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Mhmad Jad Houary
Intern IFHV & M.A. candidate in Ethics, Economics, Law and Politics (EELP), RUB

NACHFRAGEN:
Mhmad.Houary@edu.ruhr-uni-bochum.de

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No Order to Leave

Settler Violence and Forcible Transfer in the Occupied West Bank

In July 2026, two Palestinian households in Jalud left after an outpost appeared nearby, settlers took over a neighbouring house, water and electricity infrastructure was damaged, access to essential services was restricted, and humanitarian attempts to deliver food and medicine were reportedly blocked. Nobody put the seven residents on a truck; they walked away, leaving most of their possessions. Article 49 of the Fourth Geneva Convention prohibits more than physical expulsion: a transfer may be forcible where violence or imposed living conditions leave protected persons with no genuine choice but to leave. The harder question is when settler-driven displacement also becomes a transfer for which Israel itself is responsible. This post argues that cumulative coercion can make movement forcible and that Israel may be responsible for an indirect transfer where an Israeli violation including, in a properly proven case, a failure to protect has the effect of producing the departure. Without that causal link, Israel may still bear responsibility for separate violations, but not necessarily for the transfer itself.

Leaving Without a Choice

Jalud is not isolated. In its 31 July report, OCHA documented more than 1,380 settler-related incidents affecting over 250 Palestinian communities in 2026 and linked settler attacks and related access restrictions to the displacement of more than 2,300 Palestinians. The UN Commission of Inquiry found that 59 shepherding communities had been expelled between 7 October 2023 and 10 March 2026, primarily because of settler violence (para. 12). These are UN findings, not judgments in individual cases, but they identify a pattern that the language of "voluntary departure" can obscure.

Israeli authorities offer a different account. Prime Minister Benjamin Netanyahu has described the perpetrators as a small group of unruly youth who do not represent settlers generally; the Commission also records removal orders against some violent settlers and the dismantling of some outposts (paras. 23, 27). Israel's Permanent Mission has condemned the Human Rights Council's treatment of Israel as discriminatory and dismissed OHCHR reporting on Israel as politically driven. Those objections and enforcement measures are relevant, but they do not answer whether protection has been adequate or whether State conduct has reinforced the coercion.

The legal test looks beyond the mechanics of departure. In its 2024 Advisory Opinion, the ICJ held that Article 49(1) covers internal displacement within occupied territory and that physical force is unnecessary where protected persons have "no choice but to leave" (paras. 144–145). The ICTY's Stakić Appeal Judgment likewise explains that fear of violence, duress, psychological oppression, abuse of power and exploitation of a coercive environment may destroy genuine choice (paras. 279–282).

That inquiry is cumulative. One damaged pipe or blocked road may not force a family out. Repeated attacks, an armed outpost beside the home, lost access to land, unreliable water, obstructed medical care and the reasonable expectation that no effective protection will arrive may

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do so together. The question is not whether staying remained physically imaginable, but whether there remained a genuine choice to stay.

A family may pack its own bags, lock its own door and drive away in its own car. None of that proves consent. Calling the departure "voluntary" risks allowing Article 49's protection to disappear precisely when coercion becomes most effective.

When Leaving Becomes Transfer

Article 49(1) prohibits individual and mass forcible transfers, as well as deportations, of protected persons. Transfer includes displacement within occupied territory; deportation generally concerns movement across a relevant territorial border. "Forced displacement" may describe the humanitarian reality, but "forcible transfer" is a legal classification requiring involuntary movement and a prohibited transfer by the relevant party.

The ICRC's 2025 Commentary distinguishes direct from indirect transfer. A transfer is direct where a party orders, organizes or carries it out. It is indirect where that party does not expressly order or conduct the movement but commits violations of IHL or human-rights law "with the effect" of causing people to leave (para. 3171). Severe living conditions can remove genuine choice, while acts deliberately preventing or impeding return can also effect a forcible transfer (paras. 3172–3173). The Commentary is interpretative guidance, not a judicial decision.

Proof that settler violence forced a family to move therefore establishes coercion, but not yet a State transfer. For an indirect transfer by Israel, an Israeli violation must have produced the departure. The ICC has expressed the criminal-law causation point in similar terms: the alleged coercive acts must have "produced the effect" of deporting or transferring the population (Ruto and Sang, Confirmation Decision, para. 245). That decision does not set the standard for State responsibility, but it reinforces that causation cannot be assumed.

The authorities examined here supply no "material contribution" test for Article 49. In a multi-causal setting, Israeli conduct need not be the sole cause, but the evidence must show that it formed part of the conditions that eliminated the realistic possibility of remaining. This is an interpretative inference, not treaty language. Timing, repeated warnings, operational control, military conduct during attacks, State restrictions on access, and what authorities did to enable or obstruct return all matter.

