



Lawyers for Palestinian Human Rights' briefing on surging settler violence amidst lack of international action against illegal settlements

March 2021



About Lawyers for Palestinian Human Rights (LPHR)

LPHR is a lawyer-based charity in the UK that works on projects to protect and promote Palestinian human rights. We distinctly provide a legal and human rights perspective on issues affecting Palestinians. Our trustees include leading human rights lawyers, Sir Geoffrey Bindman QC and Tessa Gregory.

Author of this LPHR briefing:

Alamara Khwaja Bettum is a member of the executive committee of LPHR. She is a Legal Caseworker at the child refugee charity, Safe Passage. Prior to completing her LLB law degree (First Class) from the University of London, Alamara worked for three years in Kurdistan, Northern Iraq, on protection projects for refugees and internally displaced people.

Contact

Tareq Shourou
Director of LPHR
Direct Line 07949 212 795
Email: contact@lphr.org.uk



1. On 10 March 2021, [Saeed Alyan Awad](#), a Palestinian, was brutally attacked by Israeli settlers whilst on his way to check on his land to the south of Hebron in the Israeli occupied West Bank. Saeed, who was accompanied by his wife and children, sustained a cracked skull and broken jaw. His wife suffered severe bruises to her leg.
2. The attack on Saeed is one of many instances of violent settler attacks against Palestinians which have seen a surge over the last few months, following the death of a 16 year old Israeli, [Ahuvia Sandak](#), during a police chase near the settlement of Kochav Hashachar, in December 2020. Between 21 December 2020 and 15 February 2021, the Israeli Human Rights organisation B'Tselem recorded 73 incidents of settler violence in the West Bank. Of the 73 recorded incidents, Israeli security forces were present in 37 but refrained from intervening. In 6 cases, it was reported that soldiers used crowd control weapons and live fire against the Palestinians.
3. Settler violence against Palestinians, including many women and children, is not a new occurrence with over [3,000 incidents](#) having been reported in the West Bank since 2017 alone. [Violent settler actions](#) include road blockings, the raiding of farmland and villages, torching fields and olive groves, damage to crops and property, the stoning of homes and cars, incursion and harassment, and physical assault including the use of Molotov cocktails or live fire.
4. In the vast majority of reported incidents, the intervention of Israeli security forces is notably absent. Furthermore, of those cases that are reported very few lead to investigation and even fewer to a criminal conviction. Between 2005 and 2019, the Israeli human rights organisation [Yesh Din](#) monitored and reported on 1,293 acts of settler violence. Of those acts, only 8% resulted in investigations leading to criminal charges. In the absence of intervention and adequate law enforcement, there is little deterrence and an almost unimpeded level of impunity for perpetrators of settler violence that emboldens further attacks.
5. These sustained and often unchecked acts of settler violence have continued to systematically undermine the security and livelihoods of Palestinian civilians for years ([see here](#)). The violent targeting of shepherds and landowners, for example, has deterred many Palestinians from even attempting to access their land, resulting in the abandonment of plots and the subsequent loss of most if not all of their yield. Where there has been legal intervention it is often focused on limiting Palestinian's rights rather than targeting the perpetrators. In 2004, [Israel's High Court of justice accepted a petition from Palestinian local councils](#) in the West Bank requesting that the military allow them access to their land and protect them from settler attacks during the olive harvest. Rather than affording greater levels of protection to Palestinians, the result was the implementation of a system whereby Palestinians are required to coordinate with the military in order to gain access to their land for only several days, twice a year.



