

Special Focus: Israeli Settlers Wilfully Kill a Palestinian, Attack Palestinian Homes and Families

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Since 1967, Israel's settlement enterprise has expanded throughout the Occupied Palestinian Territory (OPT), in violation of international law, resulting in the establishment of more than 250 settlements and outposts, with more than 600,000 settlers illegally residing therein.¹ Settlements obstruct the realisation of human rights for the Palestinian population, including *inter alia*, the right to self-determination and freedom of movement. In addition, settlements are often situated close to Palestinian villages and communities, resulting in increased incidents of settler violence and attacks against Palestinians.²

In 1994, the United Nations (UN) Security Council addressed the issue of Israeli settler violence under UN Security Council Resolution 904, requiring that Israel "implement measures, including, *inter alia*, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers." Notably, Israel did not confiscate arms to settlers, leading to marked and consistent increases in settler attacks across the West Bank, with the UN OCHA reporting the highest monthly statistics in settler attacks in the first four months of 2018,³ the proliferation of settlements,⁴ sweeping State policies and incentivisation for the transfer in of Israeli settlers⁵ and the fragmentation of the contiguity of the OPT. In 2018, Israeli newspapers reported State plans by Minister Gilad Erdan to ease gun ownership restrictions on settlers, making persons with infantry firearms experience eligible to obtain a gun permit,

¹ B'Tselem, "Settlements", 1 January 2011, last updated on 16 January 2019, available at: <https://www.btselem.org/settlements/statistics>

² See for example: Al-Haq, "Arson Attack Emblematic of Israel's Settlement Enterprise", 2 August 2015, www.alhaq.org/advocacy/topics/settlements-and-settler-violence/947-arson-attack-emblematic-of-israels-settlement-enterprise; Al-Haq, "Armed Israeli Settler Kill One Palestinian and Injure 30 Other in an Attack on Al-Mghayyer Village", 16 February 2019, www.alhaq.org/documentation/weekly-focuses/1355-armed-israeli-settlers-kill-one-palestinian-and-injure-30-others-in-an-attack-on-al-mghayyer-village; Al-Haq, "Continuing Impunity for Israeli Settlers: One Palestinian Killed, Property Vandalized in the West Bank", 23 April 2018, <http://www.alhaq.org/documentation/weekly-focuses/1219-continuing-impunity-for-israeli-settlers-one-palestinian-killed-property-vandalized-in-the-west-bank>; Al-Haq, "Israeli Settlements and Settler Violence in Hebron", 26 April 2015, www.alhaq.org/documentation/weekly-focuses/924-israeli-settlements-and-settler-violence-in-hebron; Al-Haq, "Settler Violence Escalates as Large Settler Mobs Attack Palestinian Civilians", 20 January 2018, www.alhaq.org/documentation/weekly-focuses/1173-settler-violence-escalates-as-large-settler-mobs-attack-palestinian-civilians; Al-Haq, "Escalations in Settler Violence: Molotov Cocktail Severely Injures Palestinian Family", 23 August 2018, www.alhaq.org/documentation/weekly-focuses/618-escalation-in-settler-violence-molotov-cocktail-severely-injures-palestinian-family; Al-Haq, "Settler Violence in the West Bank", 7 August 2014, www.alhaq.org/documentation/weekly-focuses/840-settler-violence-in-the-west-bank.

³ OCHA, "Increase in settler violence during the first four months of 2018", May 2018, available at: <https://www.ochaopt.org/content/increase-settler-violence-during-first-four-months-2018>

⁴ Peace Now, "Settlement Construction Starts Increased Threefold in the Second Quarter of 2018" 17 September 2018, available at: <http://peacenow.org.il/en/settlement-construction-starts-increased-threefold-second-quarter-2018>: "The Israeli Central Bureau of Statistics today published data on construction starts in Israel and the West Bank, indicating that in the second quarter of 2018, 794 new apartments were built in the settlements, compared with only 279 in the first quarter. In the first half of 2018, construction began on 1,073 settlement housing units, compared to 870 in the first half of 2017."

