



**SETTLER VIOLENCE :
AN ARMED WING
OF SETTLEMENT EXPANSION
IN THE OCCUPIED
PALESTINIAN TERRITORY**

CASE STUDIES FROM THE NORTHERN WEST BANK



**RESEARCH REPORT COMMISSIONED BY PREMIÈRE URGENCE
INTERNATIONALE (PUI) AND MÉDECINS
DU MONDE - FRANCE (MDM) AND CONDUCTED BY DR. HASAN S. AYOUB,
EXTERNAL RESEARCH CONSULTANT**

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"Illegal settler activity, often enabled by policies and practices of the Israeli authorities, must be understood in the context of the systematic violations of the rights of Palestinians. Intimidation and violence against Palestinian farmers, landowners and herders serves to establish de facto no-go zones, and results in the gradual dispossession of Palestinian rural communities, while clearing a path for the expansion of the areas under effective settler control. Further compounding this cycle, the culture of impunity enjoyed by settlers reinforces the boldness of attacks, in turn causing Palestinian farmers and landowners to further restrict their movements out of fear of violence and harassment."

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan. Report of the General-Secretary. UN General Assembly. 31 August 2015 [A/70/351]. Page 14.

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EXECUTIVE SUMMARY

For over ten years, Médecins du Monde France (Mdm) and Première Urgence Internationale (PUI) have been intervening in the Northern West Bank, in oPt, to mitigate the impacts of settlers' attacks against Palestinian communities. Based on this work, this research offers a presentation of what settler violence actually represents for Palestinian communities living in the neighborhood of settlements and outposts in the West Bank.

NATURE, TREND AND IMPACTS OF SETTLER VIOLENCE

Settlers' assaults against Palestinian communities take a variety of forms from intimidation to physical assault, stone throwing or destruction of property, trees, or crops. They tend to be repetitive, leading to a constant harassment of Palestinian communities or targeted houses. Some of them known as "price tag attacks" are more punctual and respond to actions or policies that settlers interpret as going against their interest (such as the dismantlement of an illegal outpost).

The phenomenon of settler violence has increased in the last decade. Between 2006 and 2012 only, settlers' attacks have almost quadrupled¹. In 2014, OCHA recorded 324 incidents targeting Palestinians, i.e an average of more than 6 attacks per week. The attacks have also increased in their intensity, leading to a triple murder in July 2015 in the arson of the Dawabsheh house in Duma, which has been internationally condemned. The escalation of violence between Palestinians and Israelis has also led to a sharp rise of attacks by settlers with 29 attacks recorded by OCHA only in the first week of October 2015 (without including cases of harassment and intimidation that are not registered by OCHA).

A significant number of cases of settler violence are related to settlement outposts, creating a "circle of fear" where Palestinians do not dare to come anymore to the areas where settlements are developing. This element illustrates how violence leads to a greater control over the territory and the expansion of existing settlements.

Settler violence against Palestinians remains largely

unchecked, without adequate protection from Israeli authorities, and with virtually no accountability for the perpetrators. Israeli security forces, including police, usually refrain from intervening to prevent settler violence. Moreover, Palestinians have virtually no chance to see justice done since practically, only 1.9 % of complaints submitted by Palestinians against settlers' attacks result in a conviction.

Settlers' attacks can negatively affect the overall economic situation of Palestinians and their livelihood when they consist of preventing and/or restricting their access to natural resources (particularly land, grazing land and water), or target animals, fields, houses, farms or olive trees. In 2013 alone, OCHA recorded 10,672 vandalized olive trees by settlers and 9,390 for 2014². The olive oil industry [in oPt] makes up to 25% of the agricultural income of the West Bank, which supports approximately 100,000 families.

The context of violence also has an impact on the psychosocial well-being and the mental health of the populations, even when they are not directly involved in critical incidents. Acute stress seems to be the norm. Victims can suffer from anxiety, sleep disorders or regression in academic progresses (for children). Since incidents are happening continuously, the communities can't find emotional balance. The Duma arson has worsened the situation because of the severity of the attack and its consequences (three people were killed, burnt in their sleep). The event had unprecedented psychosocial impacts, going far beyond the village of Duma.

BEYOND A SUCCESSION OF CRIMINAL ACTS : SETTLER VIOLENCE IN LIGHT OF INTERNATIONAL LAW

According to the Geneva Convention (IV), an occupying power has the duty to protect civilians in an occupied territory, referred to as "protected persons". If States are not necessarily responsible for the acts of private individuals, they must prevent human rights violations and investigate, punish and ensure an effective remedy for such violations. The failure of Israeli authorities to ensure the protection of Palestinians against

¹ <http://www.independent.co.uk/news/world/middle-east/israeli-settler-attacks-on-palestinians-quadruple-says-un-9062456.html>

² Source: Médecins du Monde: <http://mdm-me.org/wp-content/uploads/2014/11/FACTSHEET-EN-8-10.pdf>

settlers' attacks, or to ensure fair investigation and prosecutions in cases of complaints by Palestinians victims of settler violence represent a breach of these obligations as an occupying power and a party to the international Conventions stating these duties.

Settler violence has to be connected to the context of settlement expansion as a tool to extend settlers' control over the territory. Israeli settlements in the West Bank are a violation of the Geneva Convention (IV) that prohibit the transfer of civilian populations in an occupied territory, and settler violence is thus intrinsically linked to this violation that has been listed as a war crime under Article 8(2)(b)(viii) of the Statute of the International Criminal Court.

Finally, the loss of livelihood and the psychosocial impacts of harassment and violence by settlers surrounding Palestinian villages bear a risk of "forced displacement" of Palestinians from their land, when their living conditions become unbearable. Forced displacement is a grave breach of the Geneva Conventions. The international community has already raised concerns about actual displacements or risks of displacements caused by relocation plans or demolitions. Unfortunately, to this date, there is no systematic monitoring of the role of settlers' violence and harassment in potential displacements of Palestinian families, beyond area C.

CONCLUSION

This study shows that Palestinians are facing continuous attacks from settlers in the West Bank that lead to the deterioration of their living conditions and of their psychosocial well-being, their impoverishment, physical injuries, deaths, and a risk of displacement when the situation has become unbearable.

Settlers' violence appears to be a succession of individual criminal acts that are not being properly investigated and brought to justice, but should also be viewed within a trend of settlement expansion and displacement of Palestinian populations, a policy in violation of international humanitarian law that compromises all possibilities of reaching a durable peace agreement between Israelis and Palestinians.

The perpetrators of these attacks should be held individually accountable, as they are personally liable for the crimes they commit.

The State of Israel should be held accountable for failing in its duty to protect human rights and respect international law in its territory and in the territory it occupies.

Third States are responsible for the respect of international law and human rights. Many of them have repeatedly raised concerns or condemned Israeli violations, with few results. Yet, international pressure can have an impact as the case of Duma shows – perpetrators were probably arrested thanks to international pressure and media attention. But it should not be limited to the most horrific cases and be methodical enough to tackle an issue that has proven to be systematic.

TESTIMONIES FROM THE NORTHERN WEST BANK

"I have never stopped thinking of leaving my home, for the sake of my children" (Nour³, mother of 4 children, Burin)

"Nisreen's family lives in a house that is located on the opposite side of the main entrance to the town in area B. It is the only Palestinian house located in that spot, which turned it into a soft target for settlers' attacks almost on a daily basis because settlers drive on the road adjacent to the house day and night."

