for the cancelation of Evytar Deal" available at: <https://www.jlac.ps/details.php?id=i8bt4da2256ygi5x0p0gu>

<sup>21</sup> Amira Hass, "In Just a Month, Illegal Settler Outpost Sprouts Up on Palestinian Lands," Haaretz, 7 June 2021, available at: <https://www.haaretz.com/israel-news/.premium-in-just-a-month-illegal-settler-outpost-sprouts-up-on-palestinian-lands-1.9882850>.



Images demonstrating the rapid construction of Evyatar colonial outpost in less than a month.

On 6 June 2021, the Israeli occupying authorities issued a military order, declaring the area as a demarcated area and ordering the eviction of the colonial outpost and the demolition of its structures.<sup>22</sup> On 30 June 2021, after weeks of ongoing protests at Jabal Sbeih, the Israeli occupying authorities reached an agreement with the Evyatar settlers (hereinafter the Evyatar agreement), stipulating that the settlers would evacuate the colonial outpost temporarily, the structures would remain intact, while the Occupying Power examines the legal status of the land.<sup>23</sup>

In the meantime, the Israeli occupying authorities issued a military seizure order concerning the 35 dunams of Palestinian land on which the outpost extends, vesting the occupying authorities with the power to act as a custodian of the land on the settlers' behalf, to "maintain" the illegal structures and oversee the implementation of the Evyatar

<sup>22</sup> JLAC, "Petition for the cancellation of Evyatar Deal" available at: <https://www.jlac.ps/details.php?id=i8bt4da2256ygj5x0p0gu>

<sup>23</sup> *Ibid.*

agreement.<sup>24</sup> On 2 July 2021, the Israeli settlers left the colonial outpost, but the structures remain intact as the moment of writing.

Palestinians have resorted to Israel's judicial system, despite recognising its discriminatory nature. On 8 July 2021, the Jerusalem Center for Legal Aid and Human Rights (JLAC) and the Colonization and Wall Resistance Commission submitted a joint petition to the Israeli Supreme Court on behalf of Palestinian owners of Beita, Yitma, and Qabalan, providing evidence that the land on which the Evyatar colonial outpost was built is private Palestinian land and that many dunams had been cultivated by Palestinian farmers. The petition demanded the annulment of the military seizure order and the revocation and termination of the Evyatar agreement.<sup>25</sup> On 15 August 2021, the Israeli Supreme Court refused to consider the submitted appeal on the basis that it was "premature" to the conclusion of the process examining the legal status of the lands, and postponed the examination of the legality of the colonial outpost and the Evyatar agreement, until the land is examined and a decision is made on the possibility of declaring it or part of it as 'State Land'.<sup>26</sup>

The petitioners insisted that the Evyatar agreement in and of itself, should have been declared null and void precisely because it puts a veneer of legitimacy on a series of absolutely and flagrantly illegal acts.<sup>27</sup>

### **3. Israel's Systematic Suppression of Palestinian Resistance**

The Palestinian people, frustrated with the prolonged denial of their inalienable human rights, including their right to self-determination, have always resisted Israel's settler-colonial regime and its associated policies and practices, including, *inter alia*, killings, arrests, the expansion of its settlement enterprise, forced displacement, and land appropriation.

Soon after the establishment of the Evyatar colonial outpost in early May 2021, Palestinians in Beita have been demonstrating on an almost-daily basis at Jabal Sbeih. The 'Guards of the Mountain' who mobilise rotation units to provide constant protection for Jabal Sbeih said: 'we will not calm down until the last caravan is removed from Jabal Sbeih.'<sup>28</sup> Such demonstrations have become central to Palestinian resistance, to express refusal of Israel's settler-colonial and apartheid regime, and to protect themselves from potential land appropriation, natural resources exploitation and settler violence.

