



# Settler Violence & Impunity in the Occupied Palestinian Territory;

*From the ICCPR Standpoint*

A Thematic Report

**Submitted by:** The Jerusalem Legal Aid and Human Rights Center  
**Submitted to:** The Human Rights Committee

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### *About JLAC*

Jerusalem Legal Aid and Human Rights Center (JLAC) is a Palestinian non-governmental organization mandated with providing pro-bono legal aid and consultation for the defense of human rights in the Occupied Palestinian Territory (hereafter “the OPT”). JLAC’s mission is to combat all forms of human rights violations regardless of perpetrating authority. Since its inception in 1974, JLAC has served as a major legal player in interventions of house demolitions, forced displacements, land confiscations, and, more recently, settler violence. JLAC’s objectives are two-fold: (1) to reduce the suffering and improve the lives of victims of human rights violations, and (2) to reform public policies and laws in line with human rights and good governance practices. Through these two means, JLAC seeks to help make possible a democratic Palestinian society, free from occupation and governed by justifiable laws.

JLAC is a leading player in the effort to organize and coordinate NGOs within the OPT in order to serve the Palestinian population as efficiently and effectively as possible. JLAC is a proud member of the Palestinian Council of Human Rights Organizations, the Palestinian NGO Network, the Coalition for Jerusalem, the Coalition against Torture, the Coalition against the Death Penalty, the Code of Conduct Coalition and the Committee for the Defense of Public Freedoms.

### *Introduction/Executive Summary*

Jerusalem Legal Aid and Human Rights Center (JLAC) is proud to submit the following report to assist the Human Rights Committee (hereafter “the Committee”) in its October 2014 review of Israel as a State Party to the International Covenant on Civil and Political Rights (hereafter “ICCPR” or “the Covenant”). This report seeks to highlight Israeli violations of state commitments under the ICCPR, in the context of prevalent and increasing instances of settler violence towards Palestinians in the West Bank.

The Fourth Periodic State Report issued by Israel in October 2013 did not discuss the issue of settler violence. JLAC has undertaken to illuminate the current status of settler violence, as well as the implications at the state level, due to the significant impact settler violence has on Palestinian citizens living under Israeli occupation. It is JLAC’s desire to bring this situation to the attention of the Committee in the hopes that the Committee will hold Israel accountable for, and seek a state response to, the issue of settler violence.

Settler violence has been implemented as a tool through which to take control over an increasing amount of Palestinian land. JLAC is particularly concerned with settler violence because of its supportive relation to the overall goal of illegally expanding Israeli presence and residence within the West Bank. The practices of establishing settlements and settler violence have enabled Israel to further appropriate Palestinian land through allowing the creation of military zones under the justification of “security concerns”. Although actual settlements occupy only 3% of the West Bank territory, through deploying military bases and security zones to protect these settlements (in large part justified by the violence perpetuated by settlers) and roads to allow access and ease of transportation, settlement infrastructure has expanded to 38% of land within the West Bank.<sup>1</sup>

Between September 2011 and January 2014, JLAC adopted 24 settler violence cases and provided legal consultation in another 120 such cases. These cases included incidents of settlers’: seizing Palestinian land, destroying olive trees essential to economic survival, burning vehicles, enacting severe beatings and throwing stones at Palestinians, destroying houses, stealing farm equipment, and attacks with live ammunition. From June 2004 to February 2014, the Palestine Monitoring Group recorded 6,880 separate incidents of settler violence.<sup>2</sup> Yesh Din, an Israeli NGO that monitors cases of settler violence, breaks down the cases it monitored between 2005 and 2012 as follows:

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<sup>1</sup> According to B’Tselem, “the settlements and the areas of the jurisdiction of the regional councils cover over 63% of Area C (under full Israeli control)”. As 61% of the land in the West Bank is “Area C” territory, these two numbers suggest that almost 40% (approximately 38.43%) of the West Bank in its entirety is controlled by Israel through the establishment of illegal settlements. B’Tselem, <<http://www.btselem.org/settlements>> accessed 24 July 2014.

<sup>2</sup> Figure compiled from monthly reports of the Palestine Monitoring Group. The Palestine Monitoring Group, <<http://www.nad-plo.org/monthlyreports.php>> accessed 29 March 2014.

- Approximately 35 per cent are cases of violent attack against individuals;
- Approximately 46 per cent are attacks against property;
- Approximately 14 per cent concern the seizure of land;
- Approximately 5 per cent are other forms of attack.<sup>3</sup>

JLAC believes Committee recognition of violations surrounding settler violence is imperative for a few critical reasons. First, settler violence poses a clear and immediate threat to Palestinians and their property. It is crucial to protect Palestinians from the terror and violence they and their land are systematically exposed to through settler violence. Addressing and ending settler violence would have the effect of helping and protecting both Palestinians and Israelis through decreasing the level of tension and violence present in the OPT.

Additionally, settler attacks represent clear instances where physical and economic damage are utilized to deprive Palestinians of hope. This is a distinct step in the direction of an open occupation, in which Israel is actively taking affirmative measures to incorporate Area C as a part of Israel. Further, settler violence is contributing to the lack of freedom of movement and freedom of transportation suffered by Palestinians within the Occupied Territories. These impositions on freedoms are destructive not only to Palestinian livelihoods and lifestyles but also to any hope of a future peace agreement. Therefore, in the name of justice and future peace, JLAC wishes to bring the issues surrounding settler violence to the Committee's attention in order to trigger Israeli accountability.

Further, settler violence needs to be addressed in order to change the current lack of Israeli will to reform the practice of, and state position towards, settler violence. Currently, this violence is allowed to exist with impunity for those who carry out such crimes. This impunity is a function of the systemic discrimination present in Israeli law and practice in the Occupied Palestinian Territory (hereafter "the OPT"). This discriminatory system manifests itself in a dual legal system, a military legal system for Palestinians and a civil system for settlers, in which Palestinians are offered almost no access to legal recourse for the crimes carried out against them by settlers. The structural impunity granted to settlers responsible for acts of violence against Palestinian civilians,

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<sup>3</sup> Violent attacks include shootings, intimidation using firearms, assault by means of beating, stone throwing, batons and knives, threats and additional offenses. Attacks against property include arson, damage to property, damage to crops or the theft of crops, and other offenses. Of particular concern is damage to orchards, including the cutting down, uprooting, theft or damage of fruit trees - mainly olive trees, but also almonds, lemons, figs, and other fruits. Incidents of seizure of land include fencing, farming, placement of buildings, trailers or hothouses, expulsion of Palestinians from their plots, denying Palestinians access to their land, trespassing, and so forth. Other forms of attack include killing of livestock, the desecration of mosques and cemeteries, the spillage of sewage from factories onto Palestinian agricultural land, the dumping of waste on Palestinian land, and other offenses. Yesh Din, *Submission to the UN Fact Finding Mission on the Israeli Settlements in the Occupied Palestinian Territory including East Jerusalem* [Hereinafter "FFM Submission"], 6 November 2012, ¶ 23.

and the complicity of the Israeli occupying forces (hereafter “the IOF”) in these violent acts, amount to multiple violations of international law. This includes a violation of the obligation of Israel under the law of belligerent occupation, to protect the occupied population, the human right to life, and the right to be free from torture and ill treatment.

This report seeks to examine three main issues as contributing to the current deplorable situation of unprosecuted settler violence: (1) Israel’s continued failing to adhere to the stated opinion of the Committee, that the Covenant applies to all lands within a state’s jurisdiction; (2) the complicity of IOF and Israeli failure of its duty to protect the inhabitants of the OPT; (3) the systemic discrimination present within the OPT which contributes to the failure to address settler attacks within the appropriate legal channels.

