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## Jurists for Palestine Forum - Season 3 - Panel Discussion (6)

# Strategic Litigation in Focus: Individual Criminal Liability and Pursuing Accountability for Palestine

This document presents summaries of three articles and a book chapter that examine one specific mode of accountability for international crimes: individual criminal responsibility. The pieces explore different perspectives on how pursuing accountability through this approach can serve as a path to justice. Several Palestinian and international organizations have adopted this strategy to address crimes committed in the occupied Palestinian territories (oPt), either by filing complaints with the International Criminal Court (ICC) or by invoking universal jurisdiction in national courts. The document also highlights how these strategic efforts unfold within a climate of political pressure and ongoing hostilities, which creates significant challenges and limits to their overall impact.

**This summary was prepared by the Jurist Forum Team**

**Law for Palestine**

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**Summary:**

- The first article argues that the ICC investigation into Palestine should be viewed as a tactical opening rather than a path to liberation. It suggests that when law is combined with political strategy and grassroots activism, it can support broader struggles for justice and contribute to dismantling settler-colonial structures. The authors contend that framing apartheid charges at the ICC strengthens Palestinian organizing by linking legal advocacy with global anti-racist and anti-colonial movements. Ultimately, they conclude that genuine justice for Palestinians rests not on legal proceedings alone, but on political struggle, decolonization, and the power of popular mobilization.
- The second article examines Universal Jurisdiction (UJ) as a vital tool for closing accountability gaps for grave crimes, while noting that its effectiveness is often undermined by political interference. Unlike the ICC, UJ prosecutions do not require a complex 'gravity' threshold analysis, allowing them to address crimes committed even before the ICC's jurisdiction over Palestine began in June 2014. This makes UJ a crucial supplementary avenue for pursuing justice.
- The third piece is a book chapter by Shane Darcy in which he argues that the treatment of Palestinian prisoners and detainees may constitute international crimes under ICC jurisdiction, with potential links to the crime of apartheid. Corporate involvement in detention systems, such as G4S, raises liability questions under aiding and abetting standards. While the ICC cannot prosecute corporations, it can pursue responsible individuals, and even without prosecutions, international law can deter complicity and influence corporate behavior.
- The fourth article argues that Israel's tolerance - and in some cases active participation - in acts of settler violence amounts to tacit state endorsement aimed at furthering annexation of Palestinian territory. This behavior constitutes a breach of Israel's responsibilities under both international humanitarian law (IHL) and international human rights law (IHRL). The article also underscores the potential for individual criminal liability under international law for those responsible for perpetrating settler violence.

# Summary of "We Charge Apartheid? Palestine and the International Criminal Court" by Noura Erakat & John Reynolds (2021)

The original language of the article is English.
You can read the full article here.

## Background

The article reflects on the International Criminal Court's (ICC) jurisdiction over Palestine, confirmed in 2021, and its potential to investigate Israeli practices in Gaza and the West Bank. This decision followed more than a decade of Palestinian attempts to bring Israeli crimes before the Court, particularly after Israel's 2008–09 and 2014 wars on Gaza. These assaults, which killed large numbers of civilians, exemplify what the authors describe as the "hot violence" of bombardments, shelling, and military attacks. However, they stress that Palestinian suffering is also shaped by "cold violence": the settlement enterprise, land confiscation, economic exploitation, denial of refugee return, and the exclusionary legal order that collectively amount to apartheid. The ICC investigation, they argue, should address both forms of violence, but the limits of international law mean it cannot deliver liberation on its own.

## Key Themes

### 1. Warfare, Lawfare, and the ICC's Limits

The ICC has often been criticized as an institution that reflects global power hierarchies. From a Third World Approaches to International Law (TWAIL) perspective, international criminal law tends to reinforce imperial structures, functioning more as "victor's justice" than as a tool of emancipation. For Palestinians, this means that even though the Court's jurisdiction is a hard-won victory, it is fragile and subject to political pressures from powerful states that oppose accountability for Israel. The authors emphasize that trials or prosecutions, even if they occur, cannot dismantle the settler-colonial system that underpins Israeli rule. The law may secure accountability for individuals, but it cannot substitute for the structural transformation required for decolonization.

