



**Report on Settler Violence against Palestinian Women  
in the Northern Governorates of the Occupied West Bank during the  
First Half of 2021**

**The Palestinian Initiative for the Promotion of Global Dialogue and  
Democracy- MIFTAH**

**2021**

# Report on Settler Violence against Palestinian Women in the Northern Governorates during the First Half of 2021

"Working together as Agents for Change: Towards the Protection and Promotion of Women's Human Rights", Project

July 2021

Copyright



This study was prepared in cooperation with WCLAC



Supported by the European Union

This Project is Funded by



EUROPEAN UNION

Prepared by: Adv. Nasser Ar-Rayyes

MIFTAH's staff:

Lamis Hantouli Policy Dialogue and Good Governance Program Director

Tamara Malouf Working together as Agents for Change Project Coordinator

Translated by: Mr. Arsen Aghazarian

**The content of this document does not reflect the official opinion of the European Union. Responsibility for the information and views expressed in the study lies entirely with the authors.**

## Table of Contents

Table of Contents .....	3
1. Introduction:.....	4
2. Legal Nature of the Palestinian Territory and Identifying the Legal System that Governs It.....	5
2.1. Legal Nature of the Palestinian Territory .....	5
2.2. The Occupying Power’s Obligation to Implement International Human Rights Law Treaties in the Occupied Territory .....	7
2.3. The Occupying Power’s Obligation to Respect and Implement its Obligations Arising from CEDAW in the Occupied Palestinian Territory .....	8
3. Settler Violence Committed in the Jordan Valley .....	10
3.1. Violence Associated with the Israeli Settlement Enterprise.....	10
3.2. Legal Adaptation Related to Settlements .....	12
4. Settler Violations of Women’s Rights.....	14
4.1. Content of Forms and Testimonials.....	14
4.2. Nature of Settler Violence.....	16
4.3. Obligations of Israel Towards Protecting Women and Other Civilians: .....	18
4.4. Legal Responsibility Arising from Settler Violence .....	19
5. Responsibility of the International Community to Confront Settler Violence.....	21
6. Conclusion and Recommendations .....	23

## 1. Introduction:

Over the long years of occupation, Israeli occupation has committed countless violations and crimes. Hardly one day passes without them committing a crime or a violation against the Palestinians. The Palestinians are constantly exposed to murder, arrest, torture, arbitrary detention, exile and forced displacement from their lands, as well as collective punishment, unjustified demolition and vandalism of their property. The occupying power deliberately imposes difficult living conditions on Palestinians; resulting from the policies of siege, closure, preventing the entry of food and medical supplies, preventing movement, exploiting and looting natural resources, and confiscating Palestinian land and properties for the benefit of Israeli settlements, The number of Israeli settlements and settlement outposts in the occupied West Bank, including East Jerusalem is approximately 300, while the number of settlers in the Occupied Palestinian Territory exceeds 680,000.<sup>1</sup>

Israeli occupation authorities are still advancing their settlement expansion policy. In July 2019, the occupying power agreed to establish about 2,400 housing units in 21 settlements and outposts, bringing the total number of settlement units approved for construction to about 6,100 in 2019. In February 2020, the occupying power proposed tenders for the construction of 10,400 housing units in West Bank settlements.<sup>2</sup> Moreover, Israeli occupation authorities announced (on October 27, 2021) its approval to build 3,144 new settlement units,<sup>3</sup> which means the continuation of settlement expansion and confiscation of Palestinian land and continued Palestinian suffering due to this policy and systematic violence perpetrated by settlers.

Israeli settlers are considered the main threat facing the Palestinians as they control Palestinian land and prevent Palestinians from exercising their legitimate right to self-determination and sovereignty over their water and natural resources. The settlers have also become the primary source of danger that targets the lives and properties of Palestinians due to their repeated attacks targeting population centers, vandalism and destruction of Palestinian property, as well as targeting agricultural and animal wealth. Therefore, the Palestinians and their properties are constantly subjected to attacks by settlers.<sup>4</sup>

There is no doubt that identifying and defining the impact of the ongoing violations against Palestinians has become very difficult due to the comprehensiveness of these violations that include all aspects of Palestinian life (e.g., right to movement, housing, labor, education, health, family unification, access to food and clean water, right to security and safety, and right to life).

Israeli practices and violations are a well-known reality to all, particularly the international bodies concerned with human rights and freedoms, and which monitor the situation of Palestinians in the Occupied Palestinian Territory. Nevertheless, there are Palestinian communities and areas whose

---

<sup>1</sup> <https://news.un.org/ar/story/2021/07/1079422>

<sup>2</sup> Human rights status in the occupied Palestinian territory, including East Jerusalem, with a focus on collective punishment, Report of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Document No. (A/HRC/44/60), dated 3 July 2020, p.3.

<sup>3</sup> <https://www.aljazeera.net/news/2021/10/27/%D8%A7%D8%B3%D8%AA%D9%8A%D8%B7%D8%A7%D9%86-2>

<sup>4</sup> In 2020, the Settlement and Wall Resistance Commission monitored about 930 attacks carried out by settlers against Palestinians and their property.

suffering is still unknown to many in spite of their suffering from systematic and continuous Israeli attacks, which aim to create unbearable living conditions for Palestinians to force them to leave their areas to further expand existing Israeli settlements. These areas are also often targeted by Israel to establish new settlement and settlement outposts.

We, the Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH) and the Women's Center for Legal and Counseling (WCLAC), have tried to focus on these marginalized agricultural and Bedouin areas and communities to draw attention to the persistent targeting and violations from which Palestinians (particularly women) suffer in these areas. We documented about 528 questionnaires on the violations committed during six months in the four northern governorates: Tubas, Jenin, Tulkarem, and Qalqilya. Additionally, Women's Center for Legal and Counseling (WCLAC) collected and documented legal testimonies of women victims of violence in order to provide a documented legal analysis based on the collected information related to violence committed by Israeli settlers against Palestinian women.