These failures of obligations violate a number of articles within the ICCPR including: 2: Non-Discrimination within the Framework that the Covenant is Implemented, and Access to Remedies; 6: Right to Life; 7: Prohibition of Torture; 12: Freedom of Movement; 14: Right to Equality before Courts and Tribunals and to a Fair Trial; 26: Equality before the Law.

Additionally, Israel’s failure to prevent and prosecute settler violence contravenes the state’s obligations under International Humanitarian Law (IHL). Israel’s status as an Occupying Power within Palestine qualifies the state as responsible for the IHL provisions that govern situations of belligerent occupation. Further, Israel is accountable to the provisions of the Hague Convention and the Fourth Geneva Convention of 1949. Both of these conventions reflect customary international law and are applicable to all countries engaged in the activities addressed within the conventions. Although Israel has denied the applicability of the Fourth Geneva Convention to the current situation in Palestine, the international community has rejected this position.<sup>4</sup> Multiple UN Security Council and General Assembly resolutions affirm the applicability of the Fourth Geneva Convention to the current situation in Palestine and call for Israel to abide by the terms of the convention.<sup>5</sup> The International Court of Justice has affirmed this position in its 2004 Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*.<sup>6</sup>

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<sup>4</sup> The Israeli government has stated that it will only abide by some ‘humanitarian provisions’ contained in the Fourth Geneva Convention, without specifying which provisions it regards as having humanitarian character. See, e.g., HCJ 2690/09, *Yesh Din et al. v Commander of the IDF Forces in the West Bank et al.*, (Judgment, 23 March 2010), para. 6.

<sup>5</sup> UNSC Resolution 237 (1967), S/RES/237, 14 June 1967; UNSC Resolution 271 (1969), S/RES/271, 15 Sept. 1969; UNSC Resolution 446 (1979), S/RES/446, 22 Mar. 1979. See also UNGA Res 56/60 (2001), A/RES/56/60, 10 Dec. 2001; UNGA Res 58/97 (2003), A/RES/58/97, 17 Dec. 2003.

<sup>6</sup> *Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory*, International Court of Justice, 9 July 2004, para. 78.

(1) *Israeli Stance that the Provisions of the Covenant do not Apply to Occupied Territory—Violation of Article 2: Non-Discrimination, Constitutional and Legal Framework Within Which the Covenant is Implemented, and Access to Remedies*

Israel continues to maintain that the ICCPR does not apply to the occupied territory. As such, Israel claims that it does not have an obligation to apply the Covenant outside of the borders that demarcate the formal state, as, according to Israeli interpretation of the Covenant, it is not applicable to areas beyond a state's national territory.<sup>7</sup> This state position is directly at odds with the stance of the Committee and other international bodies. Although the issue of applicability has been one of repeated concern since the time of the initial Israeli state report, Israel has never reconsidered or seriously addressed this stance.

As the Committee has consistently noted in the concluding observations of Israeli state party reports: “the applicability of the regime of international humanitarian law during an armed conflict, as well as on a situation of occupation, does not preclude the application of the Covenant . . . The Committee's position has been endorsed, unanimously, by the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory,<sup>8</sup> according to which the Covenant is applicable in respect of acts done by a State in exercise of its jurisdiction outside its own territory”.<sup>9</sup> The Committee has actively called for “full application of the Covenant in Israel as well as in the occupied territories including the West Bank”.<sup>10</sup> Despite this repeated language, the state of Israel has neglected to heed this requirement, and instead continues to maintain that the Covenant does not apply to occupied territories.

In addition to contravening the Committee's stated stance, Israel's refusal to apply the Covenant in the OPT violates the obligation enshrined in Article 2 of the ICCPR. Under Article 2.1 a state party

“undertakes to respect and ensure to all individuals *within its territory and subject to its jurisdiction* the rights recognized in the present Covenant, *without distinction of any kind*, such as race, color, sex, language, religion, political or

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<sup>7</sup> Israeli Fourth Periodic State Report, CCPR/C/ISR/4, 11 Dec. 2013, para. 46.

<sup>8</sup> *Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory*, International Court of Justice, 9 July 2004, pg. 136.

<sup>9</sup> Human Rights Committee, *Concluding Observations, 2010*, (CCPR/C/ISR/CO/3, 3 Sept. 2010, para. 5 ). *See also Concluding Observations, 2003*, CCPR/CO/78/ISR, 21 Aug. 2003, para. 11; *Concluding Observations, 1998*, CCPR/C/79/Add. 93, 18 Aug. 1998, para. 10.

<sup>10</sup> Human Rights Committee, *Concluding Observations, 2010*, CCPR/C/ISR/CO/3, 3 Sept. 2010, para. 5.

other opinion, national or social origin, property, birth or other status”<sup>11</sup>  
(emphasis added)

This provision includes implementation of the Covenant in areas under a state’s jurisdiction when troops or law enforcement personnel are deployed abroad, a situation that reflects Israeli involvement in the OPT. According to the Committee interpretation in General Comment 31, a state is responsible for implementation of all rights guaranteed within the Covenant in all areas “within the power or effective control of the forces of a state party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained”.<sup>12</sup> General Comment 15 further clarifies that “the rights set forth in the Covenant apply to everyone ... irrespective of his or her nationality or statelessness”.<sup>13</sup> Thus, in maintaining that the Covenant does not apply in the OPT, Israel is in direct violation of the obligation to fully implement their duties under the ICCPR as enshrined in Article 2.

The state of Israel is further violating the required adaptation of “laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”<sup>14</sup> provided for in Article 2.2. This violation is visible in the discrimination between the IOF protection provided to Israeli settlers and to Palestinians. This topic is dealt with more fully below but, important to note, is that Article 2 provides for anti-discrimination training for police and law enforcement personnel. The actions of the IOF in applying uneven protection during acts of settler violence show that the state of Israel has not fulfilled its obligation to avoid discrimination as ensured in Article 2.

*(2) State Failure of the Duty to Protect the Inhabitants of the Occupied Territory through IOF Complicity with Settler Violence—Violation of **Article 6**: Right to Life; **Article 7**: Prohibition of Torture; **Article 12**: Freedom of Movement*

Settler violence often occurs with the knowledge and complicity of IOF soldiers. Despite the IOF’s international legal obligations to provide protection to the population of the occupied territory, attacks by settlers are often carried out in broad daylight and in the presence of these forces. Moreover, the IOF seldom takes action to prevent or respond to settler violence. This failure to protect Palestinian victims is not due to a lack of resources or capabilities, but rather is part of a politically promoted policy that serves the broader goal of settlement expansion through eviction of Palestinians from their homes and land.<sup>15</sup> This is a tactical choice of the IOF; their presence offers protection to violent settlers and serves as a clear endorsement of the settlers’ actions. Further, soldiers often

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<sup>11</sup> International Covenant on Civil and Political Rights, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, 16 Dec. 1966 [hereinafter “ICCPR”], Art. 2.1.

<sup>12</sup> UN Human Rights Committee, *General Comment No. 31*, CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 10.

<sup>13</sup> UN Human Rights Committee, *General Comment No. 15*, HRI/GEN/1/Rev.9, 11 April 1986, para. 1.

<sup>14</sup> ICCPR, Art. 2.2.