**2. Tactics and Strategy**

A key concern of the article is the relationship between legal tactics and political strategy. While many Palestinian organizations have invested heavily in legal advocacy, this approach risks narrowing the liberation project into technical disputes rather than transformative struggle. The authors note that Palestinian leadership has often pursued "statehood performance," seeking recognition and symbolic victories, instead of building a coherent anti-colonial movement. They highlight the missed opportunity of the 2004 ICJ Advisory Opinion on Israel's Wall, which could have been used to mobilize states toward sanctions and divestment. Instead, Palestinian official action has often been reactive and fragmented, failing to align legal opportunities with a broader vision of liberation.

The authors argue that law should be treated as one tactical tool within a larger political strategy. Legal victories only have meaning if they are connected to grassroots mobilization, global solidarity campaigns, and a vision of decolonization. Without this, legal work risks legitimizing "a better colonialism" rather than ending colonial domination.

**3. We Charge Apartheid?**

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mobilization, global solidarity campaigns, and a vision of decolonization. Without this, legal work risks legitimizing "a better colonialism" rather than ending colonial domination.

**4. Opportunities and Risks**

The apartheid charge carries both potential and danger. On one hand, it provides a framework that exposes Israel's systemic racial domination and strengthens international solidarity. It reframes the conflict as one of settler colonialism rather than a dispute over borders, and could lay the basis for sanctions and state accountability. On the other hand, the ICC may choose to sideline apartheid in favor of narrower war crimes, limiting its scope. Proving intent to maintain racial oppression, a key element of the crime of apartheid, may also be legally challenging, though the systemic and deliberate nature of Israeli policies is well documented.

The authors stress that even if prosecutions never occur, the act of submitting apartheid charges itself makes an important contribution. It builds public awareness, internationalizes the struggle, and places pressure on states to confront the reality of Israeli practices. In this sense, legal action serves as part of a broader "legitimacy war," where the struggle is as much about shaping global perception as achieving courtroom victories.

**Conclusion**

The ICC investigation into Palestine is not a path to liberation, but a tactical opening. Law alone cannot dismantle settler-colonial structures, but when tied to political strategy and grassroots activism, it can contribute to broader struggles for justice. The authors argue that charging apartheid at the ICC strengthens Palestinian organizing by connecting legal advocacy with global anti-racist and anti-colonial movements. Ultimately, they conclude that genuine justice for Palestinians depends not on legal proceedings but on political struggle, decolonization, and the power of popular mobilization.

# Summary of Lawyers for Palestinian Human Rights (LPHR) briefing on Universal Jurisdiction by Angelina Nicolaou (2021)

The original language of the briefing is English.

You can read the full briefing here

## Background

The opening of an International Criminal Court (ICC) investigation into the Situation in Palestine on 3 March 2021 has intensified calls for meaningful accountability for serious international crimes. While the ICC plays a central role in pursuing justice, there are other mechanisms that can hold individuals criminally responsible – one of the most significant being Universal Jurisdiction (UJ).

Universal Jurisdiction allows states to prosecute individuals for the gravest international crimes such as war crimes, torture, and genocide, regardless of where they were committed or the nationality of the perpetrator. This principle is crucial in situations where the state in which the crime was committed is unwilling or unable to prosecute.

## The Principle of Universal Jurisdiction

Universal Jurisdiction reflects the understanding that crimes such as war crimes, genocide, and torture are an affront to all humanity and must not go unpunished. In the UK, the Geneva Conventions Act 1957 and the Criminal Justice Act 1988 give domestic effect to this principle by allowing prosecution of grave breaches and torture "whatever the accused's nationality."

Unlike the ICC, UJ prosecutions do not require a complex threshold analysis of "gravity" , they can address crimes committed even before the ICC's jurisdiction over Palestine began in June 2014. This makes UJ a vital supplementary avenue for justice.

## Examples from the UK

The UK has used UJ in exceptional but significant cases.

- **Faryadi Sarwar Zardad (2005):** An Afghan warlord was convicted in the UK of torture and hostage-taking for crimes committed in Afghanistan in the 1990s. The case involved UK police traveling abroad to gather testimony and demonstrated that such prosecutions can succeed.
- **Kumar Lama (2013):** A Nepalese colonel was arrested under UJ for alleged torture but ultimately acquitted, showing the evidentiary and procedural challenges involved.

These cases prove that UJ can function but they also reveal its fragility.

**Political and Practical Limitations**

Despite its potential, UJ in the UK is often constrained by political considerations. Prosecutions require the consent of the Attorney General, who may consult with ministers on foreign relations and security concerns. This adds a layer of political discretion that can blunt UJ's effectiveness.