The purpose of this report is to provide a legal analysis of perpetrated violations, based on the provisions of International Humanitarian Law, International Human Rights Law, and UN Security Council Resolution (1325). It also seeks to identify the legal tools that the concerned parties (whether at the level of civil society or official bodies) can use in confronting these violations to protect and redress the victims and hold those who ordered, instigated or carried out these violations accountable. We decided to write this report in four major themes or sections according to the following plan and methodology:

**First:** Explain the legal nature of the Palestinian territory and identify the legal system that governs it.

**Second:** Settler terrorism committed in marginalized and targeted areas.

**Third:** Identifying the legal liability arising from these violations.

**Fourth:** Conclusion and recommendations.

## 2. Legal Nature of the Palestinian Territory and Identifying the Legal System that Governs It

### 2.1. Legal Nature of the Palestinian Territory

The Palestinian territory occupied by Israel in the aftermath of the June 5, 1967 war is deemed an occupied territory and falls within the framework and concept of the Hague Regulations of 1907 (laws and customs of war on land), as well as the Fourth Geneva Convention of 1949 relative to occupation.<sup>5</sup> This was confirmed by the actions of the United Nations, International Court of Justice

---

<sup>5</sup> Article 42 of the Regulations on War on Land annexed to the Fourth Hague Convention of 1907 defines belligerent occupation as: "Territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised."

(ICJ), and dozens of international resolutions issued by the United Nations Security Council, United Nations General Assembly, and the Human Rights Council.<sup>6</sup>

Based on the aforementioned definition, the description of the occupied territory includes all the Palestinian territory that occupied by the Israeli forces in 1967, including East Jerusalem. This applies to the Palestinian land and its population under the provisions and principles of the International Humanitarian Law, which is the basic law that the occupying power must abide by and respect its application regarding the rights and obligations of the occupied population, as well as the obligations of the occupying power towards local civilians, their property, resources and wealth in the occupied territory,<sup>7</sup> especially because Israel is a contracting party to these conventions, as it acceded to the four Geneva Conventions of 1951 on July 6, 1951.

It is important to note, in this regard, that the legal status of the Palestinian territory has not been affected or altered as a result of the establishment of the Palestinian Authority in the Occupied Palestinian territory after the Oslo Accords.<sup>8</sup> According to International Law, this territory is still an occupied territory to which the rules and provisions of International Humanitarian Law apply. This description was clearly adopted and confirmed by the advisory opinion of the International Court of Justice (ICJ) on the legal consequences of the construction of the Separation Wall in the Occupied Palestinian Territory. Paragraph 77 of the advisory opinion stated the following: “A number of agreements signed since 1993 between Israel and the Palestine Liberation Organization impose various obligations on each party. These agreements stipulated, inter alia, that Israel shall transfer to the Palestinian authorities some of the powers and responsibilities exercised in the Occupied Palestinian Territory by its military authorities and civil administration. These transfers of powers have started, but due to the events that took place later the process remained partial and limited (...)”.

In 1967, Israel occupied the territories located between the Green Line (see Paragraph 72 above) and the former eastern borders of Palestine under the Mandate during the armed conflict between Israel and Jordan. Under customary international law, these territories are occupied, and Israel enjoys the status of the existing authority in such territories. The events that occurred thereafter in these territories, as described in paragraphs 75 to 77 above, had no effect on changing this status,

---

<sup>6</sup> These resolutions include, for example, but not limited to, the General Assembly (UNGA) Resolution No. 2443 (D-23) issued on December 19, 1968, UNGA Resolution No. 2546 (D-24) issued on December 11, 1969, UNGA Resolution No. 2727 (D-25) issued on December 15, 1970, UNGA Resolution No. 2851 of December 20, 1971, UNGA Resolution No. 3005 of December 15, 1972, UNGA Resolution No. 3092 of December 7, 1973, UNGA Resolution No. 3240 of November 29 1974, UNGA Resolution No. 3525 of December 15, 1975, UNGA Resolution No. 32/91 of December 13, 1977, UNGA Resolution No. 43/58 of December 6, 1988, UNGA Resolution No. 43/54 of December 6, 1988, Resolution No. 45/74 of December 11, 1990, UNGA Resolution No. 72/240 of December 20, 2017, and UNGA Resolution 73/255 of December 20, 2018.

The Security Council also issued several resolutions that affirmed the applicability of the Fourth Geneva Convention, including Resolution No. 271 of 1969, Resolution No. 446 of 1979, and Resolution No. 452 of 1979.

<sup>7</sup> Report of the United Nations Secretary-General, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan, Document No. A/HRC/25/38, 12 February 2014, p.4.

<sup>8</sup> The Israeli-Palestinian Interim Agreement (Washington) on the West Bank and Gaza Strip was concluded in Washington on September 28, 1995, which replaced the (Cairo (Gaza-Jericho) Agreement) concluded on May 4, 1994, and the Declaration of Principles known as Oslo I, which is a Declaration on Principles and Arrangements for the Interim Self-Government signed by Israel and the Palestine Liberation Organization in Washington, USA on September 13, 1993.

and all these territories, including East Jerusalem, remain occupied territories, and Israel continues to have the status of “Occupying Power”.<sup>9</sup>

Therefore, the Palestinian territories remain an occupied territory to which the International Humanitarian Law applies as the basic law on regulating and defining Israel’s obligations and responsibilities as an occupying power. This remains valid despite the bilateral agreements concluded by the Palestine Liberation Organization with the State of Israel, and despite United Nations General Assembly Resolution No. 67/19 issued at its sixty-seventh meeting on November 29, 2012, in which the General Assembly decided to grant Palestine the non-member observer state status.

In this regard, it is worth mentioning the various guarantees established by the Geneva Convention relative to the protection of civilian persons in times of war to protect the rights of the civilian population in the occupied territory against any coercion or exploitation to compel them to waive their rights established under this Convention. Article (8) of the Convention stipulates that “Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be”.

Article (47) also affirmed that: “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory”. Therefore, even if the Palestinians waived some of the rights granted to them under the Fourth Geneva Convention of 1949 or entered into a special agreement with the occupying power that includes or grants the occupying power rights or advantages that reduce the rights granted to civilian persons under the Fourth Geneva Convention, there is no value for such a waiver or agreement, as it is considered a void agreement according to international law. Consequently, the occupying power remains obligated to observe and implement the rights recognized by the Fourth Convention and the obligations imposed on it.

## 2.2. The Occupying Power’s Obligation to Implement International Human Rights Law Treaties in the Occupied Territory

As mentioned above, the Occupied Palestinian Territory is principally subject to the provisions of International Humanitarian Law as an occupied territory. However, in addition to this law, conventions related to International Human Rights Law ratified by the State of Israel apply to the Occupied Palestinian Territory.

---

<sup>9</sup> Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Document No. A/ES-10/273 of 13 July 2004 (this confirmation was mentioned in paragraphs 75-77 and 101-113).