The most destructive assault on the farm was on 3th April 2013 when settlers attacked the farm with arson substances and cocktail bombs. They also burned the family's farm vehicle and vandalized tools. Since then, every member of the family feels afraid to go there...the risk is becoming more serious with every passing day, especially after the attack of Duma (Ali, Madama)

Sometimes they come twice a night attacking us with stones and gunfire, and last year they hurled a cocktail bomb...they smash windows, vandalize our cars, and terrify our children. (Ahmad, Jalud)

³ For confidentiality reasons, all the names in the testimonies have been changed

ACRONYMS

EU

European Union

FAO

Food and Agriculture
Organisation of the United
Nations

HS

Human Security

ICJ

International Court of Justice

IDP

Internally Displaced Person

ISF

Israeli Security forces

IHL

International Humanitarian Law

IHRL

International Human Rights Law

MdM

Médecins du Monde France

NGO

Non-governmental organization

OCHA

United Nations Office for the
Coordination of Humanitarian
Affairs

OHCHR

Office of the United Nations
of the High Commissioner for
Human Rights

OPt

Occupied Palestinian Territory

PA

Palestinian Authority

PUI

Première Urgence Internationale

UN

United Nations

UNHCR

United Nations Refugee Agency

UNRWA

United Nations relief and Works
Agency for Palestine refugees in
the Near East

WASH

Water, Sanitation and Hygiene

GLOSSARY

Areas A, B and C: According to Oslo II Accords of 1995, the occupied Palestinian territory (oPt) in the West Bank was divided and classified into three distinctive administrative zones: areas A, B, and C. Each zone was given a different status in terms of the legal status and the degree to which the nascent Palestinian Authority (PA) has jurisdiction in it.

Area A: it is mainly located in major cities of the oPt, where the PA has full civil and security control (except East Jerusalem). Area A represents 18% of the total area of the oPt. Regardless of this arrangement Israeli security and military forces often enter this area to conduct arrests or house demolitions, or assassinations of Palestinian militants.

Area B, in which the PA is responsible for civil affairs, whereas the PA and Israeli authorities share security control through a system of coordination and liaison offices. Israeli forces enter this area on a daily bases for security operations. This area is approximately 22% of the oPt.

Area C is under the full civil and security control of Israeli authorities. It represents almost 60 percent of the oPt. According to Wye River memoranda, Israel should have withdrawn from another 13% of area C to include them within area A. However, this didn't happen. It is important to notice that about 70% of area C is located within settler municipal control, where Palestinians are denied access and/or denied permissions for development⁴.

Displacement/forcible displacement (See also IDPs): A displaced person can generally be defined as a person who has left his or her home because of political persecution, or violence. If the displaced person has crossed an international border and falls under one of the relevant international legal instruments, he/she is considered a refugee. A person who did not cross an international border is commonly considered to be the less well-defined category of internally displaced person (IDP), and is subject to more tenuous international protection.

Internally Displaced Persons (IDPs): Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border⁵.

Outpost: In Israeli law, an outpost is an unauthorized or illegal Israeli settlement within the West Bank, constructed without the required authorization from the Israeli government in contravention of Israeli statutes regulating planning and construction. In Israeli law, outposts are distinguished from settlements authorized by the Israeli government. This distinction between illegal outposts and legal settlements is not endorsed by international law, which considers both a violation of the norms, governing belligerent occupations, applicable to the West Bank. The Israeli government disputes this interpretation.

⁴ Source: BTseelm. http://www.btselem.org/area_c/what_is_area_c

⁵ Source: UN guiding principle on internal displacement: <http://www.ifrc.org/Docs/idrl/I266EN.pdf>

“Price Tag” attacks: “Price Tag” is the name of an underground Jewish-settlers’ organization that started to wage terror attacks against Palestinians, especially in the oPt often in reprisal for Israeli government action against illegal settlement activity. These attacks target mosques, churches, Arab and Jewish homes and property, Israeli military bases and vehicles, as well as other Israeli Jews. Most of these attacks include the phrase “Price Tag” and are accompanied by hateful and racist slogans, the name of an illegal settlement, or a reference to an Israeli casualty of Palestinian attacks. The implication being that the violent incident is the “cost” of Israeli government action on settlements or for anti-Israeli violence. Most recently, Price Tag indiscriminate attacks became more lethal, particularly arson attacks such as the attack on the Dawabsheh family in the village of Duma (highlighted in this report).

Settlement: The term “settlement” refers to illegal Israeli colonies on land long recognized by the United Nations as part of Palestine (the occupied Palestinian territory since the war of 1967). In legal terms, Israeli settlement policy and actions in the oPt are illegal. Moreover, the UN Security Council Resolution 446 (1979) and 465 (1980) condemned the settlements; they state that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East. The population of these settlements, which currently total 125, have grown by an average of 5% annually since 2001, whereas the average growth of Israelis in Israeli proper is 1.8% in the same period⁶.

Settlers: Israeli settlers in the oPt are Israeli citizens who move to live in colonies which are residential areas built across the Green Line, which is the 1949 cease-fire line between the newly established state of Israel and its Palestinian/Arab neighbors.

⁶ B’Tselem <http://www.btselem.org/settlements/statistics>

INTRODUCTION

OBJECTIVES OF THE STUDY

For over ten years, Médecins du Monde France (Mdm) and Première Urgence Internationale (PUI) have been intervening in the Northern West Bank, in oPt, to mitigate the impacts of settlers' attacks against Palestinian communities. Based on this work, this research offers a presentation of what settlers' violence actually represents for Palestinian communities living in the neighborhood of settlements and outposts in the West Bank and examines the trend of settler violence witnessed by humanitarian organizations on the ground on the one hand, and Israeli settlement enterprise, in particular the establishment and the legalization of settlement outposts, on the other. Based on previous reports by non-governmental organizations (NGOs) or UN agencies, data collection, and testimonies, it shows that settlers' attacks perpetrated mainly by settlement outposts' inhabitants have cumulative impacts and represent a permanent risk on Palestinians' human security. They undermine Palestinian communities' livelihood and psychosocial well-being and constitute a violation of international laws in several ways: violation of the duty to protect, contribution to the expansion of illegal settlements and risks of displacement of the occupied population.

The first section of the study presents the nature and trends of settler violence. Based on field work in the Northern West Bank, the second section presents test cases from Mdm and PUI communities of intervention. The third part exposes how settler violence constitutes breaches of several international law obligations and accountability. The conclusion comes with recommendations addressed by Third States, notably France and the EU, as partners of Israel.

METHODOLOGY

The research is based on a review of official reports and statistics as well as reports from NGOs and data collection by Mdm and PUI based on their areas of interventions in the field in North West Bank. It therefore doesn't include a detailed analysis of other hot spots of settlers' violence, such as the area of Hebron. Interviews were conducted with the staff of the organizations and with stakeholders from other international agencies. Finally, the research consultant with the presence and assistance of Mdm social workers conducted a field work that was comprised of unstructured interviews with cases selected from the targeted regions in North of the West Bank. Unstructured interviews are meant to give the interviewees enough space to express their own experiences and to express themselves openly.