The 'Guards of the Mountain' have developed creative means of popular resistance, in what they call 'state of confusion' activities. Through several units, each one designated with a different task, they have employed popular resistance methods, alongside novel tactics. One unit is responsible for confronting the IOF and settlers with stone throwing,

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<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> Palestine News & Info Agency, 'Guards of the Mountain' in a Press Conference: We Will Not Calm Down Until the Last Caravan Is Removed from Sbeih Mountain' (15 August 2021) available in Arabic at: <http://www.wafa.ps/Pages/Details/29206>



while another burns tires, with the aim of blocking vision for the IOF, and providing protection to Palestinian protesters. In the meanwhile, a unit points laser towards the colonial outpost and the IOF stationed at Jabal Sbeih, and another is designated to blow horns and making loud noises.<sup>29</sup>

The popular resistance model of Beita has been met with violent suppressive policies and measures by the IOF, including excessive use of force, arbitrary detention, as well as collective punishment practices, which exemplify its intent to maintain its apartheid regime. In the context of the protests against the Evyatar colonial outpost, the IOF killed seven protesters, including two children, and injured 4508 protesters, including 143 injuries with live bullets, and 720 with rubber-coated bullets, dozens of whom have been left with disabilities.<sup>30</sup>

On 9 July 2021, the IOF shot a 16-year-old Palestinian child from approximately 50 meters in the waist and chest with expanding “dumdum” bullets. The child was rushed to the hospital for surgery, where doctors were forced to remove his spleen, and where he stayed for two and a half weeks afterwards in recovery. He continues to suffer from his injuries due to their proximity to his respiratory tract.<sup>31</sup> Notably, the use of expanding bullets, colloquially known as “dumdum” bullets, which are designed to expand upon impact and maximize damage, are expressly prohibited under international humanitarian and customary law.<sup>32</sup>

### ***3.1. Israel’s Excessive Use of Force against Palestinian Protesters: The Killing of Seven Palestinian Demonstrators Protesting against the Evyatar Colonial Outpost***

For decades, Israel has systematically and deliberately resorted to lethal and other excessive force against Palestinians on both sides of the Green Line, with the aim to systematically control the Palestinian people and repress any attempt to challenge its military occupation and settler-colonial and apartheid regime. This widespread and systematic policy has targeted all Palestinians, including children,<sup>33</sup> Palestinians with

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<sup>29</sup> Yumna Patel, “‘Beita is undefeatable’: Inside the struggle to save this Palestinian village from Israeli settlers,” Mondoweiss, 7 July 2021, available at: <https://mondoweiss.net/2021/07/beita-is-undefeatable-inside-the-struggle-to-save-this-palestinian-village-from-israeli-settlers/>; Shatha Hammad, “How Beita became a model of Palestinian resistance against Israel,” MiddleEastEye, 31 August 2021, available at: <https://www.middleeasteye.net/news/israel-palestine-beita-became-model-resistance>.

<sup>30</sup> The injuries figures are taken between 10 May and 29 October 2021, according to the Palestinian Red Crescent Society.

<sup>31</sup> According to Addameer’s documentation.

<sup>32</sup> Declaration (IV,3) concerning Expanding Bullets. The Hague, 29 July 1899, available at: <https://ihl-databases.icrc.org/ihl/INTRO/170%3FOpenDocument>

<sup>33</sup> See, for example, Al-Haq, “Israeli Impunity: Three Palestinian Children Killed,” 8 August 2015, available at: <https://www.alhaq.org/monitoring-documentation/6509.html>; and Al-Haq, “Israeli Forces Shoot Palestinian Boy Dead near Nablus,” 13 January 2015, available at: <https://www.alhaq.org/monitoring-documentation/6569.html>.

disabilities,<sup>34</sup> journalists,<sup>35</sup> and health workers,<sup>36</sup> which may amount to the war crime of wilful killing, as a grave breach of the Fourth Geneva Convention,<sup>37</sup> and to crimes against humanity of murder,<sup>38</sup> persecution,<sup>39</sup> and apartheid,<sup>40</sup> falling within the subject-matter jurisdiction of the ICC.

As a policy, Israel generally uses unnecessary and excessive force in the context of suppressing protests, search-and-arrest operations, and at checkpoints, in complete disregard of Palestinian life. The IOF killed 32 Palestinians in 2020, and 130 Palestinians in 2019. In 2021, and as of 31 October 2021, 60 Palestinians were killed by Israel's excessive force, carried out systematically, and with impunity.