Despite the fact that these conventions are limited to regulating the relationship between citizens and the state and foreigners under its jurisdiction, the International Court of Justice (ICJ) rejected Israel's claims that these conventions have nothing to do with the Occupied Palestinian Territory, and therefore has no legal obligation to apply these conventions to the civilian population of the Occupied Palestinian Territory. The ICJ considered the two international covenants and the Convention on the Rights of the Child applicable in the Occupied Palestinian Territory based on what has been adopted by the Human Rights Committee (which considers that the state is obligated to implement the covenant whenever it exercises its jurisdiction in a foreign state).<sup>10</sup> The ICJ also justified its response to the Israeli claim regarding the validity and application of the two Covenants in that "the Court cannot accept Israel's view. It also notes that the territories occupied by Israel have been subject to its territorial jurisdiction as the occupying power over more than 27 years. In exercising the powers available to it on this basis, Israel is bound to the provisions of the International Covenant on Economic, Social and Cultural Rights. Moreover, it is obligated not to place any obstacles against exercising these rights in the areas in which jurisdiction has been transferred to the Palestinian authorities".

The Court also considered the same provision applicable to the Convention on the Rights of the Child, as Article (2) of the Convention obligates state parties to respect the rights stated in the Covenant, and it stipulates that "States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind...". Based on this and given that Palestinian children are effectively subject to the jurisdiction of the occupying power, Israel, the occupying power, must respect, implement and bear the obligations arising from this Convention in the occupied Palestinian territory.<sup>11</sup>

Accordingly, the Palestinians in the Occupied Palestinian Territory are subject to the validity and applicability of International Humanitarian and International Human Rights law, especially the two international covenants and the International Convention on the Rights of the Child. Therefore, these conventions are applicable and enforceable in the Occupied Palestinian Territory, which requires the Israeli occupation authorities to respect and implement the obligations arising from these conventions in the Occupied Palestinian Territory.

### **2.3. The Occupying Power's Obligation to Respect and Implement its Obligations Arising from CEDAW in the Occupied Palestinian Territory**

The UN Security Council strengthened protection measures for women during international conflicts and occupation by issuing "Women, Peace and Security" Resolution No. 1325 on October 31, 2000, at session No. 4213. The Resolution emphasized its support for the implementation of the United Nations Strategic Action Plan that aims to enhance women's participation at all decision-making levels in terms of conflict-resolution and peace-making processes. It also calls to increase the role and contribution of women in United Nations field operations, especially among military observers, civil police, and human rights/humanitarian assistance personnel. The UNSC has declared its readiness to consider the gender perspective in peacekeeping operations.

---

<sup>10</sup> Ibid., paragraphs. 105-108.

<sup>11</sup> Ibid., paragraphs. 112-113

The resolution also calls on States Parties to do the following:

*“9. Calls upon all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;*

*10. Calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;*

*11. Emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible from amnesty provisions.<sup>12</sup>*

Therefore, the Israeli Occupation State, as a member of the United Nations, is obligated, like other countries, to respect and comply with the UN Security Council resolutions concerning women and security<sup>13</sup>, thus having obligation to consider and respect:

- 1- The obligations applicable to these parties under the 1977 Convention on the Elimination of All Forms of Discrimination against Women and its 1999 Optional Protocol.
- 2- Developing special measures that protect girls and women from gender-based violence in situations of armed conflict, especially rape and other forms of sexual abuse.
- 3- Prosecuting those responsible for sexual and other forms of violence against women and girls.
- 4- Excluding crimes against women and girls in armed conflicts from the provisions of amnesty, wherever possible.

Therefore, this resolution, as an international approach and a policy issued by the UN Security Council, requires the Israeli state to respect and implement the obligations arising from the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) regarding the rights of Palestinian women and child girls as civilians. It also highlights Israel’s obligation to protect these rights and hold those who violate this Convention or breach its provisions accountable.

---

<sup>12</sup> In addition to this resolution, the Security Council issued several relevant resolutions, including: (Resolution 1612 in 2005, Resolution 1674 in 2006, Resolution 1820 in 2008, Resolutions 1882, 1889 and 1894 in 2009, Resolution 1960 in 2010, Resolutions 2106 and 2122 in 2013, Resolution 2242 in 2015, and Resolution 2467 in 2019.

<sup>13</sup> Article 25 of the United Nations Charter states that: “The members of the United Nations shall undertake accepting and implementing the Security Council resolutions in accordance with this Charter”.

### 3. Settler Violence Committed in the Jordan Valley

International Humanitarian Law relative to the situation of belligerent occupation (especially Article (49) of the Fourth Geneva Convention of 1949) prohibits the occupying power from transferring and deporting its civilian population to the occupied territories<sup>14</sup>. This Convention also provides an official and absolute prohibition, with no room for any exception or deviation.<sup>15</sup> Additionally, dozens of resolutions issued by the United Nations General Assembly, Security Council, and Human Rights Council also affirmed the illegality of Israeli settlements.<sup>16</sup>

#### 3.1. Violence Associated with the Israeli Settlement Enterprise

It is important to note that the ongoing Israeli settlement enterprise in the Occupied Palestinian Territory is not limited to merely transferring Jewish Israeli settlers into the Occupied Territory, it includes Israeli settler terrorism against Palestinians, particularly women and children, which manifests in several practices. These actions have resulted in a wide range of violations of International Humanitarian Law and International Human Rights Law, the most important of which are:

- 1- Most of the Israeli settlements were built on privately owned lands that were unjustly confiscated from their rightful owners to carry out acts that violate, in substance and principle, the provisions of International Humanitarian Law that explicitly stipulate the inviolability of private properties and their immunity against confiscation. This was evidenced by the text and content of Article (46) of the Hague Regulations of 1907 on the Laws and Customs of War: Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

---

<sup>14</sup> Article 49 of the Fourth Geneva Convention states that (Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased. The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are affected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated. The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand. The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”.

<sup>15</sup> Sally Malison. Israeli Settlements from the Perspective of International Law. Samed Al-Iqtisadi Magazine (Palestinian periodical), Edition No. 87, 1992, pp. 19-21.

