



## Why Ireland must introduce a ban on trade with Israeli settlements

### Overview

For the past number of decades Israel has engaged in the systematic colonisation of the Palestinian territory – the West Bank and East Jerusalem – which it has occupied since June, 1967 by transferring its civilian population into settlements that it has built on that territory. This has been done in flagrant violation of international law and to the severe detriment of the Palestinian people. Israel's contempt for international law and international condemnation in relation to its settlement building requires that States take steps to compel it to comply with its obligations under international law. To this end Ireland must introduce a ban on trade with Israeli settlements.

### Israeli Settlements amount to War Crimes

According to Article 8 of the Rome Statute of the International Criminal Court, the direct or indirect transfer by an 'Occupying Power' of parts of its civilian population into territory it occupies constitutes a **War Crime**. Similarly under the Fourth Geneva Convention and its Additional Protocols such activity constitutes a **Grave Breach** of International Humanitarian Law. Two pieces of Irish legislation, the International Criminal Court Act, 2006 and the Geneva Conventions Acts, 1962 and 1998 which give domestic effect to the Rome Statute and Geneva Conventions make this activity a crime under Irish law – no matter where in the world it takes place.

East Jerusalem and the West Bank are parts of Palestinian territory which have been occupied by Israel since June 1967. Since then, Israel has systematically encouraged the transfer of its (Jewish) population onto occupied Palestinian territory, in particular through the use of financial incentives such as subsidised housing. The fact that this activity constitutes and a Grave Breach of the Fourth Geneva Convention (and, by extension, a War Crime for the purpose of the Rome Statute) was confirmed in 2004 by the International Court of Justice in the Hague.

### Current Israeli Policy towards the Settlements

With the increasing growth in the power of the 'settler lobby' in Israel and the simultaneous shift to the right within Israeli politics more generally, the Israeli government has never been more committed to the promotion of the settlement enterprise. At a recent event in a settlement celebrating 50 years of Jewish settlement in the West Bank, the Israeli Prime Minister Benjamin Netanyahu stated: "This is the land we inherited from our forefathers. This is our land. **We have returned here to remain for eternity.**"<sup>1</sup>

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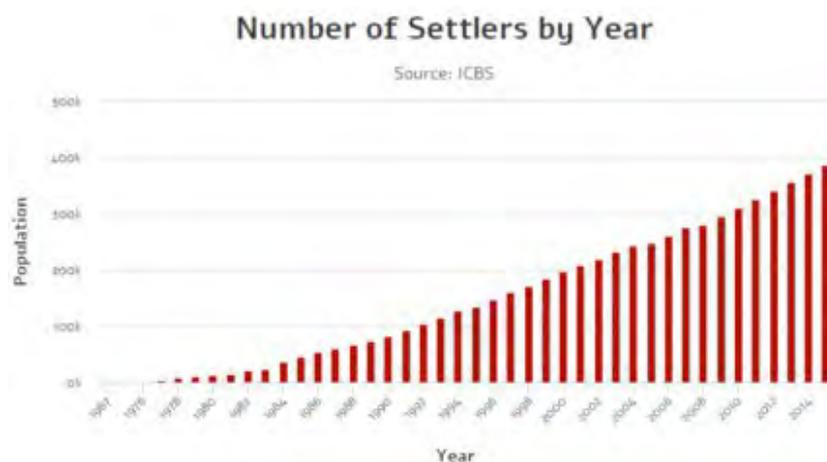
1 "[Netanyahu: We will never abandon West Bank settlements to radical Islam](#)" Jerusalem Post, 29 August 2017.

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As further evidence of the extent of the current Israeli government's commitment to settlement expansion, in March 2017 it approved the construction of the first new settlement bloc in 20 years.<sup>2</sup> Throughout the preceding 20 year period, settlement growth had taken place only by way of extension to the existing settlement blocs.