While Palestinian popular resistance tactics, including stone-throwing, rarely pose any imminent threat to the lives of Israeli occupying soldiers or others, the IOF often respond with excessive use of force against unarmed protestors, including with teargas canisters, sound bombs, rubber-coated bullets, and live ammunition, which frequently results in the killing and injury of civilians. Alarming, the IOF expanded the definition of "life threatening" events to include situations as stone throwing, following the outbreak of Al-Aqsa Intifada (Second Intifada) in 2000, according vast powers to the IOF to suppress protests in the occupied Palestinian territory (oPt) in violation of Israel's obligations under international law.

The IOF's excessive use of force against Palestinian protesters is not only unlawful in its complete disregard for Palestinians' lives and safety, but it further aims to stifle entire demonstrations and the will of Palestinians to participate in them, with the ultimate purpose to maintain its settler-colonial and apartheid regime. In 2020, four Palestinians were killed during demonstrations, while 32 were killed in 2019. In 2021, and as 31 October 2021, 25 Palestinians were killed while participating in demonstrations, including the seven Palestinian protesters who were killed while demonstrating and expressing their refusal to the establishment of the Evyatar colonial outpost.<sup>41</sup>

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<sup>34</sup> Al-Haq, "Al-Haq Sends Urgent Appeal to UN Special Procedures on the Extrajudicial Execution and Wilful Killing of Palestinian Person with Disability Iyad Al-Hallaq," 9 June 2020, available at: <https://www.alhaq.org/advocacy/16963.html>; and Al-Haq, "Al-Haq Sends Submission to UN Special Rapporteur with regards to Israel's Excessive Use of Force and Killing of Palestinian Persons with Psychosocial, Intellectual and Developmental Disabilities," 11 February 2019, available at: <http://www.alhaq.org/advocacy/6108.html>.

<sup>35</sup> Al-Haq, "Great Return March Continues: Person with Disability and Journalist Killed in the Line of IOF Fire," 5 May 2018, available at: <https://www.alhaq.org/monitoring-documentation/6232.html>, and Al-Haq, "Israeli Occupying Forces Target Journalists Covering Gaza Protests, Killing One and Injuring Others," 12 April 2018, available at: <https://www.alhaq.org/monitoring-documentation/6244.html>.

<sup>36</sup> Al-Haq, "Al-Haq Refutes Israeli Army and Media Claims on the Killing of Volunteer First Responder Sajed Mizher in Dheisheh Refugee Camp," 8 April 2019, available at: <https://www.alhaq.org/advocacy/6070.html>.

<sup>37</sup> Article 147 of the Fourth Geneva Convention; Rome Statute, Article 8(2)(1)(i).

<sup>38</sup> Rome Statute, Article 7(1)(a).

<sup>39</sup> Rome Statute, Article 7(1)(h).

<sup>40</sup> Rome Statute, Article 7(1)(j).

<sup>41</sup> All information on the seven Palestinians killed are based on Al-Haq's documentation.

- *The killing of Issa Barham, 40-year-old father of four children*

Within the ongoing protests against the establishment of the Evyatar colonial outpost and the broader Palestinian Unity Uprising, on Friday, 14 May, a protest started at 1:30 pm at Jabal Sbeih area, south of Beita village, southeast of Nablus.

At around 4:00 pm, Palestinian demonstrators reached the main street near Jabal Sbeih area, where the IOF were stationed. The IOF targeted Palestinian protesters, who were throwing stones, by firing live ammunition and rubber coated bullets, injuring many protesters.

The IOF later chased a group of demonstrators between olive trees, when one occupying soldier shot at **Issa Suliman Barham Barham**, a 40-year-old father of four children, and resident of Beita village, from a distance of approximately 70-100 meters, hitting him in the stomach at around 4:30 pm.