The researchers faced a number of challenges and hindrances and experienced some limitations in regard to the findings and conclusions. First, the inaccessibility of data on Israeli settlements from official Israeli sources, the inability of our staff and researchers to interview settlers and the multiplicity of data sources constituted challenges and further limitations on the research.

Moreover, some important questions could not be addressed here, such as the role of Israeli authorities, notably regarding the instructions given to the Israeli Security Forces (ISF) intervening in the area, or the law structure in the oPt and its impact on the response to settlers' crimes.

Consequently, certain precautions are recommended when reading, interpreting and presenting the following results and figures.

WORD OF CAUTION SETTLEMENTS ARE NEVER LEGAL

Focusing on violent settlers and settler violence especially related to outposts, doesn't imply creating a distinction or a differentiation between Israeli settlers in the oPt. The entire settlement policy and actions of Israel in the Occupied Palestinian Territory is considered a violation of international laws and conventions, especially the International Humanitarian Law. Israeli settlements are illegal according to every basic documentation on international law:

- Article 46 of the Hague Convention prohibits confiscation of private property in occupied territory. Article 55 of the same document stipulates that "the occupying state shall be regarded only as administrator of public buildings, real estate, forests and agricultural estates... It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

- Article 49, paragraph 6 of the Fourth Geneva Convention explicitly stipulates that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies."

- UN Security Council Resolution 446 (1979) and 465 (1980) both condemned the settlements. Res. 446 stated "that the policy and practices of Israel in establishing

settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East." Likewise, in 465, the Security Council called upon Israel to "dismantle the existing settlements." Most recently, in February 2010, a resolution was introduced and supported by 14 members of the Security Council, "reaffirming that Israeli settlements (including East Jerusalem) are illegal and constitute a major obstacle to the achievement of a just, lasting and comprehensive peace. It also demanded once again that Israel immediately cease all settlement activities. The U.S. was the sole dissenter, thus vetoing the resolution.

- The 2004 ruling by the International Court of Justice declared that "Israeli settlements., including East Jerusalem, are illegal and an obstacle to peace." ⁷

⁷ http://thecepr.org/index.php?option=com_content&view=article&id=115:illegal-israeli-settlements&catid=6:memos&Itemid=34

1. NATURE, TREND AND IMPACTS OF SETTLER VIOLENCE

1.1 THE VARIOUS FORMS OF SETTLER VIOLENCE

Settlers' assaults against Palestinian communities can be roughly divided in two major categories: violence against people and violence against properties.

Violence against individuals and communities: Direct actions of physical violence perpetrated by settlers against Palestinians range from intimidation to actual acts. This includes waving weapons, shooting live munitions, throwing stones on pedestrians and vehicles, incursions with force into Palestinian populated areas, throwing cocktail bombs on houses, running over pedestrians – especially children – with a car; and all other kinds of attacks directly targeting people.

Violence against properties: Attacks on private property, including crops, olive trees and livestock. The most affected sector is agriculture, in particular olive/ olive oil production. Crops, olive tree groves and vineyards are the target of attacks that range from uprooting to burning and spreading toxic chemicals on trees. Homes and vital infrastructures (such as water systems) can also be targeted.

The attacks have many forms:

Armed presence by settlers in certain areas creates a "no go zone" for Palestinians. It is one of the most pervasive examples of settler violence in areas surrounding settlements and outposts, which deter Palestinians from reaching their lands.

Constant harassment by settlers (insults, shouting) also impact the well-being of surrounding Palestinian communities. Physical assaults against people and property such as throwing stones at homes and cars, blocking roads, incursions into Palestinian villages and town, torching fields, and uprooting trees.

Terror campaigns such as "Price Tag". These are well

organized waves of violence aimed at the Palestinian population and Israeli security forces. They generally follow actions by Israeli authorities that are perceived as harming the settlement enterprise, or follow Palestinian violence against settlers⁸.

Finally, other forms of behavior can also be considered as forms of violence, such as the voluntary discharge of waste or sewage waters on Palestinian land. These elements are not covered in MdM and PUI interventions nor numbered in the UN reports as they are more indirect than assaults or straightforward harassment, but they surely affect the victims.

1.2 EXAMINING THE TREND : A WORRYING INCREASE IN THE LAST DECADE

Local and international organizations concerned with human rights have registered a general increase of the phenomenon of settler violence, especially in the last decade.

According to OCHA, between 2006 and 2012 only, settlers' attacks involving Palestinian casualties have increased by 175% (56 to 98) and those involving Palestinian property/land damage by 388% (60 to 233, i.e. 4 to 5 per week in 2012.)⁹. In 2014, OCHA documented a total number of 300 attacks by settlers (6 attacks per week)¹⁰. Between January 2014 and May 2015, the agency reports a total of 877 trees damaged by settlers, and a total of 33 Palestinian casualties¹¹.

The arson attack against a Palestinian family in the village of Duma on 31st July 2015 (see box below) is a watershed of the rise of assaults. Since this event, settlers' attacks have sharply increased despite the international condemnation and the statements from the Israeli government claiming it will take action against the perpetrators. In the 6 weeks following the arson, in North West Bank MdM had to intervene in 14 new cases of settler violence, an average of two per week, against only 3 incidents in July.

These events were followed by an escalation of violence between Palestinians and Israelis from October 2015,

⁸ http://www.btselem.org/settler_violence

⁹ Data from 2006 to 2013 provided by OCHA to PUI, October 2013

¹⁰ Akiva Eldar. (2015). "Why is Israel Still Blind to Settlers' Violence Against Palestinians".

<http://www.al-monitor.com/pulse/originals/2015/03/israel-netanyahu-settlements-west-bank-illegal-outposts.html#>

¹¹ OCHA 2015. Coordination Meeting - North West Bank

which also led to a sharp rise of attacks by settlers. Within the first week of October only, OCHA reported at least 29 Israeli settler attacks on Palestinians resulting in injury or property damage. The attacks involved shooting, physical assault, stoning, throwing Molotov cocktails, and setting property on fire. At least 21 Palestinians were injured, including a 17-year-old boy who was stabbed in the H2 area of Hebron city, and a man who was shot in Bethlehem. It should be noted that the data collected by the UN does not take into account certain forms of violence, notably harassment and intimidation, whereas they have a serious impact on the Palestinian communities and affect their lives and psychosocial well-being.

2012, 2013 and 2014 represent records of cases of violence registered by OCHA¹². If the number of attacks has slightly declined in 2015 after years of surge, they remain at very high levels and should be placed in a context of general violence and restriction to access to their land for Palestinians. The intensity of the attacks is higher. The decrease in the number of damaged trees recorded in 2015 can be explained, to a certain extent, by the fact that now, after years of attacks, there are simply less trees left to be uprooted. The trend that has been developing over the last decade remains extremely worrisome and the level of violence remains unacceptable.