<sup>16</sup> General Assembly Resolution No. 2851 (D-26) of December 20, 1971, Resolution No. 3005 of the 27<sup>th</sup> session of December 15, 1972, Resolution No. 3092 (D-28) of December 7, 1973, Resolution No. 3240 of November 29, 1974 Resolution No. 3525 of December 15, 1975, Resolution No. 32/5 of October 28, 1977, Resolution No. 32/91 of December 13, 1977, Resolution No. 33/113 of December 18, 1978, Resolution No. 43/54 of December 6 1988, Resolution No. 44/40 of December 4, 1989, and dozens of resolutions issued by the General Assembly that annually confirm the rejection of this practice and its illegality. The UN Security Council also issued more than one resolution regarding the illegality of settlements, including: Resolution No. 446 of 1979, which emphasized that settlement and transfer of Israeli residents into the Palestinian territories is illegal, Resolution No. 452 of 1979 to stop settlements, including those in Jerusalem, and not to recognize its annexation, Resolution No. 465 of 1980, Resolution No. 478 of 1980, and Resolution No. 2334 of December 23, 2016, which confirmed the illegality of settlements.

- 2- Additionally, the Israeli occupation does not have the right to use public property for settlement purposes. Land and public properties are also protected under International Humanitarian Law, and the occupying power may not use them for purposes and actions that international law does not allow to be committed. The occupying power must use these properties according to what is allowed and permissible, as Article (55) of the Hague Regulations of 1907 states that “The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile state, and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct”.
- 3- The establishment of Israeli settlements resulted in damaging and destroying thousands of dunums of Palestinian agricultural land and property by the occupying power, whether to build roads or to create buffer zones and safety zones for settlements. According to international law, this is considered an unjustified destruction of property and contravenes and violates the provisions of Article (53) of the Fourth Geneva Convention, which stipulates that “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations”.
- 4- The Israeli settlers are exploiting the water resources of Palestinians in the occupied territory, and they are getting much higher shares than the Palestinians. In fact, estimates indicate that Israeli settlers get the equivalent of 80% of Palestinian water resources, compared to only 20% allotted to Palestinians.<sup>17</sup> The report of the Independent International Fact-Finding Mission established by the Human Rights Council, pursuant to resolution 19/17, to investigate the effects of the construction of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, stated that the average Israeli settler gets about 400 liters of water per day, while the average Palestinian gets 73 liters per day, and it may amount to only 10-20 liters.<sup>18</sup>  
 In order for the Palestinians to compensate for the shortage in water supply, the occupying power forced them to purchase about 20% of their water needs annually, which means purchasing the water that Israel extracts from the Palestinian water aquifers.<sup>19</sup>
- 5- Israeli settlers looted Palestinian natural resources because they were allowed by Israeli authorities to exploit Palestinian natural resources, such as quarries, potash extraction, and Dead Sea minerals,<sup>20</sup> in addition to the political dimension of exploitation of Palestinian areas and nature.<sup>21</sup>

---

<sup>17</sup> Amnesty International Report (Disturbing the purity of water "Depriving Palestinians of the Right to Water"), First Edition 2009, "Index No. 2009/027/ MDE 15", p. 19 et seq.

United Nations, Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory, The Humanitarian Impact of Settlers' Seizure of Palestinian Spring Water, Special Report, March 2012, p 5.

<sup>18</sup> Report of the International Fact-Finding Mission to investigate the effects of Israeli settlement construction on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, Document No. 63/A/HRC/22, p. 25.

<sup>19</sup> Palestinian Central Bureau of Statistics and the Palestinian Water Authority, joint press release on the occasion of World Water Day, 22/03/ 2021.

<sup>20</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/40/73, 15 March 2019, Par. Number,57.

<sup>21</sup> Walid Mustafa, Natural Resources in Palestine, Determinants of Exploitation and Mechanisms to Maximize Benefit, Publications of the Palestinian Economic Policy Research Institute (MAS), 2016, p. 42.

- 6- Surrounding the Palestinian cities and population centers with settlements resulted in besieging them and preventing their development and expansion, thus not keeping pace with their demographic growth. This is the case particularly in the Palestinian part of Jerusalem, which is surrounded by a belt of Israeli settlements that stop natural Palestinian growth and expansion. Therefore, Palestinian urban areas in Jerusalem remain without growth or development (dissimilar to the situation prior to occupation) despite the increasing needs for expansion.

In this regard, it is worth noting that the policy of besieging and strangling Palestinian cities is an official policy adopted by many settlement projects and schemes, such as the “Droblas Plan”, which stated that “State lands and uncultivated lands must be seized immediately for the purpose of settlement in the areas located between and around the residential centers in order to prevent, as much as possible, the establishment of another Arab state in these areas, and it will be difficult for the population minority to form territorial contiguity and political unity if it were divided by Jewish settlements”. The plan also stated: “In light of the ongoing negotiations on the future of the West Bank, we are eligible to race against time, as in this period everything will be basically decided based on the facts that we create in these territories”.<sup>22</sup>

- 7- The destruction and damage of the Palestinian environment, resulting from the settlers and settlements’ use of the neighboring Palestinian lands as dumps for their industrial and urban waste, as well as the deliberate release and pumping of their wastewater and liquid waste of their factories onto the adjacent Palestinian agricultural lands. Such practices have caused the destruction and damage of thousands of dunums of Palestinian agricultural land, as well as damaging crops and preventing the use of these lands after they become practically unsuitable for cultivation.<sup>23</sup>

### 3.2. Legal Adaptation Related to Settlements

The Fourth Geneva Convention of 1949 exclusively defines a set of acts and behaviors whose perpetration constitutes grave breaches of the Convention. Article (147) of the Convention states the following: “Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.

By referring to the confiscations, expropriation and acts of destruction and damage of Palestinian public and private lands due to Israeli settlements, we find that the concept of grave violations

---

<sup>22</sup> Anthony Kohn, *The Israeli Structural Organization of Cities in the West Bank*, translated by Mahjoub Omar into Arabic, reviewed by: Khaled El-Batrawi, Published by the Institute for Palestine Studies, Beirut, first edition, January 1995, p. 204.

<sup>23</sup> See in this regard:

Report of the Concerned Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Population in the Occupied Territories (A/50/463 - p. 166-165-107. September 22, 1995).

stipulated and referred to in the previous text applies to these practices, as they were carried out on a large scale, and in a way that is different from war and security requirements and needs. They are also illegitimate, as we have already mentioned, in that they were done to serve and benefit purposes and goals that the occupying power is prohibited from doing in occupied territories, whatever the justifications and reasons may be.

