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## THE PRICE OF A LAW ENFORCEMENT FAILURE

### ISRAELI SETTLER VIOLENCE AND THE EVACUATION OF OUTPOSTS

#### NOVEMBER 2009

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#### Introduction

The phenomenon of Israeli settler violence has been, since the early 1980's, a key factor undermining the physical security and livelihoods of Palestinians in many areas throughout the West Bank.<sup>1</sup> In the context of this ongoing phenomenon, a new pattern of violence, named by Israeli settlers as the "price tag" strategy, emerged during 2008, in which groups of settlers would exact a "price" against Palestinians and their property in response to attempts by the Israeli authorities to dismantle "unauthorized" settlement outposts.<sup>2</sup> This new pattern of violence raises significant additional concerns related to the protection of Palestinian civilians. The present factsheet is a first step towards delineating the contours of these concerns and suggesting a preventive approach, which includes the mapping of Palestinian communities vulnerable to settler violence.

#### Background

Settlement outposts are small settlements constructed throughout the West Bank since the mid 1990's in violation of Israeli law.<sup>3</sup> As with all Israeli settlements in the occupied Palestinian territory, the outposts are illegal also under international humanitarian law (IHL).<sup>4</sup> As pointed out by an official Israeli report, state officials within the Israeli government have been actively involved in establishing the unauthorized outposts.<sup>5</sup> To date, there are between 90 and 100 settlement outposts.<sup>6</sup>

In April 2003, as part of Israel's obligations under phase one of the "Roadmap", former Israeli Prime Minister Ariel Sharon agreed to dismantle those settlement outposts that were built since he became Prime Minister in March 2001.<sup>7</sup> Despite this commitment, no significant outpost evacuation has been carried out since then.<sup>8</sup> During May-July 2009, the Israeli media reported on the intention of the Israeli authorities to remove<sup>3</sup> settlement outposts which, according to the Ministry of Defense, fall under the above definition.<sup>9</sup>



The “price tag” strategy entails the exertion of systematic, widespread and indiscriminate violence against Palestinian civilians and Israeli security forces, following attempts by the Israeli authorities to evacuate settlement outposts. The overall objective of this strategy is to deter the Israeli authorities from removing such outposts. In the immediate term, the “price tag” strategy aims at diverting Israeli forces and troops from the scene of an outpost evacuation into other areas requiring the intervention of those forces to contain violent incidents.<sup>10</sup>

According to accounts by some radicalized settler groups and individuals, this strategy emerged in response to the settlers’ failure to mobilize enough people to prevent the demolition or evacuation of outposts, particularly when those operations occurred without prior warning. As an alternative, these groups and individuals have been calling for the launching of West Bank-wide “protests” following, or in advance of, any evacuation or demolition of an outpost, or of an individual structure within it, regardless of the exact location of the targeted outpost in the West Bank.<sup>11</sup> As put by one Israeli settler quoted in the media: “for every act of destruction [of an outpost] in the southern Hebron hills we will set fire to Samaria [northern West Bank], and for a container destroyed near Har Bracha [settlement in Nablus area] we will exact a price in the southern Hebron hills”.<sup>12</sup>

While the stated goal of the strategy is to prevent the removal of settlement outposts, attacks in this context may be tailored in ways that contribute to ongoing efforts by Israeli settlers to depopulate certain areas from their Palestinian residents. In a number of cases in recent years, systematic attacks carried out by Israeli settlers have directly contributed to the massive displacement, either temporarily or permanently, of entire Palestinian communities.<sup>13</sup>

### The rolling out of the “price tag” strategy and the lessons learnt

While none of the 23 settlement outposts mentioned has so far been removed, since mid- 2008, the Israeli authorities have demolished or evacuated individual structures in several settlement outposts, some of which have subsequently triggered violent responses by Israeli settlers. Due to data-collection constraints, as well as challenges in establishing the motivation of specific attacks, it is difficult to establish precise figures on the number and outcome of such incidents. Yet, the examples below, which were among the boldest and most clear incidents involving the “price tag” strategy, provide some insight as to the characteristics of this strategy:<sup>14</sup>