THE DUMA ARSON ATTACK: THE TRAGEDY WAS "JUST A MATTER OF TIME"¹³

On July 31st 2015, settlers set the house of the Dawabsheh family on fire in the village of Duma near Nablus. Ali Dawabsheh (18 months) and his parents were killed and Ahmad, Ali's 4 years old brother, was severely injured. The attack is a peak in a context of continuous settlers' violence. The attack came after Israeli authorities implemented a court ruling to return to its Palestinian owner a portion of land that settlers from Beit Ail near Ramallah had taken over for years. Settlers clashed with Israeli police and military protesting the decision before the attack. This attack is therefore a typical example of the issue of "Price Tag" aggressions, where settlers' groups "have publicly proclaimed their intention to influence the political decisions of the Israeli government through acts of violence, which have erupted in response to government measures that negatively affect settler interests"¹⁴, blindly targeting Palestinian communities in acts of revenge. The Duma case left communities in the area deeply affected, in fear of other violence. 82% of MdM beneficiaries in Duma felt severely affected and are at risk of developing post-traumatic stress disorder. It has been observed that the psychological and psychosocial impacts of this event go far beyond the village of Duma, and people are starting to fear that similar events could happen in their own communities. Yet, since the incident, the assaults have continued.

¹² Over 300 attacks yearly for these 3 years: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_tables_january_2016_english.pdf

¹³ See B'Tselem press release : http://www.btselem.org/press_release/20150731_killing_of_baby_in_duma

¹⁴ Al-Haq 2013

¹⁵ For more information on the psychosocial impacts of the Duma arson, see Médecins du Monde France briefing "

1.3 SETTLEMENT OUTPOSTS : VIOLENCE INCUBATORS

The vast majority of the cases documented by settler violence in the three areas we are focusing on are related to settlement outposts.

Nablus and Salfit governorates are affected the most by settlement outposts: The four settlements with the highest number of outposts located around them – Shilo, Eli, Itamar and Yitzhar – are south of Nablus. Shilo and Eli settlements, for example, have eleven outposts (6 for Shilo, and 5 for Eli)¹⁶. Nablus is surrounded by 14 Israeli settlements and 26 settlement outposts¹⁷, out of which a great number of assaults took place. The villages suffer from frequent attacks by settlers living in nearby Yitzhar and Bracha settlements. In 2011, over 70 incidents leading to casualties or property damage were attributed to settlers from Yitzhar settlement alone¹⁸. The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories of 2014 remarks that the highest levels of settler violence took place in Nablus, South Hebron, and East Jerusalem. As our cases show, most, if not all, of these incidents took place in areas close to Yitzhar outposts.

In terms of their location, settlement outposts appear as strategic frontlines to expand settlement area of control. Approximately 90% of all outposts are located within 3 kilometers of an established settlement and some of these are situated inside its outer limits¹⁹. On a medium term, outposts generally connect and physically unite with the closest settlements to increase their control over the territory and therefore expand the lands occupied by Israeli settlers. This also increases the disconnection of Palestinian land.

The phenomena of settlers' attacks around the outposts can be linked to their expansionist function. As noticed by the Israeli organization, Yesh Din²⁰, aside from the territory that has directly been grabbed by

the implantation of the housing units for settlers, the land that is being captured for military and security purpose, you can define a "circle of fear" where Palestinians are deterred from going because of the threat of settlers' attacks²¹. This circle is a de-facto buffer zone where settlers create fear through armed presence, intimidation against Palestinian farmers and inhabitants, and waging violence campaigns and assaults against Palestinian homes in the nearby villages and towns. It contributes to reducing the land accessible for Palestinians and increases land control by settlers.

1.4 A CULTURE OF IMPUNITY

Settler violence against Palestinians remains largely unchecked, without adequate protection from Israeli authorities, and with virtually no accountability for the perpetrators.

The institutional and contextual conditions within which settler violence takes place provide a key factor to explaining the widespread of this phenomenon.

Under the Oslo agreements, Israel is responsible for the security in area C and B of the West Bank. Besides, as an occupying power, it has an obligation to protect the occupied population, i.e. Palestinian communities. Yet, the ISF turns a blind eye to settlers' attacks. As Yesh-Din notices, "The ISF and police are neither prepared nor willing to provide the necessary protection to Palestinians attacked by violent settlers"²².

Israeli security forces, including police, usually refrain from intervening to prevent settler violence. What's worse is that they actually protect the perpetrators of attacks instead of the victims. And in many occasions, these law enforcement agencies "do not always deploy in advance to protect Palestinians from settler violence, even when such violence could be anticipated," noted in B'T Selem report Settler Violence: Lack of Accountability records²³. The same report observes that

Palestine: evaluation of the psychosocial impacts of Duma arson", October 2015

¹⁶ http://www.ochaopt.org/documents/thehumanitarianimpactofisraeliinfrastucturethewestbank_full.pdf, p37

For more details see OCHA maps at: http://www.ochaopt.org/documents/ocha_opt_yitzhar_map_february_2012_map_english.pdf

¹⁷ Previous source, page 90

¹⁸ https://interagencystandingcommittee.org/system/files/legacy_files/Settlements%20and%20settler%20violence.pdf

¹⁹ http://www.ochaopt.org/documents/thehumanitarianimpactofisraeliinfrastucturethewestbank_full.pdf, p36

²⁰ Yesh Din is an Israeli organizations focusing on human rights that notably monitors human rights violations in the occupied territory

²¹ http://www.yesh-din.org/userfiles/Yesh%20Din_Under%20The%20Radar%20-%20English_Proof07.pdf, p31

²² Source: Yesh Din: <http://www.yesh-din.org/cat.asp?catid=3>

²³ Source: B'Tselem: http://www.btselem.org/settler_violence

Israeli forces "rather than restricting violent settlers, [they] impose restrictions on the Palestinians".

This policy of non-intervention is described in recent Yesh-Din report "Idly standing by". The report, collects testimonies from 77 Israeli soldiers, showing how idle and indifferent Israeli forces become when settlers attack Palestinians: these testimonies indicate that soldiers are not aware of their obligation to protect the Palestinians population in the West Bank, and do not understand the power vested in them²⁴ to protect Palestinians from Israeli settlers.

Besides the non-intervention of security forces during the assaults, Palestinians have extremely limited chances to defend their rights in court.

For example, Yesh-Din documented a striking record of failure by Israeli police to investigate 84 percent of settler violence against Palestinians in 2013, and even a higher rate of failure when it comes to settlers' attacks against olive trees; the ration jumps to 94.7 percent for the same year.²⁵

Ultimately, only 1.9% of complaints submitted by Palestinians against Israeli settler attacks result in a conviction, the Israeli human rights group Yesh Din reports.

Effective measures could have deterred and brought an end to settler violence.

Instead, the systematic lack of law enforcement against settlers as well as the failure to investigate such incidents have led to the creation of a culture of impunity and contributed to an increase in the frequency and the severity of such attacks.

This impunity has become the rule.

In the case of Duma (see box page 13), suspects have been arrested after months of investigations, but it represents an exceptional case that benefited from unusual international attention. There is still no guarantee that the author of the attack will be fairly condemned. However, this example shows how international pressure can contribute in improving the accountability of violent settlers.

By contrast, in cases where Palestinians are suspected of having been involved in violent attacks against settlers, Israeli law enforcement authorities have undertaken extensive investigative measures. Israeli authorities are known for implementing a dual legal system in the oPt: indeed, Israeli settlers enjoy virtual impunity for crimes against Palestinians and benefit from the protection of Israel domestic laws and the jurisdiction of Israeli civil courts. On the other hand, Palestinians living in the same territory are subjected to the jurisdiction of Israeli military law and military courts, which impose draconian restrictions on their rights.

The lack of accountability of the State of Israel for what represents violations of international law will be presented in the third section of the study.

