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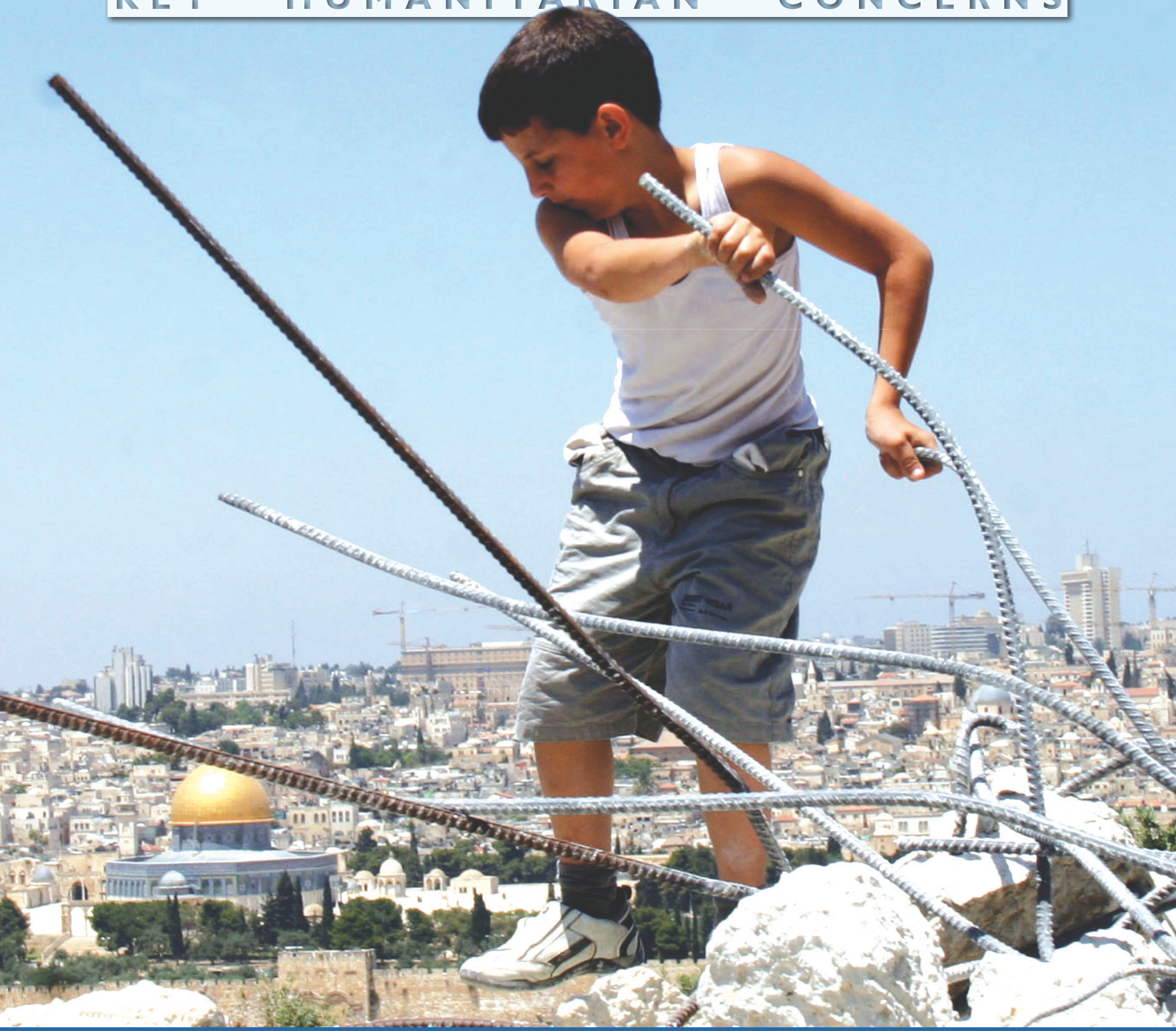
EAST JERUSALEM

KEY HUMANITARIAN CONCERNS



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Front cover photo: House demolition in At Tur, Mahfouz Abu Turk, 2009
Back cover photo: Ar Ram, JC Tordai, 2009

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FOREWORD

Jerusalem is a profoundly important issue for Israelis and Palestinians, and for Jews, Muslims and Christians worldwide. The two parties, the Government of Israel and the Palestine Liberation Organization, have agreed that Jerusalem is a permanent status issue that must be resolved through negotiations between them. Within the framework of Security Council resolutions and the terms of reference of the Middle East peace process, such a solution must end the 1967 occupation and realize the two State solution, and resolve all permanent status issues, including Jerusalem. The UN Secretary-General believes that a way must be found for Jerusalem to emerge from negotiations as the capital of two States, with arrangements for the holy sites acceptable to all.

Old City of Jerusalem, photo by JC Tordai, 2009

Dome of the Rock photo by Patrick Zoll, 2010

EXECUTIVE SUMMARY

This report focuses on East Jerusalem and forms part of a series by OCHA which examines the humanitarian impact of Israeli measures, such as the Barrier, settlements and planning and zoning restrictions, on Palestinians in the occupied Palestinian territory (oPt). The report mainly focuses on the area unilaterally annexed to Israel and included within the municipal boundary of Jerusalem following the 1967 war. This annexation is not recognized by the international community, and the Security Council has resolved that all legislative measures and actions taken by Israel to alter the character and status of Jerusalem are null and void (see, inter alia, Security Council resolutions 252, 267, 471, 476 and 478).

In the years since 1967, Israel has undertaken measures – in particular land confiscation, settlement building and construction of the Barrier – which serve to alter the status of East Jerusalem, contrary to international law. Government and municipal policies have also negatively impacted the estimated 270,000 Palestinians in East Jerusalem.[1] As this report demonstrates, these policies affect their residency status, their access to education and health services, and their ability to plan and develop their communities. This report is designed to document the impact of these measures on the Palestinian population in East Jerusalem, in order to raise awareness, offer recommendations, and contribute to an enhanced response to humanitarian, early recovery and development needs.

Combined, these policies significantly increase the humanitarian vulnerability of the Palestinian residents of East Jerusalem. Although Palestinians are remaining in the city, in the long term, failure to address these 'push factors' risks undermining the Palestinian presence in East Jerusalem.

East Jerusalem has traditionally served as the focus of political, commercial, religious and cultural life for the entire Palestinian population of the oPt. Following the 1967 annexation, Palestinians from the remainder of the West Bank and the Gaza Strip have been prevented from residing within the Israeli-defined municipal boundary, other than through the increasingly restrictive process of 'family unification.' Since the early 1990s, non-Jerusalem Palestinians have been compelled by the Israeli authorities to obtain permits just to access the city, including to places of worship during Ramadan and Easter. The number of such permits granted is limited, and access of permit holders into East Jerusalem is restricted to four checkpoints. The majority of checkpoints leading into the Jerusalem area have been incorporated into the Barrier, which is itself compounding the separation of East Jerusalem from the rest of the West Bank.

In addition to this administrative and physical separation, the Palestinian Authority is not allowed, under the Oslo Accords, to operate in East Jerusalem and the closure of Palestinian institutions, such as Orient House, is continually renewed, notwithstanding Israel's commitments under the Roadmap. This has led to a political and institutional vacuum which, in addition to restrictive residency and access policies, is resulting in East Jerusalem becoming increasingly separated from the remainder of the occupied Palestinian territory – physically, politically, socially and culturally.

Pending a final status agreement, East Jerusalem remains an integral part of the occupied Palestinian territory and the Palestinian population of the territory should have the right to access East Jerusalem, including for specialized health and education, work, social, cultural & family relationships and for worship at the Muslim and Christian holy places. Therefore, while primarily focusing on the issues facing the Palestinian residents of East Jerusalem, this report will also emphasize the continuing importance of the city as a centre of life for Palestinians throughout the oPt, at a time when East Jerusalem is becoming increasingly separated from the remainder of the occupied Palestinian territory.

More specifically, the report addresses the following concerns:

Residency Status of Palestinians in East Jerusalem

Following the war of 1967, the Government of Israel unilaterally annexed some 70 km^2 of the occupied area to Israel, which included East Jerusalem, as defined under Jordanian rule (six km^2), as well as 64 km^2 of surrounding West Bank territory; the annexed area was subsequently added to the Municipality of Jerusalem. The right to reside in East Jerusalem was restricted to those Palestinians who were recorded as living within this expanded municipal boundary. However, East Jerusalem Palestinians were defined as permanent residents of Israel rather than citizens, and their residency status is conditional on their proving that their 'centre of life' lies within the Israeli-defined municipal boundary or in Israel proper. Extended stays by Jerusalem Palestinians outside of the city or Israel, including in the remainder of the oPt, can result in the revocation of their Jerusalem ID cards. Approximately 14,000 East Jerusalem Palestinians have had their residency revoked since 1967, of which over 4,500 were revoked in 2008.

Permanent residency status is not automatically transferred through marriage, so a Palestinian resident of East Jerusalem who wishes to reside in the city with a spouse from the remainder of the oPt, must apply for family unification. The application process for family reunification for residents of East Jerusalem is onerous and has become virtually impossible since 2003, when Israel introduced the *Nationality and Entry into Israel Law* (Temporary Order).

Permanent residency status is also not passed on to the holder's children 'by right', resulting in difficulties in registering the children of such 'mixed residency' status marriages.

Planning, Zoning and Demolitions in East Jerusalem

Since 1967, Israel has failed to provide Palestinian residents of East Jerusalem with the necessary planning framework to meet their basic housing and infrastructure needs. Only 13 percent of the annexed municipal area is currently zoned by the Israeli authorities for Palestinian construction, much of which is already built-up. It is only within this area that Palestinians can apply for building permits, but the number of permits granted per year to Palestinians does not begin to meet the existing demand for housing and the requirements related to formal land registration prevent many from applying.

As a result, Palestinian residents of East Jerusalem find themselves confronting a serious shortage in housing and other basic infrastructure. Many residents have been left with no choice other than to build structures 'illegally' and therefore risk demolition and displacement. The *Jerusalem Local Outline Plan* 2000 ('Master Plan'), instead of providing a solution to this housing crisis, appears designed to preserving a demographic majority of Jewish residents vis-à-vis Palestinians in the city.

Settlements in East Jerusalem

Since 1967, the Government of Israel has constructed settlements within the extended municipal boundary of East Jerusalem and in the wider metropolitan area beyond, despite the prohibition, under international law, on the transfer of civilians to occupied territory. Over one third of the area within the extended boundary of East Jerusalem has been expropriated for the construction and expansion of Israeli settlements.

The territory expropriated for settlement building and expansion has resulted in a corresponding reduction in the land and resources available

for Palestinian construction and development. In addition, settler organizations are targeting land and property to create an 'inner' layer of settlements within Palestinian residential areas, in the so-called 'Holy Basin' area. The impact of this settlement activity in Palestinian areas includes restrictions on public space, residential growth and freedom of movement. In the most severe cases – in the Old City, Silwan, and most recently in Sheikh Jarrah – settler expropriation has resulted in the loss of property and the eviction of the long-term Palestinian residents.

Archaeological activity in these areas is augmenting the public space which the settlers control. A government-sponsored 'Open Spaces' project will expand this domain and further constrain Palestinian construction and space in East Jerusalem. An additional declared intention of these settler groups is to thwart a negotiated resolution to the question of Jerusalem by preventing any potential re-division of the city.

The Barrier in the Jerusalem Area

In summer 2002, the Government of Israel approved construction of a Barrier with the stated purpose of deterring suicide bombers in the West Bank from entering Israel. Construction of the Barrier in the greater Jerusalem area is effectively re-drawing the geographical boundaries, in addition to compounding the separation of East Jerusalem from the rest of the West Bank.

Consequently, certain Palestinian communities in East Jerusalem find themselves on the 'West Bank' side of the Barrier, and residents now need to cross checkpoints to access the health, education and other services to which they are entitled as residents of Jerusalem. Conversely, certain West Bank localities are 'dislocated' to the 'Jerusalem' side of the Barrier, with the result that approximately 2,500 Palestinians in 16 communities face uncertain residency status, impeded access to basic services and potential displacement.

In addition, West Bank neighbourhoods and suburbs of East Jerusalem are severed from their former close connections to the urban centre, with devastating social and economic consequences. The Barrier also separates rural communities from their land in the Jerusalem hinterland, resulting in impeded access for farmers and a decline in agricultural production and livelihoods.

Restrictions on Access to Education

Education in East Jerusalem is divided between numerous providers - municipal, private, 'recognized unofficial', *Waqf* and UNRWA. Despite the number of providers, there is a chronic shortage of classrooms and existing facilities are substandard or unsuitable. Pupils are often accommodated in rented houses which do not meet basic educational and health standards. Consequently, parents have to resort to fee-paying alternatives although pupils are entitled to free education under Israeli law.

Many pupils are not enrolled in any educational institution. Among those enrolled, many fail to complete secondary school, with an especially high drop-out rate of boys aged 12-14. Zoning and other planning restrictions in East Jerusalem inhibit both new construction and the expansion of existing buildings. As a result, certain *Waqf* schools are threatened by demolition and sealing orders. Preschool facilities are also inadequate in East Jerusalem.

With the increasing isolation of East Jerusalem from the remainder of the oPt, teachers and pupils with West Bank ID cards face difficulties in accessing schools in East Jerusalem because of permit restrictions, checkpoints and the Barrier. The main campus of Al Quds University is also separated from the city by the Barrier and the institution's certificates are not recognized by the Israeli authorities.

Restrictions on Access to Health

Palestinians who hold Jerusalem ID cards are entitled to the health services provided by the Israeli authorities, which are recognized to be of a high standard, and can also access the six Palestinian-run non-profit hospitals in the city. Residents of the remainder of the oPt also rely on these hospitals for routine, specialised and emergency health services which are unavailable elsewhere in the West Bank and the Gaza Strip. However, the permit regime, checkpoints, the Barrier, and the blockade of Gaza, make access difficult, both for patients who hold West Bank ID cards and for East Jerusalem residents now located on the 'West Bank' side of the Barrier.

Physical and bureaucratic obstacles also hamper the ability of Palestinian medical staff – who comprise the majority of medical personnel in the six East Jerusalem hospitals – to access their workplaces in East Jerusalem, to the detriment of patients and hospitals. The efficient running of East Jerusalem hospitals is also impaired by restrictions on construction expansion, and the entry of medical equipment and pharmaceuticals into East Jerusalem from the remainder of the West Bank.

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The impetus for this report arose from a series of meetings convened by OCHA in late 2009, involving key Palestinian, Israeli and international interlocutors in the health, education and other sectors. While aiming to convey a comprehensive overview of the main humanitarian concerns in East Jerusalem, the report is not exhaustive. Certain key issues, in particular, the economy, and social and youth problems, are beyond the scope of this report and require the attention of more specialized agencies.

Each chapter in the report provides an overview of the key sectoral concerns, augmented by case studies, photos and maps which underline the humanitarian impact of the issues raised.

Specific recommendations are proposed at the end of each chapter, as interim steps to mitigate the key concerns: inevitably, the most important steps that can and need to be taken are by the Government of Israel. The *Conclusion/ Way Forward* provides more general observations regarding changes to the character and status of East Jerusalem since 1967 and their impact on Palestinians, while emphasizing that only a full implementation of relevant UN resolutions, in the context of a negotiated solution, will fully address the concerns outlined in the report and lead to a lasting and peaceful solution to the question of Jerusalem.

Ar Ram, photo by JC Tordai, 2009

CHANGING BOUNDARIES OF JERUSALEM

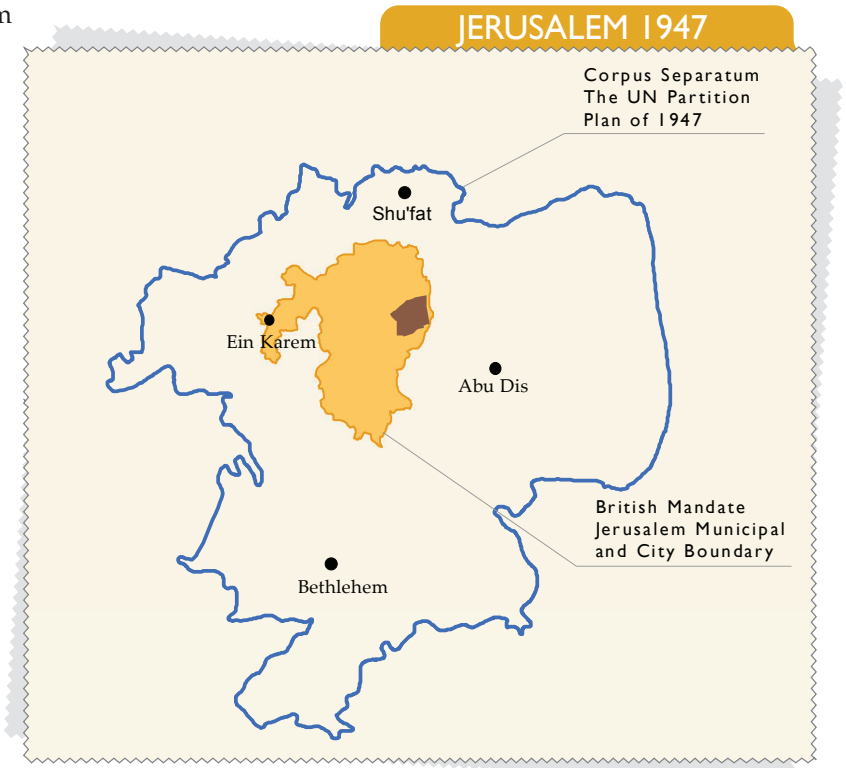
Corpus Separatum - The UN Partition Plan of 1947

In April 1947, the General Assembly established the United Nations Special Committee on Palestine (UNSCOP), made up of 11 Member States, to investigate all questions relevant to the problem of Palestine and to recommend solutions to be considered by the General Assembly. The majority of the members of UNSCOP recommended that Palestine be partitioned into an Arab State and a Jewish State, with a special international status for the city of Jerusalem under the administrative authority of the United Nations. The three entities were to be linked together in an economic union.

On 29 November 1947, the General Assembly adopted resolution 181 (II), which approved, with minor changes, the Plan of Partition with Economic Union as proposed by the majority in UNSCOP. The Partition Plan envisaged an international regime for Jerusalem (including the city of Bethlehem), the Corpus Separatum. A demilitarized Jerusalem would be administered as a separate entity by the United Nations Trusteeship Council, which would draft a statute for Jerusalem and appoint a Governor. A legislature would be elected by universal adult suffrage. This statute would remain in force for 10 years and would then be duly examined by the Trusteeship Council, with citizens' participation through a referendum.

The Jewish Agency accepted the resolution, while the plan was opposed by the Palestinian Arabs and Arab States.

Following the outbreak of the First Arab-Israeli War of 1948, Israel occupied the western sector of the Jerusalem area, and Jordan occupied the eastern sector, including the Old City, resulting in a de facto division of Jerusalem. The General Assembly, however, in resolution 194 (III) of 11 December 1948, reaffirmed the principle of internationalization of Jerusalem, resolving 'that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns…should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control.'[2]



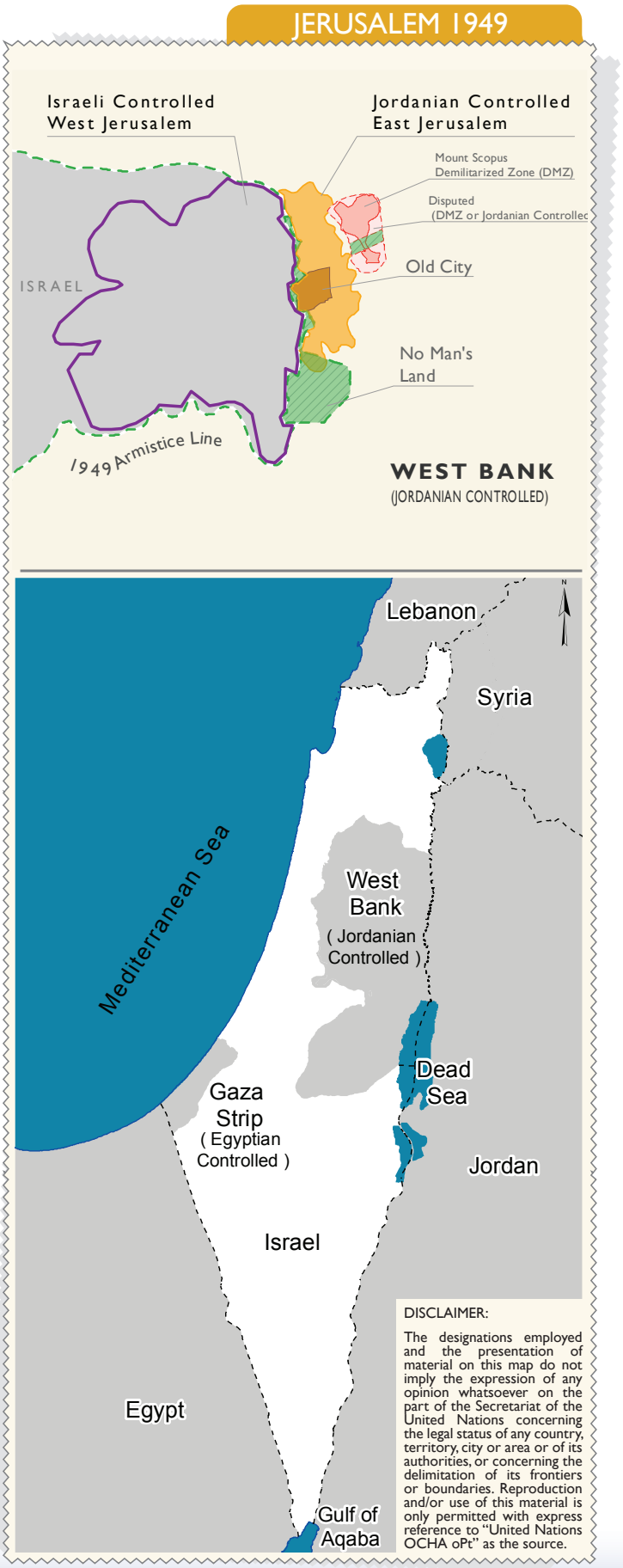
DISCLAIMER: The designations employed and the presentation of material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Reproduction and/or use of this material is only permitted with express reference to "United Nations OCHA oPt" as the source.

The 1949 Armistice Agreement: the 'Green Line.'

Between February and July 1949, under United Nations auspices, armistice agreements were signed between Israel and Egypt, Jordan, Lebanon and Syria. These agreements accepted the establishment of the armistice as an indispensable step towards the restoration of peace in Palestine. They also made clear that the purpose of the armistice was not to establish or recognize any territorial, custodial or other rights, claims or interests of any party.

In April 1949, as part of the armistice agreement between Israel and Jordan, the de facto division of Jerusalem was formalized, with the 'Green Line' or Armistice Line separating the two parts of the city. The parties disagreed about the demarcation of the ceasefire line in certain sections, resulting in two 'Green Lines' in some areas, with a 'no man's land' in between subject to neither Israeli nor Jordanian control. This agreement also recognised the special status of Mount Scopus, site of the Hebrew University and Hadassah Hospital, and provided for the 'resumption of the normal functioning of the cultural and humanitarian institutions on Mount Scopus and free access thereto.'

On 23 January 1950, Israel declared Jerusalem its capital and established government agencies in the western part of the city. Jordan, for its part, moved to formalize its control of the Old City; however, Jordanian legislation indicated that this action did not prejudice the final settlement of the Palestinian issue.[3]

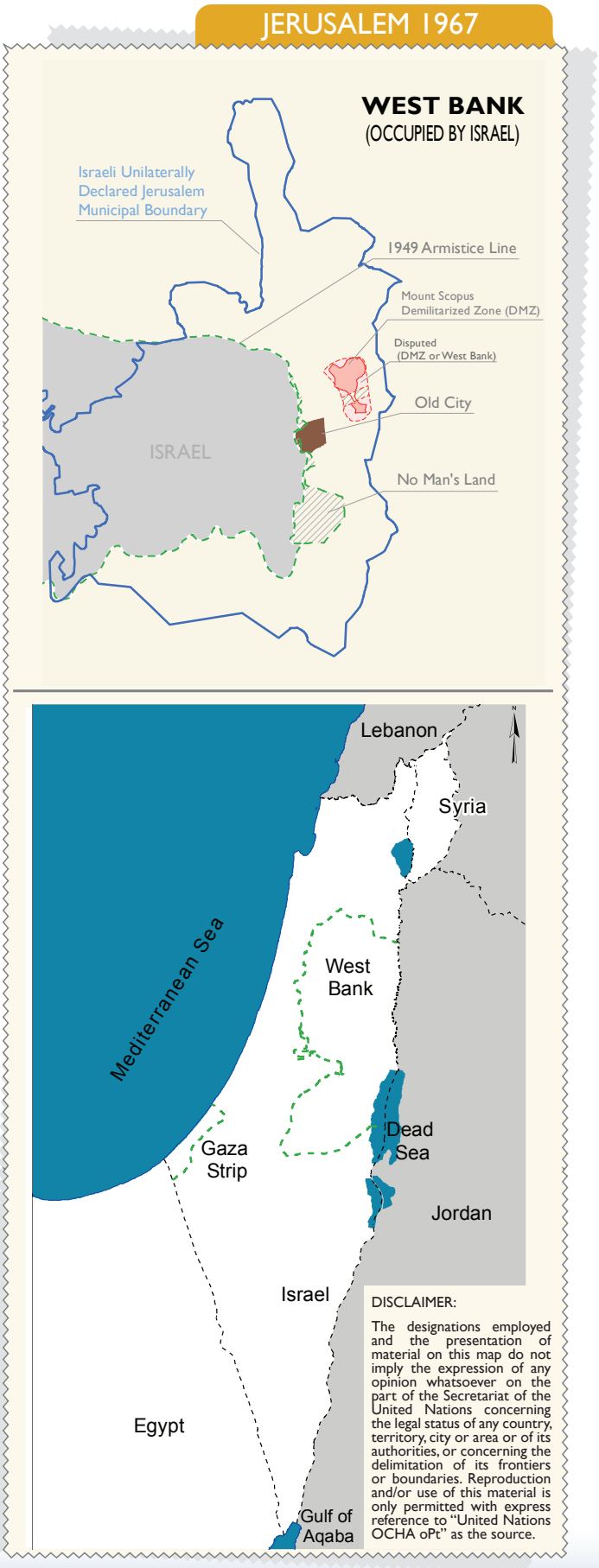


The 1967 War and the expanded municipal boundary

In the wake of the 'Six Day War' of June 1967, Israel occupied the Gaza Strip and West Bank, including East Jerusalem. Immediately after the end of the war, the Government of Israel declared that 'Israeli law, jurisdiction and administration' would apply to some 70 km² of the occupied area, which included East Jerusalem, as defined under Jordanian rule (6 km²), as well as 64 km² of surrounding West Bank territory, most of which belonged to 28 Palestinian villages.[4] This decision resulted in the de-facto annexation of this area to Israel. The annexed area was subsequently added to the Municipality of Jerusalem.

On 30 July 1980, the Israeli Parliament adopted the Basic Law on Jerusalem, which declared that the entire city of Jerusalem to be 'the complete and united capital of Israel.' These unilateral steps are not recognized by the international community (see inter alia, UN Security Council Resolutions 252, 267, 471, 476 and 478), which maintain that all legislative measures and actions taken by Israel to alter the character and status of Jerusalem are null and void.