Three high-profile cases related to Israel illustrate how political interference can derail accountability:

- **2005 – Doron Almog:** A UK arrest warrant for alleged war crimes was never executed because Almog remained on his plane after being tipped off about the warrant.
- **2009 – Tzipi Livni:** A private arrest warrant was issued for Livni over Operation Cast Lead. The UK government later changed the law, requiring approval from the Director of Public Prosecutions before such warrants could be issued.
- **2016 – Livni again:** When the UK police sought to interview Livni under caution, the government granted her "special mission immunity," shielding her from arrest.

These cases reveal a pattern where political relationships take precedence over legal accountability, undermining the credibility of UJ in the UK.

**International Comparison**

The UK is not alone in limiting UJ. Spain, once a leader in this field, restricted its UJ law in 2014, narrowing the scope for prosecutions. In contrast, Germany has taken a bold

approach – most notably convicting a Syrian former intelligence officer in February 2021 for aiding crimes against humanity in Damascus. Germany's leadership highlights what is possible when political will aligns with international legal obligations.

**Conclusion**

Universal Jurisdiction remains one of the most powerful tools available to close the accountability gap for grave international crimes. Yet its potential is often weakened by political interference, as seen in the UK's approach to cases involving Israeli officials. This undermines the promise of the Geneva Conventions, the UN Convention Against Torture, and the UK's own stated commitment not to be a safe haven for war criminals.

For justice to be meaningful, states, including the UK, must act with courage and consistency, applying UJ without fear or favour. The German example shows that determined use of UJ can deliver landmark convictions and signal that impunity is unacceptable. If the UK [or Germany, France, and other European countries, as well as African and Latin American countries] is serious about its international obligations, it must move beyond political considerations and allow UJ prosecutions to proceed on the strength of the evidence and the law.

# Summary of Chapter titled "Private Sector Responsibility for the Treatment of Palestinian Prisoners and Detainees in Light of the Law and Policy of the International Criminal Court" by Shane Darcy . (Mar 2023)

The original language of the Chapter is English.

You can read the full chapter here

## Introduction

Shane Darcy's chapter addresses the legal and moral responsibility of private sector actors, particularly security companies in relation to the treatment of Palestinian prisoners and detainees, situating the analysis within the framework of international criminal law and the policy of the International Criminal Court (ICC).

Darcy begins by referencing the controversies surrounding G4S, a global security firm accused of complicity in war crimes due to its involvement in Israeli prisons and checkpoints where Palestinians' rights were routinely violated. These cases highlight a growing challenge: the increasing presence of private military and security companies (PMSCs) in conflict zones and the resulting questions about corporate accountability when violations of international law occur.

The author frames the chapter around three central objectives:

1. To determine which violations against Palestinian detainees constitute international crimes under the Rome Statute of the ICC.
2. To analyze whether and how private companies' involvement in these violations could trigger criminal liability under international criminal law.
3. To evaluate whether corporate actors should be considered appropriate targets for ICC prosecution given its focus on those "bearing the greatest responsibility."

The chapter argues that invoking international criminal law even without formal prosecution can have a deterrent effect and encourage corporate actors to change harmful practices.

## Key Themes and Analysis

### 1. Treatment of Palestinian Detainees and Prisoners

Darcy provides an extensive review of reports by the UN, civil society, and human rights organizations documenting widespread abuses by Israeli authorities against Palestinian detainees. These include:

-Arbitrary detention and administrative detention.

-Torture and ill-treatment (including of children).

-Solitary confinement, coerced confessions, and denial of due process.

-Lack of family visits, legal representation, healthcare, and education.

B'Tselem has documented persistent impunity, noting that hundreds of complaints against Israeli security agents have not resulted in prosecutions.

### Legal Classification of Violations

Darcy links these abuses to two main categories under the Rome Statute:

- **War Crimes** – including torture, inhuman treatment, unlawful transfer of prisoners, and denial of fair trial rights (Article 8).
- **Crimes Against Humanity** – such as widespread or systematic imprisonment, torture, and persecution (Article 7).

The crime of apartheid is also highlighted as potentially relevant, given the systemic nature of Israel's policies toward Palestinians.

While jurisdictional questions arise (because many acts occur on Israeli territory, a non-State Party), Palestine's accession to the Rome Statute in 2015 and the ICC's 2021 decision to open a formal investigation mean these violations could be within ICC reach.