Once injured, Palestinians carried Issa for about 500 meters, where he was then transferred, by a private car, to Beita Medical Centre. From there, Issa was transferred, by a Palestinian ambulance to An-Najah National University Hospital in Nablus city. At around 5:15 pm on the same day, the doctors announced Issa's death, due to a bullet that stabilized in his spine and caused internal bleeding.

- *The killing of Tariq Snobar, 27-year-old father of a new-born*

On the same day, 14 May 2021, at 1:00 pm, another protest was taking place at Ras Al-Deir area, northern of Yitma village, across from Jabal Sbeih area. Palestinian demonstrators were protesting against the Israeli assault on the Gaza Strip and Jerusalem, and the establishment of Evyatar colonial outpost. Between 150 and 200 Palestinians confronted around 45 Israeli occupying soldiers with stones, while the latter were fully armed, and backed up by three military vehicles. The Israeli occupying soldiers fired live and rubber-coated bullets, tear gas canisters and sound bombs at the Palestinians located only 30 to 50 meters away.

Along with other youth, **Tariq Omar Ahmad Snobar**, a 27-year-old father of a two-day-child (at that date) and resident of Yitma village, threw stones at the military vehicle parked in the adjacent street. The IOF immediately started firing live bullets heavily. Tariq and the protesters tried to withdraw from the area, when the IOF chased them towards the north of the village into an agricultural land, planted with olive trees. At that time, Tariq was shot with a rubber-coated bullet in his right leg, but continued running until he reached the village's main water tank. Another Palestinian was also shot, with live ammunition, in his right hand and flank.

At this time, other confrontations were taking place between around 150 Palestinian and around 40 IOF near the western entrance of Yitma village, where the IOF were firing rubber-coated metal bullets, tear gas canisters and sound bombs. Tariq, was, for the second

time, injured with a rubber bullet in his head in this area. After his second injury, Tariq returned home, took a shower, changed his clothes, and then returned to the confrontation area near the western entrance of Yitma village at around 7:40 pm of the same day.

Later, Tariq, along with other Palestinians, were confronting the occupying soldiers, who were reinforced by another 15 to 20 special forces. One of the soldiers took a prone sniping position and fired a live bullet at Tariq's stomach, some 50-60 meters away. At the time he was shot, Tariq was sheltering next to a fence of a house. He was immediately carried away and assisted by Palestinian Red Crescent volunteers and was later transferred, by a private car, to the Qabalan clinic.

Upon medical examination, the doctor decided to transfer him to Rafidia Governmental Hospital in Nablus. To reach the hospital, the ambulance had to take a detour instead of directly going through the Huwwara checkpoint, whose gate was completely closed off by the occupying soldiers. On the way, Tariq was unable to speak, and lost consciousness from time to time. Tariq was admitted in the intensive care unit of the hospital, and underwent three different operations. While Tariq's right kidney and part of his liver were removed, he also suffered from laceration in the lung and internal bleeding, which could not be remedied, and he was pronounced dead at 11:00 am on 16 May 2021.

It is worth noting that Friday, 14 May 2021, marks one of the deadliest days of the violent Israeli suppression of the Unity Uprising, whereas ten Palestinians were killed in the West Bank by the IOF, including Issa and Tariq. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) stated that since they started recording Palestinian fatalities in 2005, this is the highest number of Palestinians killed by the IOF in a single day in the West Bank, including East Jerusalem.<sup>42</sup>

- *The killing of Zakaria Hamayel, 28-year-old*

As protests continued against the Evyatar colonial outpost, on Friday, 28 May 2021, at around 12:30 pm, around 400-500 Palestinians marched towards al-Houti area across Jabal Sbeih area, to pray. Around eight occupying soldiers, accompanied by two military patrols, standing 100 meters away, moved towards Palestinians, including those who were praying, and started firing tear gas canisters to disperse them, despite which Palestinians continued with their prayer. After the noon prayer, at around 1:30 pm, part of the Palestinians stayed in the same area, whereas other Palestinians went to the industrial area, located at the bottom of Jabal Sbeih.