<sup>15</sup> Yesh Din, *Criminal Accountability of Israeli Civilians*, <<http://www.yesh-din.org/cat.asp?catid=3>> accessed 29 March 2014.

participate directly in the assaults.<sup>16</sup> Additionally, soldiers have been known to punish the victims rather than the perpetrators by harassing, arresting or detaining them.<sup>17</sup> This failure to protect OPT citizens and the complicity of the IOF in settler violence manifest multiple violations of Israeli obligations under the Covenant.

Article 6.1 of the Covenant provides “every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>18</sup> According to Committee interpretation in General Comment 6, this extends to the duty of a state to prevent wars and other acts of mass violence.<sup>19</sup> Israel is in violation of this duty as the high volume of settler violence and the frequency of these attacks amount to mass violence. Further, Article 6 implicates a link between individual violence and state response. Under this article, as interpreted in General Comment 6, the state not only has a duty not to arbitrarily deprive citizens of their lives but also to protect civilians from the arbitrary deprivation of life perpetrated by other, private actors.<sup>20</sup> As such, the failure of IOF to take reasonable steps to prevent settler violence is a violation of the right to life of any Palestinian killed through such violence.

Moreover, Article 6 stipulates against the “arbitrary” deprivation of life. In a peacetime setting, only non-arbitrary killings, such as those committed in self-defense or in the necessary defense of others, are legal. The killing of a person to coerce others to leave their property in order to appropriate this land does not conform to any lawful reason to take a life. Thus Israel should be held accountable as violating its obligation under Article 6 of the Covenant because of the negligence of the IOF in providing defense against these attacks.

Article 7 of the ICCPR prohibits torture stating, “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.<sup>21</sup> According to Art 1 of the UN Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), which Israel is a signatory to, torture is defined as “any act by which severe pain or suffering... is intentionally inflicted on a person for such purposes as ...

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<sup>16</sup> For example, occupation forces have been reported, both Palestinians and international accompaniment volunteers, as protecting settlers as they attack farmers. Additionally IOF soldiers have played an active role as direct participants in such attacks through shooting tear gas and live ammunition at the villagers. Further, soldiers often impeded the medical treatment required by the victims of settler violence. JLAC has documented such occurrences in the village of Yanoun, in the district of Nablus. See Jerusalem Legal Aid and Human Rights Center, *Yanoun and Aqraba: Case Study of Tactical Settler Violence*, JLAC case files/ internal documents.

<sup>17</sup> See *Ibid.*

<sup>18</sup> ICCPR, Art. 6.1.

<sup>19</sup> UN Human Rights Committee, *General Comment No. 6*, HRI/GEN/1/Rev.9, 30 Apr. 1982, para. 2.

<sup>20</sup> *Ibid.*

<sup>21</sup> ICCPR, Art 7.

intimidation or coercing him or a third person, or for any reason based on discrimination ... with the consent or acquiescence of a public official.”<sup>22</sup>

As the Committee provides in General Comment 20, the purpose of Article 7 is “to protect both the dignity and the physical and *mental* integrity of the individual” (emphasis added)<sup>23</sup>, thus this article also provides protection against mental suffering. Since settler violence, even when it is enacted against property rather than an individual, is calculated to cause mental anxiety and suffering, the repeated violence evoked by settlers against Palestinians amounts to torture under the Committee’s understanding of Article 7. General Comment 20 further expands on the Committee’s understanding of the ban on torture to provide for:

the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by Article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.<sup>24</sup>

Thus, according to the interpretation of the Committee, torture may be committed by a private individual, rather than directly by a state actor. A state is still responsible for these actions if the actions amounting to torture are allowed by the government through a lack of adequate protection. The complicity of the IOF in allowing these attacks shows that the Israeli state is violating its obligation to protect Palestinian citizens against acts of torture carried out by private Israeli citizens.

While Israel might seek to maintain that settlers’ violent acts in the OPT do not amount to torture as defined in the Covenant and the CAT, according to both conventions the distinction between prohibited and permitted acts depend on the nature, purpose and severity of the treatment. Thus torture and cruel, inhumane and degrading treatment can be differentiated from torture by both purpose and degree with ill treatment amounting to torture if the suffering is caused for a purpose connected to an interest or policy of a state or a state organ.<sup>25</sup> In the current case, settler violence supports the state interest of expansion into the OPT. Settlers utilize intimidation and coercion to forcibly remove Palestinians from their lands in order to make these vacated lands free for annexation to the state.

In conclusion, the severity of the violent attacks to which settlers regularly subject Palestinians and their homes, the ongoing nature of these attacks, the vulnerable state of Palestinians living under belligerent occupation, and the racial motivation of the attacks

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<sup>22</sup> *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. res. 39/46, Annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), Art 1.

<sup>23</sup> UN Human Rights Committee, *General Comment No. 20*, HRI/GEN/1/Rev.9, 10 Mar. 1992, para. 2.

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

<sup>25</sup> Association for the Prevention of Torture and the Center for Justice and International Law, *Torture in International Law: A Guide to Jurisprudence*, 2008, Para1.1.2.2.

combined with the systemic impunity afforded to the settlers by the Israeli State, the direct complicity of the State in the attacks, and the connection with Israeli State policy, clearly demonstrate that settler violence amounts to a violation of the prohibition of torture, and the Israeli State must be responsible for such a violation.<sup>26</sup>

The effects of settler violence also violate Article 12, the “right to liberty of movement and freedom to choose residence”<sup>27</sup> Army and state complicity directly factor into this violation as the state uses settler violence as justification to declare military zones within the OPT. These military zones encroach on Palestinian land by design. Entry into and passage through military zones is restricted and the zones are often organized in such a way that Palestinians are blocked from accessing their own agricultural lands.<sup>28</sup> This has had the dual effect of decreasing production on these lands and increasing food insecurity within villages impacted by settler violence.

These military zones also affect Palestinian access to natural resources such as water supplies. As the Committee noted in Issue 9 of the 2012 List of Issues, Israel has an obligation to allow for access to adequate water resources within the occupied territories. However, rather than providing resources to fulfill this duty, the army’s complicity with settler violence serves to reduce Palestinian access to water. In the village of Urif in the Nablus district, settler attacks have included the intentional destruction of a USAID water tank. These attacks have received little response from the IOF, who have committed no resources to protecting the tank although they have ample warning that the area is in need of protection. Similarly, in Asira Al Qibliya, settler attacks on a USAID water cistern project delayed the completion of the project and greatly increased costs due to damaged materials and increased need for protective measures.<sup>29</sup>

(3) *State failure to prosecute: discrimination in administrative and legal response—* Violation of **Art 26:** Equality before the Law; **Art 14:** Right to Equality before Courts and Tribunals and to a Fair Trial

According to Article 43 of the Hague Regulations, under IHL, an occupying power must maintain law and order and “is not at liberty to tolerate a situation of lawlessness and disorder in the occupied territory”.<sup>30</sup> Israel has systematically violated this obligation

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<sup>26</sup> JLAC, *Settler Violence and International Law*, JLAC case files/ internal documents.

<sup>27</sup> ICCPR, Art. 12.1.

<sup>28</sup> In the Palestinian village of Burin, settlers from the nearby Yitzhar settlement have attacked in village in such a pattern that the army declared a military zone directly between the villagers and their olive tree groves. Rather than having open access to this land, the villagers can only reach this land with IOF permission. This permission is rarely granted and, as a result, production from these trees has decreased drastically.