### Israeli Settlements by Numbers

There are, according to the Israeli human rights organisation B'Tselem, approximately 588,000 Israeli settlers living in settlements situated in East Jerusalem and the West Bank.<sup>3</sup> As the graph below demonstrates (which refers to the settler population in the West Bank only), since Israel first began transferring its population onto occupied Palestinian territory, the population of these settlements has continued to grow each year.<sup>4</sup> This consistent year-on-year growth in settler numbers highlights the important and often overlooked fact that support for the development of settlements has been the policy of every Israeli government – left or right – for the past number of decades.



### Impact of Settlements on Palestinians

Israeli settlements have a severely detrimental impact upon the human rights of Palestinians in a number of ways.

#### *Displacement and Dispossession*

Settlement construction and the confiscation of Palestinian land and property have long gone hand-in-hand. As a 2017 UN report notes, “the forced displacement and dispossession of Palestinians across the oPt takes place in the context of Israel's prolonged occupation” and “against the backdrop of the expansion of Israeli settlements.”<sup>5</sup> As of 2010, 42.8 per cent of the West Bank had been seized from Palestinians and allocated to regional settlement councils – an area nearly 10 times the size of the built-up areas of the settlements themselves – for settlement building and their future expansion.<sup>6</sup>

2 [“Israel approves first new West Bank settlement in 20 years”](#) BBC News, 31 March 2017.

3 [“Statistics on Settlements and Settler Population”](#) B'Tselem, 11 May 2017.

4 [“Population”](#) Peace Now, undated.

5 [“Occupied Palestinian Territory: Fragmented Lives”](#) UN Office for the Coordination of Humanitarian Affairs (UNOCHA), May 2017.

6 [“By Hook and by Crook – Israeli Settlement Policy in the West Bank”](#) B'Tselem, July 2010, p. 11, and [“Dispossession and Exploitation – Israel's Policy in the Jordan Valley and the Northern Dead Sea”](#) B'Tselem, May 2011, p. 9.

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Various methods have been used by Israel to confiscate this land – from seizure for 'military needs' to declaring certain areas of land 'State lands' under a 19<sup>th</sup> century Ottoman land law.<sup>7</sup> These practices have greatly shrunk the space available for Palestinians to develop livelihoods and construct housing and infrastructure.

As well as by confiscating swathes of Palestinian land *en masse*, Israel also resorts to evicting Palestinian families on an individual basis to give effect to its policy of transferring settlers onto Palestinian territory. To take just one recent example, in September 2017 members of a Palestinian family were forcibly evicted from their home in East Jerusalem, in which some of them had lived since 1964. Among them was an 84 year old man who was removed by Israeli police on a chair. Immediately after their eviction, Israeli settlers were escorted into the house in question by the police.<sup>8</sup>

According to the Israeli Committee Against Housing Demolitions, as of September 2017, nearly 500 Palestinians were displaced from their homes in the year 2017.<sup>9</sup> By contrast, in June of 2017, Israeli Minister for Defence Avigdor Lieberman announced that plans had been made to build 8,345 homes for Israeli settlers in the West Bank, 3,066 of which have been slated for "immediate construction".<sup>10</sup>

### *Severe Restrictions on Movement*

Together with the suffocating system of roadblocks and checkpoints operated by Israel in the West Bank, the settlements and their supporting infrastructure are responsible for the severe curtailment on the freedom of movement of the Palestinian people living there. As the map<sup>11</sup> to the right illustrates, this is due to the fact that the settlements (marked in blue and purple) have been constructed so as to fragment the West Bank into enclaves similar to the 'Bantustans' which were created by the government of Apartheid South Africa. The settlement of Ma'ale Adumim, for example, which is situated to the East of Jerusalem and houses approximately 40,000 Israeli settlers, effectively cuts the West Bank in two, making travel between the northern and southern parts extremely difficult.