The structure of the ICJ's Opinion supports this caution. The Court found an Article 49(1) violation where Israeli evictions, demolitions, residence rules and movement restrictions left Palestinians in Area C little choice but to leave (paras. 142–147). It then examined settler violence separately. Settler attacks, Israel's failure to prevent or punish them and excessive force contributed to a coercive environment, but the Court grounded those findings in protections for life and bodily integrity under Hague Regulation 46, Article 27 GC IV and the ICCPR (paras. 149–154). It did not hold that every displacement following a settler attack was automatically a transfer committed by Israel.

When the Settler Is Not the Whole Story

The clearest Article 49 case is direct State displacement: Israeli forces themselves order or carry out the movement.

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At the opposite end, private settlers may repeatedly attack a family without proven State involvement. The family's departure may be involuntary, but it does not follow that Israel itself transferred the family.

Israel nevertheless has duties that the word "private" cannot erase. The ICRC Commentary to Article 27 treats protection as an obligation of conduct requiring due diligence against harm by private persons, including the occupying power's own nationals (paras. 2258–2263). Hague Regulation 43 requires the occupant to restore and ensure public order and civil life. In Armed Activities, the ICJ held that an occupying power must protect inhabitants from violence and may not tolerate violence by third parties (paras. 178–179). Failure to take required protective measures can therefore be an Israeli breach even where the attackers' conduct is not attributed to Israel.

The harder case begins when that omission helps drive residents out. Suppose authorities receive repeated warnings, have the practical capacity to protect a small community, watch attacks unfold and withhold meaningful protection. Calling the resulting departure an indirect transfer requires more than proving the protection breach: the omission must have sustained the coercive conditions that caused the movement. Evidence that effective protection would have allowed residents to remain, that forces denied access during attacks, or that authorities prevented return can help establish that link. A generic claim of poor policing cannot.

State facilitation makes the Article 49 case stronger. If soldiers restrict Palestinians while attackers move freely, accompany or protect settlers, obstruct ambulances or repairs, participate in violence, or prevent residents from returning, State conduct itself enters the coercive environment. The question is then whether the combined violations had the effect of causing the movement.

The Commission's 2026 findings make this more than hypothetical. It documented military accompaniment of settlers, State support for outposts, and direct involvement or tacit support by Israeli forces in six attacks it examined (paras. 25–29, 74). It also concluded that Palestinians were forced to choose between physical or mental harm and displacement and described settler violence as serving a wider strategy of displacement (para. 73). OHCHR's February 2026 report likewise linked settlement activity and settler violence, frequently assisted or facilitated by security forces, to forcible displacement and a coercive environment (para. 2). These findings still require incident-specific testing, but they make it difficult to characterize the issue solely as criminality by a few extremists.

Broader settlement policy also matters. State funding, roads, weapons, protection or legalization of an outpost do not make every settler offence a State act. They can, however, help explain why violence continued, why protection failed and why displacement advanced a State-supported territorial process.

From Condemnation to Consequences

Israel cannot discharge its obligations by condemning selected attacks. Where soldiers or authorities contribute to the coercive environment, Israel must end facilitation of attacks, remove unlawful access restrictions, and allow humanitarian assistance and return.

Where Israeli violations have caused an indirect transfer, cessation requires ending the unlawful conditions that produce or maintain the displacement. Return matters. The ICRC Commentary

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treats lawful evacuation as temporary and requires return as soon as hostilities in the area have ceased; it also recognizes that acts deliberately preventing or impeding return can themselves effect a forcible transfer (paras. 3172, 3202–3204). More broadly, the ICJ held that Israel must cease new settlement activity, repeal measures maintaining the unlawful situation, make full reparation, evacuate settlers and allow Palestinians displaced during the occupation to return to their original places of residence (paras. 268–271).

Third States' duties arise not from attaching the label "forcible transfer" to one case, but from the broader unlawful presence identified by the ICJ. The Court concluded that States must not recognize that situation as lawful or render aid or assistance in maintaining it; they must distinguish in their dealings between Israel and the OPT, cooperate with the UN to bring the unlawful situation to an end and, as parties to GC IV, ensure Israel's compliance with the Convention (paras. 275, 278–279).

Those obligations have practical consequences. States should abstain from economic or trade dealings concerning the OPT where they may entrench Israel's unlawful presence, and take steps to prevent trade or investment relations that assist its maintenance (para. 278). Governments should therefore examine whether public finance, settlement-linked commerce, investment or security assistance helps sustain the broader unlawful situation. The Opinion does not make every relationship with Israel unlawful, nor does one transfer finding decide the legality of an arms licence. It requires an evidence-based non-recognition and non-assistance review.

Conclusion

A family does not leave voluntarily merely because nobody drags it from the doorway. Article 49 applies when violence and deprivation remove every realistic choice to remain. But proving force is only half the case: responsibility for the transfer requires evidence that Israeli violations produced the departure. Where that connection is established, describing violent settlers as private extremists is no answer. Israel must end the coercive conditions, enable return and repair the harm; third States must ensure that their own conduct does not help preserve the broader unlawful situation in which displacement takes place.

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