### 2. Involvement of Corporate Entities

The chapter explores the complicity of corporations—particularly those providing security, surveillance, or prison services—in sustaining Israel's occupation and related human rights violations.

Key points include:

- UN Reports: The Human Rights Council and Fact-Finding Mission have documented that private companies enable, facilitate, and profit from settlement expansion and occupation infrastructure.
- UN Database: In 2020, OHCHR published a database naming 112 companies linked to settlement activity. The database was hailed as an accountability milestone, but its future is threatened by underfunding.
- G4S Case Study : G4S Israel provided security systems, control rooms, scanning equipment, and staff for checkpoints and prisons. Activists and prominent figures (e.g. Desmond Tutu) accused the company of complicity in unlawful detention practices and violations of the Fourth Geneva Convention.
- [Note: This article was published before the release of the latest report by Francesca Albanese, the UN Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory. The report addresses corporate responsibility and identifies companies complicit in the system of occupation, apartheid, and genocide.]

This section demonstrates that corporate involvement is not merely commercial but can become operationally connected to alleged international crimes.

**3. Corporate Complicity and International Criminal Law**

A major part of Darcy's analysis focuses on the legal question: can corporations or their executives be held criminally responsible for complicity in international crimes?

- **Corporate Criminal Liability**: The Rome Statute does not provide for corporate criminal liability, though there are growing efforts to address this gap (e.g., African Court protocol amendments, UN's proposed binding business and human rights instrument).
- **Individual Liability**: The ICC can prosecute individuals (directors, officers, employees) under several modes of liability: perpetration, ordering, planning, instigating, or aiding and abetting.

**Aiding and Abetting as the Key Mode of Liability**

Darcy argues that aiding and abetting (Article 25(3)(c) of the Rome Statute) is the most suitable framework for assessing corporate complicity.

- **Definition** – Providing practical assistance or encouragement with knowledge that it will substantially contribute to the crime.
- **Elements** – The assistance must have a substantial effect on the crime but need not be indispensable.
- **Mens Rea** – Requires knowledge that assistance would facilitate the crime (not necessarily intent).

Historical precedents, such as the *Zyklon B case* (UK v. Tesch), show that individuals supplying materials knowing they would be used for war crimes can be convicted. These cases set a useful standard for modern corporate accountability.

**Conclusion and Implications**

Darcy concludes that there is a **prima facie case** that the treatment of Palestinian prisoners and detainees constitutes breaches of international law amounting to international crimes within ICC jurisdiction. While the ICC has thus far prioritized cases relating to settlements and the use of force in Gaza, detention-related crimes may gain attention—particularly if linked to the crime of apartheid.

Corporate involvement in detention systems, particularly companies like G4S, raises serious legal questions under the aiding and abetting standard. The article underscores the accountability gap in the Rome Statute, which does not criminalize corporations but allows for the prosecution of individuals complicit in international crimes. It highlights aiding and abetting as the key legal framework for assessing corporate involvement, particularly in relation to the systematic and unlawful detention of Palestinians, acts that may amount to war crimes, crimes against humanity, or even apartheid.

Finally, Darcy underscores that even without prosecutions, the invocation of international criminal law can exert pressure on corporations to change their behavior, reduce complicity, and respect human rights norms. This underscores the preventive and deterrent function of international criminal law in the business and human rights space.

**Summary of the article titled "Responsibility Under International Law For Settler Violence In The Occupied Palestinian Territory" by the Diakonia International Humanitarian Law Centre. (July 2024)**

The original language of this article is in English.

You can read the full article here.

## Background

In this article, the author focuses on the increased settler violence perpetuated against Palestinians in the unlawfully occupied Palestinian territory (oPt) and Israel's obligations under international law and responsibility for the harms caused. The last decade has seen a markedly high rise in settler violence in the West Bank, including East Jerusalem, with reported cases reaching record levels since October 2023. This violence is sustained against a backdrop of illegal settlements and continued annexation of Palestinian land, for which Israel bears responsibility under international law, and is often conducted to force Palestinians off of their land.

The article explores Israel's complicity in settler violence, either by way of active participation in acts of settler violence, or through dereliction of obligations as an occupying force, to protect the Palestinian people when faced with acts of settler violence.