6. International humanitarian law and human rights law regulate Israel's actions in the occupied Palestinian territory, including actions or lack thereof with respect to settler violence.
7. The individual or mass forcible transfer of the population of an occupied territory is prohibited under international humanitarian law irrespective of motive. Forcible transfer also amounts to a grave breach of the Fourth Geneva Convention and therefore constitutes a war crime. The regime of settler violence bolstered by the "[undeclared policy of lenience](#)" of the Israeli authorities has exacerbated the coercive environment of the occupied Palestinian territory. The outcome is the substantial risk of dispossession and forcible transfer (See [LPHR's Q&A on East Jerusalem](#) for more) of Palestinians in the West Bank who may conclude they have no choice but to leave or relinquish their land and source of income in order to avoid further intimidation.
8. In this context, it is important to clarify that the prohibition of forcible transfer under international humanitarian law does not necessarily require the use of physical force by the authorities, but can be triggered by factors amounting to the creation of a coercive environment in which individuals or communities have no choice but to leave.
9. Article 27 of the Fourth Geneva Convention provides that Israel must ensure that protected persons are treated humanely, that their honour, family rights, manners and customs are respected, and that they are safeguarded against all acts of violence or threats of violence. The [ICRC commentary](#) on Article 27 states that Israel's obligations under the Convention include taking all precautions and measures in its power to prevent such acts and to assist victims in need. In addition, under the Hague Regulations, Israel's responsibility as an occupying power includes ensuring public order and civil life including the investigation of suspected criminal activity by private individuals. Acts of settler violence have become an almost [daily occurrence](#) in the West Bank; with barely any official or legal redress; consequently these basic rights and protections of Palestinians are neither respected nor safeguarded by Israeli authorities as required under international law.
10. In addition to its obligations under International humanitarian law, Israel is party to six of the nine core international human rights treaties, including the International Covenant on Civil and Political Rights ([ICCPR](#)), the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)) and the UN Convention of the Rights of the Child ([UNCRC](#)). Although contested by Israel, numerous international bodies, including the [International Court of Justice in the Wall Advisory Opinion](#) (see paragraphs 107-113) and the relevant treaty bodies have determined that Israel's respective obligations under the treaties exist both inside Israel's territory and in relation to persons under its effective control, including in occupied Palestine (see also [here](#) and [here](#)).



11. Various forms of settler violence constitute infringements of international human rights law. Physical attacks on Palestinian civilians, for example, violate their right to life and physical integrity (**Article 6, ICCPR**), whilst the attacks against Palestinian property and agricultural lands, including the burning and destruction of olive groves and farmlands, violate the right to an adequate standard of living including adequate food and housing (**Article 11, ICESCR**). Furthermore, intimidation and harassment, including of children on their way to schools as recorded in [LPHR Child Rights Bulletins](#), violate their rights to privacy and dignity and to education (**Article 13, ICESCR** and **Articles 10 and 17 ICCPR**).
12. Aside from the damage to the physical integrity and property of Palestinians, settler violence has been found to [gravely affect the right to the enjoyment of the highest attainable standard of physical and mental health](#) (**Article 12 ICESCR**). A UN Fact-Finding Mission, conducted in 2012, cited depression, anxiety, symptomatic stress, mood disorder and behaviour problems, as well as post-traumatic stress as some of the most common conditions found among victims of settled violence.
13. **Article 3(2) of the UNCRC** provides that states should ensure the protection and care of children, as is necessary for their well-being. **Article 39** of the same treaty further stipulates that states should take all appropriate measures to promote the physical and psychological recovery of a child victim of abuse, and that such recovery should take place in an environment which fosters the health, self-respect and dignity of the child. The targeting of children and the failure of the Israeli authorities to protect Palestinian civilians, including children, from acts or threats of violence, lies in stark contrast to these obligations under international law.
14. It is imperative that the international community recognises and acts against the trend of increasing violent settler activity, and the role it plays in enabling the Israeli illegal settlement enterprise in the occupied Palestinian territory. Acts of settler violence, and the injustice and impunity which surrounds them, have and continue to play a key role in the marginalisation and creation of a coercive environment for Palestinians, with associated risk of unlawful forcible transfer. These acts may not be directly perpetrated by the Israeli state, but the omission to effectively act against settler violence clearly emboldens its perpetuation that seriously infringes basic human rights of protected persons in the occupied Palestinian territory. The violent attack against Saeed Awad and his wife in front of their children is emblematic of this fundamental wrong that only effective international action against settlements will ultimately remedy.