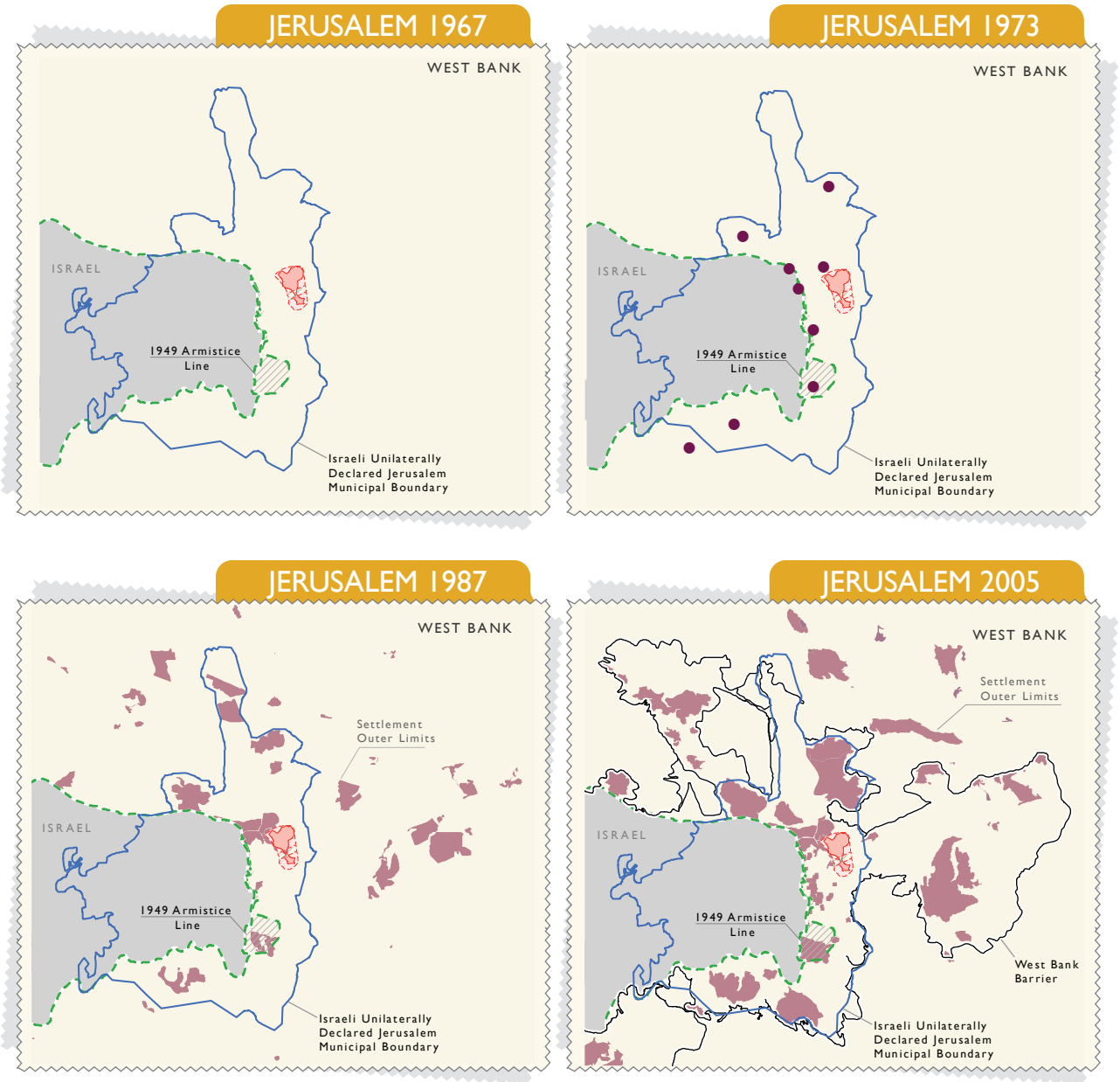
The Declaration of Principles, 'Oslo Accords', Article IV, agreed in 1993 between Israel and the Palestine Liberation Organization, provided that during the interim period the jurisdiction of the Palestinian Authority would cover the West Bank and Gaza Strip, except for issues to be negotiated in the permanent status negotiations. Article V provided that Jerusalem was a permanent status issue. At the same time, the parties agreed that the outcome of permanent status negotiations should not be prejudiced or pre-empted by agreements reached for the interim period. In the 'Holst Letter' of 11 October 1993, the Israeli government affirmed that it acknowledged the importance of Palestinian institutions in East Jerusalem and committed to their preservation and to not hampering their activity.



Settlements and the Barrier

Since 1967, the Government of Israel has constructed settlements within the extended municipal boundary of East Jerusalem and in the wider metropolitan area beyond, despite the prohibition, under international law, on the transfer of civilians to occupied territory. The Oslo Accords defined settlements as a final status issue, but in so doing, did not alter the character of settlements as contrary to international law, nor give any authorization to their continued expansion. In summer 2002, the Government of Israel approved construction of a Barrier with the stated purpose of deterring suicide bombers in the West Bank from entering Israel. Although the expanded municipal border of 1967 remains the official Israeli-defined boundary, the Barrier in the greater Jerusalem area is effectively re-drawing the geographical boundaries, in addition to compounding the separation of East Jerusalem from the rest of the West Bank.

All of the settlements which have been established within the municipal boundary have been included on the 'Jerusalem' side of the



Barrier. If the Barrier is completed as planned, the large 'metropolitan' settlements in the wider Jerusalem area, located outside the municipal boundary, will be also be encircled and brought onto the 'Jerusalem' side. These comprise the Adummim settlement bloc to the east, the Giv'at Ze'ev settlement in the north; in the south, approximately 64 km^2 of land in the Bethlehem governorate will be enclosed by the Barrier, including the Gush Etzion settlement block.

It was the route of the Barrier, rather than the structure itself, which was the subject of the International Court of Justice (ICJ) advisory opinion on *the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, in July 2004. The opinion recognised that Israel 'has the right, and indeed the duty, to respond in order to protect the life of its citizens [but] the measures taken are bound nonetheless to remain in conformity with applicable international law.'[5] The ICJ stated that the sections of the Barrier route which ran inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violated Israel's obligations under international law. The ICJ called on Israel to cease construction of the Barrier 'including in and around East Jerusalem'; dismantle the sections already completed; and 'repeal or render ineffective forthwith all legislative and regulatory acts relating thereto.'[6]

Qalandiya Checkpoint, photo by Patrick Zoll, 2009

CHAPTER I

RESIDENCY RIGHTS OF PALESTINIANS IN EAST JERUSALEM

Key Points

- Since Israel's occupation of East Jerusalem in 1967, and its subsequent annexation, Palestinian residents of the remainder of the West Bank and the Gaza Strip have been prohibited from residing in East Jerusalem, other than through the 'family unification' process. Since the early 1990s, Palestinian residents of the West Bank and the Gaza Strip have also required permits to enter East Jerusalem and Israel.

- Under Israeli law, the majority of Palestinians living in Jerusalem are 'permanent residents' rather than citizens of Israel, and their residency status is conditional on their proving that their 'centre of life' lies within the Israeli-defined municipal boundary of Jerusalem. Consequently, their residency status can be revoked under the circumstances described in this chapter. Approximately 14,000 East Jerusalem Palestinians had their residency revoked between 1967 and mid-2010 (not including dependent children), with over 4,500 revoked in 2008.

- As permanent residency is not automatically transferred through marriage, a Palestinian resident of East Jerusalem who marries a Palestinian from elsewhere in the oPt, and wishes to reside in the city with his/her spouse must apply for family unification. The application process for family reunification is onerous and has become virtually impossible since 2003, when Israel introduced the Nationality and Entry into Israel Law (Temporary Order). The Law disproportionately impacts residents of East Jerusalem, who are forbidden from family unification not only with their spouses, but with their minor children.

- Unlike citizenship, permanent residency is not passed on to the holder's children 'by right', and children can only receive permanent residence under certain conditions. This leads to difficulties in the registration of children – where one parent is a Jerusalem resident and the other is a resident of the rest of the West Bank or Gaza Strip – with one source estimating that there are as many as 10,000 unregistered children in East Jerusalem.[7] As a consequence, there are numerous cases of Palestinians residing 'illegally' in East Jerusalem with their spouses, and incidences of separated families where the non-Jerusalem partner is forced to live outside of the city, with or without the children.[8]

- Combined with land expropriation, restrictive zoning and planning, demolitions and evictions, and the inadequate provision of resources and investment in East Jerusalem, described elsewhere in this report, this residency policy not only increases humanitarian vulnerability but risks undermining the Palestinian presence in East Jerusalem.

I. Background

Following the war of 1967, the Government of Israel unilaterally annexed some 70 km^2 of the occupied area to Israel, which included East Jerusalem, as defined under Jordanian rule (six km^2), as well as 64 km^2 of surrounding West Bank territory; the annexed area was subsequently added to the Municipality of Jerusalem. The new municipal boundary was 'purposely drawn …to include the maximum territory possible, with the minimum possible Palestinian population.'[9] This unilateral annexation contravenes international law and is not recognized by the international community, which considers East Jerusalem as part of the occupied Palestinian territory.[10]

The right to reside in East Jerusalem was now restricted to those Palestinians who were recorded as living within the new Israeli-defined municipal boundary in a census conducted by the Israeli authorities.[11] The vast majority of the then estimated 66,000 Palestinians living within the municipal boundary were registered not as citizens, but instead as permanent residents of Israel, a legal status defined by the *Entry into Israel Law* of 1952.[12]

A blue Jerusalem ID card entitles the holder to full freedom of movement and permission to work within East Jerusalem and Israel, unlike Palestinians from the West Bank and Gaza Strip who have required permits to enter Israel and East Jerusalem since the early 1990s. Permanent residents also make mandatory contributions to, and can avail of, social services including health and social insurance benefits, and can vote in municipal – but not in national – elections, although the majority choose not to do so.

> *"Permanent residency is the same status granted to foreign citizens who have freely chosen to come to Israel and want to live in the country. Because Israel treats Palestinians like immigrants, they, too, live in their homes at the beneficence of the authorities, and not by right. The authorities maintain this policy although these Palestinians were born in Jerusalem, lived in the city, and have no other home. …Viewing East Jerusalem residents as foreigners who entered Israel is perplexing since it was Israel that entered East Jerusalem in 1967."*[13]

However, the status of a permanent resident expires under Regulation 11a of the *Entry into Israel Law* if that person lives for a period of seven years or more outside of East Jerusalem or Israel, including in any other part of the West Bank or Gaza Strip.[14] Permanent residency also expires if the person obtains citizenship or residency in another country. Thus, while citizens of Israel are permitted to reside abroad indefinitely and obtain residency status or citizenship in other countries, Palestinian permanent residents may have their status revoked for these same actions[15] (see Case Study, *Residency Revoked*). In addition, a permanent resident who marries a non-resident must submit, on behalf of the spouse, a request for family unification. Unlike citizenship, permanent residency is not passed on to the holder's children 'by right', and children can only receive permanent residence under certain conditions.

2. Revocation of Residency

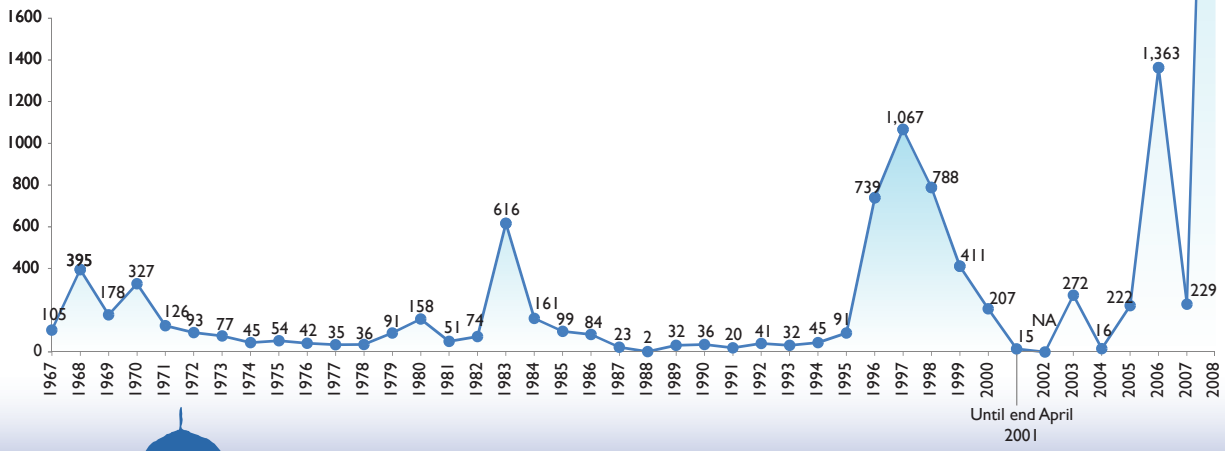
In the decades following the occupation of East Jerusalem, the Government of Israel adopted the 'open bridges policy.'[16] According to this policy, Palestinians could continue to travel abroad, either via Jordan on obtaining an exit/return permit valid for three years, or via Ben Gurion Airport, by means of a *laissez-passer* valid for one year. East Jerusalem Palestinians could maintain their permanent residency status as long as they returned to Jerusalem to renew their exit permits at the Interior Ministry.[17] Only a continued stay of more than seven years outside Jerusalem without a renewal of the exit permits could lead to revocation of residency status. Obtaining citizenship or permanent residency abroad did not result in revocation, nor did relocation to the Gaza Strip or to the other areas in the West Bank, including the burgeoning Palestinian neighbourhoods located just beyond the municipal boundary.[18] East Jerusalem Palestinians could and did move to these areas in large numbers, without requiring exit permits and compromising their permanent resident status.[19]

The beginning of a mass revocation of residency from Palestinians in East Jerusalem followed a decision of Israel's High Court of Justice in 1988, *Awad v. the Prime Minister*, where the 'Court ruled that the annexation of East Jerusalem turned East Jerusalem residents into Israeli permanent residents and that such residency 'expires' upon the relocation of the centre of one's life. Specifically, the Court applied the Regulations on Entry into Israel to residents of East Jerusalem.'[20] In practice it was not until December 1995 when, without officially announcing a change in policy, the Interior Ministry began to revoke the residency of those East Jerusalem Palestinians who had moved outside the municipal boundary, irrespective of the fact that those who had travelled abroad had regularly returned to Jerusalem to renew their exit permits. 'The Ministry claimed that permanent residency, unlike citizenship, is a matter of the circumstances in which the individual lives, and when these circumstances change, the permit granting permanent residency expires. Thus, every Palestinian who lived outside the city for a number of years lost their right to live in the city, and the Ministry ordered them to leave their homes.'[21]

Palestinians living in other parts of the West Bank and Gaza Strip, including in the Palestinian neighbourhoods of Jerusalem beyond the municipal

Revocation of ID cards, 1967-2008[22]

Total: 13,135



boundary, were affected by this new policy. East Jerusalem Palestinians were now required to prove that their 'centre of life' was in Jerusalem rather than in other parts of the occupied Palestinian territory, by furnishing documents – including *arnona* (municipal tax) receipts, electricity, gas and telephone bills, and school and work certificates – to attest to their continued presence in the city. This policy resulted in a 'quiet deportation', with the residency status of over 3,000 East Jerusalem Palestinians revoked between 1995 and 2000.

Following a petition filed by Hamoked in opposition to the new policy[23] the then Minister of the Interior, Natan Sharansky in March 2000, to some degree alleviated the new policy. According to the 'Sharansky Declaration', residents of East Jerusalem who renewed their exit permits on time would maintain their permanent residency status, even if they lived abroad. Permanent residency status would not be revoked from East Jerusalem residents who moved to neighbourhoods adjacent to Jerusalem or elsewhere in the West Bank.

However, concerning those whose residency had already been revoked; only those affected after 1995, and who visited Israel within the period of validity that was stamped on their exit card, and who lived in Israel for at least two years, could have their permanent residency status reinstated. Those whose residency was revoked prior to 1995 could not reclaim their status; nor could those whose residency was revoked while they were abroad, and who were forbidden to return to East Jerusalem by the Ministry of the Interior. The new procedure also applied only to those whose status was revoked because they had allegedly resided for a period of more than seven years outside of East Jerusalem, and not to East Jerusalem Palestinians who acquired permanent residence in another country or who received foreign citizenship.[24]

The years subsequent to the 'Sharansky Declaration' witnessed a decrease in the number of revocations: however, as detailed in the following sections, family unification and the registration of children of 'mixed residency' unions became more difficult. In any case, in recent years, the Interior Ministry has again begun revoking permanent-residency status of East Jerusalem Palestinians in large numbers.

East Jerusalem ID card

In 2006, that number revoked, 1,363, was higher than any year of the 'quiet deportation' policy, and the then highest recorded since 1967. Of those revoked, the majority 'involve people who emigrated abroad and acquired foreign citizenship' although the Interior Ministry also cited 'growing efficiency' in detecting those who had moved abroad as a factor.[25] The year 2008 recorded the highest number of residency revocations to date since 1967, involving 4,577 Palestinian residents, including 99 children. The vast majority were Palestinians 'due to continuous residence of more than seven years outside of Israel', who had been identified 'due to an initiated review process.'[26] In thirty-eight cases, status was revoked 'as a result of immigration (*sic*) to the territories,' i.e. moving to other areas of the occupied Palestinian territory.[27]

REVOCATION OF SOCIAL SECURITY BENEFITS OF EAST JERUSALEM RESIDENTS

The National Insurance Institute (NII) is the state entity responsible for collecting compulsory social insurance contributions from every adult resident of Israel and East Jerusalem, and paying social insurance benefits to beneficiaries, including retirement, disability, unemployment, poverty and family expansion (child allowances), among others. The NII is also responsible for determining eligibility for national health insurance coverage and for collecting health insurance contributions from beneficiaries.

The main condition for entitlement to NII coverage is to be recognized as a 'resident of Israel'. However, under Israeli legislation and case law, to be recognized as such by the NII a person must actually reside in Israel (or in East Jerusalem) and not just be recognized as a resident by the Ministry of Interior. Therefore, upon submission of a claim, the NII is authorized to conduct an investigation to verify that the relevant conditions are met, including actual residence in Israel (or East Jerusalem).

East Jerusalem residents married to non-residents are particularly vulnerable to denial of their NII rights, acquired through years of compulsory contributions, on the grounds that they could be living outside the municipal boundaries of Jerusalem. As a rule, new claims submitted by Palestinians in this situation are not approved, in the large majority of cases, until an investigation to determine residence is concluded.

According to Hamoked, these investigations are often based on false assumptions and otherwise weighed against the claimants. For example, the NII assumes that women from East Jerusalem who marry non-residents relocate to their husband's place of residence. As a result, even a short-term visit to the husband's family in the West Bank could be interpreted by the NII as evidence of relocation.

The NII also launches investigations targeting beneficiaries of 'mixed marriages' regarding already approved claims, often dating many years back. If the investigation indicates that the beneficiary has relocated outside the city, (s)he is required to reimburse the NII retroactively, exposing families to enormous debts.

Whenever the NII revokes the entitlement of a resident, it is obliged to notify the person concerned in writing. In some cases, however, the notification sent by the NII fails to reach the recipient and the person discovers the revocation by chance, for example, when denied medical assistance at a health clinic. This may occur due to the poor mail services provided in many areas of East Jerusalem, as well as the fact that the notification letters are written only in Hebrew.

CASE STUDY

RESIDENCY REVOKED

My name is Ishraq Abu-Arafeh. I am 56 years old and was born in Jerusalem before the Israeli occupation of 1967. In 1973, my only opportunity to study medicine was abroad, as there were no medical schools in the West Bank, so I attended university in Jordan and qualified in 1980. During those seven years I returned to Jerusalem at least twice a year.

On qualifying, I returned to Jerusalem but I soon realised that my career was limited, so in 1983, when I was offered training in the UK by the British Council I took the opportunity. I spent some time in Leeds and later moved to Scotland where I'm now living.

All these years abroad, I maintained my connections with my family and Jerusalem. On one of my visits home to Jerusalem I met a Palestinian woman. We got married and have two children. I returned every year with my wife and children to maintain our residency status in Jerusalem. We followed every letter of the ever-changing written and unwritten rules and regulations. We renewed our ID cards whenever possible, we took permits to travel and to re-enter and paid whatever fees we were asked to pay.

In 1993, we had to employ an Israeli lawyer to enable us register our second son on our ID cards, as the Interior Ministry office initially refused our application. In 2001, we applied for our eldest son to have his own Jerusalem ID card but we were refused. Again we had to pay an Israeli lawyer to argue our case and win for our son the right to residency and a blue Jerusalem ID card.

In 2009, while we were back in Jerusalem, we applied for our second son to have his ID card, but he was refused. We consulted many lawyers, but none could help. We were told that our son can't have an ID card although he is legally registered. What is worse, we were also told that our own ID cards have expired and can't be renewed, because we've been living abroad for more than seven years and because we have British nationality. While Israeli Jews are allowed to have more than one nationality, we lose our residency if we obtain a foreign passport.

If we want to try and get our residency back we would have to come back on tourist visas on our British passports and live in Jerusalem for at least two years before being able to apply for new Jerusalem ID cards. We explained to the Ministry of Interior staff that we have jobs abroad and what would we do for work? In fact, where would we live? My family are refugees from 1948 and live in Sheikh Jarrah, in a house given to us by UNRWA and the Jordanian government in 1956. The settlers want to take over our whole neighbourhood, including our house, and already have evicted about ten families and moved in (see Chapter, *Settlements in East Jerusalem*).

We were put under extreme pressure to make a most difficult decision. In the end we had to go back to Scotland, resulting in the four of us losing our right to reside in Jerusalem. This was the hardest decision I ever had to make. It was most painful because they made us feel as if it was our choice to forfeit our residency rather than a case of blackmail. Knowing that our case is not unique – as many Palestinian families have been through the same experience – does not make it any less painful.

My sister has the same problem. She has been living in Chicago for more than 30 years, married a US national and received US citizenship, and as a result her Jerusalem ID card was revoked.[28]

Protestors in Sheikh Jarrah, photo by JC Tordai, 2010

3. Family Unification

Residents of East Jerusalem who marry persons who are not permanent residents or citizens of Israel must apply for family unification on their behalf to the Interior Ministry, in order that they can live together in East Jerusalem. The Interior Ministry has the discretion to grant or deny such requests and, as with the issue of revocation of residency, the policy has changed over the years.

Historically, social and family connections, including marriages, were common between Palestinians from East Jerusalem and other areas of the West Bank and continued after 1967, with little regard for the unilaterally-imposed municipal boundary and the distinction in residency status between East Jerusalem and the remainder of the occupied Palestinian territory. Movement between East Jerusalem and the West Bank and Gaza Strip was generally unimpeded and non-Jerusalem partners could live 'illegally' in the city with their spouses and children without applying for family unification. This changed in the early 1990s with the imposition of permit requirements for West Bank and Gaza Strip Palestinians to enter East Jerusalem and Israel, making it difficult for 'mixed residency' couples to live together. Consequently, Palestinians began to apply for family unification, in many cases years after they had married.

Until March 1994, the Interior Ministry only accepted applications for family unification by East Jerusalem males. Requests by female residents were ineligible on the grounds that in Palestinian society, 'the wife follows her husband, and there was, therefore, no reason to grant a status in Israel to the male spouse residing in the Occupied Territories.'[29] The policy changed following a petition by the Association for Civil Rights in Israel. Consequently, thousands of female residents of East Jerusalem filed requests for family unification on behalf of their spouses, including women who had married many years earlier and already had children.

As highlighted by the Human Rights Committee, these polices entail a grave violation of the International Covenant on Civil and Political Rights (ICCPR) which provides for the protection of the family as the natural and fundamental group unit of society, and recognizes the right of the family to enjoy protection by society and the state and the right of men and women of marriageable age to marry and found a family.[30] Specifically, according to the Human Rights Committee's concluding observations on this law, 'The State party should revoke the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which raises serious issues under articles 17, 23 and 26 of the Covenant.'[31]

Until 1996, if the Interior Ministry approved the request for family unification, it granted permanent-resident status to the spouse. However, in early 1997, the Ministry announced a new 'graduated procedure', whereby permanent-resident status would only be granted five years and three months from the day of approval of the request for family unification. Following approval of the request itself, the non-Jerusalem spouse was granted a permit to stay and work in East Jerusalem, but without benefit of social rights or health insurance.[32] These permits were given for periods of between six months to a year and were renewable up to twenty-seven months. In the three-year period that followed, the spouse received temporary-resident status, renewable annually, and this time with entitlement to social rights and health insurance. 'On average, it took ten years from the day a request for family unification was submitted to the day that the spouse from the Occupied Territories received a permanent status in Israel – if the Interior Ministry approved the request.'[33]

A change in the procedure was introduced in 2002, with the issuance of *Executive Order1813* which froze applications for family unification for residents of the West Bank and Gaza Strip. This was enshrined in statute a year later by the *Nationality*

and Entry into Israel Law (Temporary Order) 6753-2003 which, citing 'security concerns,'[34] cancelled the procedures for family reunification between Israeli citizens and permanent residents of East Jerusalem and their spouses from elsewhere in the West Bank and the Gaza Strip and prohibits them from living with their spouses in Israel, including East Jerusalem.[35] Those spouses who had already received temporary permits under the 'graduated procedure' could continue to receive such permits, but 'the spouse is not allowed to continue to the next stage of the arrangement, or to receive permanent status in Israel.'[36] In addition to separating families, the new law condemns many spouses to a cycle of uncertainty and occasional illegality between the expiry of one temporary permit and its renewal, during which time the person cannot officially reside in East Jerusalem (see Case Study, *Family Unification Frozen*). Although temporary, the law has been renewed annually, most recently in July 2010.[37]

The Law was amended in 2005, whereby women aged over 25 and men over 35 are eligible to apply for family unification and can receive military permits; however, there is no possibility of an 'upgrade' to the status of either temporary or permanent resident. In 2007, the Knesset amended the law again to allow for certain specific cases outside the eligible category above to be reviewed by a committee and to be considered for family unification based on 'exceptional Humanitarian grounds.' However, the maximum status that may be granted under this amendment is temporary residency status and only if a 'family member' of the applicant – spouse, parent or child – is staying in Israel or in East Jerusalem legally.[38] By early 2010, the 'Humanitarian Committee' had received 600 requests and reviewed 282 of these, of which only 33 were granted temporary 'military' permits which, unlike temporary residency, does not entitle the recipient to social benefits.[39] The impact of this on countless Palestinians, such as the woman portrayed in the case study below, is that they remain in a state of continual familial and social limbo, uncertain as to whether they will ever be able to carry on a normal life with their families in East Jerusalem.

PROCEDURES AT THE MINISTRY OF THE INTERIOR

'Jerusalemites have long complained about the inhuman conditions that they experience at the office of the ministry of interior. These conditions contradict existing Israeli law, and contravene internationally accepted standards of respect for economic and social rights and the principles of equality and impartiality.

Palestinian residents report mistreatment and arbitrary procedures by the staff of the ministry. Israeli residents receive certain services by mail, while most permanent residents do not. When they appear in ministry offices, Israelis are never asked to show documentation proving their residency or citizenship.

Palestinians, on the other hand, are asked to provide innumerable documents to prove their 'center of life' in the city. Individuals report queuing for long hours, or being turned away arbitrarily because 'working hours are over'. Information about public services is often misleading or absent.

As a result, Palestinians often lack information on the fees required, types of documents they should enclose with their application, or working hours (which are only in the morning in contrast to West Jerusalem offices which remain open in the afternoon).

Furthermore, Hebrew is used most of the time, despite Arabic being Israel's second official language. Many Palestinians do not understand Hebrew, which makes communicating with the ministry a frustrating process. Many must use documents without understanding the contents.'[40]

CASE STUDY

FAMILY UNIFICATION FROZEN

My name is Rimaz Kasabreh, I am 33 years old, and I'm from the northern West Bank. In 1996, I married my husband who is a resident of Jerusalem and moved to Beit Hanina in East Jerusalem. We have three children. My husband and I were aware that family unification application was not going to be easy, which is why we didn't submit an application for a few years. When we did, it took years for the Israeli authorities to process our application.

At the time I was working at a private school in the centre of the city although I didn't have a Jerusalem ID card or a permit. I needed to cross the Ar Ram checkpoint, located in Beit Hanina, to get to work and over the years, this became more difficult with my West Bank ID card: it happened many times that the soldiers at the checkpoint turned me back. The school issued me a card to show I was employed by them but it didn't help much. To avoid the checkpoint I used dirt roads and climbed over hills. I rarely made it to school in time. In winter I would arrive completely wet and cold, in the summer hot and sweaty.

In 2003, with the new (*Nationality and Entry into Israel*) law it became more difficult. It's illegal for taxi and bus drivers from Jerusalem to take passengers from the West Bank. Taxi and minibus drivers would ask every passenger about their ID card. It became more and more difficult for me to go to work or anywhere in Jerusalem. I couldn't go shopping, I couldn't visit my friends, I couldn't take the children to school, or to a doctor or to summer camps where other children their age went. This affected my children. They were too young to understand why their friends' mothers did things with them while I couldn't.

Very often I took risks. One day, when I was nine months pregnant, the police stopped the mini bus I was on and when they found out my status they took the driver's name and license number and warned him next time he was caught with someone from the West Bank they would confiscate his vehicle. I was released after they checked my records and found out I was married to a person from Jerusalem. They made me sign a piece of paper pledging I will not move or work within the State of Israel, which of course according to their definition includes East Jerusalem.