- On 4 December 2008, following a protracted legal battle, Israeli security forces evacuated by force a group of Israeli settlers that were occupying a building (known as “Al Rajabi House”) in the Israeli-controlled area of Hebron City (H2). In the aftermath of the eviction, groups of settlers from all over the West Bank that had come to Hebron in the days preceding the evacuation, attacked Palestinians and Israeli forces in multiple areas of the city, resulting in six Palestinian injuries, and set fire to vehicles, agricultural fields, houses and the contents of one mosque. Former Israeli Prime Minister, Ehud Olmert, characterized the settler attacks in Hebron city as “a pogrom”.<sup>15</sup> Later that day, incidents of stone-throwing at key road junctions, setting fire and vandalizing Palestinian property, cutting down olive trees, and slashing vehicle tires by groups of settlers occurred in at least 12 other locations throughout the West Bank. In the course of the following three days, the Israeli forces responded by closing some key staffed checkpoints in Hebron and Nablus governorates for several hours, and placing numerous “flying” (ad-hoc) checkpoints at strategic points to prevent settlers from entering Palestinian communities, or joining other settlers within Hebron City. Palestinians travelling in the affected areas were forced to make long detours to reach their places of destination.

- On the night of 31 May 2009, a cellular text message was reportedly sent to hundreds of settler activists, warning that the Israeli

army was about to evacuate the Ramat Gilad outpost, located east of the Qarnei Shomron settlement (Qalqilya governorate). The following morning, near the entrance of the Qedumim settlement, Israeli settlers blocked Road 55, the main Qalqilya-Nablus road, with debris, stoning and physically assaulting Palestinian drivers that stepped out of their vehicles to remove the obstacles; six Palestinians were injured. On the same day, Israeli settlers set fire to approximately 1,300 olive trees and 280 dunums of wheat and barley crops belonging to residents of a number of Palestinian villages along Road 60, on the segment between Kedumim and Yitzhar settlements. No evacuation has been carried out at this outpost.

- On 20 July 2009, the Israeli authorities removed a few uninhabited structures at three settlement outposts in the Ramallah and Nablus governorates,<sup>16</sup> triggering a wave of settler violence in the Nablus area that continued during the following days. During this period, Israeli settlers, some of them riding horses, set fire to over 1,000 olive trees of five Palestinian communities (Tell, Madama, Burin, Asira al Qibliya and Jit), blocked several junctions in that area and threw stones at Palestinian cars driving by, resulting in the injury of two Palestinian motorists and damage to six vehicles. On 23 July, as part of this wave, more than 20 armed settlers from an outpost next to Yitzhar settlement entered the nearby village of Asira al Qibliya and hurled stones at the villagers. The latter responded with stones, following which, Israeli security forces arrived at the village and fired sound bombs and teargas at the villagers, resulting in the injury of one Palestinian boy.

- On the morning of 9 September 2009, Israeli forces removed a small outpost in southeast Hebron governorate (Givat Hadege), consisting of a number of temporary structures. Immediately after, a group of over ten Israeli settlers from the Suseya settlement, located a few hundred meters to the east of the outpost, entered a tented area in the neighboring Palestinian village of Susiya, and hurled stones and physically assaulted a group of people; 15 members of one family, including three men, two women and 10 children, were injured as a result. After Israeli forces arrived at the village, the Israeli settlers left; none of them were detained by the soldiers. The outpost was reconstructed the same night.

Some “price tag” incidents involved also attacks against individual members of the Israeli security forces. For example, according to an Israeli media report from October 2008, in the course of the previous weeks, as part of their reaction against attempts to evacuate structures in settlement outpost, Israeli settlers have let a dog loose on an Israeli military company commander, broke the hand of a deputy battalion commander and punctured the car tires of a reserve soldier.<sup>17</sup>

While most “price tag” incidents recorded to date, including the examples above, resulted in Palestinian injuries and in significant property damage, the level of settler mobilization observed so far, appears to be relatively limited. In most cases, settler violence was concentrated in the area of the targeted outpost rather than throughout the West Bank as envisioned by the “price tag” strategy. However, considering the limited scope of the removal operations implemented so far by the Israeli authorities, the level of violence that could be expected following a relatively large dismantlement operation is significantly higher.

Another characteristic illustrated by the second case, is that the actual removal of an outpost is not an indispensable condition for the eruption of “price tag” incidents. Given that the principal aim of the strategy is to prevent the dismantlement of outposts, “price tag” attacks can be also triggered by an announcement, or even a rumor, about an imminent evacuation.

As evident from the first three examples above, “price tag” incidents may also have negative ramifications on the freedom of movement of Palestinians. These can stem either from the Israeli settlers themselves, who as part of the exacted “price” block main junctions and throw stones at Palestinian vehicles; from the Israeli security forces, which may impose movement restrictions in order to contain the violence; or from a combination of both. These kinds of access incidents usually occur along roads and junctions in the vicinity of the same communities affected by settler attacks, thus compounding the hardship their residents are faced with.