Confrontations erupted and continued for around two hours in the industrial area of Jabal Sbeih between the Palestinian protesters, who were throwing stones and setting tyres on fire and around 20 IOF soldiers, who were deployed in the vicinity of Jabal Sbeih, and

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<sup>42</sup> OCHA, "West Bank: Escalation of Violence 13 April - 21 May 2021" 06 June 2021, available at: <https://www.ochaopt.org/content/west-bank-escalation-violence-13-april-21-may-2021>

intensified force against Palestinians by firing tear gas canisters, sound bombs, rubber-coated metal bullets and live ammunition.

Later on, around 150-200 protesters managed to approach the colonial outpost at a 50-meter distance, when an armed Israeli settler started firing at them with a M16 rifle. Around 15 minutes later, around 10 Israeli occupying soldiers arrived and started heavily firing live bullets at the Palestinians. At this time, the armed Israeli settler fired two live bullets at Ahmad Hashem Fayeq Khader, injuring him in his left thigh and left arm. The protesters tried to rescue and carry Ahmad, while the settler continued shooting in the presence of the IOF.

At around 5:30 pm, some 40-50 protests were at the same site and were throwing stones at six Israeli occupying soldiers, who were firing rubber-coated bullets and tear gas canisters at the Palestinians from a 20-25 meters distance. A seventh occupying soldier wearing a black mask appeared at the same site and started walking some 15 meters away from the rest of the IOF, took a kneeling firing position, and shot at **Zakaria Maher Abd al-Hameed Falah 'Hamayel'**, a 28-year-old Palestinian, without any noise being heard. Zakaria was shot while he had his back to the soldier. Hit by the bullet, Zakaria fell and rolled off the mountain, falling on his face. Zakaria was heavily bleeding, including from his mouth, that the exact area of his injury could not be directly located. He was carried, by Palestinian protesters, for about 40-50 meters, before Palestinian paramedics and volunteers of the Palestinian Red Crescent transferred him to the Rafidia Governmental Hospital in Nablus city by a Red Crescent ambulance. The doctors pronounced Zakaria's death at 6:45 pm of the same day, caused by a bullet fired in his back that had exited his chest.

*- The killing of Mohammad Hamayel, 16-year-old child*

On Friday, 11 June 2021, hundreds of protesters headed to Jabal Sbeih at around 12:30 pm. Confrontations erupted at different sites at Jabal Sbeih between the protesters, who were throwing stones and setting tyres on fire, and dozens of IOF, who fired live bullets, rubber-coated bullets and tear gas canisters at the unarmed protesters, injuring dozens, including five protesters, two of whom are children.

At around 4:00 pm, confrontations escalated near Al-Yitmawi area, around 20 meters away from the colonial outpost. A group of protesters were throwing stones at around eight Israeli occupying soldiers from a 50-meter distance. Two of these soldiers were taking a kneeling shooting position and directing their weapons at the protesters. At that time, the IOF heavily fired tear gas canisters. **Mohammad Saed Mohammad Hamayel**, a 16-year-old Palestinian child, and his friend sheltered under an olive tree to catch their breath from the tear gas for three minutes.

They, and another group of protesters, later walked towards the soldiers and started confronting the IOF verbally from a 40-meter distance. Mohammad's friend, Shamekh Ghassan Hamayel, 16-year-old, who gave his testimony on the circumstances of the killing,

said that they were standing very close to each other, that each of them had his hand on his friend's shoulder, when suddenly a sniping Israeli occupying soldier shot two to three live bullets from a 40-meter distance, one of which injured Shamekh Hamayel in his left shoulder, and the other injured Mohammad in his chest and made him fall to the ground.

Later, the IOF fired tear gas canisters heavily at the protesters at the site, when a group of protesters managed to carry Mohammad, for about 150 meters, before Palestinian paramedics and volunteers of the Palestinian Red Crescent transferred him and Shamekh to Beita Medical Centre. Mohammad was bleeding heavily from his lower left armpit and did not show any signs of liveliness. He was immediately transferred to the Rafidia Governmental Hospital in Nablus by a Red Crescent ambulance, where he was pronounced dead at 4:30 pm, from a bullet fired in his chest that had exited his left armpit and stabilised in the left arm.