²⁴ Standing idly by. Yesh Din

²⁵ Norwegian Refugee Council. (2015). Settlers' Violence: International Investigative and Policing Standards, page 7

1.5 LIVELIHOOD AND PSYCHOSOCIAL WELL-BEING AT STAKE

Due to the nature of their intervention on the ground, PUI and MdM have documented two types of impacts:

- Impact on livelihood
- Impact on mental health and psychosocial well-being

Of course these elements are not meant to be exhaustive and do not cover all the casualties and loss of the Palestinian communities.

1.5.1 IMPACT ON PROPERTY, RESOURCES AND LIVELIHOOD

Violence involves preventing and/or restricting Palestinians' access to natural resources (particularly land, graze land and water). Violence also affects animals, fields, houses and farms. In these cases, settlers' attacks negatively affect the overall economic situation of Palestinians and their access to basic livelihoods. In this respect, settlers' destruction of olive trees is the most pervasive and the most devastating for Palestinians. Indeed, the olive oil industry in the oPt makes up to 25% of the agricultural income in the West Bank, supporting approximately 100,000 families. A damaged 50 year old olive tree requires 5 years to bear fruits again and 20 years to reestablish normal production. Over the years, owners suffer an estimated loss of USD 750 per damaged olive tree, according to the FAO and as reported by the OHCHR²⁶. In 2013 alone, OCHA recorded 10,672 vandalized olive trees by settlers and 9390 for 2014²⁷, which not only strips Palestinians of a main source of income, but also causes them extra unaffordable losses every season. Indeed, as the Institute for Palestine Studies notices: "the fact that a ruined harvest would economically devastate a family and may compel them to relocate is not lost on covetous settlers."²⁸

Al-Haq report of 2013 on settler violence²⁹ shows that most settlers' attacks target Palestinian agriculture, especially olive groves. PUI's data - collected in the Northern West Bank governorates of Nablus and Salfit

- show that out of 62 recorded settlers' attacks in 2013, 39 (63%) of them resulted in damages to agricultural lands and 21% needed to receive agricultural and/or livelihoods support. Also, most of the attacks took place during the olive ripening and the harvest season, with 26 (42%) of them between August and November (9 in October only). Also, over one fifth of settlers' attacks recorded by PUI resulted in damages to habitations, thus hindering the right to housing of affected Palestinian families. Recorded attacks to houses consisted of attempts to burn the houses including with Molotov cocktails, stoning resulting in broken windows and solar panels and spraying Price Tag slogans on the walls. In addition, PUI recorded the damage to four WASH (Wash, Sanitation and Hygiene) structures, including an USAID-funded (United States Agency for International Development) cistern in Asira Al Qibliya³⁰. In total and according to OCHA, settlers waged more than 420 attacks against Palestinian property (especially olive trees) between 2009 and 2013.³¹

Settler violence has an impact on the overall living conditions of the Palestinian people and puts their lives at risk as attacks hinder food security, access to water and the right to housing. It constitutes a violation of a range of human rights, including the right to an adequate standard of living.

1.5.2 IMPACTS ON MENTAL HEALTH AND PSYCHOSOCIAL WELL-BEING

Whereas it is relatively easy to quantify physical effects of settler violence against Palestinian populations, the psychosocial and mental effects are difficult to quantify. One reason is that people are less aware of their mental and psychosocial suffering from violence. Another is that it is difficult to make people talk about their mental disorders for stigma related reasons. Finally, research questions on these effects are unstructured and aim at registering narratives rather than dry numbers.

²⁶ Source : Première Urgence Internationale

²⁷ Source: Médecins du Monde: <http://mdm-me.org/wp-content/uploads/2014/11/FACTSHEET-EN-8-10.pdf>

²⁸ The Institute for Palestine Studies. (2015). Settlers Violence in Palestine.

<http://www.palestine-studies.org/resources/special-focus/settler-violence-palestine>

²⁹ Al-Haq (2013). Institutional Impunity: Israel's Failure to Combat Settler Violence in the OPT. http://www.btselem.org/settler_violence

http://www.btselem.org/settler_violence

³⁰ Source: Médecins du Monde: <http://mdm-me.org/wp-content/uploads/2014/11/FACTSHEET-EN-8-10.pdf>

³¹ Ibid

Considering these withstanding, psychosocial and mental effects of settlers' violence on Palestinians are evident, and very well observed and documented by local and international organizations.

Covering 27 villages in the Northern West Bank (Nablus, Qalqiliah and Salfit), between July 2014 and March 2015, MdM documented 58 critical incidents of settler violence that required support to 83 people, out of which 11% were referred to mental health services for specialized support. The vast majority of the beneficiaries suffer from stress and anxiety, 2/3 suffer from sleep disorders and half of the cases are experiencing flashbacks³². The same results are documented in a special report issued by OHCHR in the oPt. The report states that settler violence impacts on Palestinian mental health and psycho-social issues include "strong feelings of frustration (particularly for men), constant feelings of fear and insecurity, eating disorders, sleep disturbances (particularly in children), anxiety (particularly in women), depression and behavioral problems. These symptoms lead to aggressiveness, violence, social withdrawal, and academic deterioration and poor school performance for children." ³³

The context of violence in which Nablus communities are living has an impact on the psychosocial well-being and the mental health of the populations, even when they are not directly involved in critical incidents. Acute stress seems to be the norm. What could be sometimes mistaken for resilience is the necessary adaptation to a stressful environment in which conflicts are part of the daily 'usual' life.

Critical incidents are happening continuously. Therefore, communities can't find emotional balance when they know it will happen again. Parents can't ensure the physical and emotional security of their children, when they feel stressed, anxious and depressed about the situation. Children can't turn to their fathers as protectors. Everyone feels powerless. Everyone is unique and reacts differently, according to his/her own coping mechanisms, resources and strength. While a minority of beneficiaries needs specialized mental health support, a majority of people are continuously emotionally affected by the situation.

The Duma arson has worsened the situation considering the severity of the attack and its consequences (three persons were killed, burnt in their sleep). The event had

unprecedented psychosocial impacts, extending far beyond the village of Duma. Up to 50 kilometers away, beneficiaries of MdM programs were mentioning this case as a source of anxiety and stress. Everyone could relate to the Dawabsheh family and was fearing that such attack could happen again. The peak of violence that has followed will certainly make the situation even more difficult and could more profoundly disrupt the emotional balance of the communities.

³² MdM. (2015). Mental Health and Psychological Impact, report

³³ http://unispal.un.org/pdfs/UHCHR_SettlerViolence.pdf

2. THE IMPACT OF SETTLER VIOLENCE ON PALESTINIANS: TESTIMONIES FROM THE NORTHERN WEST BANK

The following cases have been selected from the governorates of Nablus and Salfit to illustrate the concrete impacts of settlers' violence on people's life: fear and anxiety, loss of livelihood, change in the lifestyle, loss of access to land, etc. All of these consequences reveal serious violations to the right to protection and raise concerns about the serious risk of displacement related to settler violence.