In October 2003, I was caught again in a taxi. It was the third time the driver was caught driving a West Banker so the police confiscated his taxi for three months and took away his driving license. The taxi driver blamed me and demanded compensation. He used to wait for me outside the school gate and shout at me that if I didn't pay him the money I would be in trouble. In the end, my husband paid him money. After this incident I quit my job. Most taxi drivers in Jerusalem recognized me and refused to take me. I was confined to the house and hardly ever left except to go to the neighbours' house. It was very hard for me. I was not used to staying at home. My family could not visit me because they're from the West Bank. They only come at Christmas and Easter, when Christians are given special permits to celebrate the feasts in Jerusalem.

About three-and-a-half years ago the Ministry of Interior finally accepted my application for family unification. They gave me a paper valid for one year, with which I could apply for a permit to stay in Jerusalem. Although this didn't mean I was a resident yet, at least it meant I could take a taxi and go places. I've renewed this paper four times now. Each time my husband and I have to provide evidence that we're living together in Jerusalem. We have to show that we pay water and electricity bills, the municipal tax and that our children go to schools in Jerusalem. It takes weeks, even months, just to get through to the Ministry of Interior for an appointment. They don't pick up the phone. When delays in the permit renewal occur I live in Jerusalem illegally all over again. I often took

the risk and ask my husband to drive me around. I wouldn't ask for rides from friends and relatives, as I know the consequences if they're caught with me in their car.

The third permit expired in December 2008. Although I requested an appointment in time and submitted all the evidence they requested, it took them months to get back to me. During this time I was confined to the house once again. They told me they were checking my security record and that of my family, including my parents, my brothers and sisters and their families, as well as my husband's family. The same happened in May 2009, when I applied to renew my permit, which I didn't get until August. My husband and I employed a lawyer to speed up the family unification process. After we paid him a large amount of money he told us the Ministry of Interior is not approving applications any more. I have no idea how long this situation will go on for.

My husband and I have been married for over 13 years now and I'm still unable to live a normal life with him and the children. When we enter Jerusalem from the West Bank my husband is allowed to cross by car, while I have to cross on foot. I can't benefit from Israeli health care, so I go to Ramallah whenever I need health services. Luckily I have never been in an emergency while I was living in Jerusalem 'illegally'.

I still cannot apply for a job. Nobody will employ me knowing that I am in Jerusalem on short-term permits which I have to renew every year. Everybody knows that renewal is not guaranteed. It could happen again that I will spend months without a permit before the authorities process my request. I feel I am losing the best years of my life sitting at home. Many of my friends are in the same situation.[41]

Rimaz Kasabreh, photo by JC Tordai, 2010

4. Registration of Children

Children of citizens of Israel can be registered in the Israeli Population Registry and automatically obtain Israeli citizenship, even if they are born abroad. The situation for the children of permanent residents is less certain, especially for the offspring of 'mixed residency' couples, and if the children are born outside of East Jerusalem, including in the West Bank and Gaza Strip.

A child born to parents who are both permanent residents will generally receive an identity number at the hospital and then be registered in the Population Registry, provided the birth takes place in East Jerusalem or in Israel. The parents then apply to the Interior Ministry, where the child's name, date of birth and identity number is recorded in the parents' identity cards. The child should then automatically receive a Jerusalem ID card when he/she reaches the age of 16.

For children born in East Jerusalem to parents, of whom only one is a permanent resident, the identity number is not given automatically at the hospital, and the parents must submit a request to the Interior Ministry to register the child. If the parents manage to prove continuous residence in East Jerusalem for a period of two years prior to the application to register the child, and if the child has not lived or been registered elsewhere, he/she will be registered in the Population Registry as a Jerusalem resident.

The above cases are covered by Section 12 of *Entry into Israel Regulations* - 1974. No such regulation governs the registration in East Jerusalem of children who were born abroad which, under this definition, includes those born in other parts of the West Bank and Gaza Strip, regardless of whether one or both parents are permanent residents. For those children, registration is governed by the Interior Ministry's internal procedures.[42] These procedures can result in situations, whereby children in the same family can have different residency status – requiring different and cumbersome registration procedures – or in families being separated.

> 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
> 2. Every child shall be registered immediately after birth and shall have a name.
> 3. Every child has the right to acquire a nationality.
>
> **Article 24, International Covenant on Civil and Political Rights**

Regarding these procedures, for children who were born in the West Bank and Gaza Strip of 'mixed residency' unions, registration depends on their age. The Minister of the Interior may grant such children aged up to 14 permanent residency. Children aged between 14 and 18 can obtain military permits only, renewable on a yearly basis. These permits do not entitle them to receive any social benefits, including access to health care and education. In addition, these permits can be revoked from these children if the Ministry of Interior finds that they are a 'security threat', based on their own alleged activities or the activities of a family member.

Moreover, in June 2008, Executive Order 3598 was issued, extending the scope of the (*Nationality and Entry into Israel Law) Temporary Order* to include an absolute prohibition on family unification with residents of Gaza, aged 14 and over. 'In other words, Palestinian residents of East Jerusalem with Gaza spouses and/or children are given no choice but to return to Jerusalem without their loved ones or permanently shift their lives to

Gaza, thereby forfeiting their constitutional right to live in their homeland.'[43]

In addition, if a child of a 'mixed residency' couple is born abroad (that is, outside of the oPt), or is registered abroad although he/she was born in Jerusalem, the child will receive temporary residence for two years and only then permanent residence, assuming he/she has resided in Jerusalem uninterruptedly for two years and still meets the criteria of the Ministry of Interior at the end of the two years.

PALESTINIANS AT IMMEDIATE RISK OF DISPLACEMENT ON GROUNDS OF LACK OF RESIDENCY

In October 2007, in Government Decision No. 2492, the Government of Israel decreed that Palestinians holding West Bank ID cards, who were born or residing in East Jerusalem for long periods of time, , are no longer eligible for Jerusalem ID cards (i.e. permanent residency). Instead, such people were given until 30 April 2008 to submit applications for temporary (renewable) military permits that would allow them to 'legally' stay in Jerusalem. According to Hamoked, such permits do not provide their bearers with freedom of movement within Jerusalem (nor social rights) but confine them to 'the vicinity of their neighbourhood.'

The burden of proof set in the decision was extremely rigorous. Applicants had to provide documentation proving continuous residence within Jerusalem for each of the previous 20 years, including, but not limited to, rental contracts, receipts of payment of municipal taxes, and an aerial picture certified by the Israel Mapping Center, indicating the precise place of residence.

In February 2011, the Israeli Ministry of Interior rejected 364 of the 841 permit applications submitted. Less than 4 percent (31 applications) were accepted, while the remainder (446 applications) are still being processed. Those rejected were informed that they must leave Jerusalem 'return to their place of residence in the West Bank.'

CASE STUDY

REGISTRATION OF CHILDREN REFUSED

My name is Salam. I'm from Abu Dis, on the Jerusalem side of the Wall, which cuts our community in two. In 2006, I married Hassan, who's from Nablus and has a West Bank ID card. When we got married, my father bought us a house in Abu Dis, on the Jerusalem side of the Wall, where my extended family lives. Hassan was 29 when he got married and as the minimum age required to apply for family unification was 35, he couldn't apply. A couple of years later, I gave birth to twins, a girl called Razan and a boy called Anan. Getting family unification for Hassan and registering the children is our family's biggest challenge.

In our neighbourhood, there are four families of West Bank ID holders who, after the Wall was built, are stuck on the Jerusalem side without Jerusalem ID cards or permits to stay in Jerusalem. Until the end of 2009, they could go to Ash Shayyah checkpoint where their names were kept on a list so that they could cross into the West Bank and back again. We managed to persuade the Civil Administration to include Hassan's name on the list. When the Ash Shayyah checkpoint was removed at the end of 2009, these West Bank residents, including Hassan, were given one month renewable permits. However, in March 2010, the Civil Administration stopped issuing these permits.

Hassan's last permit expired on 25 February 2010. Because he could not quit his job at Al Quds University, on the other side of the Wall, and he didn't want to be caught living in Jerusalem illegally, as that would have spoiled the family unification file, he had no choice but to leave the family temporarily and move to the other side of the Wall.

He hasn't been home for more than six months now. I usually bring the children to the other side of the Wall once a week to meet their father. Now that Ramadan has started, I try to take them there every day. I also work in Abu Dis on the West Bank side of the Wall so after work, I go and pick up the children from home, which takes around half an hour, then drive back to Abu Dis where my husband is staying, and start cooking for the *iftar*, the meal breaking the fast. A couple of hours later, we have to leave Hassan and go home to the other side of the Wall. The children have a hard time separated from their father. Every time they say a prayer, they ask God to give their father a permit to bring him back to them. However, I can't risk my or the children's status by moving to the West Bank to live with him.

Now we're also facing problems registering the two children. During the first month of our marriage, while we were completing some renovation work on our future house in Jerusalem, we were living in Abu Dis on the West Bank side of the Wall. The Ministry of Interior took this as a proof that our

residence was in the West Bank. They refused to register the children on my ID card, so that one day they can get Jerusalem ID cards, even though they were born in Jerusalem and have always lived there. After we were notified of the refusal and filed a petition, the Border Police came to the house to check whether our centre of life is in Jerusalem. It was morning and we were both at work. Following that visit, we received an official letter stating that as it was proven we were not living in Jerusalem, the children aren't eligible to be registered on their mother's ID card.

As of today, they only have a certificate of live birth. After appealing twice, we're trying to bring the case to court. Next year the children will need to go to kindergarten, and after that to school and it will be very hard for them to be admitted without being registered.[44]

Razan and Anan, photo by JC Tordai, 2010

Recommendations

The unilateral annexation of East Jerusalem to Israel contravenes international law and is not recognized by the international community which considers East Jerusalem part of the occupied Palestinian territory. The Government of Israel, therefore, should revoke all related legislation and guarantee that the entire Palestinian population of the oPt has the right to reside in, and access, the city:

Pending full compliance with Security Council resolutions on Jerusalem, and pending a political solution to Jerusalem in the context of a final status agreement, the Government of Israel, as the occupying power, should:

- Cease revoking the residency status of Palestinian residents of East Jerusalem for any reason, regardless of the length of their residence in other parts of the oPt, or abroad.
- Restore the permanent residency status of those East Jerusalem Palestinians whose status has been revoked.
- Renew and expedite family unification for 'mixed residency' status couples in East Jerusalem.
- Register all children of 'mixed residency' unions in East Jerusalem.

House demolition in Silwan, photo by Mahfouz Abu Turk, 2009

CHAPTER 2

PLANNING, ZONING AND DEMOLITIONS IN EAST JERUSALEM

Key Points

- Since the beginning of its occupation in 1967, Israel has failed to provide Palestinian residents of East Jerusalem with planning that meets their basic housing and development needs. As a result, residents find themselves confronting a serious shortage in housing and other basic infrastructure.

- Over one third of East Jerusalem has been expropriated for the construction of Israeli settlements, despite the prohibition under international law against the transfer of civilians to the occupied territory.

- Only 13 percent of East Jerusalem is currently zoned by the Israeli authorities for Palestinian construction, within which Palestinians have the possibility of obtaining building permits. However, much of this land is already built-up and it is very difficult to obtain such permits; the application process is complicated and expensive and the number of permits granted per year to Palestinians does not meet the existing demand for housing. Difficulties related to land registration and fear that land ownership rights will not be respected by the Israeli authorities deter many landowners from even applying.

- Consequently, unauthorized or 'illegal' construction has been widespread, both within the 13 percent, and in other areas, where Palestinian construction is completely prohibited. Those who have built 'illegally' face the threat of demolition, displacement, and other penalties, including costly fines, confiscation of building equipment, and possible prison sentences.

- After decades of neglect, there are entire neighbourhoods that are unplanned, under-serviced, and face the threat of wide-scale demolitions.

I. Background: Understanding the Phenomenon of 'Illegal' Construction

One of the key humanitarian issues confronting Palestinian residents of East Jerusalem is the Israeli authorities' demolition of 'illegal' structures built in violation of Israeli zoning requirements. Such construction has been widespread in East Jerusalem, largely because opportunities for authorized construction have been extremely limited due to the Israeli authorities' inadequate and inappropriate planning of Palestinian neighbourhoods.

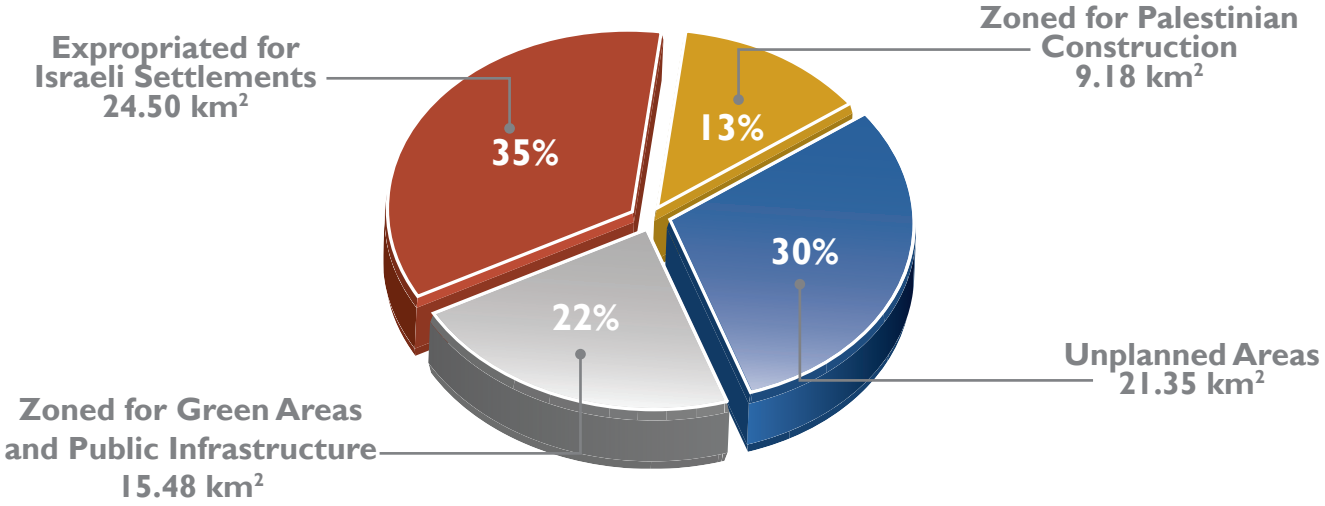
Of the 70.5 km^2 of land in East Jerusalem, 35 percent (24.5 km^2) has been expropriated for Israeli settlements. According to the Israeli human rights organization B'Tselem, most of this expropriated land was privately-owned Arab property.[45] Another 35 percent (24.7 km^2) has planning schemes ('outline plans' or 'master plans') that have been approved by the Jerusalem District Committee for Planning and Building.[46] The remaining 30 percent (21.3 km^2) has not been included in any plan approved since 1967 (planning is under way in some areas, but not yet approved).

Of the 24.7 km^2 that are planned, approximately 15.5 km^2 (22 percent of all land) are designated as 'green' or 'open' areas – where no construction is allowed – or for public purposes, such as roads and other infrastructure. This leaves only 13 percent of the total East Jerusalem area (9.2 km^2) available for Palestinian construction, and much of this is built-up already.[47] Even in the areas where construction is theoretically possible, Palestinian landowners face significant difficulties which hinder their ability to obtain permits.

First, before construction can begin on a vacant piece of land included within the 24.7 km^2 territory which has an approved planning scheme, a detailed plan of the area must be developed and approved. This plan must show which parts will be allocated for public use (roads and other infrastructure), green areas, and private Palestinian construction.

Although the need to designate part of the land for public use (including 'green' areas) is a necessary planning requirement, the nature of land ownership in East Jerusalem makes accomplishing this task difficult: most of the lands are small, privately-held plots that must be first united in order to ensure the equitable

Zoning in East Jerusalem



allocation of public and green areas. An inability to resolve these land ownership issues has delayed the development of detailed plans for years in many areas of East Jerusalem.[48]

Second, if public infrastructure (i.e. roads, water) does not exist in an area where a detailed plan has been approved, then construction permits will not be granted. According to the 1965 *Israeli Planning and Building Law*, unlawfully applied to East Jerusalem, no construction is permitted in areas with insufficient public infrastructure. While this is a normal planning requirement, because very few resources have been allocated by the Jerusalem Municipality for the development of public infrastructure in Palestinian areas,[49] new construction in certain neighbourhoods (where construction should be possible) is effectively prohibited.[50]

Third, strict zoning in Palestinian areas of East Jerusalem limits construction density, thereby reducing the number and size of the structures which may be built on any given plot of land. In many cases, the density (known as plot ratio) which is permitted is half (or, in some cases, much less than half) of that permitted in neighbouring Israeli settlements in East Jerusalem, or in West Jerusalem.[51]

In addition to the difficulties outlined above, the financial cost of obtaining a permit is a significant obstacle. The fees for permit applications are the same for all residential construction in both East and West Jerusalem and are calculated on the size of the proposed building and the size of the plot. For example, basic fees for a permit to construct a small 200m^2 building on a 500m^2 plot of land amounts to approximately NIS 96,000 (US$ 26,700).[52] Added to this is an additional fee,

LAND REGISTRATION IN EAST JERUSALEM

One difficulty in obtaining a construction permit relates to land registration. In most East Jerusalem neighbourhoods, Palestinian-owned land is not registered. Following the occupation of East Jerusalem in 1967, Israel froze the land registration project that was undertaken by the Kingdom of Jordan (and before that by the British Mandate authorities). At present, in order for Palestinians to register their land themselves, they must meet Israel's requirements for proving ownership, which can be difficult and which acts as a deterrent for many landowners. Many parcels of land have multiple owners, some of whom may be refugees from the Arab-Israeli wars of 1948 and 1967 and who are considered 'absentees' by the Israeli government. In these cases, the Israeli government may invoke the Absentee Property Law and become a part-owner of the land in question. Consequently, many Palestinians avoid land registration out of fear that their ownership rights will not be respected and that their land, or a portion thereof, may be confiscated by the Custodian of Absentee Property (see Chapter, *Settlements in East Jerusalem).*

In the absence of registration, applicants must demonstrate a 'connection' to the land (through providing tax documents, a statement from a village leader, *mukhtar*, etc.) on which the construction will take place. While many Palestinians have been able to demonstrate a 'connection' in a manner sufficient to meet the criteria for applying for a permit, there are indications that issues related to land registration are becoming increasingly restrictive, with significant impact on the ability to apply for permits. In 2009, the municipality began requiring owners to open a land registration file with the Land Registrar before applying for a permit.[53]

Although this requirement was later rescinded, revisions of the 1965 Israeli *Planning and Building Law* (see below) may make land registration a pre-requisite for obtaining building permits in the future, with the probability of a significant drop in permit applications.[54] According to the Israeli organization Bimkom – Planners for Planning Rights, there has been a decline in the issuance of building permits in recent years, due to 'increasingly strict demands by the municipality in regards to proof of ownership and land registration.'[55]

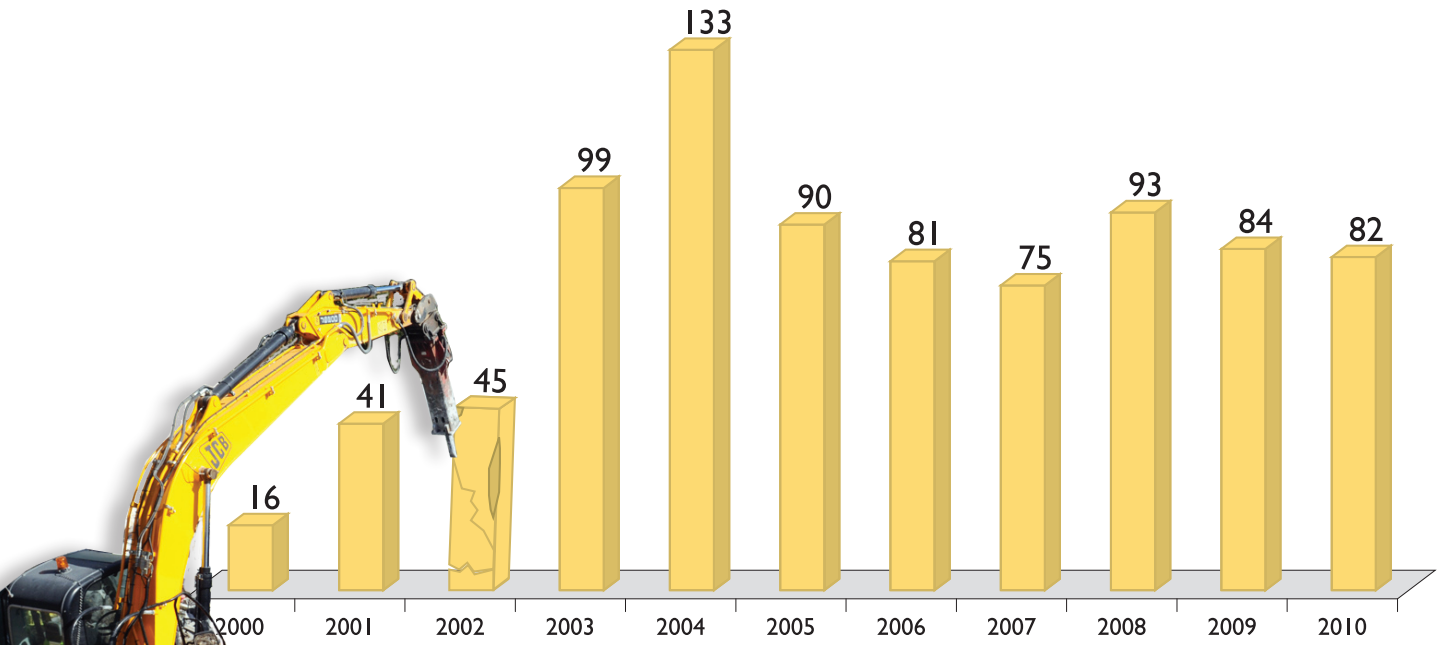
which varies according to the size of building and income-level of neighbourhood in which the construction will take place; this can increase the cost of the permit by tens of thousands of shekels.[56] In many cases, the fee for the permit can be as much as the cost of the construction in the case of a simple structure, such as an animal barracks or a storage room.

For many Palestinians, these fees are prohibitive. Palestinian construction is generally small-scale, carried out by an individual or a small group of families, with limited resources, rather than the larger-scale housing projects typical of West Jerusalem or of Israeli settlements in East Jerusalem. As a result, there are fewer people to share the permit costs. Furthermore, because of the manner in which fees are structured, applications for permits for smaller buildings (typical of East Jerusalem) have higher per-square-meter fees than larger buildings.

The permit application process can take several years and there is no guarantee of eventual success. According to municipal figures, in the past five years, only 55 percent of applications for new construction in East Jerusalem's Palestinian neighbourhoods have been approved.[57] In addition, each year the Jerusalem Municipality refuses to allow many Palestinians to submit a permit application. According to Bimkom, between 2005 and 2009, 483 Palestinian residents of East Jerusalem were prevented from submitting permit applications, mainly due to difficulties with land registration.[58]

Clearly, the number of permits granted annually does not meet housing demands. According to the Israeli organization Ir Amim, natural growth among Palestinians in East Jerusalem requires the construction of 1,500 housing units per year. However, only an average of 400 new housing units per year are authorized, resulting in a disparity of over 1,000 units per year between housing needs and legally permitted construction.[59] As a result, with each year, housing needs intensify, resulting in 'illegal' construction, over-densification of neighbourhoods, and rising land and housing costs (see Case Study, *The High Cost of Renting in East Jerusalem*).[60]

Demolitions in East Jerusalem, 2000 – 2010[61]



2. The Jerusalem Local Outline Plan 2000 ('Master Plan')

For the first time since the occupation of East Jerusalem in 1967, the Jerusalem Municipality has prepared a 'master plan' which covers both East and West Jerusalem; the last master plan for Jerusalem was deposited in 1959.[62] The *Local Outline Plan 2000* was approved for depositing by the Jerusalem District Committee for Planning and Building, but the process has not progressed since late 2008 and it has yet to be submitted for public review and objections.[63]

Although the *Local Outline Plan* has not been formally finalized, Israeli and Palestinian planners, who reviewed earlier drafts and followed the Committee's review of the plan, have identified a number of shortcomings. The *Local Outline Plan* offers very little in the way of developing Palestinian neighbourhoods in East Jerusalem overall; it deals almost exclusively with housing issues, and fails, for example, to address the massive shortage of school classrooms in East Jerusalem, the absence of sufficient public infrastructure, or the need to create new commercial areas. The *Local Outline Plan* also fails to acknowledge the new geographical realities created by the Barrier or East Jerusalem's historic connections to the remainder of the West Bank.

With respect to housing, planners fear that the *Local Outline Plan* does not sufficiently address the status quo in Palestinian neighbourhoods and will not provide real solutions to the crisis facing East Jerusalem's Palestinian residents. One concern is that it does not provide enough housing units to meet the needs of natural population growth.[64] In addition, the majority of housing units proposed are located in the northern and southern suburbs of East Jerusalem (e.g. Beit Hanina in the north and Jabal al Mukabbir in the south). Only 750 new units are proposed for Palestinian residents in the Old City and its environs, the so-called 'Holy Basin' area, where the Palestinian housing crisis is most intense, and where the need for plans that would 'legalize' existing structures is critical. This is the area where settlement activity in Palestinian residential areas is most concentrated (see Chapter, *Settlements in East Jerusalem*).

The additional housing units for Palestinians included in the *Local Outline Plan* are created by densification or 'thickening' of existing neighbourhoods, and by re-zoning certain areas for expanded residential construction.

Densification or 'Thickening': The *Local Outline Plan* allows for the densification of some Palestinian neighbourhoods through the construction of four- and six-storey buildings, in areas where the limit was two-storeys previously. However, the *Plan only* allows for a maximum addition of two storeys to existing buildings. Therefore, while existing two-storey structures can add an additional two floors, one-storey buildings will either be unable to exploit the full four or six-storey potential (given the a maximum of two additional floors) or owners will need to destroy the existing building in order to build four or six-storeys.

In the case of six-storey buildings, additional requirements exist: they must be constructed on a large plot of land (at least 10 dunums) and located next to a road at least 12 meters wide, both of which are exceptional in Palestinian neighbourhoods in East Jerusalem. As a result, the potential for six-storey construction is severely limited.

Expansion areas: The *Local Outline Plan* includes a number of 'expansion' areas, to allow for residential construction in a re-zoned area adjacent to an existing residential area. These expansion areas total some 3,450 dunums of land; thus, the area zoned for Palestinian construction would potentially increase to some 12.5 km^2, or almost 18 percent of East Jerusalem, as opposed to the 13 percent which is currently zoned.[65] However, many of these areas are already built-

CURRENT MUNICIPAL PLANS

At present, the Jerusalem Municipality is undertaking general planning for a number of Palestinian neighbourhoods in East Jerusalem which have been identified as 'expansion areas' in the Local Outline Plan. These plans are separate from the regular planning process (i.e. they do not go through review by the District Committee) and, according to Bimkom, are policy documents, rather than detailed plans. Affected neighbourhoods will still need to submit detailed plans for approval before permits for construction can be obtained, but no such steps can be taken before the municipality completes its plans. Consequently, if the municipality's planning process is delayed, Palestinian communities are unable to move forward with planning initiatives.

up with unauthorized construction. Therefore, while re-zoning such areas may enable the 'legalization' of existing buildings, significant additional construction will be limited.

As is the case at present, even in those localities where new construction may be possible due to re-zoning, permit opportunities are limited due to the absence of the necessary public infrastructure (e.g. roads, sewage networks, etc.) in Palestinian neighbourhoods. In addition, even with the *Local Outline Plan,* residents will still need to prepare and receive approval for a detailed plan for a specific area before they can apply for a construction permit.

Because the Jerusalem Municipality has largely failed to provide adequate planning for Palestinian areas in East Jerusalem, the responsibility for preparing detailed plans generally falls on individual residents, an onerous requirement, given the need to reach consensus on a range of issues among multiple landowners. Even more difficult is the requirement that the new expansion areas, many of which are disconnected and distant from each another, be planned as-a-whole.

In contrast to the limited housing opportunities offered to Palestinian residents, the *Local Outline Plan* will add 5,000 dunums (or 5 km^2) for the expansion of Israeli settlements in East Jerusalem, serving an estimated population of some 200,000 settlers.

Although the *Local Outline Plan* has yet to be submitted for public review and the process for submitting it for official approval is frozen, it is currently used as the basis against which to evaluate detailed plans submitted for approval. According to Bimkom and the Association for Civil Rights in Israel (ACRI), between January 2008 and August 2010, the General Assembly of the Jerusalem District Committee for Planning and Building rejected 11 plans for Palestinian neighbourhoods in East Jerusalem on the grounds that they were inconsistent with the *Local Outline Plan*.[66] These rejections occurred although the Plan underwent changes during that period; for example, according to IPCC, in 2009, the municipality and the Israeli Ministry of Interior requested a change in the plan, which led to the removal of some Palestinians areas where new development had been proposed, such as Khirbet Khamis.