In a hypothetical scenario entailing large-scale and very violent series of incidents, it is plausible that such access impediments will last for a number of consecutive days. The impact of such a development may include, but it is not limited to: an increase in casualties as a result of the inability of people to flee targeted communities; deterioration in the health situation of individuals requiring urgent or regular access to medical treatments outside their communities; water shortages as a result of the inability of water trucks to access communities unconnected to the water network, particularly during the summer, after most traditional water sources have been exhausted.

### Law enforcement deficit

The concern about the possible outbreak of waves of settler violence and their impact on the Palestinian population stems also from the inadequate level of law enforcement by the Israeli authorities.

As the occupying power, Israel is responsible under international law for ensuring public order and safety in the occupied territory, as well as for the protection of the civilian population from any act or threat of violence.<sup>18</sup> Additionally, while the Oslo agreements transferred a number of security responsibilities to the Palestinian Authority (PA), the agreements denied PA security forces law enforcement powers vis-à-vis Israeli citizens, which remained with Israel.<sup>19</sup>

The lack of adequate law enforcement and accountability in regard to settler violence has been recurrently pointed out, since the early 1980's, by official commissions appointed by the Israeli authorities, as well as by human rights organizations.<sup>20</sup> While these bodies have identified a number of factors contributing to this situation, for the limited purposes of this report, the main concern is the frequent failure of the Israeli security forces to intervene and stop settler attacks in real time, including the failure to arrest suspected settlers on the spot.

Among the main reasons behind this failure is the ambiguous message delivered by the Government of Israel and the IDF top officials to the security forces in the field regarding their authority and responsibility to enforce the law on Israeli settlers.<sup>21</sup> As stated by an official Israeli report issued in 2005, “as a rule, the IDF soldiers do not want to act as policemen; even more so they do not want to take part in the confrontations between the settlers and the Palestinians related to land and the control of the area”.<sup>22</sup> In fact, it has been widely documented that many of them truly believe that their role in relation to Israeli settlers is limited to protecting them from Palestinian attacks.<sup>23</sup> This is compounded by the ideological identification of individual soldiers with the settler movement, a phenomenon that in a number of cases brought soldiers to refuse superior's orders and not take part in law enforcement activities.<sup>24</sup>

Another dimension of the ongoing law enforcement deficit is the absence of accountability of Israeli settlers who perpetrated attacks against Palestinians and their property. The two key reasons are the disincentives given to Palestinian victims to file official complaints with the Israeli police, thus preventing the launching of an investigation, and the insufficient follow-up by the Israeli police in investigating complaints that are filed. In July 2008, an Israeli human rights organization reported that more than 90 percent of the investigation files related to settler attacks and monitored by the organization were shut by the Israeli police without filing indictments against the suspects.<sup>25</sup> The current lack of accountability undermines efforts to reduce the phenomenon of settler violence in the long run and infringes on the rights of the victims to justice.

Senior Israeli officers have expressed concerns about the increase in the phenomenon of settler violence. As put by the previous commander of the IDF Central Command, Major General Gadi Shamni a year ago,

*There has been a rise in Jewish violence in Judea and Samaria [i.e. West Bank]. In the past, only a few dozen individuals took part in such activity, but today that number has grown into the hundreds [...] These hundreds are engaged in conspiratorial actions against Palestinians and the security forces. It's a very grave phenomenon. We have to divert our efforts to there from other issues. The margins [in the settler community] are expanding, because they are enjoying a tailwind and the backing of part of the leadership, both rabbinical and public, whether in explicit statements or tacitly.<sup>26</sup>*

According to an Israeli media report, the IDF Central Command has recently established a new “rapid-response security team” that will be responsible “to prevent friction and violence between settlers, security forces and Palestinians”.<sup>27</sup> The significance of this measure remains, for the time being, unclear, including the size of the forces allocated to this team and timing for the starting of operations.

In the meantime, the most significant measure noticed on the ground, has been the decision to deploy, during the past three olive harvest seasons, security forces (usually one or two Border Police battalions), with the explicit task of protecting Palestinian farmers working in the vicinity of some settlements. This measure has reduced the number of incidents involving physical assaults by settlers and resulting in injuries, however, it hardly affected the scope of attacks against property such as olive groves and produce.