In that regard, the whole pattern of violence can be interpreted as a strategy of "violence-them-out". It should be remembered these are specific cases in a context of general violence. For example, the two villages of Qaryut and Jalud were targeted by 46 incidents of settlers' attacks out of which 43 attacks affected the livelihood of farmers in the vicinity of Israeli settlements and outpost.³⁴

2.1 NOUR³⁵ AND MUNA'S FAMILIES : LIFE IS A CONSTANT FEAR OF DEATH.

"I have never stopped thinking of leaving my home, for the sake of my children". This is what Nour, a mother of 4 children in Burin, replied when asked about the ability of the family to endure settlers' attacks against them. The family lives a few hundred meters from the outpost of Arosa. In 2010, PUI provided the house with a protection wall and fences to decrease the possibility of fatal attacks by settlers, as Nour says. "I wouldn't have built it, if settlers haven't attacked us with stones, cocktail bombs, and gunfire repeatedly", says Nour; "This makes me and my kids feel like in prison, with constant fear and tension...we believe that our lives are on the line all the time especially now after what happened in Duma."³⁶

Nour's youngest kid, Firas, was 6 years old when the house was attacked by a cocktail bomb. He is now 10, and

since then he suffers serious difficult in speaking. Her eldest son, Mohammed, suffers from constant terrible headaches. He is 12 and has to live on Elatrolet pills prescribed to treat deep depression, as his prescription shows. Mohammed, who recorded with his father a song dedicated for the Dawabsheh family of Duma wants to leave the house saying that his siblings wake up almost every night crying and shivering in fear. Nour, the mother, suffers from stomachaches, an irritated colon, and seizures of panic, and her relationship with her husband has become full of tension.

The same fear and insecurity is the hallmark of Muna from the nearby village of Urif. Muna and her kids have been facing settlers' attacks for more than 14 years. Their house is in the eastern outskirts of the village and has been targeted by settlers coming from the outpost called Hill 725 South Yitzhar. In 2010, settlers burned all of fields surrounding the house, and attacks intensified ever since, as Muna asserts. "My kids and I rarely go out from our closed doors. We don't visit our family in the same village out of fear that one day settlers may come and take it over or set it on fire while we are away", she says. The latest attack was the same day of Duma arson; settlers burned olive trees around the house. They used burning vehicle tires and rolled them down the hill from the outpost.

Settlers always show up near the house waging their guns, often with the presence of Israeli soldiers, Muna explains. The last time about 25 masked settlers attacked our house and the nearby house with stones. The most terrifying attack for Muna and her kids was in December 2010 when settlers hurled a cocktail bomb on the house while the family was sleeping. The bomb hit and burned the window of the room where the kids were sleeping. That night, Muna was awakened by the cries from her neighbors to see the flames on her kids' window before she was able with the help of neighbors to distinguish it and save her family. "My kids and I live a miserable life...I suffer from a number of illnesses to which all doctors I visited have one explanation: what you suffer is psychological," Muna sadly states. When we asked Muna about how long she thinks they can hold on, she stressed that "the main issue is that my kids live under constant fear; they always cry and complain about being shut in the house. They've become nervous all the time, and violent to each other...some time my mind leads me to the option of leaving, but this is not a choice."

Muna from Urif explains to our team how anxious she

³⁴ OCHA report 2014

³⁵ For confidentiality reasons, all the names in the testimonies have been changed

³⁶ Nour was alluding to the arson attack in the village of Duma days before we interviewed her and her kids.

and her kids are about the approaching new school year. "Instead of being excited and happy, my kids and I wish that the school is not coming soon...every single day of school the kids leave and come back with fear of possible attacks by settlers." Muna and her kids recall how during last year they didn't leave the house for almost five months in a row.

2.2 NISREEN: HOW LONG AN ISOLATED FAMILY CAN PERSEVERE?

Not very far from Urif and between Qalqilyah and Nablus, another family lives in the same conditions. Nisreen and her family from Deir Istya have been under intensive assaults from settlers. The town, and the whole region around it, is surrounded by seven Israeli settlements: Emmanuel, Ginnot Shomron, Yakir, Nufim, Karne Shomron, Revava, and Ma'ale Shomron; all of which were established on lands owned by Palestinians from Deir Istya. After 2000, settlers established five outposts connected to their mother settlements: West Nofim, South Nofim - Yair Farm, Elmatan (Ma'ale Shomron South) and South Immanuel in an attempt to expand the settlements and control further Palestinian lands³⁷. Nisreen's family lives in a house that is located on the opposite side of the main entrance to the town in area B. It is the only Palestinian house located in that spot, which turned it into a soft target for settlers' attacks on an almost daily basis since settlers drive on the road adjacent to the house day and night.

Nisreen has 6 children, the eldest of whom is 15. She says that "the moment my husband goes to his work in Salfit, me and my kids stay inside, shut all the doors (the house has prison-like doors made of thick metal) and windows and curtains. We do not even go to visit our family on the other side of the road". When asked about the reason, Nisreen said that settlers are always around either driving or as hikers, and the last time (a few days before the interview) they came on horseback waving their rifles. The year 2013 was the worst for the family who lived in the place for 16 years, and her father and brother-in-law lived in the big house for more than 50 years. In the spring of 2013, a settler hit Nisreen's son Mahmud when he was coming back home from school. The settler hit the boy and dragged him underneath his vehicle for more than 30 meters. Mahmud's backpack was hooked to the car before somehow it was snapped and the driver sped away

from the scene. The boy was seriously injured and hospitalized for 2 weeks, and still suffers from deep wounds and scars all over his body.

This wasn't the last assault, as Nisreen testified. She introduced us to her kids including Mahmud who showed us his scars. His younger sibling Tawfiq explained how settlers attacked him three times on his way to or back from school. During Ramadan of 2014, Hatem says "I was coming back from school with my cousin when a settler chased us with his car and fired three times before people from the town came out and the settler escaped". Tawfiq described his feeling saying: "I thought he will run me over as they did to my brother, or kill me with his gun...I was shivering in fear for days". This was the incident after which Tawfiq's uncle, decided to leave the big family house and moved to another house inside the town. Tawfiq was victim of another attack few months ago, when a settler driving by the house, pulled his rifle out of his car window and shot a single bullet in the air next to the boy.

Nisreen and her kids feel utterly exposed and isolated after her brother-in-law was forced to leave. She says: "I wish I can leave by tomorrow, especially with the school year coming soon". We asked Nisreen what makes her stay despite all this fear and her life-threatening situation. The answer came with clear bitterness: "We can't afford moving...we live in constant insecurity and horror, but we don't have any place else to go to".

Mahmud and his siblings live fear of assault against their lives. As a result, their mother says, until few months ago none of them dared to move from room to room, or to the restroom during night time, and now they started to do the same during day time. "My husband and I started to fight easily...and the treatment our son's Mahmud needs for his injuries is draining us... to add that to what we endure, our life has become miserable."

2.3 ALI: FARMING HAS BECOME

³⁷ Deir Istiya Town Profile. [2013]. <http://vprofile.arij.org/salfit/pdfs/vprofile/Deir.pdf>

VERY COSTLY

Ali owns a 5 dunum³⁸ farm in area B of Madama village that became isolated and cut off from the rest of the village since the construction of the bypass road of the settlement Yitzhar. The farm includes a family house that Ali and his family were pushed to leave. Ali explains to our team: "To reach the house and the farm has become dangerous because settlers and Israeli soldiers are roaming around all the time. The road to the farm is closed, he goes on, and settlers from Yitzhak attacked the house and the farm several times." Settlers started their attacks on the farm in 2000; they smashed the windows of the house with stones, vandalized the farm by destroying parts of it, as Ali says. On one occasion, settlers forced their way into the house while we were in the village.