A key concern is the extent to which the *Local Outline Plan* bases planning in Jerusalem on an officially-adopted government policy that seeks to maintain a ratio of 70 percent Jews to 30 percent Arabs within the Israeli-defined municipal boundary. The *Local Outline Plan* explicitly addresses this goal and offers suggestions of how to achieve a 60/40 ratio in East Jerusalem in light of the unlikelihood of meeting the 70/30 target because of the higher birth rate among the Palestinian population.[67] According to ACRI, the planning and housing crisis in East Jerusalem will not be resolved by the *Local Outline Plan* as it 'perpetuates the discriminatory policies [in Jerusalem's planning] by failing to provide adequate housing units, employment sources, and infrastructure in East Jerusalem.'[68]

CASE STUDY

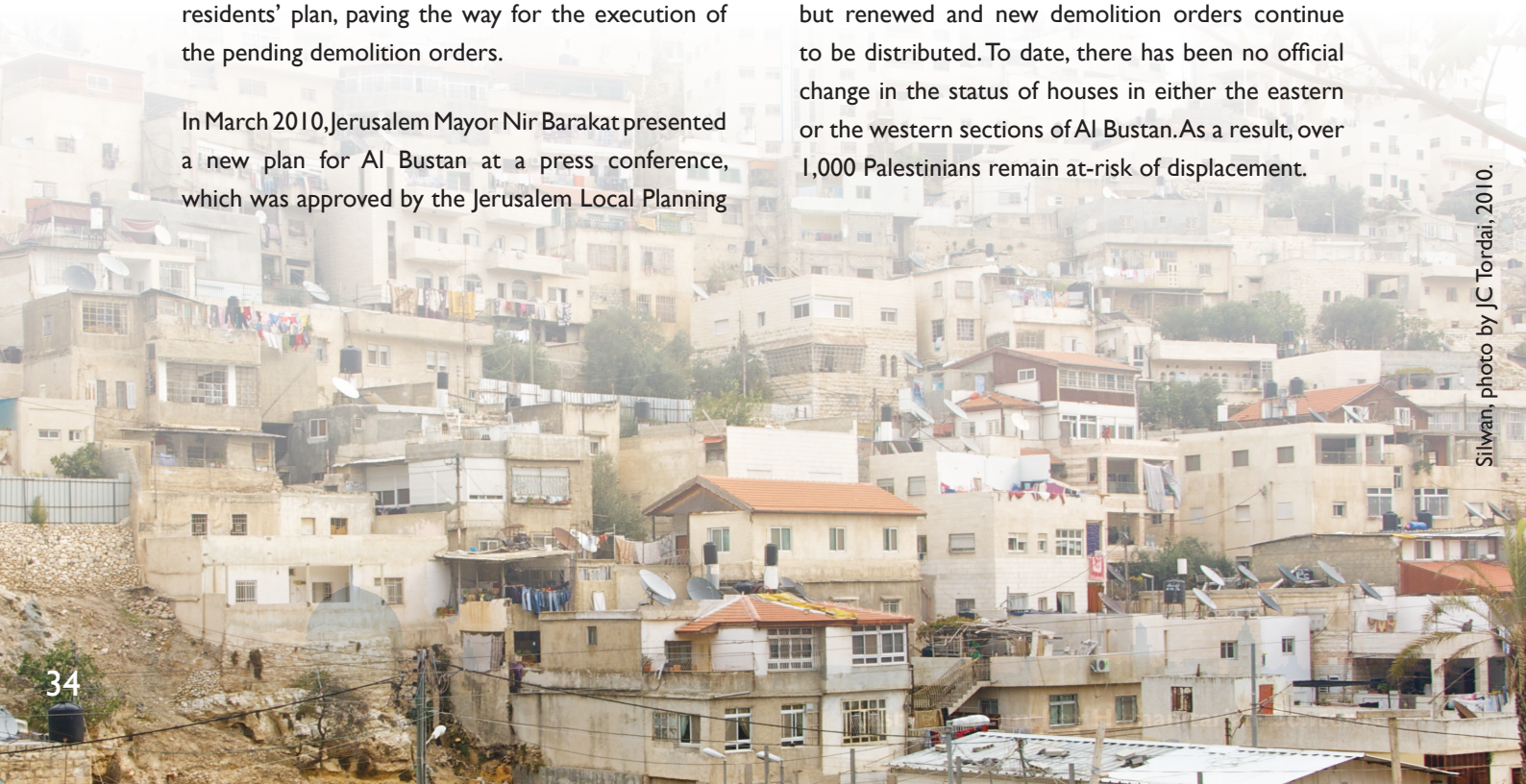
MASS DEMOLITIONS PENDING IN AL BUSTAN AREA OF SILWAN

More than 1,000 Palestinians, residing in approximately 90 houses, are at risk of losing their homes in the Al Bustan area of Silwan, located just south of the Old City. Since the late 1970s, the Jerusalem Municipality has designated all of the Al Bustan area of Silwan as an 'open' or 'green' area, where all construction is prohibited, despite this area being the natural expansion for Silwan. Of the 90 houses located in the 'green' area, most have received demolition orders.[69]

According to the residents' lawyer, between 1977 and 2005, there were attempts by residents to apply for building permits which ended in failure due to the 'green' status of the area. In 2005, after learning that the Jerusalem City Engineer had ordered the 'removal of the illegal construction' in Al Bustan,[70] in accordance with earlier municipal plans, the residents submitted a planning scheme in an attempt to change the status of the area from 'green' to 'residential.' In the period in which the plan, which cost residents US$ 77,000, was under review, most of the demolition orders were not executed.[71] On 17 February 2009, the Regional Planning Committee rejected the residents' plan, paving the way for the execution of the pending demolition orders.

In March 2010, Jerusalem Mayor Nir Barakat presented a new plan for Al Bustan at a press conference, which was approved by the Jerusalem Local Planning Committee in June 2010. The plan, which has yet to be submitted to the District Planning Committee, involves the division of Al Bustan into two sections (see Map): a western section, where houses will be demolished to make way for a tourist complex, and an eastern section, already densely populated, where displaced residents from the western section will be relocated. While the municipality states that the plan would lead to the demolition of approximately 22 buildings in the western section, the urban planner assisting the residents argues that it would require the complete demolition of over 40 residences and the partial demolition of at least 13 others, displacing some 500 Palestinians.[72]

After the February 2009 rejection of the community's plan, an alternative plan was developed at the residents' initiative that would take into account the zoning needs of the area, without resulting in any displacement. This plan has been submitted to the District Planning Committee, but has not yet been reviewed. Since February 2009, no additional demolitions have been carried out by the municipality, but renewed and new demolition orders continue to be distributed. To date, there has been no official change in the status of houses in either the eastern or the western sections of Al Bustan. As a result, over 1,000 Palestinians remain at-risk of displacement.

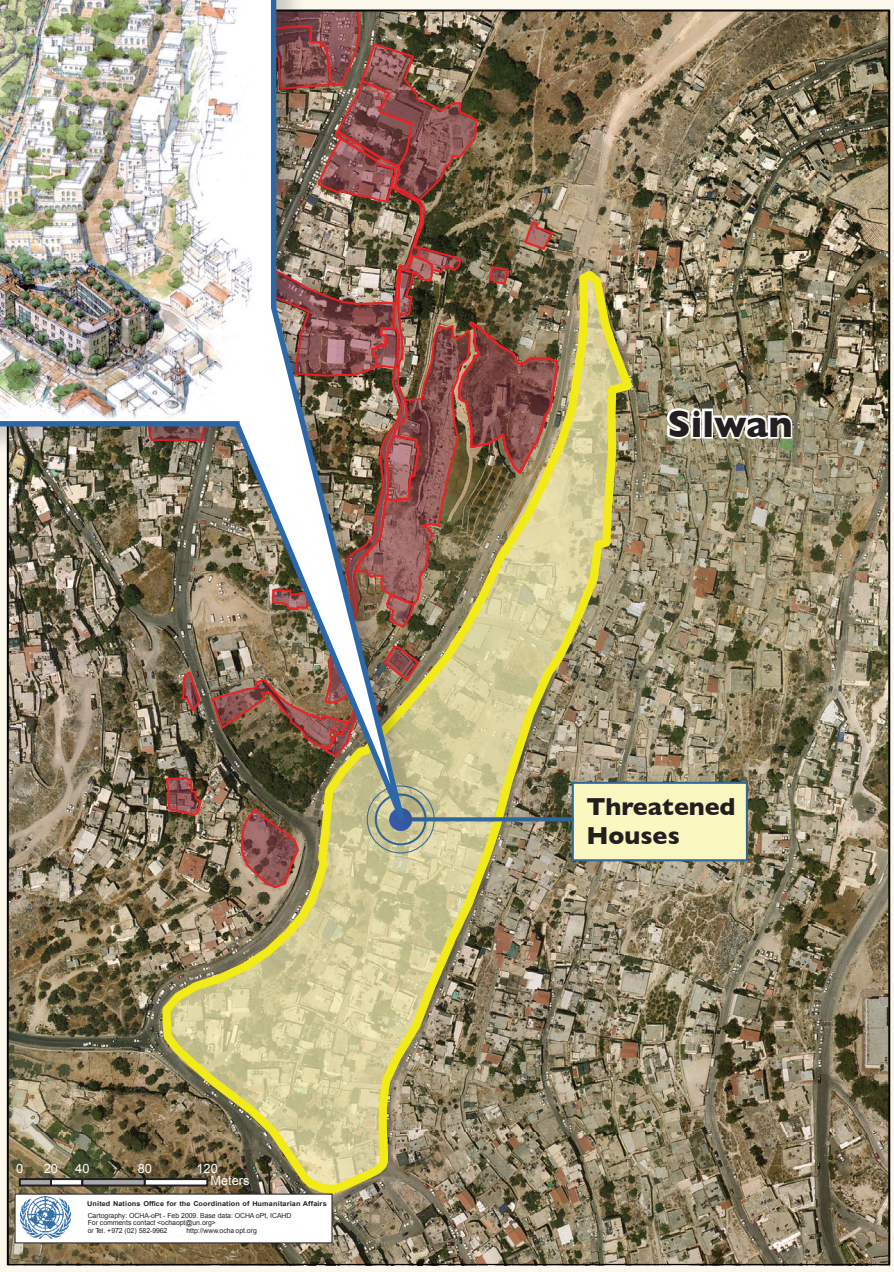


Silwan, photo by JC Tordai, 2010.

UNITED NATIONS
Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory

East Jerusalem: Al-Bustan, Silwan

March 2011



Area under threat of demolition

Israeli Settlements and archeological excavations

1949 Armistice "Green Line"

No Man's Land

Open areas

Disclaimer:
The green areas were demaracated based on paper maps (souce: Ir Shalem):
1) Map of the municipal plan for Silwan, plan #2783A
2) East Jerusalem land designation map that delineates the boundary of green areas or open spaces.
The boundary of green areas is of limited accuracy and is shown on the map for illustrative purposes only.

Proximity of Al-Bustan to the Old City

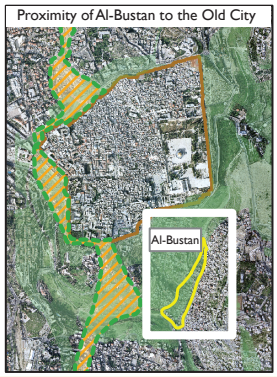


Illustration of plan for Al-Bustan published by Jerusalem Muncipality in March 2010.

3. The Extent of 'Illegal' Construction

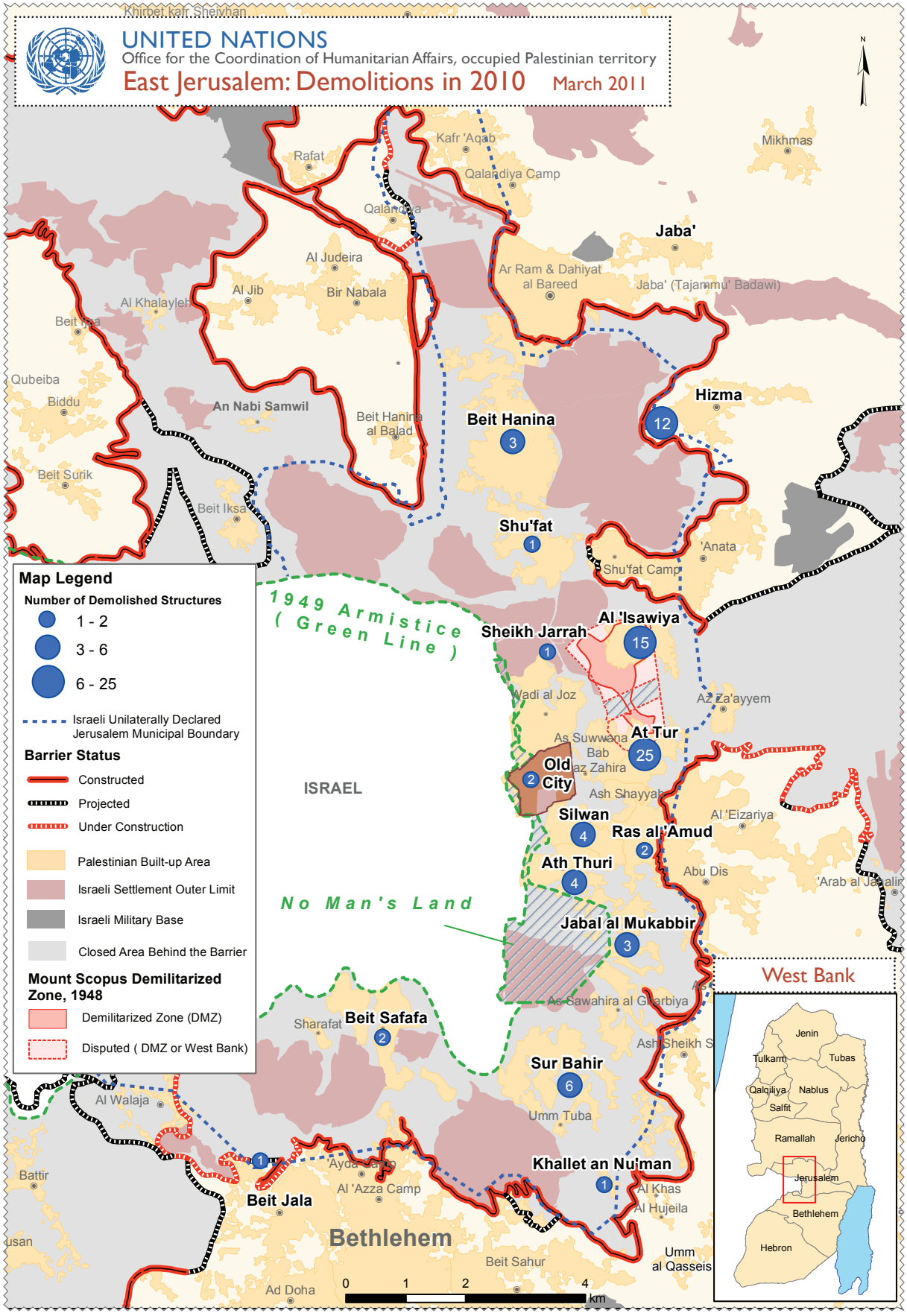
Based on various sources, OCHA estimates that at least 32 percent of all Palestinian homes in East Jerusalem have been built in violation of Israeli zoning requirements. As a result, at least 86,500 Palestinian residents (out of East Jerusalem's approximately 270,000 Palestinian residents) are potentially at risk of having their homes demolished, if the municipality were to demolish all 'illegal' structures in East Jerusalem. This estimate is conservative and the percentage may be as high as 48 percent, leaving as many as 130,000 potentially at risk of displacement.[73]

The phenomenon of 'illegal' construction is not limited to the 13 percent of East Jerusalem where Palestinians can actually apply for permits. For example, in most of the densely-populated Palestinian neighbourhoods around the Old City such as Silwan and Ath Thuri, the natural expansion area has been designated 'green' where no construction is allowed.[74] In these cases, residents must incur the high cost of developing new detailed plans to change the status from 'green' to 'residential' before they can apply for building permits. A similar situation exists in the thirty percent of East Jerusalem land that is not yet planned.

Palestinians who have built without permits face the risk of home demolition and other penalties, including costly fines, confiscation of building equipment, and possible prison sentences. Between 2000 and 2009, the Jerusalem Municipality collected an average of NIS 20.8 million per year (US$ 5.8 million) in such fines.[75] None of these penalties exempts a house owner from the requirement to obtain a building permit.

No reliable data exists on the current extent of 'illegal' construction. Anecdotal information suggests that it has declined in recent years in large parts of East Jerusalem, due to strict enforcement by the Israeli authorities. However, unauthorized construction continues to be widespread in other areas, such as Kafr 'Aqab, which is located on the 'West Bank' side of the Barrier, and where the provision of municipal services, and oversight, is minimal (see Case Study, *Impact of the Barrier on Kafr 'Aqab* in *The Barrier in the Jerusalem Area* chapter of this report).

'Illegal' construction is one of the coping strategies which Palestinians have adopted in the face of the housing crisis in East Jerusalem; there is little data concerning the other strategies currently employed. Over the years, some families have resorted to moving to other areas of the West Bank to find suitable housing, with the risk of losing their residency rights, while others have been left with little choice other than to reside in overly-dense, under-serviced neighbourhoods.



4. House Demolitions and Displacement

Since 1967, the Israeli authorities have demolished thousands of Palestinian-owned structures in the oPt, including an estimated 2,000 houses in East Jerusalem.[76] Since 2000 alone, the Israeli authorities have demolished more than 800 Palestinian-owned structures in East Jerusalem due to lack of permits.[77] Of these, OCHA has recorded the Israeli authorities' demolition of 72 structures in 2010, as well as ten additional structures 'self-demolished' by their owners after receiving demolition orders from the Jerusalem Municipality. Almost 70 percent of 2010 demolitions occurred in neighbourhoods within central East Jerusalem, in areas located between Al 'Isawiya and Jabal Mukkabir.

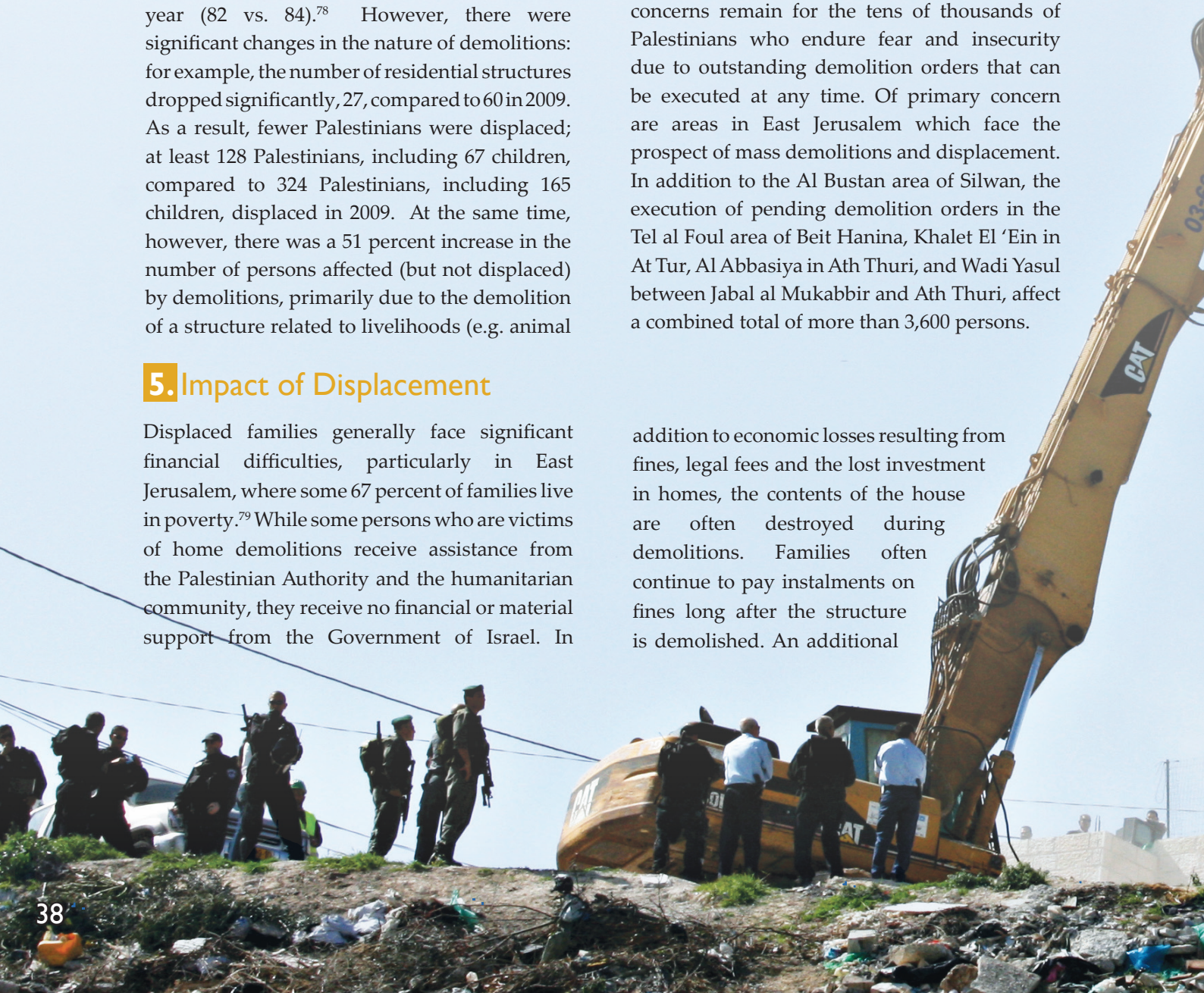
In East Jerusalem overall, the number of structures demolished in 2010 remained basically the same, compared to the previous year (82 vs. 84).[78] However, there were significant changes in the nature of demolitions: for example, the number of residential structures dropped significantly, 27, compared to 60 in 2009. As a result, fewer Palestinians were displaced; at least 128 Palestinians, including 67 children, compared to 324 Palestinians, including 165 children, displaced in 2009. At the same time, however, there was a 51 percent increase in the number of persons affected (but not displaced) by demolitions, primarily due to the demolition of a structure related to livelihoods (e.g. animal barracks, small shops, etc.); 55 such demolitions were recorded by OCHA in 2010, compared to 24 in 2009. This type of demolition has a serious, negative socio-economic impact on Palestinian families (see Box, *Statement on the Increase in House Demolitions in the West Bank and East Jerusalem by the United Nations Humanitarian Coordinator*).

Also of concern is the fact that, following a lull in the first six months of 2010, approximately 90 percent of people displaced or affected by demolitions were recorded in the second half of the year; half of all demolitions recorded in East Jerusalem in 2010 (41) occurred during the last two months of the year.

While there was an overall decrease in the number of persons displaced by house demolitions in East Jerusalem in 2010, serious concerns remain for the tens of thousands of Palestinians who endure fear and insecurity due to outstanding demolition orders that can be executed at any time. Of primary concern are areas in East Jerusalem which face the prospect of mass demolitions and displacement. In addition to the Al Bustan area of Silwan, the execution of pending demolition orders in the Tel al Foul area of Beit Hanina, Khalet El 'Ein in At Tur, Al Abbasiya in Ath Thuri, and Wadi Yasul between Jabal al Mukabbir and Ath Thuri, affect a combined total of more than 3,600 persons.

5. Impact of Displacement

Displaced families generally face significant financial difficulties, particularly in East Jerusalem, where some 67 percent of families live in poverty.[79] While some persons who are victims of home demolitions receive assistance from the Palestinian Authority and the humanitarian community, they receive no financial or material support from the Government of Israel. In addition to economic losses resulting from fines, legal fees and the lost investment in homes, the contents of the house are often destroyed during demolitions. Families often continue to pay instalments on fines long after the structure is demolished. An additional



economic burden following the demolition is the payment of rent, which places considerable stress on already limited financial resources. Combined with psychological distress and debt, displaced families have few alternatives to re-locate, since the land they build on is generally the main family asset.

A 2007 survey of Palestinians whose homes were demolished in the West Bank and Gaza Strip for various reasons, including lack of permit, found that house demolitions are followed by long periods of instability; over 71 percent of surveyed families reported that they moved at least twice following the demolition of their home and over half took at least two years to find a permanent residence.[80] Given their vulnerability, children, who represent over 50 percent of the Palestinian population, are frequently disproportionately impacted by displacement. According to the survey, in the immediate aftermath of a demolition children face interrupted education, a reduced standard of living and limited access to basic services, such as water and health. The survey also found that emotional and behavioural problems persist even after the six month period following the demolition (see Case Study, *After the Demolition).*

> The rise in demolitions at the end of 2010 prompted the UN Humanitarian Coordinator, Mr. Maxwell Gaylard, to call on the Government of Israel to 'take immediate steps to cease demolitions and evictions in the West Bank, including East Jerusalem.' Mr. Gaylard said that Israel's demolition of Palestinian structures and subsequent displacement have a severe social and economic impact on the lives and welfare of Palestinians and increase their dependence on humanitarian assistance,' and that such practices 'raise serious concerns with regard to Israel's obligations under international law.'[81]
>
> STATEMENT ON THE INCREASE IN HOUSE DEMOLITIONS IN THE WEST BANK AND EAST JERUSALEM BY THE UNITED NATIONS HUMANITARIAN COORDINATOR

House demolition in Sur Bahir, photo by Vincenzo Livieri, 2009

CASE STUDY

AFTER THE DEMOLITION

The family home of Amjad and Asma' Taryaki and their three children was demolished in 2009. Amjad, aged 30, is unable to work because of a heart problem and the family survives from his wife's work as a cleaner and from support from their extended families.

During the first years of our marriage we were living with my family and then we bought this piece of land. We didn't build our house from scratch but left the lower part of the existing house in concrete and built the walls and the roof in wood. We were aware that the building didn't have a permit and that's why we didn't construct a big house. On 8 August 2008 we received a demolition order but we didn't expect that it would be implemented any time soon. About a year later, the Border Police came and ordered us to evacuate the house because it would be demolished soon. We didn't leave as we had no other place to go to, but they kept coming for 10 days in a row.

On 12 October 2009, at 7.30 in the morning, while my wife was taking the children to school and I was still sleeping, the Border Police woke me up and ordered me to get out. When my wife came back and saw all the police and the bulldozer she knew what was happening. The police wouldn't let her enter the yard and she started panicking, thinking that I was sleeping while our house was being demolished. She knew that the pills I take for my heart condition make me fall into a very deep sleep. She tried to call me but the police had confiscated my mobile phone.

Photo by JC Tordai, 2010

Photo by JC Tordai, 2010

The Taryaki family in their new home rebuilt by the Israeli Committee Against House Demolitions (ICAHD).

After seeing the demolition of our house, we had an emotional breakdown. The hardest thing was to protect our children. The youngest of them, Tasneem, wet her pants while watching the demolition. Our son, when he came back from school, was asking about his chocolate which was buried in the rubble. He is having a very hard time recovering from the shock and I'm afraid he'll lose this school year. He won't take help from anyone or join in activities organized for children in his situation by a local NGO. Our children have become very aggressive and suffer from bed-wetting.

After the demolition, we put up a tent in the yard and spent a month and a half there, but as winter was approaching it got very cold. One night we decided we couldn't go on like this any longer and took the children to my brother. Since then, we've been going from relative to relative, and sometimes we split the family up as we can't all fit into one house. My wife was suffering from the lack of privacy and, as there were constantly a lot of people around her, she always had to wear her *hijab*.

The rubble from the demolition is still here, but getting a bulldozer to remove it requires a permit, and is very costly. Next to our house there is a little wooden stable where my brother keeps his horse. The police didn't demolish that. I feel that animals are treated better than human beings.

Three months ago we decided to build a small wooden room on the site where our house was located. We've put some mattresses and a little TV there. This Saturday we'll bring some of the furniture that survived the demolition from my wife's sister's house. We're also building a little bathroom next to the room. Our cooking stove is outside but mostly our families provide us with food. If our new shelter is demolished, we will build it again. We have nowhere else to go and no money to rent anywhere else.[82]

CASE STUDY

PLANNING CHALLENGES IN AL 'ISAWIYA

Al 'Isawiya is home to approximately 13,500 Palestinians. About 2,400 dunums of its land are located within the Israeli-defined municipal area of Jerusalem. Prior to 1967, Al 'Isawiya had some 10,000 dunums that stretched toward Jericho, which are now located within the planned 'E1' settlement expansion area near Ma'ale Adummim and Mishor Adummim settlements. In 1968, lands were confiscated from 'Isawiya for the establishment of French Hill settlement, and the expansion of the Hadassah Hospital and the Hebrew University.