<sup>29</sup> According to one figure reported by the Village Council of Asira al Qibliya, costs increased by up to \$300,000. Office for the Coordination of Humanitarian Affairs, *Weekly Report 25 June 2014* <

<http://unispal.un.org/UNISPAL.NSF/0/FE62FA0A0EA00F2785257BA200672135>>.

<sup>30</sup> *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 26 Jan. 1910, Art 43.

through the lack of legal recourse available to Palestinians who have been the victims of settler violence perpetuated against either them or their land.

In addition to obligations under IHL, the Committee has suggested that Israel is violating obligations under the Covenant. Issue 18, of the August 2012 List of Issues for the upcoming Israeli State Report Review, calls for details on the progress in reducing “violent acts from settlers against Palestinians” and the “acquiescence and sometimes active involvement of members of the Israeli Defense Forces”.<sup>31</sup> Issue 18 further brings into question the issue that “settlers are not prosecuted or punished for their violent acts at Palestinians”.<sup>32</sup> This statement has been found to be empirically true through a number of different organizations whose reports have revealed that the number of convictions for settler violence has not increased and still remains shockingly low.<sup>33</sup> Most of the failure to prosecute is due to a failure to conduct basic investigations into the crimes reported. This includes failing to travel to the scene of the crime, question listed witnesses, and other basic investigatory norms. According to Yesh-Din, an organization which has monitored over 938 reported cases of settler violence since its foundation in 2005, only 8.5%<sup>34</sup> of reported cases of settler violence have resulted in prosecution.<sup>35</sup> In contrast, 90-95% of cases where Palestinians are alleged to have committed acts of violence against settlers are investigated and go to court.<sup>36</sup> This discriminatory situation is predicated on a number of factors, including the provision of comprehensive legal protections to accused settlers, protections which are denied to Palestinians; the complicity of the occupying forces in acts of settler violence; and the imposition of barriers that, in practice, prevent Palestinian victims from being able to access what justice is theoretically available. All of these factors combine to form a situation in which the Israeli government systematically violates Article 26 of the Covenant through discriminating in the access to legal recourse of settlers and Palestinians.

The true percentage of prosecution for instances of settler violence is even lower and more problematic than 8.5%, as a large amount of cases of settler violence are never reported. There are a number of institutional reasons for this underreporting. As an example from JLAC field research, in the Nablus Governorate, there is only one Israeli police officer charged with receiving complaints.<sup>37</sup> This officer is frequently away from the office or otherwise unavailable so that Palestinians frequently need to return to the station multiple times to file a report. This has the effect of delaying an investigation to the deficit of any eventual investigation. Additionally, the Israeli police stations where

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<sup>31</sup>UN Human Rights Committee, *List of Issues Prior to the Submission of the 4th Periodic Report of Israel*, CCPR/C/ISR/Q/4, 31 Aug. 2012, para. 18.

<sup>32</sup> *Ibid.*

<sup>33</sup> Yesh Din, *Law Enforcement on Israeli Civilians in the West Bank*, < <http://www.yesh-din.org/infoitem.asp?infocatid=393>>, 24 July 2013. *See also*,

<sup>34</sup> Yesh Din, *Law Enforcement on Israeli Civilians in the West Bank*, < <http://www.yesh-din.org/infoitem.asp?infocatid=393>>, 24 July 2013.

<sup>35</sup> Yesh Din, < <http://www.yesh-din.org/geninfo.asp?gencatid=1>>, accessed 5 July 2014.

<sup>36</sup> Yesh Din, *FFM Submission*, (n1), para 43.

<sup>37</sup> Jerusalem Legal Aid and Human Rights Center, *Yanoun and Aqraba: Case Study of Tactical Settler Violence*.

Palestinians must file reports are often located within settlements, which renders access to the offices very difficult and intimidating for many villagers who fear approaching the home turf of their recent attackers. Further, Palestinians must gain permission to enter “Israel” in order to reach courts in the final stages of the trials. These factors combine to discourage many Palestinians from filing a report, which provides for a systematic underreporting of settler attacks. These conditions also create a lag in the time between the attack and it’s reporting, which contributes to the low number of prosecutions. The hurdles to reporting provoke an average two-month gap between the violence and report filing.<sup>38</sup> This lapse in time renders the processing and finding of evidence extremely difficult and thus contributes to the low number of prosecutions arising from reports of settler violence.

The problem of a low number of convictions relative to the instances of settler violence exists within the backdrop of the two separate legal systems operating in the West Bank: civil for settlers and military for Palestinians. This system is highly problematic and constitutes discrimination and unequal access to justice, which directly violates provisions under Article 26 of the Covenant. Article 26 states, “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law”, this right is to be applied without any consideration to grounds such as “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.<sup>39</sup> Rather than allowing for such equality under the law however, the Israeli legal system within the West Bank is devised to reinforce legal inequality that leads to near complete impunity for settlers in the West Bank. The UN Committee on the Elimination of Racial Discrimination has expressed concern about “the existence of two sets of laws, for Palestinians on the one hand and Jewish settlers on the other hand who reside in the same territory, namely the West bank ... and are not subject to the same justice system”<sup>40</sup>

Further, the Israeli legal system displays a routine lack of appropriate investigation when Palestinians do manage to file cases. Of cases reported, only a very small number, 8.5% result in the indictment of the alleged perpetrators. According to Yesh-Din reports, nearly 91% of cases monitored between 2005 and 2012 were closed without any indictment against the alleged offenders. More than 1% of files were lost and never investigated.<sup>41</sup> The majority of these cases were closed to due investigative failures of the Israeli police

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<sup>38</sup> Ibid.

<sup>39</sup> ICCPR, Art. 26.

<sup>40</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations*, CERD/C/ISR/CO/14-16, 9 Mar. 2012, para. 27 & 28.

<sup>41</sup> Yesh Din, *FFM Submission*, (n13), para 25. Contrast this with the fact that approximately 90 to 95 per cent of cases against Palestinians alleged to have committed acts of violence against settlers in the OPT are investigated and go to court. *FFM Submission*, (n1), para 43. Note that the percentages given by JLAC vary marginally from those in the Yesh Din paper because Yesh Din did not include those files that were lost and never investigated in their calculation of the overall percentages.

operating in the OPT. Investigation failures ranged from “unknown offender”, “insufficient evidence”, “absence of criminal culpability”, to “lack of public interest”<sup>42</sup>

The small percentage of cases that do get to trial—despite the barriers to filing complaints and the excessive occurrence of case closure—face significant obstacles. The ordinary Israeli criminal courts that try Israeli settlers alleged to have committed offences against Palestinians are located inside Israel. This is a violation of Article 14 of the Covenant as it provokes unequal access to justice. Palestinian victims, witnesses and lawyers often cannot obtain permits to travel to these courts, and Palestinian lawyers with West Bank IDs are not permitted to practice law inside Israel. According to the Committee’s interpretation of Article 14, as provided in General Comment 32, the guarantee of the right to equality before courts and tribunals is not limited to criminal cases but “must also be respected whenever domestic law entrusts a judicial body with a judicial task”.<sup>43</sup> As the Committee elaborates, “access to administration of justice must effectively be guaranteed in all such cases to ensure that no individual is deprived of his or her right to claim justice; a situation in which an individual’s attempts to access the competent courts or tribunals are systematically frustrated de jure or de facto runs counter to the guarantee of art 14, para 1, first sentence”.<sup>44</sup> Thus the current situation, where the Israeli legal system mandates these cases must be tried in an Israeli military court within Israel, blatantly violates the provisions within Article 14 of The Covenant.