- *The killing of Ahmad Bani Shamsa, 15-year-old child*

On 16 June 2021, between 1:00 pm and 4:00 pm, a group of protesters at Jabal Sbeih were periodically setting tires on fire, which is one of the confusion activities to disturb the settlers and the IOF. Around four Israeli settlers were around 200-300 meters away from the protesters, and left the area after the protesters began setting tires on fire. There was no presence of IOF between these hours.

At around 4:00 pm, around 40 protesters were present at Jabal Sbeih, when an Israeli occupying soldier was seen, positioned between the trees around 300 meters away from them. Later, a group of them moved forward and began to set tires on fire and started chanting. At that moment and suddenly, the Israeli soldier came from between the trees and became some 100 metres at distance, took a kneeling shooting position and fired a live bullet towards them. Immediately, the protesters started to run away to the back, when the Israeli soldier fired around 15 bullets, one of which hit **Ahmad Zahi Ibrahim Bani Shamsa**, a 15-year-old Palestinian child, in the head, from around a 100 meters distance. Ahmad fell to the ground on his back. Immediately, Mahmoud Sabe' Hamayel, 16-year-old, tried to carry him, when the soldier fired live bullets towards him. Mahmoud ran to the back and sheltered behind a rock for around two minutes until the live bullets stopped.

A group of protesters later carried Ahmad for around 200 meters and transferred him in a private car to the nearest Red Crescent ambulance, which transferred Ahmad to Rafidia Governmental Hospital in Nablus. After undergoing a surgery, Ahmad succumbed to his wounds and was pronounced dead at around 2:30 am on 17 June 2021 from a bullet that entered the right side of his head and exited from the left back side.

- *The killing of Imad Dweikat, 38-year-old father of five children*

On Friday, 6 August 2021, a protest which started at 1:30 at Jabal Sbeih with the participation of around 500 protesters, was met with the IOF firing live bullets, rubber-coated bullets and tear gas canisters, resulting in the injury of Taher Dweikat, 13-year-old

child, with a live bullet in his right leg, and Nasim Ali Mo'ala, 24-year-old journalist, with a rubber bullet in his right knee.

At around 3:15 pm, **Imad Ali Mohammad Dweikat**, a 38-year-old Palestinian, father of five children and resident of Beita, was standing under a tree, 4-5 meters away from Palestinian Red Crescent ambulances watching the confrontations between the IOF and the protests, that were happening around 150-200 meters away from him, and drinking water. Imad was chatting with another protester, when he was shot with a live bullet in the chest by the IOF. Imad fell to the ground suddenly with no bullet sound heard. The protester standing next to him, Kifah Inad Bani Shamsa, thought that Imad lost consciousness because of a sun stroke and knelt to flip him, when he was surprised by a flood of blood coming out of Imad's mouth and chest. Imad was transferred to Beita Medical Centre and later to Rafidia Governmental Hospital in Nablus because of his serious injury. At 4:00 pm of the same day, doctors pronounced Imad's death from a bullet that penetrated his chest and stabilized in his body.

- *The killing of Mohammad Khabisa, 28-year-old father of a new born*

On Friday, 24 September 2021, a protest started at Jabal Sbeih at around 1:30 pm, when the IOF were positioned in the vicinity of the mountain. A group of elderly protesters headed towards the soldiers to ask them why the caravans remained at the mountain despite the issuance of a decision to evacuate the colonial outpost and demolish its structures. In response, the soldiers fired metal bullets at the group, injuring one of them, 65-year-old, in the back. Subsequently, heavy confrontations erupted and continued till around 3:45 pm, during which some of the protesters threw stones at the soldiers, who continued to fire live bullets, rubber-coated bullets, and tear gas canisters.