Between 1978 and 1992, the Jerusalem Municipality developed a detailed outline plan (2316) for Al 'Isawiya, covering some 666 dunums, or 28 percent of the community's land located within the municipal area. This plan, developed without community involvement, failed to adequately meet residents' housing and other infrastructural needs, remains the basis upon which construction permits and demolition orders are issued in Al 'Isawiya.

In order to better address the needs of Al 'Isawiya, the Israeli organization Bimkom began developing an alternative plan in 2004. Bimkom spent the first two years holding planning workshops with residents, forming a team of planners and related experts, and holding meetings with the Jerusalem Municipality and the District Planning Office. Bimkom prepared multiple drafts of the plan, the last of which covered

1,300 dunums and excluded 200 dunums south of Al 'Isawiya that the Israel Nature and National Parks Authority (INPA) had included as part of its plan for creating a national park between Al 'Isawiya and At Tur.

Since the INPA park plan conflicted with the plan developed by Bimkom, the two sides agreed on some parameters, involving the INPA moving the edge of its park so that it coincided with Bimkom's plan, and a suggestion to zone the area that INPA had reduced from its plan for the construction of public buildings, rather than for housing. In 2007, the Local Planning Committee approved the plan submitted by Bimkom, but indicated that the plan's perimeter should be somewhat modified before submitting the plan to the District Planning Committee.

The successes achieved by Al 'Isawiya residents and Bimkom included the opportunity to request the freezing of individual demolition orders in legal proceedings while the plan was under review, which most residents succeeded in doing. However, the hope for the alternative plan was short-lived; when the Jerusalem Local Outline Plan 2000 ('Master Plan') was published in 2008, only 90 additional dunums were added to the existing municipal plan for Al 'Isawiya (some 750 dunums, compared to the 1,300 dunums covered by Bimkom's plan).

Although Bimkom held a series of follow-up meetings to negotiate changes to the Al 'Isawiya plan, by early 2010 it became clear that the municipality was unwilling to expand its plans for the community. Bimkom has shared this information with community representatives, who are discussing how to proceed.

In 2010, out of 82 structures demolished by the Israeli authorities, 15 were located in Al 'Isawiya. These demolitions mainly targeted livelihood structures and houses under construction, affecting 46 Palestinians, including 19 children.

'Isawiya, photo by JC Tordai, 2010

6. Prospects for, and Constraints on, Current Planning Efforts

The Israeli authorities' prioritization of Israeli settlement construction and expansion, at the expense of properly planning Palestinian neighbourhoods in East Jerusalem, has resulted in a severe housing crisis for the Palestinian population. Compounding this crisis are increasingly difficult living conditions, resulting from the lack of appropriate urban planning which takes into account the informal, dense and under-serviced reality of most Palestinian neighbourhoods and the insufficient investment in public infrastructure and services.

Following the publication in 2009 of a report by OCHA addressing the housing crisis in East Jerusalem, the Jerusalem Municipality issued a statement acknowledging that that the city faces a planning crisis, although disputing facts and figures included in the report.[83] The statement declared that the report is 'about the past,' and suggested that changes would soon occur. However, available drafts of the *Local Outline Plan* and current practices offer little hope. On the contrary, the evidence suggests that the crisis is likely to continue for the foreseeable future, and may worsen, as no fundamental change

CHALLENGING THE SYSTEM: IPCC'S EFFORTS TO IMPROVE PALESTINIAN DEVELOPMENT OPPORTUNITIES

The International Peace and Cooperation Center (IPCC) is utilizing planning as a means of mitigating the Palestinian housing and infrastructure crisis in East Jerusalem. By means of zoning, planning and land re-parcellation initiatives, IPCC is attempting to update or to modify existing planning schemes, including through planning new or empty sites for residential use, or by re-planning and re-organizing existing sites.

IPCC is currently working on three initiatives related to re-zoning areas for Palestinian construction in East Jerusalem. These plans concern parts of Sur Bahir, Beit Hanina and Silwan, and cover some 3,300 dunums. While the planning process is underway in these areas, local residents have been able to freeze demolition orders affecting some 2,500 homes. If the proposed plans are approved, they would allow for the construction of approximately 4,000 new housing units, provided the landowners are able to meet permit requirements.

In Ein Al Loz, an area south of Silwan, IPCC developed a detailed plan covering 387 dunums and including 450 existing housing units. In the process, 60 house demolition orders were frozen. This plan was finalized in October 2010 and will be submitted to the municipality's Local Planning Committee. If approved, it will allow residents of existing structures to apply for permits to 'legalize' their homes as well as allowing for the potential construction of more than 900 additional housing units. IPCC has also submitted an outline plan to the Jerusalem Municipality for Deir Al Amud and Al Mintar area of Sur Baher. This was approved, and now a detailed plan is being developed. As a result of the planning process, 193 demolition orders have been frozen. If approved, the detailed plan will allow for the granting of permits for residential building and the potential construction of 500 new housing units.[84]

Although IPCC initiatives have met with some success, many challenges persist in working within the present planning system. In the Khirbet Khamis area, located to the south of Gilo settlement, an initial plan for the area received preliminary approval and it was included for development in an early version of the *Local Outline Plan* from 2008. However, the land was designated as a 'green' area in a later version (2009), precluding the possibility of residential construction in the area unless it is re-zoned.

in the approach to East Jerusalem's Palestinian neighbourhoods has taken place.

Because the Israeli authorities have largely failed to provide appropriate planning for Palestinians, local communities, together with private planners and Palestinian and Israeli organizations, are attempting to develop planning schemes to meet the needs of the Palestinian population in East Jerusalem, within the limitations of the current planning framework.[85] Although options are limited, there are currently at least six large planning schemes being developed, some of which are being prepared with municipal involvement.

These plans cover some 4,400 dunums of land; they either seek to re-zone land for Palestinian construction or increase housing density limits in specific areas currently zoned for residential construction or located within the expansion areas which are designated for development in the *Local Outline Plan.* In addition to these large planning schemes, individual Palestinians have also submitted hundreds of plans for small areas (e.g. less than three dunums).[86] These smaller plans, however, are often produced with limited resources and do not sufficiently take into account larger existing plans. As a result, they are generally rejected.

Consequently, additional planning is urgently required in many neighbourhoods of East Jerusalem to deal with the impact of decades of neglect, to meet the growing needs of the Palestinian population, and to legalize existing housing units in order to prevent further demolitions and displacement. Because of the shortcomings of many small, privately-funded neighbourhood planning schemes, there is a need to develop new and revised plans that meet Palestinian needs. Additionally, many Palestinian communities face unique planning challenges beyond those highlighted in this chapter. For example, the municipality's plans for a series of parks and 'open spaces' in the environs of the Old City of Jerusalem complicate planning efforts that would meet the natural growth needs of Palestinian communities in this area.[87] Likewise, communities in Barrier-adjacent areas are often forced to plan in light of the *de facto* realities of reduced space and separated communities, rather than planning a Palestinian community as a cohesive whole or as connected to the remainder of the West Bank.

Town planning is a time-consuming and costly enterprise. At present, East Jerusalem planning initiatives are under-funded and existing projects are inadequate for current and future Palestinian population needs. An additional constraint is the limit to which planning activities can significantly mitigate the housing crisis. This is due to a number of factors, including that the *Local Outline Plan* fails to address the existing situation in Palestinian neighbourhoods and provides no real solution to Palestinian housing and infrastructure needs. Moreover, Palestinians are likely to continue to face extreme difficulty obtaining permits, even if the land on which they own is zoned for residential construction.

Given these limitations, there continues to be a strong need for a range of complementary activities, including: legal aid services so that families may challenge pending demolition orders; rehabilitation/repair activities for families living in unsafe or unhygienic structures; immediate and longer-term support for families whose homes or livelihood structures have been demolished; research to understand the depth of the housing crisis and its impact; institutional and financial mechanisms to develop housing units and neighbourhoods for Palestinians; and advocacy efforts, designed to raise awareness regarding Israel's lack of planning for Palestinians in East Jerusalem, its policy of home demolitions and the impact of displacement on Palestinian residents of East Jerusalem.

CASE STUDY

THE HIGH COST OF RENTING IN EAST JERUSALEM

My name is Mohammed and I was born in the Old City of Jerusalem. All my family is still living there. I have been working as an accountant for over 40 years. Recently, I started a second job in order to make ends meet.

Twenty years ago I bought a house in Bir Nabala, outside the Jerusalem municipal border. It was a big villa with a garden. I moved there with my wife and my seven children, including my daughter Leila (17), who is mentally retarded. As the Wall and the restrictions to movement were not in place at that time, access to the heart of the city was easy. It would take me only ten minutes to reach my work place in the Old City. A bus from the Jerusalem Municipality would come and pick up Leila and take her to a special school for children with disabilities in Ras Al 'Amud.

In 2003, we received a letter from the National Insurance, asking us to prove that our centre of life was in Jerusalem. If we had not done that, they would have revoked our social benefits to which we are entitled as residents of Jerusalem. That would have been the first step to fully revoking our status as permanent residents. For us that was a big blow. As residents of Jerusalem, particularly from the Old City, we did not want to lose the right to access the city, especially considering that all my family is still living there. But most importantly, we did not want to lose the social benefits for my disabled daughter. In Bir Nabala there is no specialized institution to take care of her, and without social benefits we would not receive the disability assistance to which she is entitled. Thanks to the school she is attending in Ras Al 'Amud, her condition has improved a lot and she has started speaking.

We were left with no other choice but to move back to East Jerusalem. The only house we could afford was a little two-room apartment in Wadi Joz, too small for me, my wife and the three children that are still living with us. While in Bir Nabala we had a nice villa, we had to adapt to much more modest living conditions in Jerusalem. Our house in Bir Nabala has been left empty. It is not worth renting it out, as rents in Bir Nabala have decreased so much due to the residents leaving because of the Wall and residency laws.

Recently, we have been faced with another problem. Our landlord's sister, who lives in Kafr 'Aqab, on the 'West Bank' side of the Wall, wants to move into our apartment. Although she still lives within the municipal boundary, she's afraid that one day the Palestinian areas beyond the Wall will be given up by the Israeli Government and her Jerusalem ID card will be taken away. We're forced to look for another place to rent in East Jerusalem. We have been looking for five months now and haven't yet found a place we can afford. Rents are so high in Jerusalem because of the demand for housing. Even with my two jobs I wouldn't be able to pay a rent of US$ 700-800, which is the average in East Jerusalem. I wish I could go back to Bir Nabala and live in our old house. I feel trapped and live in constant fear that sooner or later our landlord will force us to leave.[88]

Bir Nabala, photo by JCTordai, 2010

Recommendations

Since 1967, Israel has significantly restricted Palestinian development in East Jerusalem and failed to provide Palestinian residents with adequate urban planning to meet basic housing and development needs. Pending full compliance with Security Council resolutions, and pending a political solution to Jerusalem in the context of a final status agreement, the Government of Israel, as the occupying power, should prioritize planning and zoning to deal with the impact of decades of neglect and ensure that the legal and institutional framework for urban planning and building exists for the current and future needs of Palestinian communities.

To this end, and in consultation with affected Palestinian communities, the Government of Israel should ensure that:

- sufficient land is zoned for Palestinian construction to cover natural growth needs;
- master and detailed plans are fast-tracked and approved;
- sufficient numbers of construction permits are issued to meet annual need;
- adequate infrastructure exists in Palestinian neighbourhoods to support residential and commercial needs.

Pending these measures, the Government of Israel should stop demolishing Palestinian structures in East Jerusalem as well as cease issuing new demolition orders, freeze all pending orders and find comprehensive planning solutions for unlicensed structures.

Har Homa settlement, photo by JC Tordai, 2009

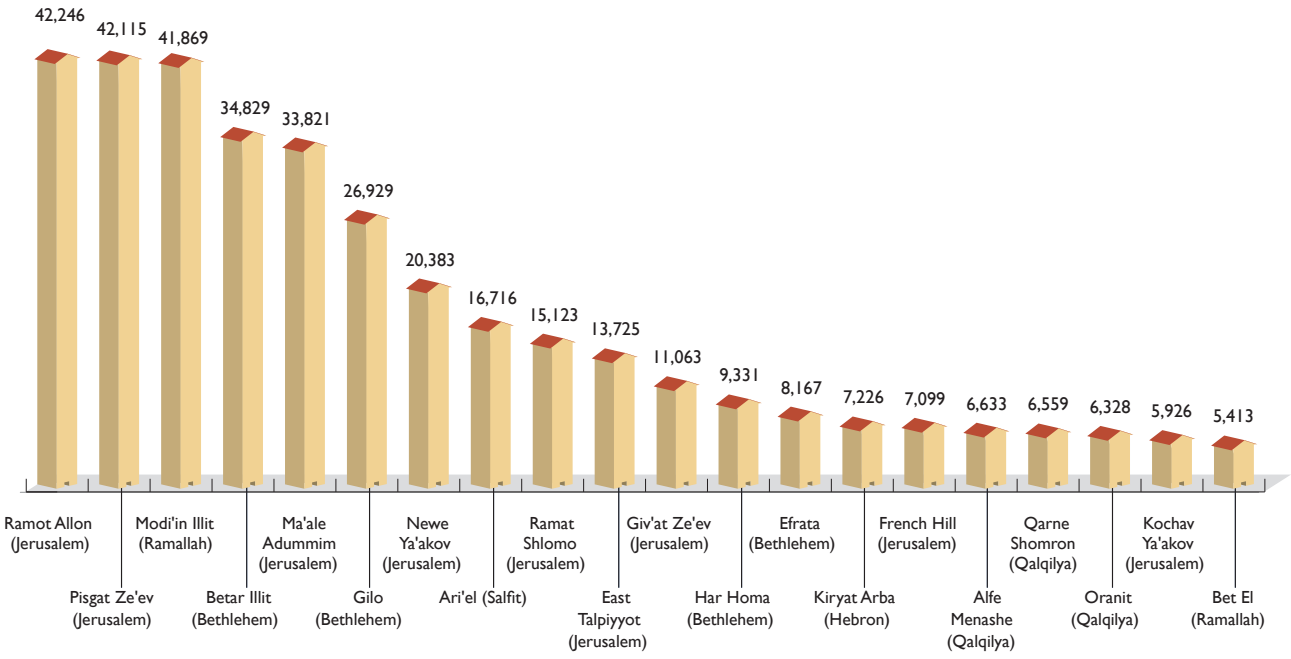
CHAPTER 3

SETTLEMENTS IN EAST JERUSALEM

Key Points

- Since 1967, the Government of Israel has constructed settlements within the extended municipal boundary and in the wider metropolitan area of East Jerusalem, in contravention of international law. The territory expropriated for settlement building and expansion has resulted in a corresponding reduction in the land and resources available for Palestinian construction and development.
- In addition, land and property has been expropriated from Palestinians to create an 'inner' layer of settlements within Palestinian residential areas, in the so-called 'Holy Basin' area.
- The impact of this settlement activity in Palestinian areas includes restrictions on public space, residential growth and freedom of movement. In the most severe cases – in the Old City, Silwan, and most recently Sheikh Jarrah – settler expropriation has resulted in the loss of property and the eviction of the long-term Palestinian residents.
- Archaeological excavations are adding to the public space which the settlers control in Palestinian areas. A government-sponsored 'Open Spaces' project would expand this domain and further constrain Palestinian construction and space in East Jerusalem.

Settlement population in 2008



Source: Jerusalem Institute for Israeli Studies, Peace Now

I. Background

Following the 1967 occupation and subsequent annexation of East Jerusalem and its hinterland, an area of approximately 70 Km^2, the Government of Israel has confiscated approximately 35 percent of the territory, primarily from private Palestinian owners. Twelve settlements have been constructed on this expropriated land, in contravention of international law (see Box, *Settlements and International Law*). These constitute some of the largest settlements in the occupied Palestinian territory, with a population of approximately 200,000.[89] All of these settlements have been incorporated onto the 'Jerusalem' side of the Barrier.

In addition to the settlements located within the Israeli-defined municipal boundary, another layer has been constructed in the wider metropolitan area of Jerusalem, encompassing, among others, the Ma'ale Adummim, Giv'at Ze'ev and Gush Etzion blocs.[90] Although located outside the Israeli-defined municipal boundary, a series of bypass roads, tunnels and other infrastructure provides access between these settlements and the urban centre, at the same time that entry into East Jerusalem is increasingly constrained for West Bank and Gaza Strip residents by permit restrictions and Barrier checkpoints. If the Barrier is constructed as planned, it will also encircle the majority of the 'metropolitan settlements', together with significant reserves of Palestinian land, to which Palestinian farmers face increasing problems of access (see Chapter, *The Barrier in the Jerusalem Area*). An estimated eighty per cent of the settler population in the West Bank now lives within a 25 kilometre radius of Jerusalem.[91]

The large amount of territory expropriated for settlement construction in the Jerusalem area results in a corresponding reduction in the land and resources available for Palestinian residential and commercial growth. The settlements, both 'municipal' and 'metropolitan', have been integrated into the urban fabric, provided with modern infrastructure and services, and supported by a planning and zoning framework which allows for their residential expansion. [92] This is in contrast to Palestinian neighbourhoods of East Jerusalem where municipal services do not meet the requirements of the residents (see Box, *Allocation of resources*), and where a serious housing shortage exists as a result of the failure to provide these communities with adequate planning, as detailed in the chapter *Planning, Zoning and Demolitions in East Jerusalem*.

SETTLEMENTS AND INTERNATIONAL LAW

The construction of settlements and the transfer of settlers into occupied territory are contrary to international law. International humanitarian law, which lays down the rules of occupation, explicitly prohibits the transfer of the population of the Occupying Power into the territory it occupies. The law also prohibits the confiscation of private property or public immovable property and obliges the Occupying Power to administer the territory in a manner that respects the rights of the local population, including by refraining from changing the legal status, character or demographic composition of the territory.[93]

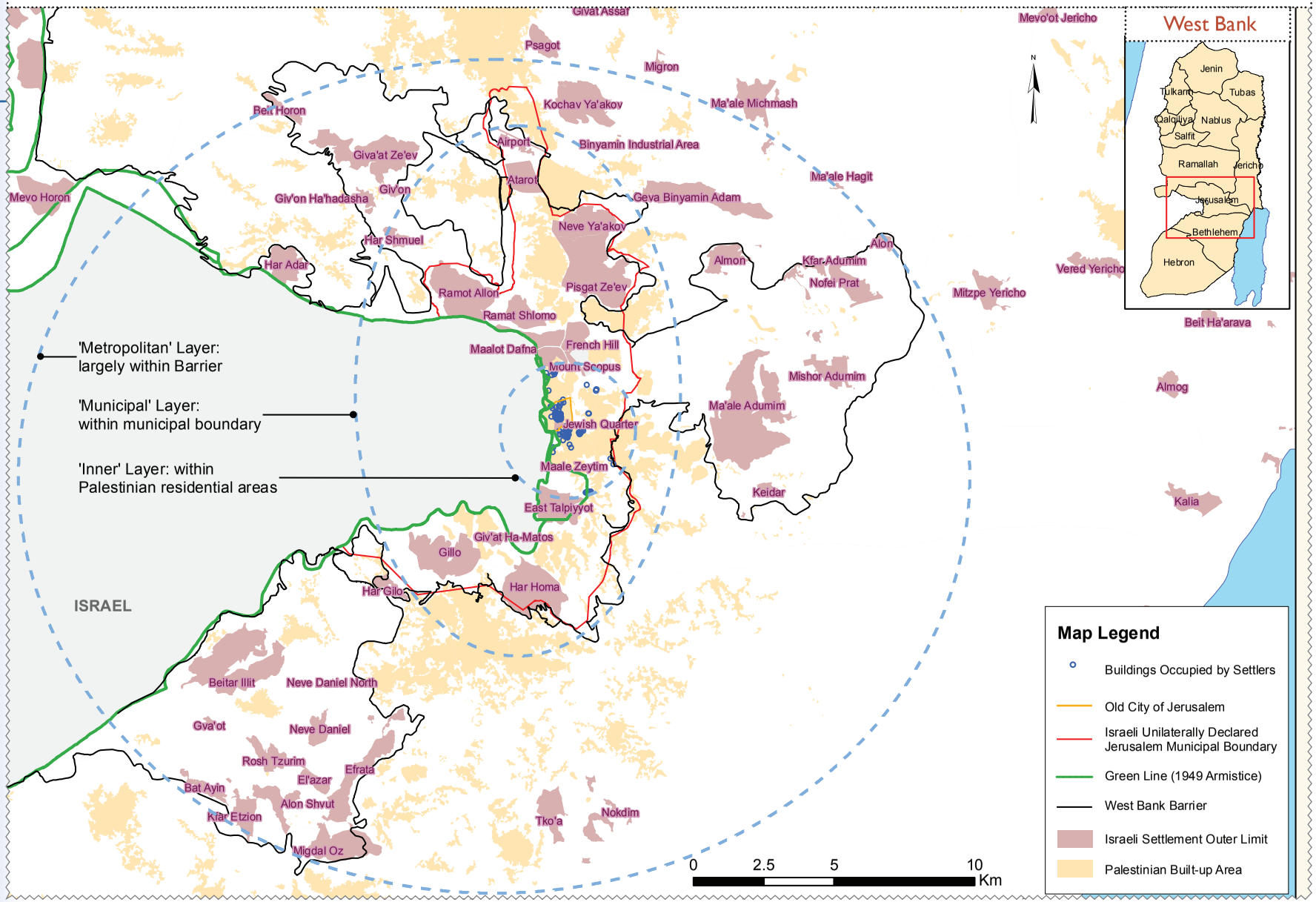
These rules are reinforced by the prohibition on acquisition or annexation of territory by force, anchored in the Charter of the United Nations, and by the various provisions of international human rights law.

The unlawful status of Israeli settlements has been confirmed by the UN General Assembly, the UN Security Council, the UN Human Rights Council, and by the International Court of Justice in its Advisory Opinion on the Wall.[94]

UNITED NATIONS
Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory

Settlement Layers in the Jerusalem Area

March 2011



ALLOCATION OF RESOURCES IN SETTLEMENTS AND IN PALESTINIAN NEIGHBOURHOODS

'The Jerusalem Municipality is responsible for the provision of services to the Shuafat Ridge neighbourhoods outside the Shu'fat Refugee camp. There are close to 10,000 residents in this area. It suffers from a severely underdeveloped infrastructure: few and poorly paved roads, little or no trash collection, and the complete absence of street lamps or landscaping. There are no municipal schools, no parks, no community centers, and no post office. No zoning plan exists for the Ras Hamis, Ras I'Shehada, and Dahiyat al Salaam neighborhoods, so that residents have no means by which to secure building permits. Police service is limited at best. Since 2000, [due to security concerns] both ambulances and fire-trucks require police escort to enter the area, which has resulted in severe delays. Until recently, the area had only one health clinic and no mother and child health facilities.

In comparison, neighbouring Pisgat Ze'ev, an Israeli settlement founded in 1982 in East Jerusalem and home to some 45,000 residents, boasts 14 schools, 6 health clinics, one mother and child centre, and one community center with two branches, as well as modern roads, street lamps, parks, and landscaping. Residents enjoy the benefits of approved zoning plans, and of police, fire protection, and emergency medical services.'[95]

In addition to the 'municipal' and 'metropolitan' settlement layers, there exists an 'inner' layer of settlements in East Jerusalem, which is the main focus of this chapter, given the particular humanitarian impact on Palestinian residents. These settlements are concentrated in the midst of densely-populated Palestinian residential areas, in the so-called 'Holy Basin' area – comprising the Muslim and Christian quarters of the Old City, Silwan, Sheikh Jarrah, At-Tur (Mount of Olives), Wadi Joz, Ras al-'Amud, and Jabal Al Mukabbir. An estimated 2,000 settlers reside in these areas, in houses which have been expropriated by means of the Absentee Property Law; on the basis of alleged prior Jewish ownership; in buildings purchased from Palestinian owners; and in residences custom-built and financed by settler organizations.

Although supported by the state, settler activity in Palestinian areas is spearheaded by well-financed settler organizations, in particular Ateret Cohanim in the Muslim Quarter of the Old City, Elad in Silwan and Nahlat Shimon in Sheikh Jarrah. These groups subscribe to an ultra-nationalistic objective whose 'primary goal is to redeem the land in East Jerusalem and hand it back to the Jewish people.'[96] An additional aim is to pre-empt a negotiated resolution to the question of Jerusalem, by creating irreversible 'facts on the ground' in the Old City and its environs: 'They are aware that controlling strategic points in the east of the city will thwart any option of dividing it, and without a divided Jerusalem there will be no diplomatic arrangement, and any peace process will be doomed to failure.'[97]

Given this ideological context, in addition to residential buildings, settlement in Palestinian areas is also characterized by the presence of educational and religious institutions, and by archaeological excavations and visitor centres. Such institutions emphasize Jewish historical connections and traditions to the exclusion of alternative or complementary Christian and Islamic narratives. As detailed below, there also exists a government-backed initiative to link the 'inner' settlements together with an 'Open Spaces' plan, by creating a series of contiguous parks around the 'Holy Basin' and the eastern slopes of Mount Scopus, which will further constrain Palestinian construction and space in East Jerusalem.

2. Settler activity in Palestinian Residential Areas: Means of Expropriation and Control

In the decades following the annexation of East Jerusalem, land expropriation and settlement construction was concentrated within the expanded municipal boundary and in the metropolitan hinterland: Palestinian residential areas were not initially targeted, with the exception of the Old City.[98] This changed following the ascent to power of the Likud Party in 1977. In 1982, the government set up a special committee 'to locate Arab properties in Jerusalem that could be purchased by the state or acquired under the Absentee Property Law (1950) and then transferred to settlement groups, such as Ateret Cohanim.'[99]

2.1 The Absentee Property Law

The Absentee Property Law was passed by the Government of Israel in 1950. Palestinian landowners who left their residences after 29 November 1947 to any Arab state, or to any area of the Land of Israel located outside the State of Israel (i.e. the West Bank and Gaza Strip), forfeited any property to the Custodian of Absentee Property. In this manner, 'millions of acres of land – primarily in the Galilee and the Negev – [was transferred] from private Palestinian ownership to State ownership… and used to build kibbutzim, *moshavim*, and development towns for the Jewish population of the young state.'[100]

When Israel captured East Jerusalem in 1967, it became possible to apply the Absentee Property Law to the newly-occupied part of the city. 'Use of this law in East Jerusalem could affect tens of thousands of dunums – perhaps up to 50% – of Palestinian private lands in the city. In

THE ABSENTEE PROPERTY LAW IN SHEIKH JARRAH

Two adjacent sites in Sheikh Jarrah, where land and property has been expropriated by the Custodian of Absentee Property, are the locations for projected settlement expansion in the heart of this Palestinian residential neighbourhood. The Shepherd Hotel, which was formerly owned by the Husseini family, was transferred in 1985 to a settler organization, funded by Irving Moskowitz, a US national who is a major donor to settlement projects in East Jerusalem. According to plans submitted to the Jerusalem Municipality, the intention is to build some 90 housing units on the site.[101] At least 20 residential units have already been given formal approval by the Jerusalem Municipality.