## Mapping vulnerable communities and roads

With the aim of fostering preparedness and contributing to the protection afforded to Palestinians, those Palestinian communities that can be considered vulnerable to settler violence under a scenario of a medium to large-scale outpost evacuation, were identified and mapped.

The initial list was composed based on OCHA's field staff experience, and subsequently crosschecked with a number of other sources, including OCHA's Protection of Civilians database, regular reports by Palestinian and Israeli NGO's, the media, and Palestinian village councils. For each of the selected communities, the Israeli settlement from where the risk of friction originates was identified. Additionally, the level of vulnerability of each community - high or moderate - was assessed in light of the following three criteria:

- a) Frequency of violence: has the community been regularly affected by settler violence in the past three years?
- b) Gravity of violence: has the settler violence led to injuries or large property damage in the course of the past three years?
- c) Isolation of the community: what is the population balance between Palestinians and Israelis in the area of the community, and how far is that community from a main Palestinian population center?

For the purpose of this contingency plan a "community" can be an entire town or village (e.g. Burin village, Nablus governorate), a given area or neighborhood within a town (e.g. Bab Al Zawiyeh neighborhood of Hebron City), or a cluster of small hamlets (e.g. Massafer Yatta, Hebron governorate).

The result is a list composed of 83 communities with a combined population of nearly 250,000 people, distributed across the three regions of the West Bank, identified as being highly or moderately vulnerable.<sup>28</sup>

Taking into account the access component of settler violence incidents, OCHA has also identified and mapped 26 road junctions and segments, where movement of Palestinians is likely to be disrupted or blocked, of which seven are in the north, seven in the center and 12 in the south.<sup>29</sup>

Area	High		Moderate		Total	
	Community	Population	Community	Population	Community	Population
North	6	14,900	17	44,800	23	60,000
Central	3	11,900	30	120,500	33	72,000
South	13	49,100	14	7,500	27	55,000
<b>Total</b>	<b>22</b>	<b>75,900</b>	<b>61</b>	<b>172,800</b>	<b>83</b>	<b>248,700</b>



## The Way Forward

In light of the concerns detailed above, and considering Israel's obligations under international law, the Israeli authorities must adopt all the necessary measures to prevent to the greatest extent possible attacks by Israeli settlers against Palestinian civilians and their property, in response to the removal of settlement outposts. These measures include, but are not limited to:

1. Ensuring that all Israeli security forces in the field are properly instructed about their authority and obligation to enforce the law on Israeli settlers and protect Palestinian civilians from settler violence;
2. Allocating the necessary forces to effectively patrol all areas in the vicinity of vulnerable communities, in advance of operations affecting settlement outposts;
3. Ensuring that measures adopted to prevent or contain settler violence, particularly the blockade of main routes and the closure of farming areas, do not harm the Palestinian population disproportionately;
4. Adopting all necessary measures to ensure that there is no impunity for crimes committed by Israeli settlers against Palestinian civilians;

Finally, considering that the illegal presence of Israeli settlements and outposts in the occupied West Bank constitutes the underlying cause of this violent phenomenon, the Israeli authorities must take the necessary steps to comply with international law and the relevant UN Security Council resolutions on this matter.

## Endnotes

1. For further information on the characteristics and impact of this phenomenon see, OCHA, *Unprotected: Israeli settler violence and related activity against Palestinians civilians and their property*, December 2008.
2. This strategy has been also named by settler groups as the "mutual responsibility" strategy, in reference to the collective effort required to prevent the evacuation of settlement outposts.
3. According to the *Opinion Concerning Unauthorized Outposts* (also known as the "Sasson Report" after its author, Adv. Talia Sasson), issued on 2005, an unauthorized outpost is a settlement that was built without complying with one or more of the following criteria: a) the Israeli government issued a decision to establish

the settlement; b) the military commander issued an order defining the settlement's area of jurisdiction; c) the settlement has a valid outline plan approved by the planning authorities; d) the settlement was established on state land or on land that was purchased by Israelis and registered in the Land Registry.

4. See article 49, paragraph 6, of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 1949. This conclusion has been confirmed in 2004 by the International Court of Justice.

5. *Summary of the Opinion Concerning Unauthorized Outposts*, 31 March 2005, pp. 27-34.

6. Figures provided by different sources differ mainly due to the lack of an agreed threshold for defining a structure or group of structures at a given site as an outpost. For further details see Peace Now, *Clarifying the Outposts Question*, June 2009.