At around 3:15 pm of the same day, a group of six protesters were sitting under an olive tree, as confrontations were happening 40-50 meters away from them with 20-30 soldiers, who were firing live bullets, rubber-coated metal bullets and tear gas at protesters. At around 3:45 pm, an Israeli soldier fired a live bullet at the group of six protesters who were sitting under the tree, injuring and killing **Mohammad Ali Mohammad Khabisa**, a 28-year-old Palestinian, father of an eight-month child (at that time) and resident of Beita. Mohammad was leaning on an olive tree trunk, when he was shot in the head, from a 40-50 meters distance, which led to a large hole in his skull, and the scattering of parts of his brain and blood on the ground, stones and the trunk of the tree. Mohammad fell on his right side, motionless, as he was bleeding profusely from his head.

A group of protesters carried him for around 100 meters and transferred him in a Palestinian Red Crescent Society ambulance to Beita Medical Centre, and then he was transferred to An-Najah National University Hospital in Nablus, where he was pronounced dead at 5:00 pm.

- *The killing of Shadi Omar Lutfi Salim, 41-year-old father of five children*

In addition to the seven Palestinians killed in the context of their protest against the Evyatar colonial outpost since May 2021, an eighth Palestinian from Beita, **Shadi Omar Lutfi Salim**, a 41-year-old and father of five children, was killed by the IOF on 27 July 2021. The story of Shadi's killing further exemplifies Israel's disproportionate use of force as well as the impact of the denial of the Palestinian people from exercising their right to self-determination including permanent sovereignty over their natural resources.

On 27 July 2021, at around 10:00 pm, Shadi, who is a plumber and former Municipal water maintenance officer at Beita Municipality, was attempting to raise the water level at a Mekorot (Israel's national water company) water supply point, which is located at Nablus – Ramallah Road, north of Huwwara village, when he was shot by the IOF, who were positioned between olive trees around 15-20 meters away from Shadi, on the mere suspicion that he was holding a metal object. Since the establishment of the Evyatar colonial outpost, confrontations have been happening occasionally at the entrance of Beita, which is 300-400 meters away from Shadi's killing site, but on that day and the time of his killing, the situation was calm in the area and there were no confrontations or protests.

An eyewitness, who lives nearby the location, heard nonstop shootings of around 10 live bullets. Around 10 minutes later from the shootings, an Israeli ambulance transferred Shadi from the site. The Israeli authorities announced Shadi's death at 11:28 pm on the same day. Later on, at around 6:00 am, the eyewitness went to the location and photographed the killing's site, where he found an English key, 10 meters away from the water supply point, a cigarette packet and blood. At approximately 8:30 am, an Israeli military jeep arrived at the same location. Three Israeli soldiers accompanied by a commander dismounted from the jeep, headed to the killing site, and confiscated Shadi's plumbing equipment. Shadi's body was further withheld by the Israeli occupying authorities for two weeks and was released on 10 August after ongoing protests in Beita, a policy which exemplifies Israel's ongoing collective punishment imposed over Palestinians and their families.

Since Israel's occupation of the oPt, it has exercised exclusive control over water resources in the oPt, including through the transfer of ownership of all water supply systems in the oPt to its national water company, Mekorot. As a result, Palestinians have been denied access over this vital resource and forced to rely on Mekorot to meet their water needs. Notably, the village of Beita is supplied with water from Mekorot, and suffers from water shortages in summer as per Israel's illegal and discriminatory water allocation policy to the surrounding illegal settlements of Har Brakha and Yitzhar. Recently, and in order to establish a new settler bypass road, the Israeli occupying authorities installed a new water line from the same supply point to implement the road's work, leading to further water shortages to the nearby villages, including Beita.

### ***3.2. Imposing Collective Punishment Measures against the Residents of Beita***

Since 1967, Israel has developed and maintained an array of discriminatory policies and practices as a part of its campaign of collective punishment against the Palestinian people. Collective punishment refers to any act of retaliation, including, *inter alia*, punitive house



demolitions, restrictions of movement, arbitrary arrests, house raids and excessive and indiscriminate use of force, targeted against Palestinian families, friends, acquaintances, residents of neighbourhoods, villages and cities for the alleged actions of one or a few, as a mean to control Palestinians.