The most destructive assault on the farm was on 3th April 2013 where settlers attacked the farm with arson substances and cocktail bombs. They also burned the family's farm vehicle and vandalized tools. "Since then, every member of the family feels afraid to go there...the risk is becoming more serious with every passing day, especially after the attack of Duma", as Ali puts it. The fear that Ali has is not only for his own and his family's safety, as he asserts, but also the possibility of another arson attack on the farm; "we can't afford another fire... we can't live in fear forever. I am not afraid, our reality is frightening though."

2.4 NOT EVEN FOR A SKYSCRAPER!

"There were no settlements when we built the first house on this hill in 1973...the whole area that you can see was all ours, and now we are surrounded and rounded up." This is what Ahmad begins to say when we asked him about the extended-family compound (7 houses owned by family brothers and cousins) in which we visited him on the eastern side of Jalud hills. The first thing one notices from the outside of the compound is thick iron bars fixed to the windows, and the relatively high wall surrounding it. These kind of protective measures have never been common place in Palestinian communities' behavior in villages.

The first incident of violence Ahmad can recall took place 13 years ago: "I was with my wife in the field working our land when 2 settlers appeared some less than a kilometer away from us and started shooting at

us...my wife and I managed to flee". Since then settlers from the nearby outpost of Shivot Rahel became more and more violent. Ahmad says that settlers' attacks intensified in the last 5 years especially in the shape of night raids against the house and the compound. "Sometimes they come twice a night attacking us with stones and gunfire, and last year they hurled a cocktail bomb...they smash windows, vandalize our cars, and terrify our children," as Ahmad explains. In one of those attacks Ahmad's 4 years old nephew was hit by a stone to his head and was taken to the hospital. "They were here last night riding 2 cars and waving guns...they [settlers] started to show up in the surroundings and close to our houses during Fridays. They know that men go to Friday prayers at noon leaving only women and children behind".

We asked Ahmad how he and the family manage. He answered with clear bewilderment: "All we fear about now is arson attacks. We can live with gunfire and stones hurled at us, but arson is another terrifying question after what happened in nearby Duma." Ahmad stated that the family faces settlers' attacks with counter self-defense acts: "We take to roof tops with stones that we hurdle to protect ourselves and families, there is no other way. All we need is support." In response to our question as to the possible transfer of the family, Ahmad said: "when we built our house here it was like sitting in a Parisian park. Life was easy and soft. When settlements and outposts started to appear everything have changed. We now live in fear and anxiety. However, even if they offered us a skyscraper we will not leave...enough with refugees' life."

³⁸ A dunam is equivalent to 1000 square meters

3. BEYOND A SUCCESSION OF CRIMINAL ACTS: SETTLER VIOLENCE IN LIGHT OF INTERNATIONAL LAW

Considering its systematic nature, settler's violence must also be analyzed against the international legal framework. Indeed, the perpetration of attacks illustrates a number of violations of its obligations by the State of Israel.

3.1 CONTINUOUS VIOLATION OF THE DUTY TO PROTECT THE OCCUPIED POPULATION, DESPITE INTERNATIONAL PRESSURE

According to the Geneva Convention (IV), the occupying power has the duty to protect civilians in an occupied territory, referred as "protected persons". Article 27 of the Convention clearly states that "Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.[...] Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion."

If States are not necessarily responsible for the acts of private individuals, they must prevent human rights violations and investigate, punish and ensure an effective remedy for such violations. They have an obligation of due diligence to protect the individuals, let alone "protected persons". The failure of Israeli authorities to ensure the protection of Palestinians against settlers' attacks, or to ensure fair investigation

and prosecutions in cases of complaints by Palestinians victims of settlers' violence (see section "a culture of impunity" above) represent a breach of these obligations as an Occupying power and a party to the international Conventions stating these duties.

The repetition of attacks by settlers in the West Bank also constitutes violations of Palestinian human rights, such as the right to live, the right to health (physical and mental), or the right to security, the right to work, as enshrined in the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights.

The UN as well as several third parties have repeatedly expressed their concerns regarding the lack of actions undertaken by Israel. The Human rights council has urged Israel to take and implement strict measures, including confiscation of arms and ensuring the application of criminal sanctions, in order to prevent settlers to perpetrate acts of violence, as well as other measures to ensure the safety and protection of Palestinian civilians and Palestinian properties in the oPt³⁹. Following the Duma case, the EU called for zero tolerance against violent settlers. During the Universal Periodic Review to the Council of human rights, France encouraged Israel to fight against impunity through full and impartial investigations into allegations of human rights violations, and on several other occasions, the French government has demanded Israel to bring violent settlers to justice⁴⁰.

Despite some steps taken by the Israeli authorities, notably the creation of a specific police unit to investigate on ideological crimes, the progresses are virtually non-existent. The number of attacks remains at unacceptable levels - 226 attacks registered by OCHA in 2015 - and the chance to see justice done is still marginal. The Israeli Ministry of Justice recently presented some progress in the matter but according to Yesh Din, they are based on inaccurate figures, do not take into account cases where no complaint was registered, and above all, mainly concerns acts of violence against ISF, not Palestinian communities⁴¹.

³⁹ 25th session of the Human Rights Council, human right situation in occupied Palestinian territories, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, report of the Secretary general.

⁴⁰ <http://questions.assemblee-nationale.fr/q14/14-91291QE.htm>

⁴¹ Yesh Din's analysis of MoJ report on Israel's Investigation and Prosecution of Ideologically Motivated Offences Against Palestinians in the West Bank, January 2016

3.2 AN ORCHESTRATED EFFORT LEADING TO ILLEGAL SETTLEMENT EXPANSION

The number, repetition and nature of the attacks prove that we are not facing lone wolf violence. As seen previously, the attacks primarily take place around outposts that are located in the vicinity of existing settlements, hence contributing to their expansion. For Yesh din "This brand of violence is part of a sophisticated, wider strategy to assert territorial domination over Palestinians in the West Bank."⁴²

The number of Israeli settlers has quadrupled since the Oslo Accords in 1993 and 1995; presently they outnumber Palestinians in Area C which includes the most valuable Palestinian natural resources. Overall, 341,000 Israeli settlers live in 235 settlements and outposts in Area C, compared to 300,000 Palestinians for OCHA (2014 data).

The recent wave of demolitions in area C⁴³ seems to indicate that the trend to expand settlements is not over. The retroactive legalization of outposts is also a very concerning signal showing that the government of Israel is supporting a policy of de facto annexation of the West Bank, according to the conclusion of the latest Yesh Din report on the issue⁴⁴. Since 2011 Israeli Government approved, retroactively, the existence of more than a quarter of these outposts either as new settlements or as neighborhoods in existing settlements⁴⁵.

Israeli settlements in the West Bank are illegal under international law. The Geneva Convention (IV) prohibit the transfer of civilian populations in an occupied territory: "the occupying power shall not deport or transfer parts of its own civilian population into the territories it occupies". Transfer by the occupying power of parts of its own civilian population into the occupied territory is also listed as a war crime under Article 8(2)(b)(viii) of the Statute of the International Criminal Court. As for the outposts, they are also illegal under Israeli law.

Both settlements and outposts compromise the existence of a Palestinian State by fragmenting its territory. Both have been repeatedly condemned by

the international community, from the UN to the EU and many Third States. Despite the resolutions and the concerns expressed by other States, the settlement enterprise is going on.