Through looking at Israel's obligations under international humanitarian law (IHL) and international human rights law (IHRL), questions of when and how Israel is liable for breaches are explored. This includes when acts of violence are committed by the State, and when acts committed by private individuals or entities can also be considered the conduct of the State for the purposes of international law.

The author notes that further investigation into possible war crimes, as well as crimes against humanity, that stem from settler violence, is warranted to determine individual liability.

**Key themes**

1. **Escalation of settler violence and involvement of Israeli security forces**

The author highlights the extreme increase in settler violence over the past couple of years, with 'settler violence' referring to: threats, or acts, of violence by Israeli settlers living in the unlawfully occupied Palestinian territory (oPt) committed against Palestinians or their property. This includes physical violence, shootings, vandalism, arson attacks, the destruction of property and the intimidation of the community.

In almost half of the 1,227 reported incidents throughout 2023, the Israeli security forces were present. Reports indicate that on a number of occasions they either did nothing to stop the acts of the settlers, or actively supported the actions of the settlers. This can be seen by either standing "idly by" as settlers discharge firearms on unarmed civilians, or by supporting the settlers by way of firing on Palestinians with lethal and less-lethal weaponry. On occasions, Israeli forces have responded to settler violence by arresting Palestinians, or making them move on from their own land. Israeli forces have also impeded medical aid, by obstructing the access of ambulances responding to injuries Palestinians sustain in acts of settler violence.

In response to increased international attention, some states have begun to sanction Israeli individuals and entities connected to settler violence.

**2. Legal assessment of Israel's responsibility for harm caused by settler violence**

The author looks at the responsibility for acts or omissions that are attributable to Israel and that constitute a breach of an international obligation of Israel. In terms of attribution, as a State can only act through their agents, any organs or agents of the State are, prima facie, considered an act of the State. However, with regards to private persons and entities an assessment must be done of the relationship between the private actor and the State institutions or officials.

Israel has a duty by law to engage in negative obligations i.e refrain from all forms of ill-treatment towards Palestinians, as well as positive obligations, such as ensuring the protection of their rights and wellbeing. As such, the author looks at Israel's responsibility under international law considered through:

A. Failure by Israeli security forces or authorities to protect against or suppress settler violence; and

B. Acts of violence by settlers and other acts by Israeli security forces and authorities in support of settler violence.

**3. Failure by Israeli authorities to protect against and suppress settler violence**

Under the law of occupation, an occupying power has a fundamental obligation to take all available measures to restore and maintain public order and safety or civil life in the occupied territory. The occupying power must do everything in its power to ensure the safety of the population of the occupied territory, including protecting them against acts of violence by private actors. Israel's obligation to protect Palestinians in the oPt against all acts of violence is further specified in Article 27 of the Fourth Geneva Convention (GC), which prescribes that protected persons 'shall be protected especially against all acts of violence or threats thereof.'

The failure of Israeli security forces present during incidents of settler violence to take any effective steps to stop the violence and to protect Palestinians constitute clear breaches of these obligations. The duty to protect may also be violated through a failure by Israeli authorities to allocate necessary security resources to protect Palestinians against settler violence, in circumstances where it was reasonably foreseeable that acts of violence would be committed.

The threat of violence faced by Palestinians in the West Bank has also been explicitly brought to the attention of Israeli authorities, including in a petition submitted to the Israeli High Court of Justice in November 2023 on behalf of six Palestinian villages, demanding that Israeli security forces and other State agencies protect their residents from harm and displacement as a result of settler violence.

Israel's failure to protect Palestinians from forcible transfer can also be inferred from their continued failure to address settler violence. Thus making continued habitation of their land unrealistic for many Palestinians.

**4. Acts of violence by settlers, and the attribution of this to the state of Israel**

There are three categories of settlers that can be helpful to distinguish, however, at times it can be hard to determine which group the settlers will fall into, with a number

of reports of settlers wearing military fatigues or police uniforms when engaging in settler violence, but otherwise seemingly acting in a civilian capacity.

a. Settlers who are members of the Israeli military forces, including reservists called up following 7 October 2023 and deployed to 'regional defence' battalions in the West Bank. After October 7 2023, 5,500 settlers who were Israeli army reservists were called up to become part of a 'regional defence battalion' in the West Bank. The remit of these battalions is said to be to oversee the 'settlement's security zone', however, there are a number of reports of these battalions entering Palestinian villages, and engaging in settler violence against the local population, including the demolition of homes.