⁵ B'Tselem, "Settlements", 11 November 2017, available at: <https://www.btselem.org/settlements>

with each gun having 50 bullets.⁶ This would increase gun ownership by 35,000 to 40,000 gun permits, bringing the number of gun permits in Israel to 200,000. According to Israeli parliamentarian, Amir Ohana, MK, “A civilian who carries a gun is more of a solution than a threat, and serves as a force multiplier for the security forces.”⁷

In 2019, Al-Haq continued to document incidents of settler violence, including killings, physical attacks, and attacks against Palestinian property, forced evictions and verbal assaults. In such instances, the Israeli Occupying Forces (IOF) do not intervene to stop the settlers from carrying out attacks, and instead provide support and protection for settlers, while settlers are rarely held to account for their attacks against Palestinians.⁸ The institutionalized impunity enjoyed by settlers from the Israeli forces and government further encourages them to continue to commit and escalate attacks against Palestinians. This is evidenced in the three cases below, between 1 and 15 April 2019, during which settlers killed a Palestinian young man and physically attacked Palestinian families and individuals in Nablus.

1. Shooting with Intent and the Killing of Muhammad Abdel Mun'em Abdel Fatah, Beita, Nablus



Muhammad Abdel Mun'em Abdel Fatah, killed by two Israeli settlers on 3 April 2019.

⁶ “Israel to ease Israeli settlers' gun ownership restrictions” Ma'an News Agency (14 July 2018), available at: <https://www.maannews.com/Content.aspx?id=780409>; Josh Briener, “Thousands of Guns Could Flood Streets as Israel Seeks to Ease Restrictions” Haaretz (9 July 2018), available at: <https://www.haaretz.com/israel-news/premium-israel-expected-to-lower-the-bar-for-obtaining-a-firearm-license-1.6247213>; See legislation at Gov.il, available at: https://www.gov.il/he/Departments/Policies/firearm_licensing_criteria

⁷ Josh Briener, “Thousands of Guns Could Flood Streets as Israel Seeks to Ease Restrictions” Haaretz (9 July 2018), available at: <https://www.haaretz.com/israel-news/premium-israel-expected-to-lower-the-bar-for-obtaining-a-firearm-license-1.6247213>

⁷ Josh Briener, “Thousands of Guns Could Flood Streets as Israel Seeks to Ease Restrictions” Haaretz (9 July 2018), available at: <https://www.haaretz.com/israel-news/premium-israel-expected-to-lower-the-bar-for-obtaining-a-firearm-license-1.6247213>

⁸ See for example: Al-Haq, “Continuing Impunity for Israeli Settlers: One Palestinian Killed, Property Vandalized in the West Bank”, 23 April 2018, available at: <http://www.alhaq.org/documentation/weekly-focuses/1219-continuing-impunity-for-israeli-settlers-one-palestinian-killed-property-vandalized-in-the-west-bank>

On 3 April 2019, **Muhammad Abdel Mun'em Abdel Fatah**, 23, was fatally shot by two Israeli settlers, at the Beita roundabout, south of Nablus.⁹ At 8:32 am, Muhammad crossed the Huwwara-Nablus road from the eastern side towards the west (from the left side of the street to the right). He then stopped at the side of the road, north of the Beita roundabout, threw a couple of stones towards two Israeli-licensed cars passing by.¹⁰ When throwing the third stone towards a white Renault car driving towards the Za'tara checkpoint, the car stopped opposite Muhammad, in the middle of the road, approximately 10 metres away from the Beita roundabout. The driver, an Israeli settler, who was carrying a pistol,¹¹ stepped out of the car and pointed it at Muhammad who was hiding behind the white car from the right side. The settler stepped out and walked towards Muhammad and shot at him directly. About 15 seconds later, a white truck (DAF) stopped and the driver, another Israeli settler, stepped out, also carrying a pistol, pointing it and shooting at Muhammad who was still hiding behind the car, and near two garbage bins. The settler from the white car stood next to the settler from the truck and together shot at Muhammad. Together, they shot 10-15 bullets at Muhammad.¹²



Beit roundabout, where Muhammad was shot and killed on 3 April 2019, photo taken by Al-Haq on 3 April 2019 at 10:59 am. Photo (C) Al-Haq 2019.