Although Article (147) of the Fourth Geneva Convention did not explicitly include the settlement issue within the scope of the exclusive enumeration of grave and serious violations of the provisions of this Convention, this omission was subsequently remedied and restored by the States Parties through the explicit inclusion of the transfer of the occupying power of its citizens to the occupied land (settlement) in the list of acts described as **war crimes and grave breaches** of the provisions and rules of belligerent occupation under the First Geneva Protocol supplementing the four Geneva Conventions concluded in 1977. The text and content of Article (85) of the First Geneva Protocol stated the following “1: The provisions of the Conventions relating to the repression of breaches and grave breaches, supplemented by this Section, shall apply to the repression of breaches and grave breaches of this Protocol.... 4: In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed willfully and in violation of the Conventions or the Protocol”:

a. the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article (49) of the Fourth Convention;...

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes”.

The International Criminal Court Statute also included the transfer by the occupying power of its citizens to the occupied territories within the scope of war crimes, as it stated the following in Article (8) under “War crimes”:

The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

For the purpose of this Statute, "war crimes " means:

a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

1: Willful killing;

2: Torture or inhuman treatment, including biological experiments;

3: Willfully causing great suffering, or serious injury to body or health;

4: Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

1- Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

8- The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory....)

On this basis, Israeli settlements in the Occupied Palestinian Territory fall within the scope and meaning of war crimes,<sup>24</sup> which requires the accountability and prosecution of those who ordered, planned and executed this crime.

## 4. Settler Violations of Women's Rights

### 4.1. Content of Forms and Testimonials

Women researchers from the Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH) documented (524) questionnaires (forms) on the nature of violations that women faced in the targeted areas, during a six-month period from 1/1/2020 to 30/6/2020, in specific areas in (Tubas, Jericho, Nablus, Qalqilya and Jenin).

The main violations committed, after sorting the contents of these forms and testimonies, are listed and identified as follows:

- 1- 112 violations related to settler groups attacking Palestinian homes, at night and dawn, carrying out acts of abuse, beating and terrorizing residents, and damaging the items and properties that belong to these homes, such as livestock pens and water tanks, this happened in the presence of the Israeli occupation forces who did not interfere or take any action to prevent settlers from carrying out these attacks which lasted between 3-7 hours.
- 2- 167 violations related to settler groups destroying and burning planted crops, uprooting trees, stealing agricultural equipment and crops, and damaging plastic houses and water tanks, in the presence of Israeli occupation forces who did not intervene to prevent settlers from carrying out these attacks.
- 3- 172 violations related to settlers gathering and preventing Palestinians from accessing their agricultural lands to harvest crops or pick olives, and sometimes preventing them from accessing the lands to tend the crops, without any intervention from Israeli occupation forces.
- 4- 29 settler attacks such as shootings, deliberate car ramming, or throwing stones at children on their way to and from schools, in the presence of Israeli occupation forces.
- 5- 15 attacks of opening and releasing settlement wastewater pipes on Palestinian crops and adjacent residential areas for long periods of time.
- 6- 25 settler attacks against Palestinian women working inside Israeli settlements.

---

<sup>24</sup> On 9 July, Michael Lynk, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, called on the international community to consider the establishment of Israeli settlements a war crime under the Rome Statute of the International Criminal Court. <https://news.un.org/ar/story/2021/07/1079422>

Perhaps what draws attention regarding the different violations committed by Israeli settlers against Palestinians, including women, in the areas where violations were monitored and documented is that:

- I. All these violations took place in the presence of Israeli occupation forces. However, not a single intervention by these forces was recorded to prevent settlers from carrying out attacks, or to intervene to protect the Palestinians who faced these attacks.
- II. The presence of Israeli occupation forces was to protect the settlers and prevent Palestinians from confronting them. Many cases were documented in which Israeli occupation forces intervened to prevent Palestinians from confronting settler attacks on their homes and properties, as well as preventing Palestinians from stopping the arson attacks and destruction carried out by settlers. This is evident in the various testimonies documented by the Women's Center for Legal Aid and Counselling (WCLAC) regarding the attacks carried out by settlers on May 15, 2020 on the town of Qusra, southeast of Nablus, and the town of Burin south of Nablus.<sup>25</sup>
- III. Many home raids and terrorization of residents lasted 3-9 hours in the presence of the occupation forces, which means that the district leadership knew that these attacks and violations were taking place but did not intervene to stop them.
- IV. Some families have submitted complaints to the Israeli army and police about the attacks, but no real action has been taken to prevent violations and stop their recurrence.
- V. Despite the recurrence of many violations, Israeli occupation forces did not take any protection measures or actions and did not intervene to prevent the recurrence.
- VI. It is clear, from the time period covered by the documentation of violations and from the recurrence issue, that the families in the targeted areas have experienced more than one violation, which means that there is a systematic targeting of the residents of these areas to create a state of panic and instability.
- VII. Petitions were filed at the Israeli Court of Justice to prevent the occupation forces from performing demolitions, but the court did not bring justice to the Palestinians and did not prevent demolitions.

It is worth noting in this regard that the Israeli Supreme Court issued more than 100 judicial rulings between 1980-2020 where they endorsed, accepted, and completely supported collective punishment committed by Occupation forces against the Palestinians. For example, they authorized and sponsored the demolition of Palestinian houses as a measure carried out by the Occupation army against persons accused of committing acts that are considered a disturbance of the

---

<sup>25</sup> In one of the testimonies documented by the Women's Center for Legal Aid and Counselling on 19/06/2020, a woman from the town of Qusra describes her feeling when her home and family were attacked by dozens of settlers on 15/5/2020: (... I was terrified for my children and my husband. We closed the windows and sat in one room. The settlers kicked and broke doors and windows and they were cursing us. I tried to keep my son sitting and not moving, but he got upset when he saw the settlers attacking us while we were sitting in our house. He went outside and started throwing rocks at the settlers in order to have them leave, but one of the soldiers shot him with live bullets in his leg, so that he fell down...). Another testimony stated: (When I saw the settlers burning all my property and my source of living, I started screaming, and went to the land, where the occupation soldiers were standing, and they put a barrier at a distance of 200 meters from our land, and prevented us from access so that we could not put out the fire, until all the equipment and wood were burned., then they broke the cameras and withdrew from the place...).