   Any reservists assigned to regional defence battalions would fall under the category (2)(A) above, as they are acting on behalf of Israel. The Israeli response to these acts of violence has been extremely inadequate, and does not serve to ensure the cessation of further acts

b. Settlers who form part of so-called 'civilian security squads' or 'civilian defence units'. Under the auspices of National Security Minister, Itamar Ben-Gvir, Israel has established 700 new 'community security squads', composed of Israeli civilians, including settlers, who are armed by the state and given uniforms. With over 10,000 weapons acquired for these squads, Israel stated in response to concerns by the US, that these squads are to be overseen by the security forces, acting as an auxiliary force for the Israeli forces.

   As an auxiliary police force, these squads again will also be considered arms of the State of Israel, and therefore their conduct is attributable to the State of Israel, for the purposes of international law and obligations.

c. Settlers who do not exercise any government functions. The actions of private citizens, not acting on behalf of the State, are generally not attributable to the State with regards to State responsibility. Exceptions do apply, and investigations into the factual relationship between the individuals and the State needs to be undertaken.

The test of effective control, as outlined by the ICC, may not succeed with regards to providing logistical or financial support to settlers, or even the arming of them. The high bar of 'effective control' faces criticisms, with States potentially able to conduct unlawful activity by way of non-state actors, without being legally responsible.

Nonetheless, an occupying force still maintains a positive obligation to ensure order and safety in the occupied territory and to protect against all acts or threats of violence, including from non-State actors, as seen in (2)(A).

Conduct can also be attributed to the State in situations where the State acknowledges and adopts that conduct as its own. While some members of the government have supported acts of settler violence, the official line is not one of endorsement. However, Israel's repeated retrospective recognition of new unlawful outposts created in the oPt, could be argued that it is an unofficial policy to endorse settler violence.

**5. Other acts committed by Israeli officials in connection with incidents of settler violence, and whether Israel has breached its obligations in this regard**.

A number of reports highlight Israel's various contraventions of international law, namely:

- IHRL rules around the use of force against Palestinians in law enforcement operations, when responding to settler violence.
- Breaches of the GC and ICCPR, with regards to inhumane treatment and the violations of the right to life, by blocking ambulances from reaching Palestinian victims of settler violence.
- The arresting of Palestinian victims of settler violence, potentially breaching the prohibition of unlawful or arbitrary detention.
- Ordering Palestinians to leave their land, possibly amounting to a breach of the prohibition of forcible transfer or deportation of protected persons
- The arming of settlers by the State of Israel, may constitute violations of the right to life, the obligation to protect against acts of violence, and the duty to ensure respect for IHL based on a foreseeable risk that the weapons will be used to commit violations

**6. Individual responsibility under international criminal law**

Settler violence may also give rise to individual liability under international criminal law, separate from the question of State responsibility. The ICC, pursuant to the Rome Statute, has jurisdiction in this matter with regards to certain crimes, including:

- Crime against humanity of deportation or forcible transfer of population;
- Crime against humanity of persecution;
- Crime against humanity or other inhumane acts;
- War crime of wilful killing;
- War crime of extensive destruction and appropriation of property;
- War crime of unlawful deportation or transfer; and
- War crime of 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.

The ICC suggests that "a State policy can exceptionally be established by 'deliberate failure to take action, which is consciously aimed at encouraging such attack'. The 'intent behind the inaction [must be] to further the attack', rather than an inability 'to prevent it'."

It is also worth noting, the use of the word 'or' confirms State involvement is not strictly necessary to prove a crime against humanity. The ICC notes that acts that are planned and organised, as distinct from spontaneous isolated acts of violence, can satisfy the criteria. As such, certain settler groups such as the Hilltop Youth, could satisfy this condition. Additionally, Israeli officials who have assisted in acts of violence, or failed to repress or prevent them, may also be criminally liable under international law.

The author discusses a number of forms of liability that currently exist under the ICC, and states that establishing liability involves careful investigation, and should extend to Israeli military and civilian decision makers.

**Conclusion**

The article finds that at the very least Israel's turning of a blind eye, let alone active participation in acts of settler violence, is arguably a sign that the State endorses this violence to further perpetuate the annexation of Palestinian territory. The author finds that Israel is in breach of its responsibilities under IHL and IHRL, and highlights potential individual liability under international criminal law for persons perpetuating settler violence.