⁹ Muhammad is a resident of Khirbet Qais, Salfit.

¹⁰ According to DVR footage watched by one of the witnesses, along with other witness statements.

¹¹ The settler was identified as Yehoshua Sherman. See B'Tselem, "Israeli settlers execute Muhammad 'Abd al-Fatah; military covers up their deed" 14 April 2019, available at:

https://www.btselem.org/press_releases/20190414_settlers_execute_muhammad_abd_al_fatah_in_huwarah and Gideon Levy, "Settlers 'Executed' a Palestinian, and the Israeli Army Covered It Up, Rights Group Reports" Haaretz (19 April 2019), available at: <https://www.haaretz.com/israel-news/.premium-settlers-executed-a-palestinian-and-idf-covered-it-up-human-rights-group-reports-1.7140837>

¹² Undisclosed witness statement to Al-Haq; and Al-Haq affidavit no. A220/2019 given by Muhtadi Muhammad Shakhshir, resident of Nablus, given on 3 April 2019.

Another Palestinian young man, Khaled Salah Rawajba, 26, was injured in his left side from shots fired by the settlers. Khaled had been standing at the doorstep of his father's electric shop, near the gas station, approximately 50 metres from the Beita roundabout. Khaled recalls:

“... Two armed settlers shot indiscriminately, and it is then that I was injured in my left side. I went inside the shop and fell on the ground. I felt dizzy and I lifted my shirt to see my left side bleeding. I then told my father that I had been shot. He transferred me to his car... and then to Al-Quds Street where a Palestinian Red Crescent ambulance... transferred me to the Rafidiya Governmental Hospital for treatment. I was admitted to the emergency section... I was told that my condition is stable...”¹³

About 20 minutes following the shooting, the IOF arrived and sealed the area. Several soldiers shot sound grenades towards the Palestinian shops in the area.¹⁴ Israeli forces were seen tilting Muhammad's body on his back, while Muhammad was still moving and seemingly alive. They also took off his shoes and jacket. An Israeli ambulance then arrived and Muhammad was transferred to Beilinson Hospital inside the Green Line. Muhammad was reported dead at approximately 9:30 am that day. Muhammad's body has been withheld by the Israeli authorities since then.



One of the settlers pointing his gun at Muhammad Abdel Fatah (on the ground), photo taken from <https://www.wattan.tv/ar/news/279561.html>

¹³ Al-Haq Affidavit No. A178/2019, given by Khaled Salah Rawajbeh, resident of Rujib, Nablus, given on 3 April 2019.

¹⁴ Al-Haq affidavit no. A220/2019, given by Muhtadi Muhammad Shakhshir, resident of Nablus, given on 3 April 2019.

Meanwhile, about 30 minutes following the shooting, several soldiers from the IOF arrived at the gas station in the area to watch the DVR recording, then deleted the recording of the cameras between 8:30 am and 10:00 am from that day.¹⁵

2. Settler Attacks in the Villages of ‘Urif and Burin, Nablus

On Saturday 13 April 2019 at approximately 5:00 pm, Israeli settlers attacked Ziyad Abdel ‘Aziz Shehadah and his family in the parking lot of their home, located in Wad Al-Sarar area, east of ‘Urif village, south of Nablus. At the time, Ziyad’s wife, Raja’, and their five-year old son, two-year old daughter and three-month old baby, were all in the family car, about to leave the house to attend a wedding. Then suddenly, about 17 masked Israeli settlers ran towards the house from the olive trees to the east and northern sides of the house. The settlers were from the settlement of *Yitzhar*, situated approximately 500 meters away from ‘Urif. When the settlers arrived, they started throwing stones at Ziyad’s house and the car, where the family was. The settlers were situated on the northern end of the house and outside the fence, about 5-10 metres away, where they threw stones at the family.

