



ISRAELI SETTLEMENTS IN THE OCCUPIED PALESTINIAN TERRITORY

Questions and Answers

What are settlements?

Israeli settlements are pockets, swathes and patches of land inside the Occupied Palestinian Territory (OPT) – comprised of the West Bank, including East Jerusalem, and the Gaza Strip – that have largely been expropriated from the Palestinian population, colonised by Israel and are now home to Jewish-Israeli citizens. There are now a total of 149 settlements in the OPT, home to more than 470,000 settlers. These settlements control over 40 percent of the territory of West Bank, including essential agricultural and water resources.

Many are extensively developed, and resemble large towns or small cities rather than small or temporary holdings. Israel does not allow Palestinians to enter or use these lands, except those with permits to work in the settlements. Broadly, they represent an attempt by Israel to illegally annex Palestinian land and expand the territory of the Jewish state.

What is the “settlement infrastructure”?

In addition to the appropriation and annexation of Palestinian land, the development of these settlements has been accompanied by a vast infrastructure that violates a range of fundamental human rights of the Palestinian people, and includes draconian physical and administrative restrictions on Palestinian freedom of movement, including an arbitrary permit system, checkpoints, roadblocks and gates that separate West Bank locations from one another. It has also involved the construction of separate roads for Israeli settlers and Palestinians that further carve up the West Bank into isolated enclaves.

What are “outposts”?

“Outposts” are unofficial settlements established by extremist ideological settlers. Usually they are smaller, informal structures, often made up of collections of prefabricated trailers or mobile homes, which generally serve as preludes to future settlements. They lack prior legal approval by the Israeli government, but nonetheless often receive funding and assistance, in the form of utilities, roads, infrastructure and security, from relevant government ministries. There are 105 outposts in the OPT today, their ‘unofficial’ designation “allowing” Israel to discount their existence when it claims it has stopped settlement expansion.

Who, besides the government of Israel, facilitates settlements?

In addition to the approximately US\$550 million that the Israeli government spends each year to build settlements and their accompanying infrastructure, provide economic incentives to settlers and pay for their security (for example, over 3,000 Israeli soldiers ‘protect’ approximately 500 settlers in the middle of the West Bank city of Hebron alone),

settlements are also facilitated by international Jewish charities, including the Jewish National Fund (JNF), which has charitable status in Canada.

Are settlements legal under international law?

No. The settlements in the OPT violate a number of international legal norms, and their illegality has been recognised by the International Court of Justice (ICJ) and numerous United Nations (UN) resolutions.

- They are a flagrant violation of Article 49(6) of the Fourth Geneva Convention, which prohibits an Occupying Power from transferring parts of its civilian population into the territory it occupies.
- In building settlements and their associated infrastructure, Israel further violates international humanitarian and human rights law through the appropriation of Palestinian property not justified by absolute military necessity, and by imposing severe movement restrictions resulting from the construction and expansion of settlements. These movement restrictions further violate those human rights dependent on freedom of movement, including the rights to health, education, family life, work and worship.
- In addition to these violations, the scale of Israel's settlement project and the massive financial investment in it clearly indicates an intention to retain control over these areas in any future political settlement. This violates a core principle of the UN Charter: Article 2(4), which prohibits the acquisition of territory by the use or threat of force.
- Moreover, the settlements fragment the West Bank, including East Jerusalem, into isolated geographical units, severely limiting the possibility of a contiguous territory and the ability to dispose freely of natural resources, both of which are required for the meaningful exercise of the Palestinians' fundamental right to self-determination. As such, Israel's settlement policy is a blatant assault on the realisation of the Palestinian right to self-determination – a right that constitutes a peremptory norm of international law, from which no derogation is permitted.

What is the history of settlements in the OPT?

For 41 years Israel has consistently and aggressively pursued settlement construction and expansion in the West Bank. Approximately 30 settlements were established in the first 18 months of the occupation, and Israel has used its effective control over the OPT ever since to construct and expand settlements throughout the territory.

Who are the settlers?