Occupation's security. This court also considered that demolitions on these grounds are not a punishment means per se, but rather an end to achieve deterrence.<sup>26</sup>

#### 4.2. Nature of Settler Violence

Forms and questionnaires demonstrated that the segment most affected by settler violence was women and children. This segment was particularly exposed to difficult psychological and physical conditions because of fear, panic and fear of loss of family members, property and sources of income. This led to the deterioration of their living conditions and affected their stability and education. This kept the targeted communities in a constant state of anxiety and instability. These violations can be summarized and identified through the following actions and practices:

##### **1- Intimidation of Women, Children and Other Residents:**

Israel violated the provisions of Article (33) of the Fourth Geneva Convention of 1949, which explicitly prohibited terrorizing and intimidating civilians. This is carried out by settlers with Israeli occupation forces backing them through raids and night attacks that target homes and threaten Palestinian families with murder, burning and destruction, thereby creating a state of terror and intimidation for women, children and other residents. These acts are a flagrant violation of Articles (27) and (33) of the Fourth Geneva Convention.<sup>27</sup>

##### **2- Deliberate Destruction and Vandalism of Property:**

The deliberate destruction and vandalism of property by attacking homes, destroying agricultural land and barns, uprooting and cutting trees, and similar acts constitute a clear violation of Article (46) of the Hague Regulations of 1907, which states that: "*Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated*". Moreover, Article (53) of the Fourth Geneva Convention expressly prohibits the destruction of private property if not required by military necessity: "*Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or*

---

<sup>26</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Document No. (A/HRC/44/60), dated July 3, 2020, pp. 14 and 15.

<sup>27</sup> Article 27 of the Fourth Geneva Convention states: "*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. Women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault. 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. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war*".

Article 33 of the Fourth Geneva Convention states the following: "*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited*".

*cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations”.*

### **3- Deliberate starvation of women, children and other residents and imposing difficult living conditions:**

The practices of Israeli settlers, with support from Israeli occupation forces, show a clear intent to deliberately starve the Palestinian population by destroying and damaging the pillars of their survival in terms of resources, crops and livelihoods. This constitutes a blatant contravention of Article (54) of Additional Protocol to the four Geneva Conventions (1977), which stated that:

*“1) Starvation of civilians as a method of warfare is prohibited.*

*2) It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.*

*3) The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:*

*(a) as sustenance solely for the members of its armed forces;*

*b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement”.*

### **4- Forcible transfer of women, children and other residents from their land:**

The practices of Israeli settlers and occupation forces aim to push the local population to vacate their areas of residence and move to other areas without any legitimate or legal justification. Undoubtedly, these practices and the terror and harassment carried out by settlers have no purpose other than seizing Palestinian lands and settling them. This constitutes a clear violation of Article (49) of the Fourth Geneva Convention, which unequivocally prohibited the transfer of populations out of their land: *“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive”.*

### 4.3. Obligations of Israel Towards Protecting Women and Other Civilians:

- I. International Humanitarian Law obligates the occupying power to protect the civilian population, especially women and children, and to intervene to prevent any aggression or infringement of their rights. This is made evident through the various obligations imposed by these conventions on the occupying power. We can summarize the main obligations that were violated by Israel due to its support and leniency to settler violence and repeated attacks on Palestinian civilians in the Occupied Palestinian Territory as follows:
- 1- The Occupation is obliged to preserve and guarantee public order and safety for the local population, as stipulated in Article (43) of the Hague Regulations of 1907: *“The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country”*.
  - 2- The occupying power has the responsibility to treat the civilian population in a manner that does not affect their dignity, honor, property, and other rights recognized by international conventions. This is guaranteed and confirmed in Article (29) of the Fourth Geneva Convention of 1949: *“The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred”*.
  - 3- The occupying power is obligated to prohibit any action or measure that causes suffering to the civilian population. This was confirmed by Article (32) of the Fourth Geneva Convention, which stipulates that *“The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents”*.
  - 4- The occupying power has the duty to secure the population’s food needs. This obligation was confirmed in Article (55) of the Fourth Geneva Convention, which states that: *“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods. The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements”*.
  - 5- The occupying power must also allow consignments and relief support to pass through to the civilian population. This obligation was stipulated in Article (59) of the Fourth Geneva Convention: *“If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal. Such schemes, which may be undertaken either by States or*

*by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing”.*

- 6- The occupying power is obligated to respect and implement its obligations arising from UNSC Resolution 1325 and other relevant resolutions issued by the United Nations Security Council to protect women and girls in the event of armed conflicts. These resolutions affirmed the obligation of all parties to armed conflict to respect international law applicable to the rights of women and girls and their protection, (especially civilians), in particular the obligations applicable to these parties under the Geneva Conventions of 1949 and their Additional Protocol of 1977; Refugee Convention of 1951 and its 1967 Protocol; 1977 Convention on the Elimination of All Forms of Discrimination against Women and its 1999 Optional Protocol; and the 1989 United Nations Convention on the Rights of the Child and its two Optional Protocols dated May 25, 2000.

There is no doubt that Israel did not abide by any of these obligations, but rather violated and breached these provisions by permitting settler crimes and carrying out attacks and violations against women, girls, children and the civilian population. Israeli occupation authorities are not only silent and lenient regarding such practices, but often take part in them. This entails holding the Israeli state legally responsible alongside the settlers in the various crimes perpetrated against the Palestinian population under occupation.

#### 4.4. Legal Responsibility Arising from Settler Violence

All attacks committed by settlers under the supervision, support and protection of Israeli occupation forces are considered grave breaches and war crimes under the Fourth Geneva Convention, Additional Protocol I to this Convention, and Charter of the International Criminal Court (ICC). Article (147) of the Fourth Geneva Convention of 1949 stipulates the following:

*“Grave breaches to which the preceding Article [Link] relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.*

The provisions of Article (85) of the First Geneva Protocol of 1977 also included the practices stipulated in Article (147) in addition to settlements, within the scope and meaning of “war crimes”. This was also confirmed and stipulated in Article (8) of the International Criminal Court Charter.

Accordingly, the classification of Israeli settlements and its inclusion within the scope of acts and behaviors that constitute a war crime enable Palestinians to criminally prosecute and hold accountable individuals who ordered and planned these crimes. It also enables the adjudication of those who perpetrated/executed these crimes inside targeted areas in the Jordan Valley and other Palestinian governorates.

By referring to the provisions and principles of International Humanitarian Law, we find that this right was affirmed in Article (146) of the Fourth Convention<sup>28</sup> and Article (88) of the First Geneva Protocol supplementing the four Geneva Conventions (i.e., “Additional Protocol”).<sup>29 30</sup>

This right was also affirmed and included in Article (6) of the Charter of the Nuremberg Tribunal, which put forth that “*Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.*”

The Palestinian side is therefore entitled, based on these provisions, to prosecute all persons who ordered the commission of these crimes, whether they were military or political persons. This criminal prosecution can also extend against settlers themselves because they are the persons responsible for perpetrating such crimes inside the Occupied Palestinian Territory.

