WHEN THE LAW IS VIOLATED

As an occupying power, Israel is obligated to protect basic human rights, uphold humanitarian standards and limit the effects of armed conflict on civilians. The Fourth Geneva Convention sets requirements for occupying powers including: protecting the right to due process, preservation of natural resources, protection of children, religious convictions and social norms. It also prohibits an occupying power from inflicting collective punishment, imposing physical suffering, and forcibly transferring or deporting the protected population as well as settling its own civilians in occupied territory.

What are Israel’s obligations under International Law?

The Fourth Geneva Convention sets requirements for occupying powers including: protecting the right to due process, preservation of natural resources, protection of children, religious convictions and social norms.

What are some of Israel’s ongoing violations?

Settlements
Israelis settlements in the West Bank, including East Jerusalem, violate International Humanitarian Law. According to the Fourth Geneva Convention, an occupying power is prohibited from:
- Moving its own citizens into occupied territory; and
- Making permanent changes to occupied territory.

The United Nations Security Council has repeatedly called upon Israel not to transfer its civilians into the West Bank or to take any action that would change the legal status, geographical nature or demographic composition of the occupied territory.

Annexation of East Jerusalem
In June of 1967, Israel began militarily occupying the West Bank, including East Jerusalem and Gaza (as well as the Egyptian Sinai and Syrian Golan Heights). In 1980, it annexed East Jerusalem and claimed it as part of Israel. Settlements have been planted in a pattern that encircles Palestinian neighborhoods in East Jerusalem, cutting it off from the West Bank.

This policy undermines the possibility of any political agreement that includes the sharing of Jerusalem as one city with two capitals. The UN Security Council has issued legally binding resolutions upholding that the acquisition of occupied territory by force, and Israel’s annexation of East Jerusalem, is illegal.

A Cry for Home offers stories, videos and fact sheets from MCC on Palestine and Israel. Everyone needs a home — where families are safe and secure, where their basic needs are met, where they can come and go freely, and where they can imagine a future. But that is not the reality for Palestinians — or even for some Israelis. To view other fact sheets and learn more, visit: mcc.org/cry-for-home.
The wall

During the early 2000s, Israel began construction of a “separation barrier” made of concrete wall, fences and razor wire. Aiming to be over 400 miles long when completed, the wall not only separates Israelis and Palestinians from each other, but Palestinians from Palestinians, from their land, water and resources.

In 2004, the International Court of Justice ruled that the wall is illegal and violates the Fourth Geneva Convention and various human rights treaties because some 85 percent of it is built inside the occupied West Bank. The ruling called for the dismantling of the walls and fences and the compensation of Palestinians whose lands and properties had been damaged during the construction.

The right of return

When the State of Israel was established in 1948, up to 900,000 Palestinians were expelled from their homes or fled in fear of their lives. Palestinians insist that any durable peace must include an Israeli recognition of the right of Palestinian refugees to return and be compensated for property losses. These rights are upheld by United Nations General Assembly Resolution 194, issued in 1948.

While Israel allows Jews to come to Israel and receive citizenship, Palestinian refugees have not been allowed to return or be compensated. Denial of these rights violates Resolution 194, as well as International Humanitarian and Human Rights Laws.

Indefinite occupation

June of 2017 marked the 50th anniversary of the military occupation. Two generations of Palestinians have lived with confiscation of land, demolition of homes and orchards, restrictions to their movement, and violation of basic rights in the Fourth Geneva Convention.

Under international law, military occupation must be temporary. Israel’s policy of indefinite occupation—where civilians do not have citizenship or the right to vote—is illegal. It violates Palestinians’ right to self-determination.

Why do these violations matter?

One significant reason for the repeated failures of the Middle East peace process is the unwillingness of the international community to enforce these legal norms. In Palestine and Israel, violations of international law directly impact any realistic prospects for peace. Under the Fourth Geneva Convention, third party states like Canada and the U.S. have an obligation to hold Israel to account for these violations—by cooperating with other countries to bring an end to the situation, refusing to recognize the situation as lawful, and abstaining from giving aid or assistance.

REFERENCES

1 See International Committee of the Red Cross for the Laws of Occupation.

2 International Human Rights Law (IHRL) and International Humanitarian Law (IHL) are two branches of International Law. IHRL is codified in various treaties and customary rules, and IHL is codified in the 1907 Hague Regulations and 1949 IV Geneva Convention and 1977 Additional Protocols. Practice, academic opinion, court rulings and UN resolutions also contribute to evolving norms.

3 Other obligations include providing for medical supplies and food, ensuring rights of prisoners and respecting family life; other prohibitions include corporal punishment, medical experiments, engaging in reprisals, capturing hostages and engaging in individu- al or mass forcible transfers or deportations.

4 See Article 49.6.

5 Including the Covenant on Civil and Political Rights Art 12(1)—the right to liberty of movement; and the Covenant on Economic, Social, and Cultural Rights Arts 6, 11, 12 & 13—the rights to work, health, education and adequate standard of living.

6 See Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004, p 136.

7 See the Fourth Geneva Convention (49(2), the UN Declaration on Human Rights Art. 13(2) and the Covenant on Civil and Political Rights, Art 12(4).

8 See GCIV Articles 27(1), 33(1), 53.

9 The Covenant on Economic, Social, and Cultural Rights (Article 11) and the Covenant on Civil and Political Rights (Article 1(1)) both outline: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.”


To view other fact sheets and learn more, visit: mcc.org/cry-for-home