Although both settlers and Palestinians live inside the OPT, the Palestinians fall under an oppressive legal regime of Israeli Military Orders, while the settlers are subject to the jurisdiction of Israeli domestic law, with same rights granted to Israelis living inside Israel. Palestinians are therefore tried in military courts where a fair trial is essentially impossible, while Israeli settlers are tried in Israel's civil courts.

Settlers can be roughly divided into three groups:

- “Ideological” settlers are those who live in settlements for primarily religious and nationalist reasons. Although they represent a minority of the total settler population, they have always represented a leading political and sociological force in Israel. They are most often the instigators and perpetrators of settler violence against Palestinians, and as a result the settler movement has come to be identified with this group’s political and ideological viewpoints.
- “Quality of life” settlers is an informal term referring to the majority of settlers, whose move to settlements was primarily motivated by economic reasons rather than religious or ideological ones. Israel provides a raft of economic incentives to settlement inhabitants.
- “Ultra-Orthodox” settlers are essentially a sub-set of the ‘quality of life’ settlers, as their presence in the OPT is a function, almost exclusively, of the availability of cheap segregated housing in the eight Ultra-Orthodox settlements. Ultra-Orthodox or Haredi Judaism is the most theologically conservative form of Orthodox Judaism and its membership is generally defined by large, low-income families.

What is “settler violence”?

Mostly perpetrated by ideological settlers, settler violence, which often takes the form of direct, physical violence against local Palestinian populations, especially farmers, and including women and children, has taken a turn for the worse in recent months. It has, however, been a consistent problem since the settlement enterprise began. In addition to physical attacks on Palestinians, settler violence also includes the destruction of Palestinian crops and other property, killing and theft of farm animals, psychological fear tactics, poisoning of water wells and other harmful practices.

Settler violence, despite including killings, assaults and other types of attacks, has gone largely unpunished, and has been exacerbated by the culture of impunity that settlers enjoy. The Israeli authorities have employed a tacit policy of leniency toward settler violence, often failing both to intervene when it occurs and investigate incidents after the fact. In the rare cases that they are found guilty of a crime, perpetrators are generally inadequately punished. This approach is exactly the opposite of the harsh, punitive regime employed against Palestinians.

Hasn’t Israel promised to stop building settlements?

Ostensibly yes, but no effective steps have been taken in this regard. One of Israel’s core obligations under the Road Map for peace is to “freeze all settlement activity (including natural growth of settlements),” a commitment that was renewed by Prime Minister Ehud Olmert at the Annapolis Conference in November 2007. Despite this promise, settlement expansion has increased in intensity, with over 2,100 housing units approved for construction since Annapolis, an increase of 160 percent over the 11 months *before* Annapolis. Unfortunately, this approach is consistent with past practice, as the Israeli government has regularly exploited periods of relative calm to intensify settlement expansion despite repeated guarantees during peace negotiations to, at a minimum, freeze construction.

What is the connection between settlements and the issues of East Jerusalem?

In 1967 Israel illegally annexed East Jerusalem and extended its legal jurisdiction over it.

- Throughout that entire period and until today, East Jerusalem has been a focal point of Israel's illegal settlement policy, and is a particularly clear example of the extremely detrimental effect of the settlement policy on the Palestinian right to self-determination. In 1967, 12 settlements were built in East Jerusalem alone, which are now home to more than 200,000 Israeli settlers. Since Annapolis alone, 1,920 new housing units have been approved for construction in East Jerusalem. In that same time period, 74 Palestinian homes in the city have been demolished.
- While Palestinians constitute over 50 percent of the population of East Jerusalem, only 7.3 percent of its land is available for Palestinian construction. The majority of the remaining land has been re-zoned to prevent Palestinian use, and in effect serves as a land reserve for further settlement construction and expansion.
- Settlements play a central role in Israel's broader plans for East Jerusalem. Since 1967, Israel has persisted in illegal policies aimed not only at securing a demographic superiority of the Jewish population in occupied East Jerusalem, but also at isolating East Jerusalem from the rest of the West Bank, with which it is territorially, politically, socially and historically contiguous. Recently, Israel has confiscated more Palestinian property in order to build a Light Rail system connecting the illegal settlements in East Jerusalem with West Jerusalem, further consolidating their presence in occupied Palestinian territory.