It is worth noting that the non-applicability of the statute of limitations<sup>31</sup> considering domestic criminal legislation of international crimes, given the magnitude of the damage and the negative impact on the international community as a whole, require that perpetrators of war crimes would not be granted impunity. Moreover, stripping international crimes of the impunity of the statute of limitations is one of the most important guarantees that enable accountability and prosecution in case of change in the circumstances of people who previously committed acts that fall within the scope and meaning of international crimes.

---

<sup>28</sup> Article 146 states: “*The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following*”

Article:

*Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case.*

*Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article”.*

<sup>29</sup> **Article 88: Mutual Assistance in Criminal matters:**

1. *The High Contracting Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.*
2. *Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1, of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.*
3. *The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.*

<sup>30</sup> Article (1) of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity stipulates that “*No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:*

*(a) War crimes as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the "grave breaches" enumerated in the Geneva Conventions of 12 August 1949...”.*

<sup>31</sup> The aforementioned Convention was adopted and submitted for signature, ratification and accession by General Assembly Resolution 2391 (D-23) of November 26, 1968, and it came into force on November 11, 1970, in accordance with Article 8 thereof.

## 5. Responsibility of the International Community to Confront Settler Violence

States have the obligation to confront Israeli settlements in the Occupied Palestinian Territory and stand against settler terrorism. This is because such actions constitute a blatant violation of international humanitarian law and international law. Hence, states must refuse to recognize the reality imposed by Israel in the Occupied Palestinian Territory vis-à-vis its settlement regime. States must also refrain from providing any support or assistance that might help the occupying power in its settlement regime which is a war crime.

The said obligation appears in several resolutions issued by various United Nations bodies, including, for example: UN General Assembly Resolution No. 2949 of December 8, 1972, which states that it is impermissible for Israel to resettle part of its new immigrants in the occupied territories, in contravention of the Fourth Geneva Convention and relevant UN resolutions. It also urges all states to refrain from doing any act that enables Israel to implement its policy of colonizing Palestinian territories. This resolution also states the following:

*“7. Declares that changes carried out by Israel in the occupied Arab territories in contravention of the Geneva Conventions of 12 August 1949 1/ are null and void, and calls upon Israel to rescind forthwith all such measures and to desist from all policies and practices affecting the physical character of demographic composition of the occupied Arab territories;*

*8. Calls upon all States not to recognize any such changes and measures carried out by Israel in the occupied Arab territories and invites them to avoid actions, including actions in the field of aid, that could constitute recognition of that occupation”.*

This was also affirmed by the resolution adopted by the General Assembly at its tenth emergency special session on 15 July 1997, which stated the following:

*“3. Reaffirms that all illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory, especially settlement activity, and the practical results thereof cannot be recognized, irrespective of the passage of time; [...]*

*6. Recommends to Member States that they actively discourage activities which directly contribute to any construction or development of Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, as these activities contravene international law; [...]*

*10. Recommends that the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War convene a conference on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure its respect, in accordance with common article 1, and requests the Secretary-General to present a report on the matter within three months”.*

Further, this was also affirmed in dozens of resolutions condemning Israeli settlements and affirming the Palestinian people’s right to self-determination and permanent sovereignty over their land and resources.

The same obligation was explicitly reiterated by the International Court of Justice (ICJ), which considered that the violation of the Palestinian people's rights to self-determination by Israel's confiscation of Palestinian property; settlements; and annexation wall, requires states to assume their responsibilities. Paragraph 159 of the Advisory opinion stipulated the following:

*“Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention”.*

Also, by referring to the four Geneva Conventions and provisions of International Humanitarian Law, we find that all these conventions clearly stipulate in Article (1), the obligation of States parties to the following: *“The High Contracting Parties undertake to respect and ensure respect for the present convention in all circumstances”.*

States parties are also obligated to intervene to stop the violation of these conventions, as well as prosecuting and holding accountable those who commit these violations (i.e., putting them in trial in national courts). This was explicitly clear in Article (146) of the Fourth Geneva Convention, which mentioned that:

*“The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article:*

*Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case.*

*Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in Article 3...”.*

Additionally, it was affirmed by the First Geneva Protocol supplementing the four Geneva Conventions under Article (86):

*The High Contracting Parties and the Parties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches, of the Conventions or of this Protocol which result from a failure to act when under a duty to do so... ”.*

The provisions of the Fourth Geneva Convention, as well as the additional Protocol of the four Geneva Conventions, obligates states to intervene in the case of any breach or violation by states parties of the provisions and rules of these conventions.

The same responsibility extends to the United Nations with its two main organs (General Assembly and Security Council), whereas these two bodies have the obligation and responsibility to intervene effectively and confront Israel’s violations of the United Nations Charter, International Humanitarian Law conventions, and UN Security Council Resolution No. (1325) on the Protection of Women in Armed Conflicts. Moreover, the United Nations Security Council and the UN General Assembly must exercise their role by intervening to hold accountable Israeli settlers and occupation forces who commit crimes that are prohibited under international law and the United Nations Charter.

## 6. Conclusion and Recommendations

Since 1967, Israel, the occupying power, has been practicing and implementing a policy of settlement expansion and annexation of Palestinian lands. Moreover, they perpetrate systematic killing, destruction, and damage of Palestinians as well as their lands and properties. This has been taking place without any firm or effective international position or intervention to put an end to such policies and practices. This international negligence strengthened the sense of immunity and impunity among Israeli politicians, military leaders, soldiers, and settlers. It also promoted a lack of accountability and prosecution of Israel’s crimes, thus encouraging the offenders to continue committing outrageous killings and destruction.

The General Assembly has explicitly described the State of Israel as a non-peace-loving state and a state that commits war crimes and degrades humanity. No other state was previously described as such by the UN General Assembly, which understands the ramifications of the Israeli occupation. UN General Assembly Resolution No. 42/209 (dated December 11, 1987) states the following:

*“The General Assembly [...] Reaffirming the fundamental principles of the inadmissibility of the acquisition of territory by force, reaffirming once more the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 to the Palestinian and other occupied Arab territories, including Jerusalem, and noting that Israel's record, policies and actions prove conclusively that it is not a peace-loving Member State, and that it has not fulfilled its obligations under the Charter of the United Nations [...]*

*12. Determines once more that Israel's record, policies and actions confirm that it is not a peace-loving Member State, that it has persistently violated the principles contained in the Charter and that it has carried out neither its obligations under the Charter nor its commitment under General Assembly resolution 273 (III) of 11 May 1949”.*

The same description was stated in Resolution No. 43/54 of December 6, 1988, Resolution No. 44/40 of December 4, 1989, and Resolution No. 45/83 of December 13, 1990.