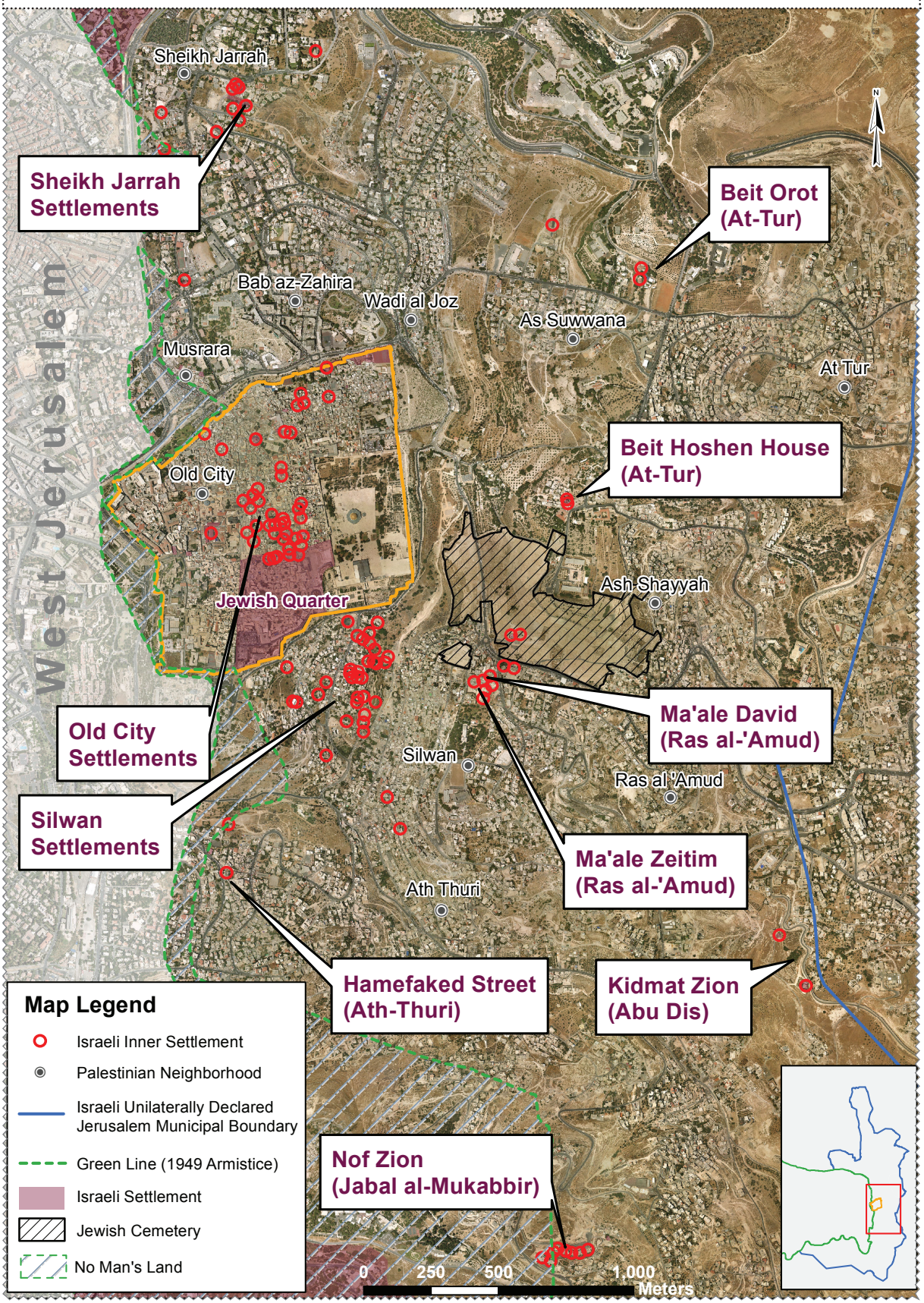
Opposite the Shepherd Hotel is the Karm el Mufti, an olive grove of approximately 40 dunums, named after its former owner, the Grand Mufti of Jerusalem. Expropriated by the Israeli Custodian of Absentee Property in 1967, the land was subsequently leased to the Ateret Cohanim settler association, which intends to build 250 housing units in the area. According to zoning regulations, the land is currently designated as a 'green area' on which all construction should be prohibited.

On 9 January 2011, part of the Shepherd Hotel was demolished, in preparation for settlement construction. This action was widely condemned by the international community, including by United Nations Secretary-General Ban Ki Moon, who deplored 'the destruction of the Shepherd Hotel in occupied East Jerusalem to make way for new settlement units in the heart of a Palestinian neighbourhood, which only serves to heighten tensions.' The Secretary-General added: 'It is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict.'

UNITED NATIONS
Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory

East Jerusalem: Settlements in Palestinian Residential Areas

March 2011



many cases, these lands were owned by people living just over the Jerusalem municipal line – in Bethlehem, Abu Dis, Beit Jala, or Ramallah.'[102] In 1968, then Attorney General, Meir Shamgar, ruled against applying the law.[103] However, the law was never formally cancelled and in the 1980s, under the Likud government, it was used clandestinely to expropriate properties in Silwan and the Muslim Quarter of the Old City from Palestinian owners, which were transferred to the Custodian of Absentee Property, and thereafter to settler organizations.

This lasted until 1992 when the Labour Party came to power, and set up a commission of enquiry into the activities of its predecessor in supporting settler activity in Palestinian areas in East Jerusalem. The Klugman Report 'revealed that the previous Likud government secretly funnelled funds to the East Jerusalem settlers, at times using what appeared to be illegal means.'[104] According to the report, approximately 28 properties in the Muslim and Christian quarters of the Old City were transferred to Ateret Cohanim and approximately 23 properties in Silwan were transferred to Elad.[105] Following publication of the report, use of the Absentee Property Law to expropriate Palestinian property ceased.[106] However, none of the expropriated property was returned to its Palestinian owners: 'To this day, most of the Jewish families in [Silwan] are living in these properties.'[107]

2.2 Appropriation of Alleged Pre-1948 Jewish Property from Palestinian Residents

In addition to applying the Absentee Property Law, settler organizations also make use of the Israeli legal system to lay claim to land or property allegedly owned by Jewish individuals or communities in East Jerusalem prior to 1948. Israeli law recognizes such claims while denying Palestinians the reciprocal right to reclaim land and property in what is now Israel.

This method was initially applied in Silwan, the location of a Yemenite Jewish community prior to 1948, and entailed the eviction of the Palestinian residents from these properties. More recently, it has been used in Sheikh Jarrah where more than 60 Palestinians, including 24 children, have been forcibly evicted from their homes by the Israeli authorities since 2008. Their homes were immediately occupied by members of settler organizations, although the houses in question were constructed in 1956, subsequent to the alleged Jewish ownership of the land.

According to plans submitted to the Jerusalem Municipality, the settlers intend to demolish the entire area, including 28 Palestinian homes, to make way for a new Israeli settlement. The plans threaten to displace over 300 Palestinian residents, most of whom are Palestinian

Sheikh Jarrah, photo by JC Tordai, 2009

refugees who moved to the area under an UNRWA-sponsored housing scheme in 1956.[108] In a nearby residential quarter of Sheikh Jarrah, Kubaniyat Im Haroun, a protracted legal battle came to an end in September 2010 when the Israeli Supreme Court ruled in favour of a settler group which claims pre-1948 ownership of the land. This increases the likelihood of the future eviction and displacement of the estimated 200 Palestinians living in this area, most of whom are refugees: 13 new houses for settlers in Im Haroun were approved in February 2011.[109]

2.3 Purchase from Palestinian Owners

Settler organizations have also purchased land and property directly from Palestinian owners. Given the large sums of money and resources at their disposal and the economically depressed situation in the Palestinian neighbourhoods, direct purchase has met with some success. 'It is not difficult for settler associations to acquire Arab property. All they need to do is find a Palestinian family in dire financial straits or criminal elements seeking easy money, purchase property from them via a 'straw' Arab middleman, and wait for the right moment to seize the property openly.'[110] In Silwan, given the large number of outstanding demolition orders, residents 'say that representatives of the settlers approach them and promise that if they sell their real estate to Jews, the legal procedures against them will be dropped.'[111] In addition, in some cases such acquisitions have involved dubious purchase, 'through a process which involve, according to witnesses and accomplices – and according to Israeli court rulings – threats, false depositions, forged documents, and posthumous witness signatures.'[112]

2.4 Appropriation of Public Space and Historical Narrative

In addition to establishing a residential presence, settlement activity in Palestinian areas of East Jerusalem is also characterized by archaeological excavations, the creation of tourist sites and visitor centres and – as described below – plans to encircle the 'Holy Basin' with a ring of open spaces and national parks.

City of David, Silwan, photo by JC Tordai, 2010

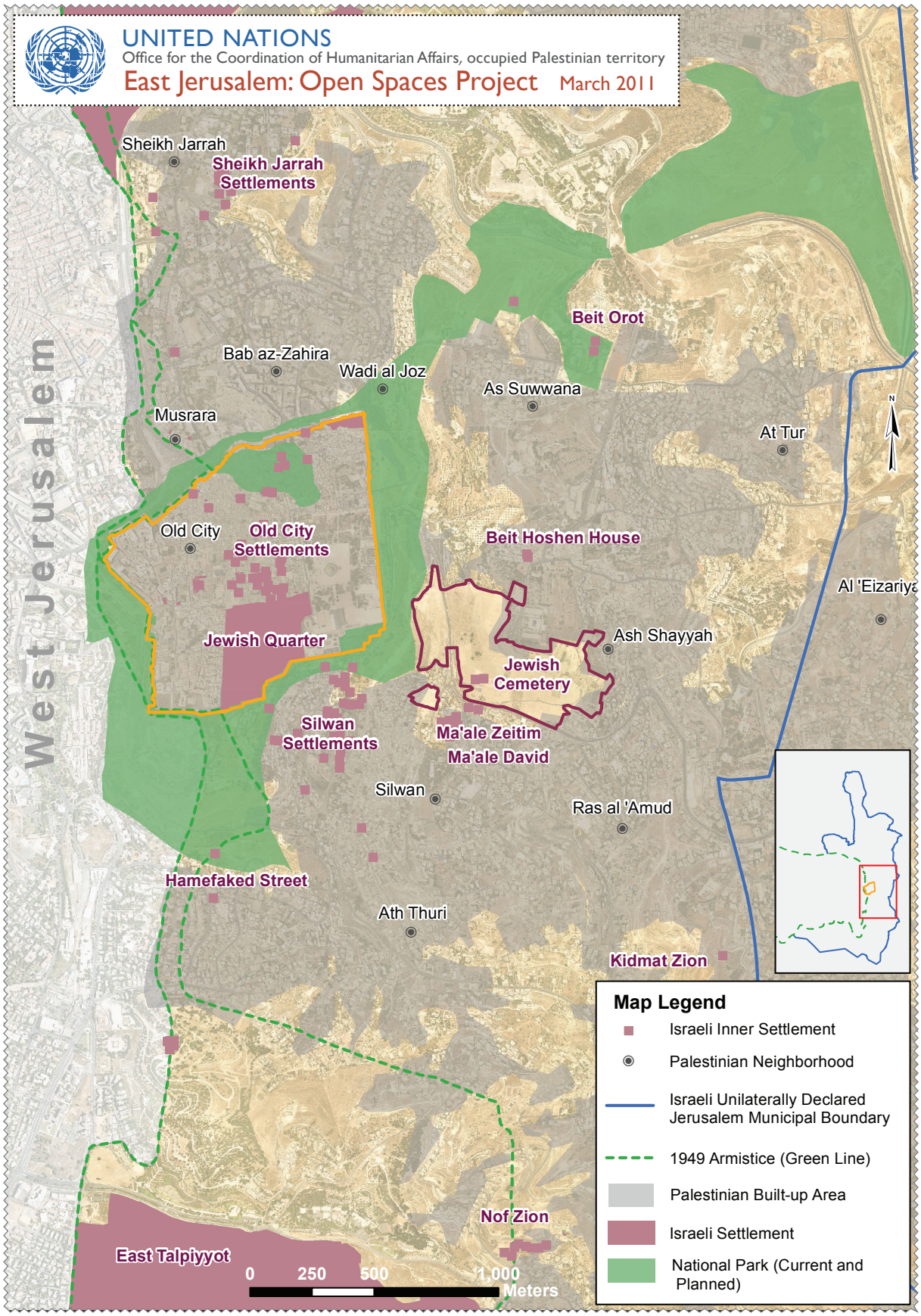
Archaeological activity is currently concentrated in the Wadi Hilweh area of Silwan, in the City of David National Park. The Israel Lands Authority has handed over 'guardianship and maintenance' of the park to Elad, and the Jerusalem Municipality its powers, in both cases without public tender.[113] In 2007, Elad established the City of David Visitor's Centre at the site, which attracts hundreds of thousands of visitors a year.[114] In addition to collecting entry fees, Elad conducts guided tours which attract foreign tourists, Israeli school children and soldiers, and which emphasise the Jewish character of the site, while downplaying or ignoring other historical and contemporary aspects.[115] As part of its archaeological activity, Elad is also excavating a tunnel under Wadi Hilweh under private homes without the knowledge of the Palestinian inhabitants, until in January 2008, parts of the main road in Wadi Hilweh began to subside.[116]

2.5 The Open Spaces Project[117]

In August 2005, the Israeli Cabinet adopted Resolution 4090 entitled 'Prioritizing: Bolstering the City of Jerusalem.' The project, to be administered by the Jerusalem Development Authority (JDA), has among its main aims 'to strengthen the status of Jerusalem as the capital of the State of Israel and to allocate NIS 60 million in each of the budgetary years of 2006-2013 for the renovation, development, and maintenance of the Old City basin and the Mount of Olives.' The plan contains the 'Open Spaces' project; a plan for renovation and the maintenance of the Jewish cemetery on the Mount of Olives; and a comprehensive plan for the Old City, including renovation of its infrastructure and gardening around the walls.

The 'Open Spaces' project includes a plan to create a 'sequence of gardens that will adorn the Old City' – a series of contiguous parks around the 'Holy Basin' and the eastern slopes of Mount Scopus, to be linked together by terraces and trails. The plan covers Sheikh Jarrah, Wadi Al Joz, As Suwwana, At-Tur (Mount of Olives), Silwan, and Ras al 'Amud – the Palestinian neighbourhoods which are the focus of settler activity. The project envisages activities which are already being undertaken by settler organizations in these areas, including a plan to establish an information centre on the Mount of Olives – which already exists and is run by Elad – and the creation of an 'Archaeological experience' in the Tsurim Valley Park, which resembles the Elad Sifting Centre already operating in that location.[118] As with Elad's ongoing activities in Silwan, the 'Open Spaces' project, although almost exclusively focused on East Jerusalem, emphasises the Jewish connection to the area while not referencing Muslim connections and with few references to Christian sites.[119]

Completion of the plan will further constrain Palestinian construction and space in East Jerusalem, from the demolitions necessary for creating the King's Garden in Silwan – incorporated into 'Open Spaces' plan – to establishing 'a biblical park that tells the story of Jewish pilgrims' in an open area between Sheikh Jarrah and Wadi Al Joz.[120] Conversely, the plan provides a contiguous linkage between the existing settlements in the 'Holy Basin', from Sheikh Jarrah to Silwan: 'those sites match and complement the plan on the one hand, while the plan completes the Israeli territorial contiguity and dominance they presently lack on the other.'[121] Indeed the project's ambitions transcend the territory covered by the 'inner' settlements, for it also include the Mount Scopus slope, 'the site of a proposed, yet-to-be approved National Park overlooking the Judean Desert … which will create a physical link and its visual basin and the E1/Ma'ale Adummim settlement bloc to the east of the city.'[122]



3. Impact of settlements and related infrastructure on Palestinians

3.1 Restrictions on Public Space and Residential Growth

As with the 'municipal' and 'metropolitan' layers, the 'inner' settlements in East Jerusalem have a negative impact on local residents in terms of restrictions on public space and residential growth. Silwan which, together with neighbouring Ras al 'Amud, is home to 32,000 Palestinians,[123] suffers from severe overcrowding, a lack of housing constructed with the necessary building permits and inadequate services. While the majority of the Elad activity is permitted on the grounds of 'salvage excavations', local residents 'are not allowed to develop anything in their neighbourhood, not even public institutions, under the pretext that they live on an historic and archaeological site.'[124] In Silwan, the majority of Elad excavations are 'fenced off and closed to the general public, preventing the entrance of residents to large spaces that, until the 1990s, were part of the public space in Silwan.'[125]

In addition – as discussed in the chapter on planning and zoning in this report – municipality plans to create the 'King's Garden' in the adjoining al Bustan neighbourhood of Silwan, will result in the mass demolition of Palestinian homes in the neighbourhood to make way for an archaeological park. The 'Open Spaces' project will further restrict available space in the wider Holy Basin area: 'all the open spaces that could potentially serve the development of Palestinian neighbourhoods are listed in the plan.'[126]

3.2 Restrictions on Freedom of Movement and Intrusion on Private Space

One of the first, and most enduring, consequences of a settler presence on Palestinians is restriction on their access and movement: 'Residents testify that roadblocks are put in place frequently when mass events take place in the Jewish settlements in Palestinian neighborhoods, including private events. Police prevent Palestinian passage while allowing settlers and their guests to go through.'[127]

In addition, there is a more general reduction on personal space resulting from the widespread presence of 'surveillance cameras that can record local residents' every move in their courtyard or in their private rooms.'[128] In Silwan and the Old City, Palestinian women share common space in settler-occupied buildings: 'As a result, women are forced to cover their heads within their homes, to dress and behave modestly at all times, and to conduct themselves with the knowledge that 'Big Brother' is constantly watching them – an unwelcome partner to their personal pains, pleasures, and their day-to-day lives.'[129]

3.3 Friction and Violence

Clearly, the close proximity of settler and Palestinian residents – in particular if the settlers have taken up residence in part or the whole or part of the house of the former Palestinian tenant or neighbour – magnifies the potential for tension and violence. In both Silwan and Sheikh Jarrah, the added security attendant on a sustained settler presence restricts the freedom of movement of residents and their visitors, particularly on Jewish holidays. The situation in Sheikh Jarrah, in particular, has deteriorated sharply since the forced evictions in August 2009, resulting in increasing tension and frequent clashes between the settlers and the Palestinian residents.

In Silwan, tensions are more long running, often sparked by the pervasive presence of armed private security guards, who are contracted by the Ministry of Construction and Housing: 'Each settler receives comprehensive and broad personal protection: settlers are provided 24-hour close bodyguard accompaniment, whether

CASE STUDY

TESTIMONY OF RIFQA AL KURD

On 1 December 2009, a group of settlers, accompanied by armed guards, entered and took control of a part of the home of the Rivka al-Kurd family in the Sheikh Jarrah neighbourhood of East Jerusalem. The group proceeded to empty the home of its contents, throwing furniture and personal belongings of the family out on the street.

"The settlers are not living in my house permanently. They come in groups, dance, pray and swear against us. Then they leave again, and others come after a while. I can't see what is going on inside the house because they covered all the windows with cardboard and Plexiglas. I can't go close to the house because there are cameras all around and the police would come if I tried to. We often are physically attacked: they sent my daughter, who is aged 50, to the hospital four times. They know she has heart problems and they always hit her close to her heart. Once, if it had not been for a neighbouring doctor who rushed and helped her, she would have died."[130]

Rifqa Al Kurd on the day of the takeover of her house, photo by JC Tordai, 2009

by foot or by vehicle; and in some locations they are provided transport in heavily armored cars.'[131] In light of this friction discussed below 'many children are reluctant to play in the streets and some parents have forbidden their children from playing outside the house, fearing encounters with security guards.'[132]

In 2010, human rights organizations reported a sharp increase in the number of children arrested by the Israeli authorities in Silwan, in particular following the killing in September of a Palestinian resident by a security guard.[133] In November, a group of 60 prominent Israeli educators, doctors, writers, judges, social workers and legislators addressed the issue with a letter to the Israeli Prime Minster, the Israeli President, and the Attorney General, as well as other political leaders. They called into question the legality of the current police procedures in Silwan, and voiced concerns about the reported mistreatment of children held in Israeli custody and the use of harsh interrogation techniques during police questioning. According to these professionals, the Israeli authorities are failing to abide by measures included in Israeli law that are specifically designed to protect children in conflict with the law. As a result, there are concerns that reported mistreatment may have a severe psychological impact on the children and can result in nightmares, insomnia, bed-wetting. Additionally, it may prove detrimental to their development and lead to future violent behaviour patterns as the children reach adulthood.

3.4 Forced Displacement

In the most severe cases, in the Old City, Silwan, and most recently Sheikh Jarrah, settler expropriation of Palestinian property – whether through the Absentee Property Law, court orders, direct purchase or unilateral measures by the settlers themselves – has resulted in the loss of property and the eviction of the long-term Palestinian residents. Such forced displacement has grave physical, social, economic and emotional impact on the Palestinian families concerned. In addition to depriving the family of a home – its main asset and source of physical and economic security – displacement frequently results in disruption in livelihoods, increased poverty and a reduced standard of living, as well as limited access to basic services, such as water, education and health care. Families may also be obliged to refund the municipality for the expenses related to their own eviction. The high legal fees families incur when defending their case in court add another financial burden to their already impoverished situation (see Case Study, *The Financial Cost of an Eviction*). The impact on children is particularly devastating, including post-traumatic stress disorder, depression, anxiety and reduced academic achievement.[134]

Settlers on the top of Al Ghawi home, Sheikh Jarrah, photo by JCTerdal, 2009

CASE STUDY

THE FINANCIAL COST OF AN EVICTION

Nasser Ghawi with the possessions of his house, photo by JC Tordai, 2009

After being evicted from our house in Sheikh Jarrah in August 2009, we were asked to pay a fee of NIS 13,000 to cover the expenses of the municipality workers, police and the truck involved in the eviction and the removal of our furniture. In fact, our furniture was dumped on the road near the UNRWA headquarters and a large part of it was stolen.

Our home was immediately taken over by the settlers, so we put up a protest tent on the street in front of the house. Eight people from our extended family would sleep in it. Three months later, the settlers living in our house complained to the police that the tent spoilt their view and the municipality came to remove it. A few hours later, we put up a new tent. Some days later, the municipality came and tore it down. This was repeated 17 times and every time our tent was demolished, we had to pay NIS 430 to cover the costs, for a total amount of NIS 7,310. In addition to that, one has to add the cost of a new tent, amounting to NIS 280 every time.

Like the Hanoun family evicted on the same day, we are still paying the settlers' utility bills as the house is still registered in my father's name. For example, in January 2010 we received an electricity bill of NIS 12,087, covering many months, and in February NIS 726. They come and kick us out and we have to pay their bills! But I pay as I don't want to give them any excuse to say that the house is not ours.

I estimate that I will also have to pay around NIS 550,000 for legal costs. I have not been notified yet, but Maher Hanoun, whose family was evicted the same day as mine, was asked to pay that amount and I expect this to happen to us as well. I am currently living with my family of seven in a rented apartment in Shu'fat. The rent amounts to US$ 800 a month, which increases the financial burden caused by the eviction.[135]

Recommendations

Since 1967, the Government of Israel has expropriated land from Palestinians to construct settlements in the Jerusalem area, in contravention of international law.

The Government of Israel should:

- Cease evicting Palestinian residents and restore the properties taken over by settler organizations.
- Ensure the protection of residents, including from settlers and security guards.
- Stop all settlement construction/activity in East Jerusalem, including facilitating the settlement of its citizens within Palestinian neighbourhoods.

Har Homa settlement, photo by JC Tordai, 2009

Photo by JC Tordai, 2009

CHAPTER 4

THE BARRIER IN THE JERUSALEM AREA

Key Points

- In summer 2002, following a renewed campaign of suicide bombings by Palestinian militants in Israel, the Government of Israel approved construction of a Barrier with the stated purpose of deterring suicide bombers in the West Bank from entering Israel.
- Construction of the Barrier in East Jerusalem started in 2002. The section which runs through the Jerusalem governorate measures 142 kilometres, with only four kilometres of its completed length running along the Green Line. It deviates 14 kilometres into the West Bank at its widest point.
- Construction of the Barrier in the greater Jerusalem area is effectively re-drawing the geographical realities: all of the 'municipal' and the majority of the 'metropolitan' settlements are included on the 'Jerusalem' side of the Barrier. The Barrier is also compounding the separation of East Jerusalem from the rest of the West Bank.
- Certain Palestinian communities in East Jerusalem find themselves on the 'West Bank' side of the Barrier, and now need to cross checkpoints to access the health, education and other services to which they are entitled as residents of Jerusalem.
- Conversely, certain West Bank localities are 'dislocated' to the 'Jerusalem' side of the Barrier and face uncertain residency status, impeded access to basic services and risk of displacement.
- West Bank neighbourhoods and suburbs of East Jerusalem, which were once closely connected to the urban fabric, are now walled out, with devastating social and economic consequences.
- The Barrier also separates rural communities from their land in the Jerusalem hinterland, resulting in impeded access for farmers and a decline in their agricultural production and livelihoods.

1. Background

The Barrier in the Jerusalem area transforms the geography, economy and social life of the Israeli-defined municipal area of Jerusalem, and also of the wider metropolitan area. In the areas where it follows the municipal boundary, the Barrier physically separates Palestinian communities onto either side of what had previously been a jurisdictional division. Thus, certain West Bank neighbourhoods and suburbs that were once closely connected to East Jerusalem are now walled out, with previously flourishing residential and commercial centres closing down. The Ramallah and Bethlehem urban areas, which have historically been connected to East Jerusalem, are also physically separated from the city by the new divide.

Where it diverges from the municipal line, the Barrier places Palestinian communities within the Jerusalem municipal boundary on the 'West Bank' side of the Barrier, thereby affecting 'a substantial reduction, *de facto*, in the Palestinian residents in the city.'[136] Conversely, in other areas, West Bank communities are dislocated to the 'Jerusalem' side of the Barrier, which impacts their residency status and their daily access to health and education services. In addition to its impact on the urban centre, the Barrier also separates rural communities from their land in the Jerusalem hinterland, resulting in impeded access for farmers and a decline in their agricultural production and livelihoods. The multilayered impact of the Barrier is summarised in the table below.

In terms of its wider impact on the Palestinian population of the oPt, the Barrier physically severs the connection between East Jerusalem and the rest of the West Bank. Before the Barrier was built, permit requirements for West Bank and Gaza Strip Palestinians were enforced at checkpoints and with random spot checks, but accessing East Jerusalem from the West Bank was still physically possible without a valid permit.

INTERNATIONAL COURT OF JUSTICE (ICJ) ADVISORY OPINION ON THE BARRIER, JULY 2004

In summer 2002, following a renewed campaign of suicide bombings by Palestinian militants in Israel, the Government of Israel approved construction of a Barrier with the stated aim of deterring suicide bombers in the West Bank from entering Israel.[137] As of July 2010, approximately 61.4 percent of the projected 707 kilometre length is complete; a further 8.4 percent is under construction and 30.1 percent is planned but not yet constructed. When completed, the majority of the route, approximately 85 percent, will run inside the West Bank, including East Jerusalem, rather than along the 1949 Armistice (Green) Line.[138]

It was the route of the Barrier, rather than the structure itself, which was the focus of the International Court of Justice (ICJ) advisory opinion on *the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, in July 2004. The ICJ recognised that Israel 'has to face numerous indiscriminate and deadly acts of violence against its civilian population' and that it 'has the right, and indeed the duty, to respond in order to protect the life of its citizens. [However], the measures taken are bound nonetheless to remain in conformity with applicable international law.'[139] The ICJ stated that the sections of the Barrier route which ran inside the West Bank, including East Jerusalem, together with the associated gate and permit regime, violated Israel's obligations under international law. The ICJ called on Israel to cease construction of the Barrier 'including in and around East Jerusalem'; dismantle the sections already completed; and 'repeal or render ineffective forthwith all legislative and regulatory acts relating thereto.'[140]

The Court's Advisory Opinion stated that UN member states should not recognize the illegal situation created by the Barrier and should ensure Israel's compliance with international law. UN General Assembly Resolution ES-10/15 of 20 July 2004, demanded that Israel comply with its legal obligations as stated in the ICJ opinion.