Ziyad quickly headed towards the car to protect his wife and children and get them out of the car. He first got his wife and infant out, along with their son, and moved them to a safe place. He then came back to his daughter – all while the car was being heavily and intensely stoned by the settlers. Ziyad was hit with a stone in the back, while his wife fell to the ground with the infant, sustaining minor injuries. Ziyad then went to the roof of the house and called on the neighbours to come to the rescue. The settlers continued to throw stones at the house and car for about a minute. Then they retreated towards the settlement of *Yitzhar*. Ziyad’s car and his neighbour’s car were damaged as a result of the settlers’ attack. The children were terrified and have not slept in the house since then, fearing another attack.

It should be noted that Ziyad and his family reside in the outskirts of ‘Urif thus making the house more susceptible to settler attacks. Over the past nine months, Ziyad and his family have been attacked four times by Israeli settlers. In July 2018, settlers burnt two cars in the vicinity of Ziyad’s house, including his own, and left a “beware” and a Star of David on the fence of the house. According to Ziyad, none of the settlers who attacked their home have been held to account.¹⁶

¹⁵ Undisclosed witness statement to Al-Haq.

¹⁶ Al-Haq affidavit no. A197/2019 given by Ziyad Abdel ‘Aziz Shehada, resident of ‘Urif, Nablus, given on 17 April 2019.



The house of Ziyad Abdel 'Aziz Shehadah and his family. Photo (C) Al-Haq 2019.

On Monday 29 April 2019, at approximately 5:20 pm, about 10 Israeli settlers, ages ranging between 15 and 18, from the *Giva't Ronin* outpost, attacked Muhammad Yousef Omran, 38, in the eastern side of Burin, south of Nablus. At the time, the settlers attacked other Palestinians who were herding their sheep in the area and whom Muhammad assisted in gathering their sheep. Muhammad recalls that one of the settlers was armed, while the rest carried stones and slingshots. They were throwing stones at him and the herders from about 50 metres. The settlers were situated up the hill, while Muhammad and the herders were on the bottom.

The settlers continued to throw stones as they came closer to Muhammad's house, approximately 20 metres, and where his wife and three kids were. About half an hour later, a group of young Palestinians arrived to help protect Muhammad's house from the settlers. At approximately 6:00 pm, about six Israeli soldiers arrived at the house and started yelling at the Palestinians to move away and leave, while the settlers continued to throw stones. About 15 minutes later, one of the soldiers threw a tear gas grenade towards the Palestinians, and moved the Israeli settlers towards the outpost.

It should be noted that Muhammad and his family have been attacked several times by Israeli settlers over the years, without any immediate intervention by the IOF. The windows of Muhammad's house are protected by iron grids to prevent the stones from shattering them,

while his house is surrounded by barbed wires in an attempt to protect against settler attacks.¹⁷

3. Legal Analysis

The transfer of the Occupying Power's civilian population into occupied territories violates Article 49 of the Fourth Geneva Convention, and is considered a war crime according to Article 8 of the Rome Statute of the International Criminal Court. The illegality of Israeli settlements has been affirmed in numerous UN resolutions such as UN Security Council Resolution 2334 (2016). Likewise, the International Court of Justice has reaffirmed the illegality of Israeli settlements in the West Bank.¹⁸ In addition, Israel has clear obligations under international law, as articulated in UN Security Council Resolution 904 (1994), not only to implement measures to ensure that settlers remain unarmed, but also to confiscate weapons from settlers, to protect Palestinian lives. As such, Israel in maintaining and ensuring that settlers are equipped with arms, stands in clear breach of the UN Security Council resolution, among other obligations.