### *Conclusions and Recommendations*

Palestinians are subject to extreme forms of violence from Israeli settlers in the OPT on a regular basis. The main driving force behind these violent actions is the near complete impunity afforded to the perpetrators by the systemically discriminatory laws and practices implemented by the Israeli State in the OPT. Settler violence forms an integral part of an extensive policy of annexation of occupied Palestinian territory. The Committee must demand that Israel lives up to its international obligations under the provisions of the Covenant through:

1. immediately ceasing of the transfer of its civilians into occupied territory and ending all settlement activities in the area;
2. preventing attacks by Israeli settlers against Palestinians and their property in West Bank, including East Jerusalem;
3. instituting means to facilitate complaint submission by victims of settler violence, including establishing police stations outside Israeli settlements to reduce the fear to which victims are subjected;

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<sup>42</sup> This figure does not include the 8 case files that were lost and never investigated.

<sup>43</sup> UN Human Rights Committee, *General Comment No. 32*, CCPR/C/GC/32, 23 Aug. 2007, para. 7.

<sup>44</sup> *Ibid*, para. 9.

4. ensuring that all allegations of criminal attacks committed by Israeli settlers are subject to independent, effective, and prompt investigations, in accordance with international standards, as well as ensuring the adequate punishment of the perpetrators;
5. ensuring reparation for the victims of settler violence in line with international standards, including the rights to compensation, restitution, satisfaction, and guarantees of non-repetition.
6. requiring Israel to reform the laws in operation in the OPT, so as to ensure that they are in keeping with the requirements of IHL and do not discriminate against Palestinians. This should include the implementation of judicial guarantees and procedural safeguards so as to provide for fair trials and due process for all.

## Annex I

### *Yanoun and Aqraba: Case Study of Tactical Settler Violence*

#### **i) Yanoun Village, 1996 - 2013**

Yanoun, located in the Nablus Governorate in the Northern West Bank, is a small Palestinian village that is home to approximately 100 Palestinians. Over the last two decades, the residents of Yanoun and their property have been subjected to continuous and extreme acts of violence, perpetrated by both Israeli settlers and occupation forces. During this period over 80 percent of Yanoun's land has been unlawfully appropriated and *de facto* annexed by civilian Israeli settlements and outposts, and for use by the Israeli military.

The village is located 12 kilometers southeast of Nablus and 3 miles north of the town of Aqraba. Yanoun is divided into two sites – upper and lower Yanoun. Upper Yanoun is located in Area C and lower Yanoun is located in Area B.<sup>45</sup> Upper Yanoun is considered illegal by Israeli authorities and building is prohibited there. The majority of citizens live in Upper Yanoun. Yanoun is located near the settlement of Itamar, established in 1993. Several outposts that form extensions to the Itamar settlement are located on the hilltops around Yanoun, surrounding it on all sides.<sup>46</sup> Givat Olam is located to the West; Gidonim to the North; Hill 777 to the East; a new outpost is under construction to the Northeast; and another to the Southeast.

All the villagers of Yanoun depend on agriculture for their livelihoods, earning their living from a combination of livestock and arable farming. Yanoun has approximately 2,000 dunams of land planted with olive trees, and another 500 dunams planted with nuts, figs and grape vines.<sup>47</sup> The main source of income is from olive trees and sheep. Land confiscation, by settlers and by the IOF for training purposes, has severely reduced access to land and the ability to make a living. Yanoun comprises 16,400 dunams of land, but settlers and Israeli forces have confiscated approximately 80 percent of this territory.

A school was established in Lower Yanoun in 1971, and children from both Upper and Lower Yanoun would attend lessons there. However, once settler attacks began in 1996, it was not safe for children to walk to school. In 2001 a new school in Upper Yanoun was opened. After this, however, attendance in Lower Yanoun was so low that, in 2005, the schools once again merged, this time in Upper Yanoun. The building consists of two rooms and a playground, and as of early 2014 has seven students enrolled (down from 19

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<sup>45</sup> For an explanation of the difference in legal regime imposed by Israel in Areas A and B.

<sup>46</sup> Outposts are illegal under Israeli as well as international law, though they are often constructed with Israeli government support.

<sup>47</sup> One dunam is equal to 1,000 square meters.

students in 2006).<sup>48</sup> This school runs up until sixth grade,<sup>49</sup> after which the children continue their education in Aqraba. Yanoun does not have a health clinic or hospital. Aqraba holds the nearest clinic, while Nablus (an hour away) holds the nearest hospital. The nearest police station to Yanoun is in Aqraba.<sup>50</sup>

Itamar settlement was established in 1993, though initially there were no major clashes between settlers and Palestinians. In the mid to late 1990s, Itamar started to annex hills in the direction of Yanoun. Trailer homes that would eventually become permanent outposts filled the hilltops above and around Yanoun. At the outbreak of the Second Intifada tension grew between settlers and villagers in Yanoun. Settlers claimed that Palestinians had killed Itamar residents, and though there was no link whatsoever between any such act and the residents of Yanoun, the settlers began to enact revenge on the Palestinians of Yanoun. First, there were random acts of violence, and gradually settlers started descending upon Yanoun in groups to attack. Over time, these attacks evolved into a coordinated effort not only to intimidate and harass the villagers, but also to ruin their property, livelihoods, and resources. The attacks forced the almost complete desertion of the village by its residents,<sup>51</sup> with only two elderly couples remaining in Upper Yanoun. The last families left on 19 October 2002.

During the period between the initiation of settler attacks against the village and its desertion, a great part of the land of Yanoun, Aqraba and Awarta, much of which is classified as area “B” (and therefore formally under the civil jurisdiction of the Palestinian Authority), was seized by settlers.

In late 2002, Yanoun councilor Abdelatif Sobih issued a statement detailing some of the attacks that had been perpetrated by the settlers in order to force the Palestinians from their homes and land. The relevant portion of the statement is directly quoted below:

- “1. Repeatedly attacking people in their homes, throwing stones, shooting at windows and closed doors, terrifying young children and women.
2. Attacking families on their farms. Here are a few examples of these brutal acts:
  - a. In one of these attacks Galib Adel, 40 years old, was beaten brutally. He lost one of his eyes and had his leg broken, in addition to suffering several bruises. Atif Tawfiq, Rashad Saleem, and Inbisat Ahmad were also beaten in the attack.
  - b. Moflih Adel was beaten severely and taken to the hospital unconscious.

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<sup>48</sup> Figures from the Palestinian Ministry of Education and Higher Education, Directorate of South Nablus.

<sup>49</sup> Age 12

<sup>50</sup> It should be noted that the Palestinian police have no jurisdiction over Israeli settlers alleged to have attacked Palestinians – such matters are reserved to the Israeli police.

<sup>51</sup> Thanks to the efforts of the villagers themselves, along with Israeli and international peace activists, this desertion would only be temporary.

- c. Gassan Abu Kaf, 38 years old, escaped murder and was shot in the leg.
- d. Ahmad Mahmoud, 80 years old, lost one of his eyes in a settler attack.
- e. Abdul Latif Yousif, the mayor of the Yanoun Council, was beaten severely in an attack.
- f. Hani Hamdalla, 24 years old, was shot dead, while Fadi Fadil was injured in another attack by settlers.