What is the connection between settlements and the Annexation Wall?

The Annexation Wall (the Wall) in the West Bank is the most prominent aspect of the settlement infrastructure. Much of the route of the Wall is intentionally placed inside the West Bank to entrench illegal settlements on occupied land and to annex this land to Israel. The Wall's design also takes into account the further expansion "needs" of settler communities. Once it is complete, approximately 385,000 settlers in 80 settlements will be located between the Wall and the Green Line (the internationally recognised border between Israel and the West Bank), therefore consolidating the illegal confiscation and appropriation of Palestinian land and resources.

What is the connection between settlements and the Jordan Valley?

The most fertile region in the West Bank, and the source of a significant amount of the OPT's water resources, the Jordan Valley is vital to the economy and health of Palestinians. These attributes, however, have also made it a highly desirable region for Israel. In addition to its resources, the Jordan Valley's geographical position along the border of Jordan has made it a coveted eastern border for Israel – particularly as a buffer from the Arab States to the east. As a result, Israel has engaged in aggressive settlement expansion, accompanied by mass appropriation of land, in this region. Currently, most of Israel's exported agricultural products are grown on settlements in the Jordan Valley.

What role do settlements play in the peace process?

Settlements are one of the most important issues of the peace process. Israel's current policy of settlement expansion continues to consolidate facts on the ground, necessarily undermining the ability of the Palestinian people to exercise their internationally recognised right to self-determination and precluding the possibility of a just and durable peace (the UN Security Council has declared settlements an "obstacle to peace").

Put simply, Palestinian self-determination, the prerequisite to a just and lasting peace, cannot be meaningfully realised without the removal of the settlements.

What can be done about settlements now?

Removing settlements from the OPT, while a complicated and difficult task, is both necessary and possible, and will demonstrate a sincere commitment to peace and respect for international law that has been lacking from the Israeli side thus far.

In the meantime, immediate steps can and must be taken to reduce the human rights violations and breaches of international law that result directly from the existence and expansion of settlements:

- Settlement construction and expansion must immediately stop, and the outposts must be fully dismantled.
- The government of Israel must also:
 - Cease the appropriation and seizure of land for the purposes of settlements and their associated infrastructure;
 - Cease the planning and building of Israeli-only bypass roads;
 - Immediately return to Palestinian villages the appropriated land that has been put under the municipal jurisdiction of the settlements but has yet to be built on;
 - Eliminate settlement planning boards; revoke the power of local Israeli settlement authorities to plan and grant building permits;
 - Cease all economic incentives to Israeli settlers;
 - Provide assistance to settlers to relocate within Israel's borders.

What are Canada's legal obligations regarding the settlements?

As a member of the international community, Canada has a moral imperative to end these violations and is under several legal obligations to help bring Israel into compliance with international law:

- Canada as a High Contracting Party to the Fourth Geneva Convention, has an obligation under Article 1 to ensure respect for the Convention and a duty, as a member State of the UN, to ensure respect for the principles of the UN Charter.
- Canada also has a duty to promote respect for international human rights law.
- Moreover, under customary international law Canada has an obligation not to recognise an internationally wrongful act that violates a peremptory norm of international law, such as the transfer of the civilian population of the Occupying Power into the occupied territory, or the denial of the Palestinians' right to self-determination. It also must not aid or assist in such an internationally unlawful act.

While there are many ways in which Canada can engage with these duties, exercising thorough control over corporations registered in Canada with business in the OPT, and alleged charitable associations registered in Canada which are involved in illegal activities in the OPT, is an important place to start. Until it makes a concerted effort to live up to all of these responsibilities, however, Canada will continue to tacitly endorse the continuation of Israel's illegal settlement policies and practices in the OPT.