Since 2007, with the completion of much of the Barrier in the Jerusalem area – much of which consists of a nine-metre-high cement wall – the possibilities for those without permits to reach the city are significantly reduced, particularly impacting access to health and education (see relevant chapters in this report), and to Muslim and Christian places of worship, (see Case Study, *Access to Religious Sites in East Jerusalem*). For those Palestinians granted permits, access is restricted to only four Barrier checkpoints (Qalandiya, Gilo, Shu'fat and Zaytoun), which can cause long delays, particularly during rush hours. The handover of Barrier checkpoints in the Jerusalem area to the Israeli Crossing Points Administration (CPA) is also expected to significantly affect humanitarian access into East Jerusalem on the part of UN agencies and their NGO partners.[141]

In East Jerusalem, as in the remainder of the West Bank, the location of Israeli settlements, including land allotted for their future expansion, constitutes one of the principal factors for the deviation of the route of the Barrier from the Green Line.[142] All the settlements which have been established within the municipal boundary since 1967 have been included on the 'Jerusalem' side of the Barrier. However, if the Barrier is completed as planned, while certain Palestinian localities are walled out the large 'metropolitan' settlements in the wider Jerusalem area, located outside the municipal boundary, will be also be encircled and brought onto the 'Jerusalem side'. These comprise the Adummim settlement bloc to the east of Jerusalem, where some 53 km^2 of West Bank territory surrounding Ma'ale Adummim, will be enclosed by the Barrier.[143] In the north, the Barrier has encircled Giv'at Ze'ev settlement, in the process cutting off approximately 34 km^2 of land from the Jerusalem and Ramallah governorates. In the south, approximately 64 km^2 of some of the most fertile land in the Bethlehem governorate will be enclosed by the Barrier, including the Gush Etzion settlement block.[144]

Impact of the Barrier: categories of communities affected

Category	Communities affected	Impact
1. East Jerusalem communities on the 'West Bank' side of the Barrier	• An estimated 55,000 Jerusalem ID holders affected in Kafr 'Aqab, and Shu'fat Refugee Camp and surrounding areas.	• Impeded access to services on the 'Jerusalem' side of the Barrier and lack of municipal services in situ. • Security vacuum and increasing lawlessness and crime. • Location of choice for families of mixed Jerusalem/ West Bank residency status.
2. West Bank communities on the 'Jerusalem' side of the Barrier	• Approximately 2,500 affected, the majority West Bank residents, in 16 communities.	• Uncertain residential status, special permits and coordination mechanisms required to reside in current location and to cross checkpoints. • Impeded freedom of movement and access to services.
3. West Bank communities/ Jerusalem suburbs severed from their historic ties to the urban centre	• An estimated 145,000 people affected in Al 'Eizariya, Abu Dis, Bir Nabala, Ar Ram, Dahiyat al Bareed and Biddu enclaves.	• Closing of businesses and economic decline. • Decrease in the value of land and real estate. • Exodus of residents with Jerusalem ID cards to 'Jerusalem' side of the Barrier.
4. West Bank communities restricted from access to agricultural land	• Biddu enclave in north Jerusalem governorate. • Bethlehem, Beit Jala & Beit Sahur in the south.	• Restricted access through agricultural gates, dependent on special coordination regime or permits. • Declining agricultural livelihoods.

2. Humanitarian Impact

2.1 East Jerusalem Communities on the 'West Bank' Side of the Barrier

As a result of the Barrier's deviation from the municipal boundary line, as many as 55,000 Palestinian residents of East Jerusalem are now physically separated from the urban centre. The localities primarily affected are Kafr 'Aqab in the north; Shu'fat Refugee Camp, part of 'Anata and Ras Khamis in the east; and parts of As Sawahira Ash Sharqiya in the south-east of Jerusalem. As a consequence, the residents of these localities now need to cross a Barrier checkpoint to access the health, education and other services to which they are entitled as Jerusalem residents. In effect, 'this exclusion drastically reduces residents' quality of life, separates them from their city, and reorients them, by default, to the [remainder of the] West Bank.'[145]

As the municipal boundary remains the officially-defined border, these Palestinians retain their status as permanent residents of East Jerusalem and with it the obligation to pay the municipal tax, the *arnona*. However, basic municipal services such as garbage collection and postal delivery, already inadequate, have deteriorated, given their new reality on the 'West Bank' side of the Barrier. At the same time, these localities remain outside the jurisdiction of the Palestinian Authority, which is not authorized to make up for deficiencies in municipal services.[146] The Israeli police seldom enter municipal areas beyond the Barrier, thus creating a security vacuum, manifested in an increase in lawlessness, crime and drug trafficking[147] (see Case Study, *Impact of the Barrier on Kafr 'Aqab*).

In order to provide a 'maximal response to fabric of life' needs', the State of Israel established a 'Jerusalem Envelope Community Authority' in 2005, to ensure that East Jerusalem neighbourhoods separated from the city by the Barrier continue to receive state and municipal services.[148] Although, some measures were introduced,[149] schools and health clinics are still insufficient, road maintenance and garbage collection is minimal, and parks, playgrounds and post offices are virtually nonexistent.[150]

One consequence of the uncertain status of localities such as Kafr 'Aqab is an increase in the number of couples with mixed residency status, where one spouse holds Jerusalem residency and the other a West Bank ID card. These are the only localities where Jerusalem residents can maintain their 'centre of life' in Jerusalem while living with their West Bank spouses, without the need for (or while applying for) the cumbersome process of 'family unification' (see Chapter, *Residency Rights of Palestinians in East Jerusalem*). However, as the Barrier in Jerusalem takes on the appearance of permanency – and following statements by Israeli officials that Palestinian localities located on the 'West Bank' side the Barrier may eventually be relinquished from municipal jurisdiction[151] – the long-term status of these areas is uncertain.

Barrier in Abu Dis, photo by JC Tordai, 2009

CASE STUDY

IMPACT OF THE BARRIER ON KAFR 'AQAB:

INTERVIEW WITH SAMIH ABU RAMILA, DIRECTOR OF THE COMPANY FOR THE DEVELOPMENT OF KAFR 'AQAB

When the Wall was erected, Jerusalem ID holders from neighbouring areas in the West Bank, such as Bir Nabala and Ar Ram, moved here to Kafr 'Aqab to maintain their 'centre of life' in the city and avoid having their ID card revoked. As the Jerusalem Municipality didn't allocate resources accordingly, services were insufficient to meet the increased needs. However, all these new residents were paying the municipal tax, the *arnona*, and expected services in return. The residents were not satisfied with the community centre, made up of people appointed by the municipality. That's why a group of young people, including myself, started looking for alternative ways of serving the residents' needs without challenging, rather cooperating with, the established political system. We founded an organization, the Company for the Development of Kafr 'Aqab, to look after the interests of the residents and act as a bridge between the residents and the municipality.

Samih Abu Ramila, photo by JC Tordai, 2010

The establishment of a health clinic

As people now have to cross a checkpoint in the Wall to access their health services in East Jerusalem, a health clinic was badly needed here in Kafr 'Aqab. However, no Israeli 'health fund' was willing to establish a clinic. We decided to take the initiative and contacted some doctors about opening a clinic. There was some resistance at the beginning, because people didn't dare invest money without being sure the municipality would 'contract' the clinic at a later stage. In the end, we managed to bring together three doctors and four investors and opened the Al Bayan Health Centre. We approached one of the 'sick funds' and asked them to take it over. At the beginning, they only gave us a trial period. However, in three months we managed to attract 2,000 patients from Kafr 'Aqab and the surrounding areas affected by the Wall. When the 'sick fund' saw this would be in its interest too, it decided to contract the clinic and at a later stage even gave permission to open a pharmacy.

A new school

When we complained to the municipality about the lack of educational facilities and the fact that our children had to cross the Wall to go to school, as with the health clinic we were encouraged to arrange everything by ourselves. Two other businessmen and myself invested some money in the project. We found a suitable building which had a building permit, carried out some renovation work to make it comply with the security and health standards, and hired some teachers. The municipality came and checked, and decided to cover part of the expenses, namely the salaries for the staff, and gave us the status of 'recognized unofficial.' As ninety percent of the teachers come from the West Bank, where they are paid less than teachers in Jerusalem, we retain a

portion of their salaries in order to run the school. The rest is covered by student fees and donations from international organizations. The school today serves 2,300 students, from kindergarten to 12th grade. However, there are 1,500 pupils from Kafr 'Aqab enrolled in schools in areas outside the municipal boundary, such as Ramallah, and 2,200 children who are not enrolled in any school at all.

Security

The security situation in Kafr 'Aqab is characterized by lawlessness. The Israeli police don't enter areas beyond the Wall, even if they are still officially part of Jerusalem. The Palestinian Authority police can't intervene here either. As a partial solution, we have formed a committee based on the traditional clan system. The elders from the main extended families in Kafr 'Aqab constitute the committee and mediate in the case of disputes. However, they are not armed and they work on a voluntary basis, so their authority is limited. But it is better than nothing.[152]

Kafr 'Aqab, photo by OCHA, 2009

2.2 West Bank Communities on the 'Jerusalem' Side of the Barrier

By diverging from the municipal boundary, the Barrier places certain East Jerusalem communities on the 'West Bank' side, as described above. Conversely, some West Bank communities are 'dislocated' to the Jerusalem side of the Barrier. This category consists of approximately 16 communities of mixed West Bank and Jerusalem ID card holders who now find themselves on the 'Jerusalem' side of the Barrier. Those who hold West Bank residency are physically separated from the wider West Bank, their previous centre of life: however, they have not been granted the right to reside, or to access services, within the official municipal area. Most of these communities are small, often consisting of a few households. They number, in total, is approximately 2,500 individuals, of whom an estimated 1,500 are West Bank residents.[153]

Of the West Bank residents, approximately 1,000 live in Area C and 500 live within the municipal area. Of those living in Area C, 600 hold 'Seam Zone' permits and the rest have coordination arrangements which allow them to continue to reside in their current locations and to cross through designated checkpoints into the wider West Bank. The remaining 500 reside in eight different locations within the Jerusalem municipal boundary with uncertain residency status, impeded access to basic services and fear of displacement. Some can avail of coordination mechanisms set by the Israeli Civil Administration, whereby a list of names of the members of the community is maintained at the nearest checkpoint, allowing passage in and out of the Barrier. Others, following legal proceedings, have succeeded in obtaining temporary permits which allows them to continue to reside in their homes and cross checkpoints.

Regardless of the type of residency and access arrangement, all 1,500 West Bank residents, except for one family, are denied freedom of movement within East Jerusalem itself, but are restricted to their homes and to the immediate area which separate them from the closest checkpoint. Consequently, they need to cross checkpoints to access services in the West Bank, most importantly education and health.[154] According to the communities affected, they are only permitted to take in limited quantities of food considered appropriate for 'personal consumption' through the checkpoints, with some products prohibited. Their situation mirrors that of the 'Seam Zone' communities in the northern West Bank, who are also isolated between the Barrier and the Green Line.[155] Their customary family and social life is similarly impaired, in that friends and family members from the West Bank who wish to visit them are required to apply for permits to enter Jerusalem, with the result that religious holidays, weddings, funerals and wake-houses take place without the participation of extended families.[156]

People climbing the Barrier in Bir Nabala, photo by JC Tordai, 2010

CASE STUDY

A WEST BANK FAMILY ON THE 'JERUSALEM' SIDE OF THE BARRIER

My name is Kifaya al Khatib and I am 65 years old. I have eleven children, three sons and eight daughters. I moved into this house with my husband in the early 1970s. The land on which our house is built is part of Hizma, most of which is in the West Bank, but our part is within the Jerusalem municipal boundary. The Wall has left our house on the Jerusalem side, some distance away from the main village. We have to pass through Hizma checkpoint in the Wall to reach the rest of the village now. All my children are registered as living with me in the house with their families, but five of my daughters actually live in the main part of Hizma, past the checkpoint on the West Bank side of the Wall.

Our life has changed drastically as a result of the Wall. Even though we live on the Jerusalem side, we are not allowed to be in Jerusalem itself, because we don't have Jerusalem ID cards to reside here or permits to enter the city. The only place I'm officially allowed to be is my home itself and the stretch of road leading to the checkpoint. I can't even visit my neighbours. Some months ago, one of our neighbours passed away and we couldn't go to visit his family to pay our respects. I have been fighting for 20 years to get a Jerusalem ID to reside in Jerusalem. While my neighbours in the same situation received one, I was refused, the reason being that my house is built without a permit. Even though we don't have a building permit, through our lawyer we managed to avoid getting a demolition order. However, when we built an extension for my son's family, it was demolished.

Now that the Wall divides us from the rest of Hizma we managed to get the names of my family registered as living with me put on a list at the checkpoint. This allows them to cross Hizma Checkpoint and enter the few hundred metres of Jerusalem that leads to our house. No other relatives or friends can visit our house unless they have a Jerusalem ID card or a permit. Sometimes, some of my children or members of their families living in Hizma are denied access. In 2008, an Israeli officer came to our house early in the morning, checked who was at home at that moment and removed the names of those who were absent from the list. Only recently have we managed to get them back on the list. We can't own a car because, as West Bank residents, we can't drive a yellow-plated car, and Palestinian cars are not allowed to cross Hizma checkpoint. We can't take taxis either. If a driver is caught driving a West Bank resident without a permit he could have his car confiscated.

Two of my daughters suffer from a disability and are mainly confined to wheelchairs. They are supposed to go to Ramallah every week, where the closest hospital is located, to receive their massage but they never do. To get to the main road where the checkpoint is located, we have to go up a rocky track and my two daughters face huge problems. It takes almost an hour for them to get there. Then they have to go another 200 meters to the checkpoint, cross it, go on some more and take a Palestinian bus or a taxi. No Palestinian doctor or nurse from the West Bank without a permit is allowed to pass through the checkpoint and employing someone from Jerusalem is too expensive. If an emergency took place we would have to carry my daughters all the way to the checkpoint or ask a taxi to take the risk and drive them through the checkpoint. As for myself, I hardly get out of my house either. I only see those relatives who are registered on the list and can enter Jerusalem.

Being stuck on the Jerusalem side of the Wall without the Jerusalem ID card also means that we have to do all our shopping in the West Bank and take the groceries back through the checkpoint where the soldiers check them. Today I went to Hizma village to do shopping for the Ramadan, which starts tomorrow. However, I could not bring in all the food by myself. I am old and the bags were too heavy for me. I had to leave them with my daughter in Hizma and ask her children to carry them through the checkpoint for me. We are only allowed to bring in food for our own consumption. Some types of meat, dairy and eggs are forbidden. That means that we are practically prevented from eating meat, fish, eggs and cheese because we cannot go shopping in Jerusalem either. Sometimes we try and take these products in anyway; how can we live without them? We used to have a little barracks to keep some animals, which were one of our main sources of livelihood. They forced us to demolish it and to sell our animals.

If I think about the future my biggest hope is to be able to feel relaxed and to move freely. The way it is now, we feel like we're living in a cage.[157]

Al Khatib family, photo by JC Tordai, 2010

2.3 West Bank Communities/Jerusalem Suburbs Severed from their Historic Ties to the Urban Centre

Following the expansion of the Jerusalem municipal boundary by Israel in 1967, a number of adjacent Palestinian communities found themselves on the West Bank side of the unilaterally-determined line. Nevertheless, they have benefited historically from their strong links to East Jerusalem, in particular Ar Ram, Bir Nabala, Abu Dis and Al 'Eizariya – 'neighbourhoods located along major roads and historic routes linking East Jerusalem to the main West Bank cities of Ramallah, Bethlehem and Jericho.'[158] 'This connection led to the evolution of mutual demographic, economic and social connections between East Jerusalem and the neighbourhoods surrounding it, which in turn, became extensions of East Jerusalem's natural spatial development. Consequently, they also became connection hubs and social, economic, cultural and political bridges between the West Bank and East Jerusalem.'[159]

Permit restrictions from the early 1990s to restrict entry into East Jerusalem, and physical obstacles imposed during the second *intifada*, weakened these connections somewhat. However, East Jerusalem Palestinians could still access these areas to avail of the cheaper markets. In addition, due to the cheaper real estate prices and rental costs, East Jerusalem residents relocated to areas which were those close enough to allow for continued access to schools, health facilities and workplaces within 'official' East Jerusalem. These communities have been socially and economically devastated by the construction of the Barrier which has 'led to the spatial amputation of these suburbs from East Jerusalem.'[160] As a consequence, East Jerusalem residents are vacating these areas, placing an increased demand on housing and services inside the municipal boundary, in particular on the 'Jerusalem' side of the Barrier.[161]

One such community, Ar Ram, began to develop as a residential and commercial centre in the early 1970s, with a large number of East Jerusalem residents owning and renting apartments and shops. Although located just outside the Jerusalem municipal boundary, it was strategically situated along the main Jerusalem-Ramallah road. Ar Ram, (and adjoining Dahiyat Al Bareed) contained 23,000 residents in 2002, according to Palestinian Central Bureau of Statistics projections. In reality, there were some 50-60,000 residents, according to the local council, with East Jerusalem residents making up over fifty percent of the population.[162] The Barrier now runs down the centre of the main Jerusalem-Ramallah artery, walling out Ar Ram from Jerusalem. With the completion of the Barrier in the area, and the closing of Dahiyat Al Bareed Barrier gate in February 2009, Jerusalem residents are now forced to make a long detour through either Qalandiya or Hizma checkpoints to reach markets and retail outlets in Ar Ram. Isolated from its customer base, by 2010, Al Ram has witnessed the closure of 730 commercial establishments out of the 1,650 operating in 2006.[163]

A similar phenomenon can be observed in other adjacent West Bank localities which formerly served as commercial hubs for East Jerusalem before being severed by the Barrier. In Bir Nabala more than fifty percent of businesses have closed, especially in the area located nearest to the Barrier.[164] Abu Dis has experienced similar consequences, with 40 out of 50 shops along the main road between Abu Dis and Ras al 'Amud – the historic route between Jerusalem and Jericho – shutting down.[165] Because of the impediments to access and movement created by the Barrier and checkpoints, many residents with Jerusalem ID cards have vacated these areas, leaving apartments empty and precipitating an overall decrease in rents.[166]

The Bir Nabala Village Council estimates that there are approximately 600 empty apartments in the community: in Ar Ram 'there is now enough empty residential space to accommodate

Selected Indicators For West Bank Suburbs Of East Jerusalem Before And After The Barrier[167]

	Bir Nabala		Al Ram		Abu Dis	
	Before	**After**	**Before**	**After**	**Before**	**After**
Price of a dunum of land	US$ 100,000	US$ 50,000	US$ 50,000	US$ 100,000[168]	US$ 80,000	US$ 40,000
No. of shops	> 1,000	< 500	1,650	730	n.a.	20-30 fewer
Rent of a 100-150m² flat	US$ 350	US$ 150	US$ 700	US$ 250	US$ 400	US$ 140
Cost of a 100-120 m² flat	n.a.	n.a.	US$ 50,000	US$ 25-30,000	US$ 80,000	US$ 40,000
Travel time to the Old City	 20 minutes	 1 hour	 15 minutes	 45 minutes	 10 minutes	 45 minutes

up to 10,000 people.'[169] As in other walled-out Palestinian localities, residents with Jerusalem ID cards are relocating to the 'Jerusalem' side of the Barrier for fear that their residency status may be compromised: according to the Bir Nabala Village Council, since the Barrier was completed in the area, the number of Jerusalem ID card holders in the community has decreased from around 3,000 in to less than 500 in 2010.

2.4 Communities with Restricted Access to Agricultural Land

In addition to its impact on the urban centre and adjoining suburbs of East Jerusalem, the Barrier also cuts off Palestinian farming communities from their land, particularly in the north-western Jerusalem governorate. In this area, the route creates two enclaves, Biddu and Bir Nabala, surrounded on three and four sides respectively by the Barrier. A sunken 'Fabric of Life' road, which runs underneath the Giv'at Ze'ev settlement area, connects the two enclaves, with designated roads and underpasses linking them separately to Ramallah. Rural communities within the Biddu enclave are not only cut off from East Jerusalem but also from much of their agricultural land, which is now isolated by the Barrier's encirclement of the Giv'at Ze'ev and Har Adar settlements.

In January 2009, the 'closed area' or 'Seam Zone' designation was extended to many areas in the Jerusalem governorate, among other areas in the central and southern West Bank. Previously, farmers were required to register with the Israeli authorities and show their ID cards at the relevant gate (the 'prior coordination' system): now Palestinians needing to access their land are required to apply for 'visitor' permits. Out of 16 crossing points in the Barrier in the Jerusalem governorate (14 gates and two Barrier checkpoints) six now require permits. During the 2010 olive harvest, only eleven farmers were granted permits to cross through these gates: the majority of farmers refused to apply. At the Har Adar/Beit Surik gate, none of the estimated 600 farmers who previously used the gate has gained access to their land since January 2009. The sharp decrease in the number of applicants is mainly attributable to the onerous demands of the new permit system, which in addition to satisfying the security considerations necessary

for all Israeli-issued permits, also requires proving a connection to land in the closed area, including the submission of valid ownership documents.

In the Biddu enclave, the communities of Beit Ijza, Biddu and Beit Surik, have been cut off from almost fifty percent of their agricultural land, now located behind the Barrier in the Giv'at Ze'ev settlement 'finger.' Access to this land is channelled through four agricultural gates, controlled by the Israeli Border Police and Civil Administration, which operate under a cumbersome 'prior coordination' regime (see Case Study, *Biddu Agricultural Gates*).

Only landowners and their relatives can apply to have their names approved on the basis of land ownership documents. This limits the employment of agricultural workers during the harvest season. Prior to the completion of the Barrier – and especially before the second intifada – agricultural production was sufficient to meet these communities' needs and to provide a secondary source of livelihood through selling in local markets. Barrier access restrictions have caused a reduction in agricultural production and a deterioration in the quality of the harvest. The type of crop now cultivated has changed from high maintenances – such as nectarines and grapes – to low maintenance, but also lower yield produce.

In addition, grazing is not permitted on land isolated by the Barrier, which has also affected livestock holding. For example, the 120 households in Beit Ijza used to own approximately 700 head of sheep, goats and cattle before the completion of the Barrier. Reduced grazing land and rising costs of fodder have forced the village to sell most of their livestock, which currently amounts to 60-70 animals. Consequently, families increasingly need to purchase meat, eggs and dairy, in addition to the many types of vegetable and fruit they formerly produced, becoming impoverished and less self-reliant in the process. Due to the combined restrictions on agricultural production and grazing in 2008 and 2009, UNRWA provided 1,718 families, out of a combined population of approximately 1,906 families in the Beit Ijza, Biddu and Beit Surik communities, with some relief assistance. Thus, about 90 percent of the population of the three villages is considered economically vulnerable or living on less than $US 3 a day.[170]

CASE STUDY

BIDDU AGRICULTURAL GATES – REGULATIONS AND OPERATION

Farmers who need to access their land isolated by the Barrier, have to put their names on a list compiled every two weeks, on average, by the Palestinian District Coordination Office, which, on its turn, submits the list for approval to the Israeli District Coordination Liaison (DCL). The DCL will then provide the list with the approved names to the Border Police who, together, staff the gates and control farmers' access. These various layers of bureaucracy involved in this coordination mechanism often mean that approving a list can take up to ten days, during which time the gates are usually closed.

When coordination is approved, the gates open four days a week, two-three times daily; in the early morning for entry, (less frequently) at midday, and in the evening when farmers must return, as they are not permitted to remain on their land overnight. The restrictive opening times prevent the majority of farmers who have supplementary employment from accessing their land after work, as they formerly did before completion of the Barrier. Consequently, many farm their land only during their holidays, with adverse implications for agricultural production and livelihoods. In addition, the gates are usually closed during official Israeli holidays, further curtailing the time available for farming.

Farmers have their permits checked by the Border Police prior to crossing through an agricultural gate to their land, photo by JCTordai, 2010

Recommendations

As the occupying power, Israel is responsible under international humanitarian and human rights law for ensuring that the humanitarian needs of people under its occupation are met, including in East Jerusalem, and that Palestinian residents are able to exercise their human rights, including the right to freedom of movement.

Regarding the Barrier, pending the Government of Israel's compliance with the ICJ advisory opinion and subsequent GA Resolution, including dismantling those parts of the Barrier situated within the oPt, including in and around East Jerusalem, and repealing the permit and gate regime, the Government of Israel, as occupying power, should ensure that:

- Palestinian civilians and humanitarian actors have free access into East Jerusalem. Any security measures should conform to Israel's obligations as an occupying power.

- East Jerusalem residents in neighbourhoods on the 'West Bank' side of the Barrier have full access to the municipal services to which they are entitled.

- West Bank residents on the 'Jerusalem' side of the Barrier are guaranteed freedom of movement and access to their service centres.

CASE STUDY

ACCESS TO RELIGIOUS SITES IN EAST JERUSALEM

The Barrier and permit system also impedes the access of Muslims and Christians who hold West Bank and Gaza Strip ID cards to places of worship in East Jerusalem. Special arrangements are put in place during Ramadan and Easter, but not for Friday prayers or Sunday services the year round. During the month of Ramadan in August 2010, as in past years, the majority of the Muslim population in the oPt was prevented from exercising its right to freedom of worship. Due to the restrictions on access to East Jerusalem, all of the population of the Gaza Strip and over 40 percent of the West Bank population were denied access to Friday prayers at Al Aqsa Mosque. Except for those holding Jerusalem ID cards, only men above 50 and women above 45 years of age, and boys and girls under 12, were allowed to pass without permits; men between the ages of 45 and 50, and women between 30 and 45 were eligible for special permits that needed to be requested in advance.

The access of Christian worshipers to the Church of the Holy Sepulchre during the week preceding the Easter holiday (March 2010) was also severely disrupted. This occurred despite the Israeli authorities issuing thousands of 'special permits' for this population, which were valid even though a 'general closure' was declared that week due to the Jewish Passover.[171] *Due to the complete closure of the checkpoints on the first two days of Passover and the deployment of flying checkpoints within and around the Old City, many families with special permits opted to attend Easter celebrations in Ramallah or elsewhere in the West Bank. Moreover, as under the current regime, a person can be issued only one permit at a given time, Christian workers, businessmen and patients, with valid permits were not eligible for the 'special permits' and were therefore denied access to East Jerusalem due to the 'general closure.'*

The Palestinian Holy Family Scout Group was established in Ramallah in 1996. It brings together 130 members, aged from 6 to 30, the majority of whom are girls. Activities also include social work field trips, partnerships and summer camps.

The Palestinian Holy Family Scout Group, photo by JCTordai, 2010

After performing in Ramallah and Bethlehem during the Christmas holidays in 2009, the group started planning to participate in the Palm Sunday procession, which form part of Easter celebrations in Jerusalem. They introduced new instruments, learnt new tunes and practiced for more than four months. Through the Holy Family Church in Ramallah they applied for permits to access Jerusalem during Holy Week, which were granted for the period 24 March - 7 April 2010.

On Palm Sunday, after their performance in the Holy Family Church, they started out early for the Qalandiya checkpoint, in order to arrive on time for the Palm Sunday procession. However, the checkpoint was crowded and security procedures were very slow, so they decided to drive to Hizma checkpoint. They were aware that only Jerusalem ID card holders are allowed to cross that checkpoint but, based on past experience, they also knew that exceptions are sometimes made when Qalandiya checkpoint is particularly crowded.

At Hizma checkpoint, soldiers got on their buses, took the scouts' documents and left. The Latin Patriarch, who was accompanying them, tried to contact his office in Jerusalem so that they could notify the Israeli Ministry of Religious Affairs in order to ease the procedures, to no avail. After two hours, the group was informed that they were not allowed to pass. Among the 110 scouts were 45 children aged from 6 to 12, who were distressed by the presence of the soldiers and exhausted because of the long wait.

They then attempted to enter Jerusalem through Zaytoun checkpoint in Abu Dis, where access is permitted for West Bank ID card holders with valid permits. However, as this is a pedestrian checkpoint only, the children had to get off the bus. They were checked one by one and finally allowed through, reaching Jerusalem at 4.30 pm. The young children were crying and the senior scouts had to calm them down and to try and lift their mood. The procession, which had started at 2 pm, was coming to an end. However, they managed to join it for the very last part and to perform some of their new songs. [172]

Qalandiya Checkpoint, Ramadan, photo by Patrick Zoll, 2009

Photo by Patrick Zoll, 2009

CHAPTER 5

RESTRICTIONS ON ACCESS TO EDUCATION

Key Points

- Education in East Jerusalem is divided between numerous providers - municipal, private, 'recognized unofficial', *Waqf* and UNRWA. Despite the number of providers, there is a chronic shortage of classrooms and existing facilities are substandard or unsuitable. Pupils are often accommodated in rented houses which do not meet basic educational and health standards. Consequently, parents have to resort to fee-paying alternatives although pupils are entitled to free education under Israeli law.

- Many pupils are not enrolled in any educational institution. Among those enrolled, many fail to complete secondary school, with an especially high drop-out rate of boys aged 12-14.

- Zoning and other planning restrictions in East Jerusalem inhibit both new construction and the expansion of existing buildings. As a result, certain *Waqf* schools are threatened by demolition and sealing orders. Preschool facilities are also inadequate in East Jerusalem.

- With the increasing isolation of East Jerusalem from the remainder of the oPt, teachers and pupils with West Bank ID cards face difficulties in accessing schools in East Jerusalem because of permit restrictions, checkpoints and the Barrier.

- The main campus of Al Quds University is also separated from the city by the Barrier and the institution's certificates are not recognized by the Israeli authorities.

