

## 6. International Law and Israeli Settlements in the Occupied Palestinian Territory

### Is Israel allowed to transfer its population into the occupied Palestinian territory (oPt)?

International humanitarian law (IHL) strictly prohibits this practice during occupation. Such a prohibition was set out in the Geneva Conventions of 1949 following the events of the Second World War. The prohibition against population transfer is closely linked to the prohibition on the acquisition of territory in the UN Charter. The Occupying Power must merely administer the territory, and do so in a manner which benefits the local protected population and maintains the status quo. The practice is also listed under the Statute of the International Criminal Court as a War Crime.

### Are transfers that are not forced legal?

No. According to the Fourth Geneva Convention, reflective of customary international law, any kind of transfer of the Occupying Power's population to the occupied territory is prohibited, regardless of whether the transfer was voluntary or forced. While the transfer of the occupied population must be forced in order to be illegal, the prohibition not to transfer its own population to the occupied territory is broader. It includes any measure to aims to induce or support settlement in the occupied territory by citizens of the Occupying Power.

### Who has declared settlements illegal?

The list is long, but includes almost everyone except for the Israeli Government. In 1981, the 24th International Conference of the Red Cross reaffirmed that "settlements in occupied territory are incompatible with article 27 and 49 of the Fourth Geneva Convention".<sup>1</sup> The

European Union considers the settlements illegal, and various UN bodies have stated this in numerous documents.

### Why are settlements illegal under international law?

In addition to the prohibition against transferring its own population to the occupied territory, i.e. enabling the settlers' establishment in the oPt, the settlements are also part of, and mostly the goal behind, illegal policies including the forcible transfer of protected persons, destruction of private property, appropriation of land and the denial of Palestinian access to natural resources. The settlements also form an integral part of Israeli

Settlers in the oPt, incl East Jerusalem <sup>2</sup>	515,000
Settlements in the West Bank, excl East Jerusalem.	125
Outposts in the West Bank, excl East Jerusalem.	100
Growth in settlers since the conclusion of the Oslo accords <sup>3</sup>	80% (from 285,000 to 515,000)
% of Area C controlled by settlements' local and regional councils <sup>4</sup>	70 per cent
Length of the wall	708 km, more than twice the "Green Line".
% of the Wall that will run inside the West Bank	85 per cent

<sup>1</sup> 24<sup>th</sup> International Conference of the Red Cross, Res. III

<sup>2</sup> As of end of 2011, Israel Central Bureau of Statistics

<sup>3</sup> Occupied Palestinian Territory Consolidated Appeal, United Nations, 2013.

<sup>4</sup> UN OCHA, January 2013, Area C of the West Bank: Key Humanitarian Concerns

policies that permanently change the occupied territory, in violation of international law.

Settlements obstruct the exercise of the right of the Palestinian people to self-determination. The illegality applies also to the settlements built on occupied land in East Jerusalem, which are considered by Israel as neighbourhoods within the Jerusalem municipality.

### Are settlers legitimate targets under IHL?

No, the illegality of the settlements does not detract from the status of the settlers as civilians. They are therefore not legitimate targets of attack. However, settlers are not “protected persons” and therefore do not have the same rights as the civilian occupied population under IHL.

### What is the difference between a settlement and an outpost?

Under international law, there is no difference. However, under Israeli law, settlements are formally recognised, while outposts are not. The term “outposts” describes what is often a relatively new, small settlement with a few residential structures or caravans. Often, outposts are built on private Palestinian land, are close to a recognised settlement or other strategic locations, with the aim of creating new, or expanding existing, settlements. Although outposts do not have formal recognition, municipal status or building permits, the State rarely enforces demolition orders against outposts. They are sometimes issued permits for connection to water and electricity networks and residents of outposts are entitled to protection from the Israeli military.

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