The killing of **Muhammad Abdel Mun'em Abdel Fatah** by the two settlers may amount to wilful killing as he was repeatedly shot at close range while unarmed, indicating an intentional act to kill. Wilful killing is a war crime, giving rise to individual criminal responsibility.¹⁹ The systematic attacks by settlers against Palestinians continue unabated due to the impunity granted to them by the Israeli government and forces. Israel continues to disregard its duties under international law to genuinely investigate and prosecute settlers involved in attacks against Palestinians.²⁰ In the case of Muhammad Abdel Fatah specifically, the IOF made a deliberate effort in order to seize and destroy any evidence of the attack and shootings, including by erasing the DVR footage, to ensure that the settlers are not held accountable for their criminal deed. In addition, the withholding of Muhammad's body obstructs any genuine investigation and the collection of information when carrying out an autopsy. Over the past few years, the Israeli authorities have punitively withheld the bodies of Palestinians killed, in violation of international law.²¹

Furthermore, according to the UN Human Rights Committee, "measures leading to de facto or de jure impunity, are, as a rule, incompatible with the duty to respect and ensure the right

¹⁷ Al-Haq affidavit no. A/155/2019 given by Muhammad Yousef Omran, resident of Burin, given on 20 March 2019.

¹⁸ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories (2004), International Court of Justice, www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf, para. 155-122.

¹⁹ On the connection between settler killings and individual criminal responsibility at the ICC, *see*: Azarov, Valentina, "Institutionalized Impunity: Israel's Failure to Combat Settler Violence in the Occupied Palestinian Territory", p. 35, Al-Haq, 2013, www.alhaq.org/publications/institutionalised-impunity.pdf; Article 8, Rome Statute of the International Criminal Court (2002).

²⁰ *See for example*: Article 2, International Covenant on Civil and Political Rights (1966)

²¹ Al-Haq, "Newly Adopted Law to Withhold the Bodies of Palestinians Killed Breaches International Law, Must be Repealed", 14 March 2018, available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1197-newly-adopted-law-to-withhold-the-bodies-of-palestinians-killed-breaches-international-law-must-be-repealed>

to life, and to provide victims with an effective remedy”.²² As Occupying Power, Israel has failed to fulfil its duties to protect the occupied Palestinian population against violence and to ensure public order and safety.²³

In addition, settler attacks violate the right to life affirmed in Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and include State obligations defined in Comment 36 “to take adequate preventive measures in order to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups, including armed or terrorist groups.”²⁴ Furthermore, settler attacks against Palestinian homes and families violate Article 17 of the ICCPR which prohibit the “arbitrary or unlawful interference with [...] privacy, family [or] home.”²⁵ Other rights are also violated due to settler attacks and presence, such as the right to health, work, education, and adequate standard of living.²⁶

Settler violence and Israel’s failure to prevent and combat it create degrading and unbearable conditions for Palestinians, which, among other human rights violations, may result in their indirect forcible transfer.²⁷ Indirect forcible transfer constitutes a grave violation of Article 49 of the Fourth Geneva Convention which prohibits the transfer of “protected persons from the occupied territory.”²⁸

²² General Comment 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018), para. 27.

²³ Article 27, Fourth Geneva Convention (1949) and Article 43, Hague Regulations (1907)

²⁴ Article 6, International Covenant on Civil and Political Rights (1966) and General Comment 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018).

²⁵ Article 17, International Covenant on Civil and Political Rights (1966)

²⁶ Right to Health, Article 12, International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); Right to Education, Article 13, ICESCR (1966); Right to Adequate Standard of Living, Article 11 ICESCR (1966); Right to Work, Article 7, ICESCR (1966)

²⁷ See more at: Azarov, Valentina. “Institutionalized Impunity: Israel’s Failure to Combat Settler Violence in the Occupied Palestinian Territory”, p. 35, Al-Haq, 2013, www.alhaq.org/publications/institutionalised-impunity.pdf

²⁸ Article 49, Fourth Geneva Convention (1949)