3. Killing hundreds of sheep using poisonous injections and live bullets.
4. Blocking the main road to the village of Yanoun.
5. Spoiling the only natural source of water in the village.
6. Burning down and destroying the only source of electricity, the electric generator that was donated by the Economic Development Group.
7. Preventing farmers from getting to their farms and attacking them using fierce dogs and live bullets.
8. Destroying the crops by plowing the farmed land and burning crops that were harvested and ready to transport, as evidence of possession and control. At least three cases of burning have been recorded.
9. In broad daylight, stealing olive trees that belong to local farmers.
10. Imposing a siege around the natural pastures and preventing shepherds from getting to them.
11. Preventing the relatives of the people of Yanoun from visiting Yanoun and shooting at the cars that go there, including the car of the mayor of Aqraba.
12. Cutting off the main road from Aqraba to Nablus. This road, which was finished in 1935, is no longer safe to travel.
13. Even teachers at Yanoun elementary school were subjected to questioning and provocations by settlers.<sup>52</sup>

The day after the forced exodus, and with the support of Israeli and international peace activists, the villagers began to return to their homes. Though these activists vowed to protect Yanoun from future attacks, only two families initially returned to Upper Yanoun.

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<sup>52</sup> Foundation for Middle East Peace, *Settlers Force Desertion of Yanun Village*, Report on Israeli Settlement in the Occupied Territories, Volume 12, Number 6, November-December 2002, p6, <http://www.fmep.org/reports/archive/vol.-12/no.-6/settlers-force-desertion-of-yanun-village> accessed 08 July 2013.

It took almost two years for the others that would return to do so. Combined with the two elderly couples that never left, a total of only seven families lived in Upper Yanoun after the return from forced displacement.<sup>53</sup> Since this time, a house in the village has hosted international organizations residing there in order to try and protect the villagers, and to witness and report on any attacks. Initially, Ta'ayush and the International Solidarity Movement (ISM) were present, and since June 2003 the World Council of Churches' Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) has provided a strong presence in the town for this purpose. Nonetheless, the attacks have continued.

In a briefing to the UN International Fact Finding Mission on Settlements<sup>54</sup> in Amman, Jordan, on 7 November 2012, a Yanoun community representative reported that since the villagers returned after the 2002 exodus, the village has continued to be subjected to numerous attacks by settlers. These attacks have included the following:

1. The shooting of Yanoun resident, Adnan Abu Haniyyeh, in the leg with a live bullet, on 18 July 2003.
2. An attack by four settlers armed with guns and sticks against Yanoun resident Yihya Mohammed Ibrahim, 35 years old, on 20 November 2003. He was left badly bruised.
3. Shooting at shepherds near their houses, resulting in killing 5 head of sheep, on 27 March 2004.
4. Shooting at shepherds near their houses, resulting in the killing of five head of sheep, on 7 October 2004.
5. An attack against farmer, Mohammed Hamdan Ibrahim Bani Jaber, on 27 March 2007. He was brutally beaten and stabbed with a knife. The attack left him with a broken neck.
6. The expulsion of farmers from their land in Upper Yanoun during the olive picking season in October 2008. Despite the fact that the visit had been coordinated with the Israeli authorities, Itamar settlement guards spoke with the Israeli soldiers present, and the Palestinians were forced to leave their land.
7. A part of the northern lands of Yanoun were plowed on 15 October 2009 and were cultivated with grapevines and planted with other kinds of trees. Since this time, and though no official Israeli orders were issued, the settlers have *de*

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<sup>53</sup> One family subsequently left in 2011, meaning that the number of families living in Upper Yanoun at the time of publication is six.

<sup>54</sup> FFM.

*facto* occupied this land. The Palestinians of Yanoun have lost access to their land.

8. In late 2009, approximately 95 settlers broke into the village and tried to swim in the village spring (two similar invasions occurred again in May and June 2013).
9. Five farmers, including three siblings, were attacked and beaten by settlers as they made their way from Yanoun to Aqraba in May 2012. The settlers appeared to be prepared in advance to carry out the attack, and were accompanied by Israeli soldiers. The Palestinian victims were then arrested, prosecuted,<sup>55</sup> and sentenced to military jail terms of between 11 months and one year, as well as made to pay court fees.
10. The construction of caravans on the northern side of Yanoun village, on 17 November 2012, resulting in the *de facto* appropriation of the land.

In February 2014, Yanoun community representative Mr. Rashid Murrar provided JLAC with information on incidents of settler violence that have been perpetrated against Yanoun residents since the above report was presented to the FFM in November 2012. These included: the bulldozing of an area of land belonging to Yanoun known as Aलगoman; the attacking of three farmers in Al-Kroom (all three were injured, and one was left with a broken hand); caravans being placed in the Aलगoman area; settlers attacking farmers from Yanoun who were working on the northern side of the village and attempting to expel them from the area; the placing of caravans in Mrah Taha to the east of Yanoun; settlers opening fire on a number of Palestinian shepherds in the Alddawa area; the farmer Mefleh Adel Rashied being chased by a group of settlers who threw stones at him and at his sheep; settlers chasing a group of farmers in Aljaheer and trying to steal 50 of their sheep; settlers constructing a siege blocking access to Palestinian houses on the northern and north-eastern side of Yanoun; and the bulldozing of approximately 20 dunums of land belonging to Yanoun (and located in Area B), which has since been used for agricultural purposes by settlers.

The motivation for these attacks is clearly the forced removal of the Palestinian population, and the appropriation and *de facto* annexation of their land, as opposed to any claimed security concerns. After these attacks and assaults, the village has been surrounded by five settlement outposts, with 80 percent of its land, both arable and pasture, having been seized. This process is ongoing and continuous, with two of the five outposts being recently constructed: in 2011, the settlers embarked on building a new

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<sup>55</sup> The Palestinian victims were prosecuted for supposedly attacking the settlers and attempting to take a soldier's gun, despite the fact that there was no actual contact between the villagers and the soldiers.

outpost, and in 2012 they began constructing another. The placement of caravans and appropriation of land, constituting the initiation of new outposts, continued into 2013.

The direct complicity of the State of Israel in the attacks against the Palestinian residents of Yanoun and in the unlawful appropriation of their land is evident in the fact that occupation forces have protected the settlers carrying out the attacks, and have themselves been party to these attacks.<sup>56</sup> In addition to this, the State of Israel has taken

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<sup>56</sup> Additional evidence of the Israeli government's complicity in the unlawful appropriation, by settlers, of land in and around Yanoun for the purpose of construction of so-called "unauthorized" outposts, leading to Israel's *de facto* annexation of the land, can be seen in its policy of retrospectively legalizing such outposts. In June 2013, the Israeli government advanced a plan for the approval of 675 new housing units in the Itamar settlement. This plan includes the retroactive legalization of 137 units built by settlers in these "unauthorized" outposts – clearly signaling government approval and encouraging future land appropriation by the settlers. The plan will expand the territory of Itamar settlement five-fold. Peace Now, Friedman L, *Who's Got "No Partner" for Peace? Over 3 days, Plans Advanced for 1225 Settlement Units*, 13 June 2013, available at

<[http://archive.peacenow.org/entries/whos\\_got\\_no\\_partner\\_for\\_peace\\_over\\_3\\_days\\_plans\\_advanced\\_for\\_1225\\_settlement\\_units#more](http://archive.peacenow.org/entries/whos_got_no_partner_for_peace_over_3_days_plans_advanced_for_1225_settlement_units#more)> accessed 6 July 2014.

Palestine Monitor, Gilbert S, *Settlement Expansion and the Prospects for Peace*, 21 June 2013,

<<http://www.palestinemonitor.org/details.php?id=mf8p7ia4453ykw5dvms8d>> accessed 6 July 2014.