7. See A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict, "Settlements", April 30, 2003, available at <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/A+Performance-Based+Roadmap+to+a+Permanent+Two-State>.htm

8. Of note, in February 2006, following the issuance of demolition orders, the Israeli authorities demolished nine houses in the Amona settlement outpost (Ramallah). This demolition required the forcible evacuation of hundreds of Israeli settlers, who gathered in the targeted structures and involved violent confrontations between them and the Israeli security forces. The rest of the outpost, consisting of a number of structures, was not evacuated and continued to grow in the following years.

9. See for example, Yoel Marcus, "IDF planning to evacuate all illegal West Bank outposts in one day", *Ha'aretz*, 22 July 2009. While some initial reports indicated that according to the Ministry of Defense there are 26 outposts built after March 2001, three of them were reportedly removed in the course of 2008. For further elaboration on this issue see Peace Now, *Clarifying the Outposts Question*, June 2009.

10. See for example, Roi Sharon, Amir Rappaport and Amit Cohen, "The Wild West Bank, No Man's Land," *Ma'ariv*, p. B8, 8 August 2008. See also, Hagit Rothenberg "Decision makers will think twice next time", *BeSheva*, Issue 29, June 2008; "Mutual responsibility as the key to victory", Kdumeida [regular factsheet issued by the Local Council of the Kedumim settlement], 28 June 2008, p. 11. Both items were cited and attached to Yesh Din, "Settler terror infrastructure in the West Bank", 2 June 2009.

11. Ibid.

12. *Ma'ariv*, Ibid.

13. Examples of such communities include the Israeli controlled area of Hebron city (H2); the Massafer Yatta hamlets in southeast Hebron governorate; and the Yanoun village in the Nablus area.

14. Unless otherwise specified, the following incidents were documented by OCHA field staff and reported in the various weekly Protection of Civilians report issued by OCHA.

15. "Olmert: I am shamed by Hebron settlers' pogrom", *Ha'aretz*, 11 December 2008.

16. The targeted outposts were Mitzpe Danny (next to Ma'ale Midmash settlement, Ramallah), and Nofei Yarden and Adei Ad outposts (next to Shilo settlement, Ramallah).

17. Amos Harel, "IDF West Bank commander: rightist violence encouraged by settler leaders", *Ha'aretz*, 2 October 2008.

18. For sources in International Humanitarian Law, see mainly article 43 of the Hague regulations concerning the Laws and Customs of War on Land of 1907; and article 27 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949. For sources in International Human Rights Law see articles 6 and 7 of the International Covenant on Civil and Political Rights of 1966.

19. See Annex I (Protocol Concerning Redeployment and Security Arrangements) to the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip.

20. For a summary of official reports see, OCHA, *Unprotected: Israeli settler violence and related activity against Palestinians civilians and their property*, December 2008, p. 11; see also Yesh Din, *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank*, June 2006.

21. See, *Summary of the Opinion Concerning Unauthorized Outposts*, 31 March 2005, [the "Sasson report"], pp 25-26; see also Yesh Din, *A Semblance of Law*, chapter 3.

22. *Opinion Concerning Unauthorized Outposts*, 31 March 2005, p. 259 [Translated from Hebrew]

23. See for example, B'Tselem, Footage from the Field, Settlers raid 'Asira al-Qibliya and attack residents, September 2008. Available at: <http://www.btselem.org>.

24. See, for example, Roi Sharon, "The Evacuation, the Deception and the Imaginary Terrorist," *Ma'ariv*, 28 October 2008, p. 8. Also see, Yagil Levy, The IDF is disintegrating, *Ha'aretz*, 5 November 2008.

25. See Yesh Din, "Law Enforcement upon Israeli Civilians in the OPT", Data Sheet, July 2008.

26. Amos Harel, "IDF West Bank commander: rightist violence encouraged by settler leaders", *Ha'aretz*, 2 October 2008. See also, Anshel Pfeffer, "Top IDF officer warns: Settlers' radical fringe growing", *Ha'aretz*, 20 October 2009.

27. Yaakov Katz, "New IDF unit to combat extreme settlers" *The Jerusalem Post*, 24 September, 2009.

28. For the full, detailed, list see Annex. The northern area includes the Jenin, Nablus, Tubas, Tulkarm, Qalqiliya and Salfit governorates; the central area includes the Ramallah, Jericho and Jerusalem governorates; and the southern area includes the Bethlehem and Hebron governorates.

29. For the detailed list of road junctions and segments see Annex.