Settlers' violence has to be connected to this context of settlement expansion. Attacks by settlers are multiplied by the extension of the settlements, and they are also a tool to extend their control over the territory. Most of them are carried out in the vicinity of outposts that are considered as the first step to the development of existing settlements. Hence, settlers' violence is intrinsically linked to a violation of International law broadly condemned by the international community, and therefore require special attention from all parties interested in a durable resolution of the Israeli-Palestinian conflict.

3.3 THE RISK OF DISPLACEMENT

The fear and the feeling of threat that victims of settlers' violence endure when their attackers are actually living in their neighborhood are omnipresent in the cases presented in the report. The victims know the attacks can happen anytime, and repeatedly, and that there will be no accountability for the perpetrators.

In the case studies, there is a single case of displacement of Nisreen's brother in law. Many victims of violent settlers have already considered leaving their place, for the sake of their children, for their own mental health and well-being, to return to a "normal" life where they feel free to go out, or because they have lost access to their land or lost their crops, and hence their livelihood. The attacks also often target their properties (car, house, farms...) and they cannot necessarily cover the costs of the reparation, or maintain their activities with damaged materials.

Therefore, the loss of livelihood and the psychosocial impacts of harassment and violence by settlers surrounding Palestinian villages contribute to the risk of "forced displacement" of Palestinians from their land, when their living conditions become unbearable. According to the jurisprudence of the International Criminal Court, the term forcible transfer and/or displacement "is not restricted to physical force, but may

⁴² <http://www.yesh-din.org/cat.asp?catid=3>

⁴³ From January 1st to Feb. 15 2016, the number of structures demolished and people displaced has been equivalent to more than half of the demolitions and displacement in the entire 2015.

⁴⁴ <http://www.yesh-din.org/postview.asp?postid=329>

⁴⁵ Yesh-Din. [2015]. Under The Radar: Israel's Silent Policy of Transforming Unauthorized Outposts into Official Settlements. p5

include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment⁴⁶.

The Special Rapporteur has identified 9 triggers of displacement in the oPt, including violence and harassment by settlers⁴⁷.

The risk of forcible transfer and the possible cases of forcible transfer directly linked to settlers' violence are more difficult to monitor than cases such as demolitions that attract more attention from media and humanitarian organizations: how do you monitor a trigger that takes the form of a constant pressure?

Besides, most NGO examine trends of displacement following the division of the Palestinian territory in area A, B and C with a focus only on area C, while this classification is complex and somehow artificial. Some families could leave their houses located in area A (under Palestinian authority) because of settler's violence on their land in area C (Israeli control), and because they will move their place of residence within the zone under Palestinian control, they might not be registered as displaced persons whereas they have actually been "violenced out". That could represent a significant number of cases since while the built-up areas of the villages are often located in Area B, the vast majority of their agricultural land is found in areas designated as Area C, and the establishment and expansion of Israeli settlements has encroached onto a significant part of the villages' land in Area C.

Article 49 of the Geneva Convention (IV) sets out a very strict prohibition on forcible transfer, which is listed as a grave breach of the Conventions. The international community has already raised concerns about actual displacements or risks of displacements caused by relocation plans or demolitions. It would be important to monitor more closely the role of settlers' violence and harassment in potential displacements of Palestinian families, beyond area C.

CONCLUSION

This study shows that Palestinians are facing continuous attacks from settlers in the West Bank, that lead to the deterioration of their living conditions and of their psychosocial well-being, their impoverishment, physical injuries, deaths, and a risk of displacement when the situation has become unbearable.

Settlers' violence appears to be a succession of individual criminal acts that are not being properly investigated and brought to justice, but should also be viewed within a trend of settlement expansion and displacement of Palestinian populations, a policy in violation of international humanitarian law that compromise all possibility to reach a durable peace agreement between Israelis and Palestinians.

The perpetrators of these attacks should be held individually accountable as they are personally liable for the crimes they commit.

The State of Israel should be held accountable for failing its duty to protect human rights and respect international law on its territory and on the territory it occupies.

Third States are responsible for the respect of international law and human rights. Many of them have repeatedly raised concerns or condemned Israeli violations, with little results. Yet, international pressure can have an impact as the case of Duma shows – perpetrators were probably arrested thanks to international pressure and media attention. But it should not be limited to the most horrific case and be systematic enough to tackle an issue that has proven to be systematic.

⁴⁶ Source; International Criminal Court. <http://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/O/ElementsOfCrimesEng.pdf>

⁴⁷ IDMC & NRC Report of 2014, page 7.

RECOMMENDATIONS

Third States, and particularly the EU and France, as privileged partners of Israel (EU-Israel Association Agreement, political dialogue) should:

- Continue to systematically condemn settlers' violence and remind the government of Israel of its duties and its liability regarding international law.
- Request periodic reports on the investigations and indictments related to settlers' attacks against Palestinians – these reports and data should focus on crimes against Palestinian communities, based on a transparent methodology accessible to human rights organizations, and critical. They should come with recommendations to improve the legal proceedings of settlers' violence cases: capacity building for Israeli authorities, changes in public policies, allocation of specific resources...
- Pressure the Israeli government to undertake measures to prevent crimes against Palestinians. These measures could include public campaigns, training for police, military and any other Israeli authority involved and sanction of any form of incitement.
- Pressure the Israeli government to improve the awareness of the ISF regarding its duty to protect Palestinians in the occupied territory, to undertake investigations when soldiers fail to protect Palestinians during attacks of settlers, and to hold them and/or their hierarchy accountable for this inaction.
- Explore measures to ensure that their own citizens are not involved in any kind of violence against Palestinians, by closely monitoring nationals moving to settlements, raise their awareness about the risks of attacking Palestinian and the liabilities it entails, and requesting systematic information sharing and police and legal cooperation with Israel anytime a violent settler with a dual citizenship is identified.
- Undertake discussions with Israel to generally improve police and judicial cooperation on the cases of violent settlers, to allow Third States to take appropriate measures considering the violations of international law at stake. Appropriate measures could, for example, include measures to ban the entry of individual settlers involved in violent acts (as recommended in November 2012 by the European Union Political and Security Committee).
- Continue to call for the freezing of settlement expansion and the immediate dismantling of outposts, as violations of international law but also as incubators of violence that compromise all the efforts for a durable resolution of the conflict.
- Request that Israel provide data about the most violent outposts and pressure Israel to dismantle them as a priority to stay in line with human rights and international law.
- Engage in a monitoring of displacement caused by settlers' violence, or support agencies to conduct this systematic monitoring, and take all appropriate measures in case the data confirms we are facing forcible displacement.
- Consider more drastic diplomatic steps in case that despite all of the above, no progress is demonstrated in the fight against settlers' violence and violation of human rights of Palestinian in the West Bank. That could include a reconsideration of the partnership with the government of Israel.

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Diakonia. International Humanitarian Law Resource center. <https://www.diakonia.se/en/IHL/>
Médecins du Monde: <http://www.medecinsdumonde.org/> and <http://www.medecinsdumonde.org/>
Première Urgence Internationale. <https://www.premiere-urgence.org/>
OCHA: <https://www.ochaopt.org/index.aspx>
Yesh Din. Volunteers for Human Rights. <http://www.yesh-din.org/>

NOTES



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