The Israeli Separation Barrier also contributes significantly to the restrictions on the freedom of movement on Palestinians. Approximately 85% of all settlers live on the Israeli side of the Barrier which at points extends as much as 18 kilometres deep into the West Bank (which itself is only between 40 to 60 kilometres wide).<sup>12</sup>

7 "By Hook and by Crook – Israeli Settlement Policy in the West Bank" B'Tselem, July 2010, Chapter 3.

8 "Israel evicts Palestinian family, hands East Jerusalem home to settlers" Middle East Monitor, 5 September 2017.

9 Statistic available [here](#) on the website of the Israeli Committee Against Housing Demolitions (10 September 2017).

10 "Israel plans most settlement homes since 1992: minister" Aljazeera, 11 June 2017.

11 Sourced from "The growth of Israeli settlements, explained in 5 charts" Vox News, 30 December 2016.

12 "Arrested Development – The Long Term Impact of Israel's Separation Barrier in the West Bank" B'Tselem, October 2012.

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The Barrier, which was found to be contrary to international law by the International Court of Justice in 2004, completely encircles certain Palestinian cities and towns such as Qalqilyah in the north-west of the West Bank, whose economy has been crippled as a result.

Finally, an extensive road network which connects the settlements both to one another and to towns and cities within Israel further serves to carve up the West Bank into isolated enclaves. Many of these roads are, furthermore, as B'Tselem reports, “completely off-limits to Palestinians” and therefore available for use by Israeli settlers only – an example of the many Apartheid practices engaged in by Israel.<sup>13</sup>

### *Impact of settlements on the Palestinian economy and on Palestinian livelihoods*

In a recent policy brief Al Shabaka – the Palestinian Policy Network highlights the “profoundly negative effect” of the Israeli settlement enterprise on the Palestinian economy.<sup>14</sup> This is largely due to the exploitation by the settlements of Palestinian resources, again in breach of international law. In particular, the Israeli authorities have seized for the settlers' benefit vast amounts of agricultural lands, especially in the very fertile Jordan Valley nearly all of which has been allocated for settler use. Similarly, Al Shabaka reports, water resources, touristic and archaeological sites and quarries and other areas rich in minerals, particularly in and around the Dead Sea, have been confiscated for the exclusive use of the settlers

The figures in relation to water resources are particularly staggering: the nearly 600,000 illegal West Bank settlers use six times more water than the 2.86 million Palestinians living in the West Bank. And in the Jordan Valley, the 11,500 settlers living there use an amount of water annually equivalent to almost one-third of the amount used by the entirety of these 2.86 million Palestinians. According to Al Shabaka, “the indirect cost of Israel's restriction on Palestinian access to water in the Jordan Valley – and their inability to cultivate their land as a result – was \$663 million, the equivalent of 8.2% of Palestinian GDP in 2010.”

A 2013 World Bank study estimated that the restricted Palestinian access to 'Area C' in the West Bank cost the Palestinian economy \$3.4 billion in 2011.<sup>15</sup> 'Area C' of the West Bank (as delimited by the Oslo Accords) makes up approximately 60% of the West Bank, is under full Israeli military control and is where the majority of Israeli settlements are located. A previous study by the World Bank concluded that the inherent problems within the Palestinian economy could not be fixed without “addressing the increasingly entrenched and expanding impact of Israeli settlement activity.”<sup>16</sup>

### *Settler Violence*

While the majority of Israeli settlers live in built-up settlements, separated from Palestinians by the Separation Barrier, many others live throughout the West Bank in close proximity to Palestinian villagers. Some of these settlers, furthermore, live in what are known as 'outposts' i.e. settlements which are not officially sanctioned by Israel but which are nevertheless often provided with support such as water and electricity supply by the Israeli authorities.

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13 [“Forbidden Road: The Discriminatory West Bank Road Regime”](#) B'Tselem, August 2004.

14 [“How Israeli Settlements Stifle Palestine's Economy”](#) Alshabaka, 15 December 2015.

15 [“Area C and the Future of the Palestinian Economy”](#) World Bank, 2 October 2013.