Collective punishment is expressly and unequivocally prohibited under international humanitarian law, in accordance with Article 33 of the Fourth Geneva Convention, which provides that “[n]o protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited,” and that “[r]epresals against protected persons and their property are prohibited.”<sup>43</sup>

Israel, the Occupying Power, continues to regularly deploy its protracted campaign of collective punishment as a tool of repression, control, and domination against the Palestinian people, maintaining its apartheid regime. As part of its collective punishment measures and within its efforts to deter Beitza residents from proceeding their struggle, Israel has closed the entrances and routes leading to Beitza on more than one occasion, raided the village several times at dawn hours in search and arrest operations, arresting 55 of the residents of the village as of 14 October 2021, 26 of whom remain in Israeli prisons as of 1 November 2021, withheld the body of Shadi Omar Lutfi Salim for two weeks, punitively revoked work permits for residents working inside the Green Line, and levelled routes where protests usually happen to impede mass protesters and ambulance movement.

#### **4. Recommendations**

In light of the deliberate failure of the Israeli occupying authorities to dismantle the Evyatar colonial outpost, and the ongoing suppression of Palestinian resistance at Jabal Sbeih, including through the excessive use of force, collective punishment, and arbitrary arrests, we call on the relevant UN Special Procedure mandates to:

- i. Send a communication to Israel, calling on the Occupying Power to immediately dismantle the Evyatar colonial outpost and all existing settlements, and to halt the planning, construction and expansion of its unlawful settlement enterprise, and the exploitation of Palestinian natural resources in the oPt;
- ii. Call on the Israeli occupying authorities to immediately bring their rules of engagement for the use of live ammunition in line with international human rights law, as recommended by the UN Commission of Inquiry on the 2018 protests in the oPt and adopted by Member States of the Human Rights Council in accountability resolution 40/13 of 22 March 2019;
- iii. Recognise and urge all states to recognise Israel’s excessive use of force, collective punishment, and arbitrary arrests, against the Palestinian people as policies and measures designed to maintain an institutionalised regime of racial domination and oppression over the Palestinian people as a whole, amounting

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<sup>43</sup> See also Article 50, Hague Regulations (1907).

- to the crime of apartheid; and that Israel's suppressive policies and measures coupled with its system of impunity, prevents the Palestinian people from effectively resisting Israel's apartheid;
- iv. Urge the High Contracting Parties to the Four Geneva Convention to ensure respect for international humanitarian law in the oPt, in line with Common Article 1, and abide by their obligations, under Articles 146, 147, and 148, to activate universal jurisdiction mechanisms to try suspected perpetrators of grave breaches in their own jurisdictions, as recommended by the UN Commission of Inquiry on the 2018 protests in the oPt, and to ensure that their public authorities and private entities are not involved in internationally unlawful act, *inter alia* the provision of arms to end users known or are likely to use the arms in the commission of serious violations of international humanitarian and/or international human rights law;<sup>44</sup>
    - i. Urge all states to uphold their responsibility under international law by refraining from recognising as legitimate the illegal situation established and maintained in the oPt, refraining from rendering aid or assistance towards its maintenance, and cooperating to bring the occupation of the oPt and the maintenance of Israel's apartheid regime over the Palestinian people to a prompt and unconditional end, including by imposing sanctions, instituting a ban on settlement imports, supporting and calling for an annual update of the UN Database of all business enterprises involved in or with settlements,;
    - ii. Urge all states to take concrete measures to fully implement the recommendations of the United Nations International Fact-Finding Mission on Settlements and of all previous international accountability initiatives, including all UN Commissions of Inquiry, Fact-Finding Missions, and the ICJ advisory opinion;
    - iii. Call for international justice and accountability for widespread and systematic human rights violations committed against the Palestinian people, including war crimes and crimes against humanity, by urging all states to fully cooperate with the Office of the Prosecutor as per the obligations set forth under Part 9 of the Rome Statute, and in line with Common Article 1 to the Four Geneva Conventions and Article 146 of the Fourth Geneva Convention.

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<sup>44</sup> UN Human Rights Council, "Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem" 6 April 2018, UN Doc A/HRC/RES/37/37, para. 8.