The General Assembly described the practices of the Israeli occupying power and its violations of the Fourth Geneva Convention, whether at the level of settlements or other violations, as “war crimes”, as stated in Resolution No. 43/58 of December 6, 1988:

*“The General Assembly, ... 5- Condemns the continued and persistent violation by Israel of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and other applicable international instruments, and condemns in particular those violations which the Convention designates as "grave breaches" thereof;*

*6- Declares once more that Israel's grave breaches of that Convention are war crimes and an affront to humanity”.*

This position was reaffirmed in Resolution No. 44/48 of December 8, 1989, Resolution No. 45/74 of December 11, 1990, Resolution No. 46/47 of December 9, 1991, and Resolution No. 3525, Session 30, on December 15, 1975.

Despite these resolutions and describing Israel as a state that commits war crimes and degrades humanity, the role of the United Nations General Assembly and Security Council did not go beyond condemnation, denunciation, and formation of investigation and fact-finding commissions, without any implementation or enforcement of the recommendations and directives of these commissions.

**Therefore, the United Nations General Assembly and Security Council have so far been unable to compel Israel to comply with its legal obligations arising from international agreements and the UN Charter (especially due to the United States veto which stops all interventions and steps that might hold Israel accountable).**

**The following steps are needed to compel Israel to comply with its obligations:**

- 1- Raise the matter of Israel’s membership at the United Nations and strongly challenge this membership and its continuation. This is because Israel never truly respected the obligations arising from its membership in the United Nations. The UN General Assembly affirmed this conduct by explicitly describing the occupying power as a non-peace-loving state. This proves that Israel did not commit to the conditions of membership in the United Nations and UN-related organizations and agencies.
- 2- Demand that the United Nations General Assembly take clear decisions that confirm their rejection and non-recognition of any territorial change imposed by Israel within the Occupied Palestinian Territory. The General Assembly must also reaffirm the necessity of dismantling and removing settlements, which are the main obstacle preventing the Palestinian people’s legitimate right to liberation, self-determination, and permanent sovereignty over their land and resources
- 3- Explicit criminalization of Israeli settlers by the United Nations General Assembly, and to list settler organizations and the organizations supporting them within the scope of that criminalization.
- 4- Demand that states parties to the Fourth Geneva Convention assume their legal responsibilities to prosecute and hold accountable all persons who commissioned such crimes, whether by ordering the perpetration of these crimes, instigating their commission, or carrying out these crimes on the

ground. This is a basic obligation of all states parties that have pledged (under common Article (1) of various Conventions) the duty to respect the signed conventions. Moreover, states parties pledged under Article (146) of the Fourth Geneva Convention to hold accountable and prosecute those who violate the provisions of this Convention.

- 5- Call for convening an international conference for states party to the Fourth Geneva Convention, to discuss their responsibilities and legal obligations concerning Israel's perpetration of grave breaches of this Convention as well as discussing the possible means of pressure and intervention to face Israeli violations.

Therefore, the international community must firmly confront this phenomenon if they are really willing to assume their responsibilities and legal obligations to confront Israel's ongoing violations of its legal obligations arising from international conventions, whether at the level of International Human Rights Law, International Humanitarian Law, and the United Nations Charter.

### **Recommendations related to International Mechanisms:**

- 1- Hold an extensive meeting with United Nations rapporteurs to discuss the violations perpetrated by Israeli occupation forces and settlers, along with finding ways to confront and stop such violations. At the level of human rights protection mechanisms, there are the Special Procedures of the Human Rights Council, which consist of a group of independent human rights experts with mandates to report and provide advice on human rights from a thematic or country perspective. There are 44 rapporteurs, experts, and working groups at the mandate, thematic, and rights-related levels, along with 11 rapporteurs on specific regions and countries.

By reviewing the thematic areas of the rapporteurs' work, it was seen that they have an extended mandate to cover settler violence, in particular the Special Rapporteur on the right to development; Special Rapporteur on the right to education; Special Rapporteur on the right to privacy; Special Rapporteur on the right to adequate housing as a human right; Special Rapporteur on contemporary forms of racism; Special Rapporteur on health; Special Rapporteur on the right to food; Special Rapporteur on poverty; Special Rapporteur on the Elderly; Special Rapporteur on access to safe drinking water, and the Panel on discrimination against women and girls.

The violence committed by Israeli settlers fall within the fields of action and concern of all these Rapporteurs and Panels. Therefore, they must be urged to assume their legal obligations regarding the rights of Palestinian women in particular and Palestinian people in general.

We believe that it is important to ask the Rapporteurs and Panels to organize a joint workshop or special session to discuss the Israeli violations, and to make a recommendation concerning such violations to the relevant bodies.

- 2- Ask the Special Rapporteur on the Occupied Palestinian Territory, who declared that Israeli settlements in the Occupied Palestinian Territory are a war crime, to extend this position to all United Nations rapporteurs and bodies to have them adopt a similar position. This can exert tremendous pressure on Israeli settlers and will convey a strong message by the international

community to oppose and criminalize settler violence. This can also lead to the prosecution of Israeli settlers and affect their conduct and behavior.

- 3- Form an international coalition of human rights organizations to mobilize inside the UN Security Council and call on the Security Council to activate and implement its resolution on women, peace and security (UNSCR 1325) at the level of the occupied Palestinian territory as applied in other parts of the world. The Security Council should also be urged to carry out its responsibilities and duties to stop the occupying power's violations, end impunity and hold accountable the parties who commit violations against Palestinian women and girls.
- 4- The European Union must assume its responsibilities arising from the Association Agreement between the European Union and Israel, signed in Brussels on November 20, 1995, and which entered into force in June 2000. Article (2) of this Agreement stipulates that "*The relations between the parties, as well as all provisions of the agreement itself, must be based on the respect of human rights and democratic principles that guide the internal and international policy of the parties, and this constitutes an essential element of this agreement*".

Consequently, the European Union must use this agreement as a pressure tool to compel Israel to comply with the principles of International Human Rights Law and put an end the policy of ethnic cleansing, deportation, confiscation, appropriation of Palestinian resources, and systematic attacks on Palestinian human rights.

\*\*\*\*\*