16 [“West Bank and Gaza Update”](#) World Bank, October 2008.

Many of these settlers are ideologically motivated to 'reclaim the land of Israel for the Jewish people' and are known to routinely engage in violence towards nearby Palestinians. In the first part of 2017 the UN Office for the Coordination of Humanitarian Affairs in Palestine “documented 89 incidents attributed to Israeli settlers resulting in Palestinian casualties (33 incidents) or in damage to Palestinian property (56 incidents).”<sup>17</sup> Three of the casualties died as a result of their injuries.

### **Palestinians Working on Settlements**

According to Al Shabaka, a little over 3% of employed Palestinians in the West Bank work in the settlements, mainly in low skilled, low paying and insecure jobs in the construction sector.<sup>18</sup> It is because of the crippling effects of the settlement enterprise and the Israeli occupation more generally that these Palestinians are forced to seek work in the settlements. Therefore, in calling for a European ban on trade with settlements, Al Shabaka argues: “what Palestinians need is the dismantling of Israeli settlements, an end to the occupation, and the full realization of their rights under international law. Only then can they truly strengthen the productive base of the Palestinian economy [and] generate employment opportunities.”

Palestinian civil society is unanimous in its call for a ban on trade with Israeli settlements.

### **Irish and European Trade with Israeli Settlements**

In November 2015 the European Commission issued an “Interpretative Notice” which requires that goods produced in Israeli settlements entering the EU be labelled as such. The trade into Europe of such goods remains perfectly lawful however and the World Bank estimates that approximately \$300 million worth of such goods are imported into Europe annually.<sup>19</sup> While it is not possible to say what exact proportion of this figure relates to the Irish market, settlement goods – particularly fruit and vegetables – are known to appear on sale in Ireland frequently.

It goes without saying that the settlements depend on their ability to trade for their survival. Conversely, an end to trade with settlements would go a long way towards ensuring that this grave – and ever- worsening – illegality comes to an end.

### **Entitlement of Ireland to ban trade with Israeli Settlements under EU Law**

Article 24 of EU Regulation 2015/478 on the common rules for imports from non-Member States of the EU allows States to ban the importation of goods from such States “on grounds of public morality, public policy [or] the protection of health and life of humans.”

The same exception applies under Article 36 of the Treaty on the Functioning of the European Union in relation to goods in free circulation within the EU. A prohibition on the importation of settlement goods is arguably justifiable on each of these grounds.

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<sup>17</sup> [“Increase in settler violence during the first half of 2017”](#) UNOCHA, 5 August 2017.

<sup>18</sup> [“How Israeli Settlements Stifle Palestine's Economy”](#) Alshabaka, 15 December 2015.

<sup>19</sup> [“Fiscal Crisis, Economic Prospects – The Imperative for Economic Cohesion in the Palestinian Territories”](#) World Bank, 23 September 2012.

### Call for Oireachtas to ban trade with Israeli Settlements

Decades of condemnation from the UN and countries across the world of Israeli settlement building, as well as a decision of the International Court of Justice confirming the illegality of this activity, has done absolutely nothing to deter Israel in its effort to colonise the West Bank.

It is patently clear that Israel will only comply with its obligations under international law if the international community compels it to do so. In order to ensure respect for international criminal law and international humanitarian law, and for the Irish law which gives effect to it, and more importantly in the interest of ending the severe hardship caused to Palestinians by Israeli settlements, the Oireachtas should adopt a ban on trade with these settlements.

A number of NGOs support a ban on settlement goods including [Amnesty International](#), [Christian Aid](#) and [Trócaire](#) in Ireland. So too does the [European Council on Foreign Relations](#).

*Sadaka supports a peaceful settlement in Palestine / Israel based on the principles of democracy and justice, be that in two states or in one state. We maintain an independent position on internal politics within Palestine, favouring neither Fatah, Hamas nor any other Palestinian political organisation.*