Further, Israeli state bodies and officials support the construction of settlement outposts on Palestinian land unlawfully appropriated by settlers through other methods, for instance by funding their construction, by building the infrastructure to connect them to other settlements, and by connecting them to the electricity and water grid. The UNESCO Chair on Human Rights and Democracy at An-Najah National University, co-published by The Alternative Information Center, *Outposts and Price Tag Violence: A blow Upon a Bruise*, September 2012, pp.15-27, particularly p.19. The direct and intentional involvement of Israeli authorities in the construction of so-called "unauthorized" settlement outposts has been explicitly recognized by two different enquiries commissioned by the Office of the Prime Minister of Israel – The Sason Report (2005) and The Levy Report (2012). The Levy report recommends that, as the construction of outposts on appropriated Palestinian land is the true objective of the Israeli State, the whole enterprise should be legalized under Israeli law. Israeli Ministry of Foreign Affairs, *Summary of the Opinion Concerning Unauthorized Outposts – Tayla Sason, Adv*, 10 March 2005, <<http://www.mfa.gov.il/mfa/aboutisrael/state/law/pages/summary%20of%20opinion%20concerning%20unauthorized%20outposts%20-%20talya%20sason%20adv.aspx>>, accessed 25 November 2013. At the time of publication, the Levy Report is unavailable on the website of the Government of Israel. However, information may be found at, *inter alia*, the following source: Lazaroff T, *Legal Report on Outposts Recommends Authorization*, The Jerusalem Post,

direct measures to dispossess Palestinians in and around Yanoun of their land, as highlighted below.

## ii) Yanoun and Aqraba, Attacks of 7 July 2012

On 12 April 2011, Israel declared areas east of Yanoun village as military land. This land comprises Palestinian farming land belonging to families from Yanoun and Aqraba. Aqraba is a Palestinian town with a population of just under 9,000 inhabitants,<sup>57</sup> located 18 km to the south-east of Nablus, and 3 miles south of Yanoun. Israeli administrative and legal tools have led to the displacement of dozens of families living in or around Aqraba, and according to Aqraba municipality, more than 45 agricultural and residential buildings have been threatened with demolition or evacuation since 1998.

The Israeli occupation forces announced that the land being seized from Yanoun and Aqraba was to be used as a firing range, to be known as Firing Range 904A, and forbade Palestinians from accessing or tending to their land in that area. Conversely, Hill 777, one of Itamar's outposts, is in that same firing range, yet its residents are permitted to remain. Israel's appropriation of this land for military use led directly to extreme acts of violence against the residents of Aqraba, acts that clearly demonstrate cooperation between settlers and the Israeli occupation forces in violence perpetrated against Palestinians, and perpetrated for the purpose of land clearance and annexation.

On receiving news of this land being declared a military firing range, Rashid Murrar, head of the Yanoun local council, assisted by the Israeli human rights organization Rabbis for Human Rights, launched a campaign against this unlawful appropriation of Palestinian land. The campaign demanded that Palestinians have access to their own property. As a result of this campaign, the villagers were granted permission to go to their fields, but only under the supervision of Israeli soldiers, and only for one week, 3-10 July 2012. During this week, and under the supervision of the Israeli military, the villagers were brutally attacked.

The following summary is compiled from testimony given to JLAC by victims and witnesses who were present at the scene, both international and Palestinian.

On 7 July 2012, a number of Palestinian farmers went to tend their land, accompanied by two military jeeps. The visit was coordinated with the Israeli District Coordination Office. They went to graze their sheep in an area called al-Dawa, close to a natural spring. This land is owned by residents of Aqraba.

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07 September 2012, <<http://www.jpost.com/Diplomacy-and-Politics/Legal-report-on-outposts-recommends-authorization>>, accessed 25 November 2013.

<sup>57</sup> Palestinian Central Bureau of Statistics, *Nablus Governorate Statistical Yearbook, No. 3, 2011*, p66, available at <<http://nablus-chamber.org/attach/41.pdf>> accessed 6 July 2014.

At approximately 2:00 p.m., a group of around 12 settlers descended upon the spring. When the sheep went to drink from the spring the settlers began stabbing the sheep, killing six and injuring dozens more. Seeing their sheep being slaughtered, the villagers rushed to the spring, where they also saw soldiers arriving on the scene. Instead of helping the residents and protecting their livestock, the soldiers, together with the settlers, physically attacked the Palestinians. Some were shot at, some had stones thrown at them, and some were brutally beaten. Five Palestinian villagers were severely injured. Israeli soldiers caused some of the injuries, whilst the settlers, whom the soldiers were protecting and aiding, caused others.

Though this attack resulted in serious injuries to the villagers, the soldiers prevented a Palestinian ambulance from accessing the scene to treat the injured. During this period, Yanoun Community Representative Rashid Murrar spoke to Israeli District Coordination Officer Coppi, who was present at the scene, about medical access. After more than two hours during which medical treatment to the victims of the attack was blocked, Officer Coppi arranged for the soldiers to permit Israeli ambulances to access the scene. However, the settlers who were perpetrating the attack then prevented the Israeli ambulances from reaching and treating the injured for a further two hours. Therefore, medical treatment for the severely injured victims of a violent attack was forcibly prevented for over four hours.

**Jawdat Hamed Ibrahim Bani Jaber:** Mr. Jawdat Hamed Ibrahim Bani Jaber received a phone call from his brother Jihad informing him that the settlers were stabbing the sheep, which belonged to them both. Mr. Jawdat rushed to the scene, where he saw approximately 30 settlers<sup>58</sup> stabbing sheep and attacking residents. He also saw two soldiers nearby. He approached the soldiers to inform them about what was happening, and said that they should go to the spring to help the residents. One of the soldiers then grabbed and restrained him and the other beat him on his left arm using his firearm. They then threw him to the ground and one of the soldiers kicked him in the head repeatedly with heavy military boots. He was cuffed and handed over to the settlers, who continued to beat him. One settler hit him in the head, from behind, with the shaft of an axe, and he was hit in the head with a rock. This knocked him unconscious for an hour. Upon waking, the soldiers made him run a distance of 200 meters, at which point he lost consciousness for a second time.

A Palestinian ambulance was called for Mr. Jawdat by Mr. Hakmoun (see below), but was prevented by the Israeli military from reaching him. After two hours Israeli ambulances arrived, but the settlers prevented them from accessing him for a further two hours. Eventually, after four hours without medical attention, he was removed from the scene in an Israeli ambulance. There is some confusion over exactly what happened to Mr. Jawdat next. He may have been taken to Itamar settlement. At some point he was taken to the entrance of the Israeli Howarrah Military Camp, where he was transferred to a Palestinian ambulance. He did not regain consciousness until he awoke in this

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<sup>58</sup> Additional settlers/attackers had arrived on the scene by this time.

Palestinian ambulance. Eventually, he was brought to the (Palestinian) Rafidia Hospital in Nablus City.

***Mr. Jawdat filed a complaint at the Israeli police station located in Howarrah Military Camp on 30 July 2012. After this date, JLAC's lawyers sent multiple requests to the main Israeli police station in Ara'eil Settlement in order to obtain a copy of the complaint and asking to receive any other relevant information. These requests were ignored.<sup>59</sup> On 25 June 2013, JLAC's lawyers received notification from Ara'eil Police station stating that the file had been closed due to lack of evidence. This is despite the existence of extensive witness testimony, photographic evidence, and medical reports.***

**Odwan Rajeh Hamed Bani Jaber:** Mr. Odwan Rajeh Hamed Bani Jaber was in Aqraba town when he received a phone call from the Palestinians present at the scene of the attack, informing him that settlers and soldiers were attacking farmers in the area of al-Dawa.

