Response To Common Inaccuracy: Settlements and International Law

Inaccuracy: Settlements are a violation of international law.

Response

Settlements, Jewish communities that were established in the West Bank and Gaza Strip after the territories were gained in the 1967 War, do not violate international law.

Israel's administration of the territories in 1967 replaced Jordan's control of the West Bank and Egypt's of the Gaza Strip. Neither Jordan nor legal sovereignty over these areas, but took them over during the 1948 war with the newly established State of Israel. (According to the U.N. Partition Plan, the West Bank and Gaza Strip were to be part of an independent Arab state to be established alongside an independent Jewish state – a plan rejected by Arab nations and Palestinian leadership.)

Israel maintains that these areas can thus not be considered “occupied territories” under international law, since Israel did not “occupy” it from another sovereign nation. Rather, they are “disputed territories” over which there are competing claims requiring that their future must be determined through negotiations.

Since 1967, Israeli governments have maintained a willingness to withdraw from areas of the West Bank and Gaza Strip as part of a peace agreement with the
Arabs. Israel uprooted all of the settlements in the Gaza Strip in August 2005 as part of its unilateral disengagement from Gaza.

Critics of Israel frequently cite Article 49 of the Fourth Geneva Convention, which prohibits the forcible transfer of segments of a population of a state to the territory of another state which it has occupied through the use of armed force, as proof of the illegality of settlements. However, Israel maintains that the Geneva Convention, drafted after World War II, was intended to protect local populations from displacement, such as the forced population transfers experienced before and during the war in Czechoslovakia, Poland and Hungary. The situation in today’s West Bank is clearly different. Israel has not forcibly transferred Israelis to these settlements. Rather, Israeli settlers voluntarily moved to the areas where Jews have historically dwelled. Jews have lived in the West Bank throughout recorded history, until 1948, but they were forced to flee the invading Arab armies. Indeed, several of the current settlement communities existed prior to 1948 when they were overrun by invading Arab armies. For example, Kfar Etzion and other villages in the Jerusalem-Bethlehem corridor fell to Arab forces in May 1948 and those captured were massacred. Sons and daughters of those who lived there until 1948 were the first to return after the 1967 war.