“At that moment I was in Aqraba area. I arrived [with others] in the vicinity of the spring, where the soldiers immediately pointed their M-16 firearms towards us and started shooting at us, without prior warning, and demanded that we stay away from the location. I tried to find out whether there were any injuries, but the soldiers stated that there were none.”

During his interaction with the Israeli military, Mr. Odwan was struck from behind. He was hit in the head with a large stick, resulting in a serious head injury. According to eyewitnesses present at the scene, the person who struck Mr. Odwan was a settler wearing civilian clothing, but at a later point during the incident he went to an Israeli military vehicle and changed into an Israeli army uniform. After a Palestinian ambulance was prevented from accessing the scene, Mr. Odwan was eventually collected in the same Israeli military ambulance as Mr. Jawdat, was then transferred to a Palestinian ambulance at another location, and was finally treated in the clinic in Aqraba. According to the medical report that Mr. Odwan presented to JLAC, he suffered from a wound of 1.5 centimeters on the left side of his head.

***Mr. Odwan filed a complaint at the Israeli police station located in Howarrah Military Camp on 30 July 2012. Since that date, JLAC's lawyers have repeatedly requested a copy of the complaint, and to receive any other relevant information. These requests have been rejected by Ara'eil Police. On 25 June 2013, the case was closed on the basis that the perpetrator is unknown.***

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<sup>59</sup> No written responses were received to the written requests, submitted by JLAC, for copies of these files. JLAC's lawyer was told by a police officer at Ara'eil Police station that copies of the complaint or other files could not be given to the lawyer until an indictment had been filed against the settlers (which never happened).

**Hakmoun Ahmed Yousef Bani Jaber:** Mr. Hakmoun Ahmed Yousef Bani Jaber is a soldier in the Palestinian National Security Service.<sup>60</sup> He reported that at approximately 2:30 p.m. he received a phone call from one of the villagers informing him that settlers and soldiers were attacking the residents. He went to the location immediately. He saw Mr. Jawdat handcuffed, with injuries to his face, lying on the ground. Mr. Hakmoun called an ambulance for Mr. Jawdat, but when the ambulance arrived the Israeli military (along with the settlers) prevented it from reaching the scene. During the negotiations to try and obtain access for the ambulances, a soldier shot Mr. Hakmoun from a distance of 15 meters. His medical records show that he was shot in his left elbow with a dum-dum, or expanding, bullet. The injury knocked him unconscious. Mr. Hakmoun did not regain consciousness until some time later, when he awoke in Rafidia Hospital in Nablus.<sup>61</sup> He was hospitalized for almost five days.

**Ibrahim Hamed Ibrahim Bani Jaber:** Mr. Ibrahim Hamed Ibrahim Bani Jaber received a call from his brother Jihad informing him about settlers stabbing sheep. Upon arriving at the location to see what was going on, Mr. Ibrahim saw the settlers stabbing his sheep and throwing stones. He also noted the presence of soldiers. He approached one of the soldiers, asking him to interfere and stop the attack, but one of them hit him beneath the eye with the bottom of his M-16 firearm, which knocked him unconscious.

“When I asked the soldiers why the settlers were attacking the sheep, one of them used the bottom of his M-16 firearm to hit me beneath my eye, which made me lose consciousness for a while.”

When he regained consciousness, he found himself 100 meters away from the location where he had been attacked. He also saw there were a number of settlers attacking his brother Jihad. When he tried to come closer in an attempt to help his brother, the settlers turned to throw stones at him. He was collected by a Palestinian ambulance,<sup>62</sup> and hospitalized in Rafidia Hospital in Nablus. His medical report shows that he suffered from a deep wound, measuring roughly 2 x 3 centimeters, near his left eye, as well as bruising to different parts of his body.

**Ashraf Adel Hamed Bani Jaber:** Mr. Ashraf Adel Hamed Bani Jaber heard through the loudspeakers of the mosque in Aqraba that settlers were attacking the Palestinian residents of Aqraba and Yanoun. He drove his car towards the scene of the attack. Trying to get close, he was stopped by settlers throwing stones. He continued to the location of the attack on foot. He also noticed that a Palestinian ambulance was being prevented from accessing the location of the attack. Eventually, Mr. Ashraf saw Mr. Jawdat being carried on a stretcher and put into an Israeli ambulance. After this, a confrontation broke

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<sup>60</sup> During this incident Mr. Hakmoun was off duty, was not armed, and was present in a personal, rather than official, capacity.

<sup>61</sup> A Palestinian ambulance was able to reach Mr. Hakmoun relatively quickly as he, along with Mr Ibrahim and Mr. Ashraf (below), was injured at a different location than Mr. Jawdat and Mr. Odwan. The Palestinian ambulances were not prevented from accessing this second location.

out between the Palestinian residents at the scene, including Mr. Ashraf, and the settlers. Mr. Ashraf, who, along with the other Palestinians, at this time wished to leave the scene, tried to seek assistance from the soldiers, but to no avail.

“We approached the soldiers requesting them to open the road in order to enable us to return to the village, but the settlers started to throw stones at us preventing our approach to the soldiers. Then, one of the soldiers opened fire against me. He was shooting rubber bullets, and I got shot in the back.”

As a result of being shot in the back with a rubber bullet, Mr. Ashraf lost consciousness. He regained consciousness in a Palestinian ambulance that was transferring him to Rafidia Hospital.<sup>63</sup>

***Mr. Hakmoun, Mr. Ibrahim and Mr. Ashraf did not file any complaints with the Israeli police regarding these attacks. This was due to their lack of trust in the legal system implemented by Israel in the OPT.***

An Israeli military spokesperson claimed that troops rushed to the scene to find both sides throwing rocks at each other, and that they fired tear gas to disperse them. The spokesperson stated that Israeli military medics treated two Palestinians and one Israeli at the site.<sup>64</sup> These claims are entirely different to the events as witnessed by the residents of Yanoun and Aqraba and by the international accompaniment volunteers present at the scene, and do not comport with the medical reports of the Palestinian victims of the attack. The real story is one of the Israeli occupation forces' direct participation in an attack by settlers against Palestinian civilians. Not only did the soldiers help the settlers attack the Palestinian civilians, they intentionally impeded medical treatment for the victims.

The extremely negative impact of the attacks against the Palestinian villages of Yanoun and Aqraba on the lives of their residents is clear. The villagers depend completely on agriculture for their livelihoods, yet the vast majority of their agricultural land has been seized. Aside from the physical injuries to the victims of the attacks, the population has been traumatized. The children of Yanoun suffer from many psychological disorders, including bedwetting, fear and panic during the night. Yet the attacks reported here are only a small example of the wider issue of settler violence in the OPT. This case study clearly highlights the fact that the Israeli occupation forces are directly complicit with settlers in violence that amounts to multiple violations of international human rights and humanitarian law, with the Israeli state and the settlers sharing the joint aim of forcibly removing the Palestinian population from their land for the purpose of its unlawful appropriation and *de facto* annexation. These acts incur the international legal responsibility of the State of Israel and the individual criminal responsibility of the perpetrators, both private individuals and officials of the occupying forces.

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<sup>64</sup> Times of Israel, Settlers clash with Palestinians near Itamar, 7 July 2012, <<http://www.timesofisrael.com/settlers-clash-with-palestinians-near-itamar/>> accessed 16 July 2013.