I. Background

As permanent residents, and according to the 1949 *Compulsory Education Law*, all Palestinian pupils in East Jerusalem between the ages of 5 and 18 are entitled to free public education.[173] According to this law, the Israeli Ministry of Education bears overall responsibility for education in East Jerusalem and supervises the Municipal Education Department, which in turn provides the facilities and services. In practice, less than half of the student population attends municipal schools, and the education sector in East Jerusalem is characterized by multiple providers, with little coordination and wide discrepancies in the quality of education offered.[174]

Consequently, there is conflicting data regarding the number of schools in East Jerusalem, the total number of pupils currently enrolled, and

> The occupying power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.
>
> *Fourth Geneva Convention, Article 50*
>
> The States Parties to the present Covenant recognize the right of everyone to education. Primary education shall be compulsory and available free to all.
>
> *International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 13*
>
> The International Court of Justice confirmed Israel's responsibility for the implementation of the ICESCR in the occupied Palestinian territory in its Advisory Opinion of July 2004.

Education providers in East Jerusalem

Category	Description
Municipal schools	42,271 Palestinian pupils were registered in 50 municipal schools in the 2009-10 school year, out of an estimated total of 87,624 school-age population.[175] The shortage of classrooms and poor standard of existing facilities is especially acute in the municipal system.
Private schools	In 2010, there were 59 private and 'recognized unofficial' schools in East Jerusalem, serving about 20,000 pupils.[176] Private schools are run by various bodies, including religious institutions and charitable societies, with the more prestigious schools dating back over 100 years. Private schools are considered to offer high quality education and often provide additional subjects to the mainstream curriculum, such as foreign languages, music and the arts.
'Recognized Unofficial' schools	Some private schools are recognized 'unofficially' by the Israeli authorities, and financially supported by the municipality to compensate for the shortage of classrooms in the municipal system. Other, more-recently established 'recognized official' schools, are termed 'contractors' by the other providers, in that they are considered primarily profit-driven and receive most of their expenses from the municipality (see *Interview with Suleiman Rabadi*).
Waqf schools	*Waqf* schools are Islamic religious authority institutions run under the auspices of a joint cooperation between the Jordanian *Waqf* Department and The Palestinian Ministry of Education and Higher Education. There are 38 *Waqf* schools in the Jerusalem governorate, providing free primary (1-10 grades) and secondary (11-12 grades) education to 12,253 male and female pupils.[177]
UNRWA schools	UNRWA operates eight schools within the Jerusalem municipal boundary, including four in Shu'fat refugee camp, serving approximately 2,776 students in the 2010-11 school year.

THE CURRICULUM IN EAST JERUSALEM

UNRWA school in Shu'fat, photo by JC Tordai, 2009

In 1967, the Israeli authorities attempted to impose a new curriculum on the public school system, which had previously been under Jordanian jurisdiction. This action was opposed by parents and staff, and pupils were removed from the public education system and enrolled in private schools. In 1974, the Israeli authorities reinstated the Jordanian syllabus, but reserved the right to review textbooks, the history of the Israeli-Palestinian conflict and the geography of the Middle East are considered particularly sensitive.[178] Since 2000, the Jordanian syllabus has been replaced by a curriculum and textbooks developed by the Palestinian Authority, which is followed by all educational categories in East Jerusalem, including municipal schools.[179]

UNRWA adopts the curricula of the host governments in the five areas in which it operates, which in the case of the West Bank, including East Jerusalem, is the Palestinian Authority curriculum. This curriculum is augmented by a programme teaching tolerance, conflict resolution and basic human rights, which has been integrated into the Arabic, religious and social sciences syllabus. The matriculation exam, the *tawjihi,* is administered by the *Waqf* Directorate of Education to all students in East Jerusalem, including those in municipal schools.

the dropout rate. It is estimated that between 4,329 and 5,300 pupils are not enrolled in any educational institution.[180] Many fail to complete the secondary educational cycle, with the post-elementary dropout rate in municipal schools estimated as high as 50 per cent, according to one source.[181]

The high number of students not enrolled in any educational category or who drop out before completing the full cycle has contributed to an informal juvenile labour sector, in addition to juvenile delinquency that is reflected in drug addiction and violence. This is exacerbated by a general neglect of Palestinian youth in the sport, cultural and recreational sectors, with few clubs, playgrounds, community centres or other recreational facilities available for youth.[182]

2. Key concerns

2.1 Shortage of Classrooms and Substandard Conditions

The Association for Civil Rights in Israel identifies the shortage of classrooms as 'the most pressing of the many serious problems in education in East Jerusalem.'[183] According to the most recent State Comptroller Report, in the 2007-08 school year, there was a shortage of at least 1,000 classrooms at all levels in East Jerusalem: preschool, kindergarten, elementary, secondary, and special education.[184] Despite the Israeli authorities' commitment to the Israeli High Court to provide hundreds of new classrooms, only 257 have been added since 2001.[185]

Pupils are often accommodated in rented houses which do not meet basic educational and health standards, especially in terms of lack of space, classroom density and lack of ventilation[186] (see Case Study, *Shu'fat Boys' School*). Almost half of the classrooms, 647 out of 1,398, in municipal educational institutions in East Jerusalem were 'non-standard' in 2010, according to official figures.[187] In 2009, average class size in East Jerusalem elementary schools was 32 students, compared to 24 students in West Jerusalem.[188] To make up for the shortfall, double shifts and alternative structures are used, many of which are rented residential structures, which were not designed to serve as public facilities.

As a result of the severe shortage in classrooms, the municipal school system is unable to absorb all school-age children in East Jerusalem. Each year, the municipality, citing the problem of insufficient space, turns away East Jerusalem children seeking to register. In recent years, the Association of Civil Rights in Israel, among others, has provided advice and free legal assistance for parents who experience difficulty in registering their children in municipal schools.[189] In the years 2006-2009, following a petition to the Jerusalem Administrative Court on behalf of children left entirely outside of the educational framework, the majority of those represented were placed in appropriate school settings. Despite this, many parents are forced to find, and pay for, alternative education: 'The result is that in the 2010-2011 school year the families of thousands of Palestinian children will have to pay large sums of money to get the education they should have been getting for free.'[190]

Approximately half of *Waqf* schools are accommodated in rented apartments, with crowded classrooms and a shortage of schoolyards and playgrounds. Due to planning constraints, certain *Waqf* schools have added facilities without the requisite permits. Consequently, some have been served with demolition or sealing orders for classrooms, laboratories or other facilities, and fines for illegal construction.

CASE STUDY

SHU'FAT BOYS' SCHOOL

In 2008, a new municipal school with 45 teachers opened in Shu'fat to serve approximately 750 boys. Previously, the pupils had been accommodated in three different locations throughout Shu'fat, and as the majority came from Shu'fat Refugee Camp, located on the 'West Bank' side of the Barrier, they had to pass a checkpoint to reach these facilities. The location of the new facility on the outskirts of the camp obviated the need to pass the checkpoint. However, the school suffers from a severe lack of space, with classrooms hosting more than one grade and some classes conducted in the open air, whatever the weather. Prospective pupils attempting to register were turned away, resorting instead to private schools, imposing an economic burden on many families.

In addition, the new school was located in the vicinity of an industrial zone and pupils and teachers soon complained that the emissions from an adjoining factory were causing headaches, dizziness and vomiting. In the first month of the school year classes were suspended. Demonstrations took place and legal procedures against the Jerusalem Municipality were initiated by the parents, with the assistance of the Association of Civil Rights in Israel (ACRI) and *Adam Teva V'Din*, the Israeli Union for Environmental Defence. Pupils were affected psychologically by the location and inadequate state of the school: the school, with the financial support of the municipality, cooperated with a nearby community centre offering psycho-social support. After visiting the school, the Israeli Ministry of Health confirmed that the location was unsuitable.

In August 2009, the Israeli Supreme Court ruled that an immediate solution needed to be found. In January 2010, after negotiations between the municipality and the factory owner, an agreement was reached according to which the factory was vacated and the owner compensated. It is planned that the factory will be renovated to accommodate two classrooms, meeting-rooms for teachers and computer rooms, to be ready by the beginning of the 2010-11 school year.[191]

The Barrier in Shu'fat, photo by JC Tordai, 2008

The cost of rented accommodation imposes a high burden on the *Waqf* system. In addition, *Waqf* schools are not recognised by the municipality and are not tax exempt. However, the *Waqf* considers that they should be tax exempt and they have refused to pay taxes, with the result that they owe arrears amounting to NIS 90 million by 2010.[192] The low salaries teachers receive contribute to a lack of specialized staff, leading to low levels of competency in specific subjects (see Box, *Specialized Teachers in East Jerusalem*).

UNRWA schools in Jerusalem also suffer from overcrowding and only teach up to the ninth grade, except for schools in Shu'fat refugee camp, where education to the tenth grade is provided. Underfunding of the Agency's core budget also negatively impacts the extent and quality of education. To address the decline in educational standards, UNRWA has developed an *Education Recovery Plan*, which focuses on reform of curricula, teaching methods and remedial education, in addition to child wellbeing, community engagement and school management.

2.2 Lack of Pre-school Educational Facilities

In addition to the pupils who do not benefit from any kind of compulsory education, nearly 90 percent of the 15,000 three to four-year old children in East Jerusalem are not enrolled in any preschool education facility.[193] There are only two municipal preschools in East Jerusalem (for children under the age of 5) with a combined enrolment of 55 children, compared to 56 municipal pre-schools in West Jerusalem. Another 1,900 children attend private facilities, with relative high annual tuition fees, from NIS

Waqf schools with demolition orders/fines in Jerusalem governorate[194]

Schools under threat of demolition or fines	Grades covered	Number of classrooms	Number of students	Year of additional construction	Decision of the court	Nature of additional construction
Dar al Aytam Basic School, Ath Thuri	1-10	10	197	2002	Demolition order and fine of NIS 56,000	4 additional classrooms due to classroom shortage.
Sharafat Co-Basic School	1 – 9	9	133	2003	Demolition order	4 additional classrooms due to classroom shortage.
Al Fatah Al Lajeh School, Bab Az Zahira	1-6	9	213	1999	Demolition order and a fine of NIS 30,000	A roof for the playground and a health unit on the top floor of the building.
Dar al Aytam Islamic Basic School A, Wadi Al Joz	6-9	6	178	2001	A fine of NIS 60,000	A space planned as a garage has been converted into classrooms.
Dar Al Fatah Al Lajeh Basic School D, Wadi Al Joz	1-10	10	204	2001	Demolition order on one floor	Floor contains science and computer labs, teachers' room and classrooms.
An Nabi Samwil Co-Basic School	1-3	1	7	Before 1967	Demolition order on toilet	Toilet added due to lack of sanitation

SPECIALIZED TEACHERS IN EAST JERUSALEM

The lack of qualified and specialized teachers has been identified as one of the main problems in education. After assessing the need for two schools in Al 'Isawiya, the *Waqf* decided to open two secondary schools, found suitable buildings to rent and started the arrangements for the school year. However, not enough specialized teachers from Jerusalem could be found, especially in subjects such as mathematics. Neither could teachers from the West Bank be hired because of the difficulty in obtaining permits, so the schools never opened.

One of the reasons for the lack of specialized staff is related to the low salaries, compared to those of other schools. The *Waqf* has been trying to deal with this issue by giving a bonus to its teachers in Jerusalem. This used to amount to NIS 500 per month and was later increased to NIS 1,000; they are currently working hard to increase it to NIS 1,500.[195]

5,000 to 8,000 per child per year. This contravenes the 1984 amendment to the *Compulsory Education Law* granting free government-sponsored preschool education to all three-to-four year old children.

2.3 Access Problems for Teachers and Pupils

Restrictions on access to East Jerusalem also affect the educational sector. The total number of teachers and staff with West Bank ID cards who currently work in East Jerusalem schools is unknown. However, according to the Palestinian Ministry of Education and Higher Education, 20 percent of the students in *Waqf* schools in East Jerusalem, in addition to 20 percent of the teachers and almost 40 percent of the school support staff, cross a checkpoint on a daily basis to access their schools. This often results in delays and absences, especially during periods of general closure, when East Jerusalem is off-limits to West Bank permit-holders.[196]

Before the construction of the Barrier, up to 25 percent of the teachers employed in *Waqf* schools in East Jerusalem were West Bank ID card holders. No permits are now given to such teachers and only 15-20 administrative employees who hold West Bank ID cards receive permits currently (see Case Study, *Sneaking into East Jerusalem*). Because of the difficulty which West Bank male teachers face in obtaining permits, and the low salaries, *Waqf* schools have no alternative but to employ female teachers to teach older male students, which is considered inappropriate from a cultural point of view. There is also a problem finding qualified teachers within East Jerusalem, resulting in teachers instructing in subjects in which they are not formally qualified, such as computer teachers teaching mathematics.

Some pupils from areas such as Kafr 'Aqab – located within the Jerusalem municipal boundary, but separated from the urban centre by the Barrier – are also obliged to cross Barrier checkpoints to reach their schools. Although such pupils would find it more convenient to attend schools in their localities outside the municipal boundary, by so doing they would fail to prove their 'centre of life' is in Jerusalem and therefore risk the revocation of their status as permanent residents: see chapter on residency in this report.

In the private school sector, there were 200 teachers with West Bank ID cards employed before January 2006: following the construction of the Barrier, this had declined to 14 and 8 support staff by the 2009-10 school year. Between

20 and 30 percent of the pupils were West Bank ID card holders, compared to only 30 to 40 pupils in 2010.[197] Most of these have to leave their homes at 06.00 to reach school by 08.00. The long journeys and delays at checkpoints have a negative impact on pupils' school performance (see Case Study, *Testimony of Um Ibrahim*).

THE FAISAL HUSSEINI AND MADRASATI EDUCATION PROJECTS

A number of projects have been launched in recent years to improve the number of schools and the quality of education in East Jerusalem. Since 2002, the Faisal Husseini Foundation has invested over US$ 6 million in adding computer rooms science laboratories and libraries to existing school facilities, renovating buildings and playgrounds and in training teachers and school management. Some 20 private and *Waqf* schools have benefited from the initiative.

More recently, the Madrasati Initiative was launched in April 2010, under the sponsorship of Queen Rania of Jordan, as a comprehensive programme targeting the education sector in East Jerusalem. The programme is based on the successful experience of Madrasati Initiative in Jordan where, in the two years since its establishment, it has succeeded in rehabilitating 300 *Waqf* schools which were in urgent need of repair. The initiative will target 18 *Waqf* schools and two other educational institutions in East Jerusalem.

The interventions will focus on both the infrastructural needs of the schools – which are often located in rented buildings with poor safety and hygiene standards – as well as on the quality of education. In every school, a community committee will be established, to bring together school staff, teachers, pupils and parents, in order to assess the needs of the school and to create an appropriate intervention, such as adding computer and science laboratories, renovating toilets and installing ventilation systems. In order to enhance the quality of education, the Madrasati Initiative will offer subject-specific training for teachers, non-violence training for teachers, students and parents, health and hygiene programmes, and extracurricular activities to encourage volunteerism.[198]

CASE STUDY

SNEAKING INTO EAST JERUSALEM

My name is Abeer. I come from Ramallah, and I have worked for more than twenty years in the education sector of the *Waqf* in East Jerusalem, first as a teacher and later as a school principal. Recently, I lost my job because I could no longer enter East Jerusalem.

In 1987, I started working as an English teacher in Jerusalem. I did not have a Jerusalem ID card, but at that time the *Waqf* was still able to apply for permits for West Bank teachers. When I was appointed principal of the *X* Girls' School, where I worked for 12 years, I was no longer given work permits. I had to find alternative ways to access my work place. Finding creative ways to bypass the checkpoints, and later the Wall, became my daily challenge. For example, every morning for around six months I wore a school uniform. I looked for a group of schoolgirls, mingled with them and crossed the checkpoint. At that time, students were not checked one by one and it took the soldiers six months to notice my adult face among all the children.

Another time, I managed to get a permit for medical reasons from a doctor in Jerusalem, as I had skin problems. I used to make copies of that permit, valid only for one day, cancel and substitute a new date for the original in order to pass. After three months, I was caught and had to change tactics. Other times, I would use my Jordanian passport. However, as it didn't carry an Israeli visa, I was often turned back.

After the completion of the Wall, I used to cross through a tunnel, which was one meter high, full of dirty water, and blocked at the two ends by stones. There also used to be a little hole in the Wall in Dahyat Al Barid and sometimes I squeezed myself through there. My daily journey to school would take about two hours. I was caught many times and taken to the police station for interrogation. The days I got through I would arrive at school exhausted, but smiling because I had won my own daily fight. I had other colleagues from the West Bank but not all of them were as determined as I was. This was negatively affecting the quality of education. Pupils were missing classes and there was a high teacher turnover.

As the last resort, in 2008 I bought a fake permit for NIS 1,200. I went on crossing the checkpoint with this permit for almost two years. However, the permit stated I was working in a settlement, in the construction industry. In the summer 2009, the Israeli authorities introduced a new policy requiring the holder of such a permit to give proof of being employed in a settlement. I could not do that. I could not even forge such a document. A woman working as a carpenter in a settlement doesn't make a very credible story.

My permit expired in July, but soon Ramadan started and older women were allowed to enter Jerusalem on Fridays. I took advantage of that and instead of going to *Al Aqsa* Mosque I would go to my old school.

After I could no longer reach Jerusalem, I was transferred to Ramallah. It hurt so much to leave after all the efforts I had made to improve the quality of education in that school. The transfer also affected my financial situation, as I am earning NIS 1,000 less than I used to earn. I still have the chance to go to Jerusalem occasionally for medical reasons. Every time I go to the hospital, I drop by my old school. I remember every moment of my twenty years in Jerusalem and sometimes I can't hold back the tears.[199]

Gilo Checkpoint, photo by JC Tordai, 2009

CASE STUDY

TESTIMONY OF UM IBRAHIM AND HER FAMILY FROM THE BEDOUIN COMMUNITY OF TEL ADASA

My name is Um Ibrahim and I live in Tel al-Adasa on the 'Jerusalem' side of the Wall. Our Bedouin community of sixty-three people – all with West Bank ID cards – includes twenty-two children, most of whom still go to primary school. Since 2006, our children's access to school in Bir Nabala, on the other side of the Wall, has changed from a ten minute walk into a one hour journey, or longer, depending on the waiting time at the checkpoint. What is more, even though the children don't need a permit to cross back into Jerusalem – showing birth certificates should be enough – they are repeatedly turned back at Qalandiya checkpoint when trying to cross back into Jerusalem.

In order to make sure that the twenty-two children attend school, we decided to rent an apartment in Bir Nabala. The children are looked after by a relative of mine and his wife, who moved to Bir Nabala to take care of them. Their parents – not me because I'm too old for that – sometimes climb the Wall to see them, but they risk being caught by the Border Police. The older children spend most of the time in the apartment in Bir Nabala but once a week they climb the Wall to get back to Jerusalem and visit us. The younger children are still stuck in Bir Nabala, as they are too young to climb the Wall.

Because of the Wall and the lack of permits, my daughter Amna' dropped out of school when she was fifteen and another two children quit school at the age of eleven and thirteen. Girls are more likely to miss school and to drop out because, unlike boys, they are less likely to climb the Wall. Also, it is not considered proper for them to live away from their family with a large mixed group of children and teenagers.

Two nieces of mine, Zeinab (12) and Zeina (9), who used to attend school in Bir Nabala, also dropped out. My brother-in-law decided to enrol them, together with their younger brother, in a private school in Beit Hanina. This was to make sure they receive an appropriate education, although they're not allowed to live in Jerusalem. However, the costs are high. The enrolment fee is NIS 1,000 per child, in addition to another NIS 1,000 for their uniforms and books.[200]

Zeinab and Zeina, photo by JC Tordai, 2010

2.4 Access to University

Access to higher education is another issue of concern. Virtually no students from the Gaza Strip can now attend third level facilities in the West Bank, including East Jerusalem.[201]

In the Jerusalem area, Al Quds University has four branches: the Old City, Beit Hanina, Sheikh Jarrah, and Abu Dis, which is located outside the Jerusalem municipal boundary. The Barrier and associated movement restrictions have led to a decrease in the numbers of students from East Jerusalem attending the Abu Dis campus, now separated from East Jerusalem by the Barrier. Approximately half of Abu Dis students travel to the campus from Jerusalem on a daily basis, a journey which can take up to one hour by car or by bus, (instead of 15 minutes formerly), because of the extra distance necessitated by the Barrier. The journey is also often subject to further delays due to flying checkpoints.

There has also been a decrease in student numbers in the branches located on the 'Jerusalem' side of the Barrier, such as Beit Hanina campus. Students from the rest of the West Bank have required permits to access the East Jerusalem faculties since the early 1990s; many have their permits denied and those granted are not guaranteed permit renewal. However, access to Jerusalem from the rest of the West Bank was still possible, even without a valid permit, until 2007 when, with the completion of much of the Barrier in the Jerusalem area, the possibilities for those without permits to access the city were significantly reduced.

The permit regime and the Barrier also pose problems for West Bank students who study at Al Quds Medical School in Abu Dis – the main training institution for Palestinian medical professionals – when they need to access the East Jerusalem hospitals for training (see Box, *Medical Students*, in the *Restrictions on Access to Health* chapter of this report). An additional concern affecting the university is that Al Quds certificates are not recognized by the Israeli authorities. Consequently, graduates in medicine, nursing, dentistry, pharmacy, social work and teaching cannot work, at least officially, in East Jerusalem. Al Quds Medical School graduates 65 new doctors every year, of whom approximately twenty hold Jerusalem residency status, and who are ineligible, after seven years of study, to sit for the Israeli examination which is a prerequisite to work as a doctor in East Jerusalem. Without official recognition, the university cannot apply for permits for teaching staff from the West Bank, with the result that staff employed at the Abu Dis campus are unable to lecture at the Jerusalem branches of the university, with negative consequences in terms of quality of education and financial expenditure.[202]

Al Quds university cut off by the Barrier, photo by J.C. Tordai, 2009

CASE STUDY

INTERVIEW WITH DR. SULEIMAN RABADI,

DIRECTOR OF THE COLLÈGE DES FRÈRES AND VICE PRESIDENT OF A COMMITTEE OF CHRISTIAN PRIVATE SCHOOLS OPERATING IN EAST JERUSALEM

Recent years have witnessed an increase in the category of private schools, due to the shortage of classrooms in the municipal school sector. In Jerusalem there are 59 private schools. Most are non-profit schools, either religious, like the *Frères*, or privately owned. As a private school, the *Frères* collects tuition fees, to cover expenses rather than to make a profit. The annual fee amounts to US$ 1,400 per pupil. However, we give back around US$ 400 per pupil in scholarships and aid of various kinds. Due to the high unemployment rate in East Jerusalem, many parents have not yet been able to pay the tuition fee for this school year, even though school has finished. Our policy, however, is not to exclude anybody because of financial reasons and we try to find compromises.

Other non-profit schools, commonly known as 'recognized, un-official' cover some portion of their expenses from the municipality. Based on the gap between what East Jerusalem residents pay in taxes and what comes back to them in terms of services, they have pressured the municipality to cover some of their costs, currently amounting to 35-40 percent of the total. However, these funds, combined with the revenue coming from the pupils' fees, are not sufficient to cover the total costs and further fundraising activities are needed.

In addition, in the last ten years, schools have been established by private businessmen – many of whom don't have any educational background – with a clear profit motive. Because of the lack of classrooms in East Jerusalem, these institutions have started applying for, and are receiving, municipal funds covering the totality of their costs. However, they operate following the logic of maximum profit with minimum services; schools are located in rented buildings and the quality of education is very poor.

All statistics point to a huge need for additional classrooms in East Jerusalem. The problem does not only relate to the near-impossibility of receiving a building permit, but also to the high fees required to apply for it. The *Frères* is currently trying to apply for a building permit for a piece of land it owns next to its existing campus in Beit Hanina. The required fees will amount to NIS 1,500,000. Schools, which are struggling to provide for basic needs, rarely have this amount of money to spend on permits. We therefore need to do some fundraising. This is very problematic because at the international level not much funding is allocated for education. International donors prefer to fund programmes that are focused on democracy and gender and ignore the most basic needs of the population, such as education.

Suleiman Rabadi, photo by JC Tordai, 2010

Equipment and textbooks pose another major access problem for schools in East Jerusalem. Although the Israeli authorities permit schools in East Jerusalem to follow the Palestinian Authority curriculum, at the beginning of every school year they face enormous problems in bringing in textbooks from the Directorate of Education of the *Waqf*, located in Al Ram. The same goes for furniture and equipment which, due to the lower costs, Palestinian schools in East Jerusalem tend to buy from the West Bank. Very few of these furniture and stationery shops in the West Bank have a permit to transport goods into Jerusalem. Even when they do, the process is extremely complicated and lengthy.[203]

Recommendations

As the occupying power, the Government of Israel should, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

To fulfil these obligations, the Government of Israel should:

- Ensure that all Palestinian pupils in East Jerusalem have access to free public education.
- Make up for the shortage of classrooms and preschool facilities and ensure these meet basic safety and hygiene standards.
- Stop issuing and freeze all demolition orders and sealings, and revoke all fines affecting schools in East Jerusalem.
- Guarantee safe access to schools in East Jerusalem for pupils and teachers from the remainder of West Bank, including providing appropriate and facilitated passage through all checkpoints.
- Allocate resources to address the lack of facilities for Palestinian youth in East Jerusalem.
- Ensure access of students and teachers to all branches of Al Quds University.

Patient from Gaza, photo by JC Tordai, 2010

CHAPTER 6

RESTRICTIONS ON ACCESS TO HEALTH

Key Points

- As residents of Jerusalem, Palestinians who hold Jerusalem ID cards are entitled to the health services provided by the Israeli authorities, which are recognized to be of a high standard, and can also access the six Palestinian-run non-profit hospitals in the city.
- Residents of the remainder of the oPt also rely on hospitals in East Jerusalem, which provide specialized health services unavailable elsewhere in the oPt. However, the permit regime, checkpoints, the Barrier, and the blockade on Gaza, can negatively impact those patients who require routine, specialised and emergency care at the six East Jerusalem specialist hospitals.
- Accessing East Jerusalem in cases of medical emergency can also be difficult for Palestinians who hold West Bank ID cards and for East Jerusalem residents now located on the 'West Bank' side of the Barrier.
- Physical and bureaucratic obstacles which the Government of Israel has imposed on entry to East Jerusalem since the early 1990s hamper the ability of medical staff to access their workplaces in East Jerusalem, to the detriment of both patients and hospitals.
- The efficient running of East Jerusalem hospitals is impaired by restrictions on construction and expansion, and the entry of medical equipment and pharmaceuticals into East Jerusalem from the remainder of the West Bank.

I. Background

Palestinian residents of East Jerusalem are entitled to the health services provided by the Israeli authorities, by virtue of their monthly payments to the Israeli National Health Insurance. The Israeli health care system is recognized to be of a high standard and is widely used by East Jerusalem Palestinians.[204] Health care is provided through four *kupat holim* or health funds, which operate throughout Israel and East Jerusalem: *Clalit*, providing around 70 percent of services; *Meuhedet* (20 percent), *Leumit* (6 percent) and *Maccabi* (4 percent).[205] Clinics under the *kupat holim* system in East Jerusalem are mainly staffed by Palestinian health professionals, which alleviates some of the barriers of language and culture which Palestinians can encounter in West Jerusalem health facilities.[206] If further treatment is needed, patients are referred to a specialist doctor or to a hospital, in East or West Jerusalem. However, in health as in other areas, there is a discrepancy in the number of facilities available to Palestinian as compared to Jewish residents of Jerusalem, especially with regard to specialized services such as mother and child clinics.[207]

The situation for Palestinian residents of the remainder of the West Bank and the Gaza Strip differs considerably; the Palestinian Authority Ministry of Health (PMoH), headquartered in Ramallah, is not authorized to operate in East Jerusalem. However, the PMoH refers patients from elsewhere in the West Bank and from the Gaza Strip to the six Palestinian-run non-profit hospitals in East Jerusalem, which provide specialized health services unavailable elsewhere in the oPt.[208]

> The Occupying Power has the duty of ensuring and maintaining with the co-operation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory.
>
> ***Fourth Geneva Convention, Article 56***

> The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
>
> ***International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12***

Access to health is a key component of the right to health. One of the instruments that stipulate the right to health is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Israel ratified the ICECSR in 1991, and is therefore legally bound by all of its provisions. The Committee on Economic, Social and Cultural Rights (CESCR), the body supervising the implementation of the Covenant, has repeatedly stated that Israel's obligations under the Covenant apply to all territories and populations under its effective control.[209] The International Court of Justice confirmed Israel's responsibility for the implementation of the ICESCR in the occupied Palestinian territory in its Advisory Opinion of July 2004.

The bureaucratic and physical difficulties, which these patients experience in accessing East Jerusalem is one of the major concerns in the provision of health care to Palestinians throughout the oPt.[210] Because East Jerusalem Palestinians, in general, have adequate access to health services, as outlined above, this chapter focuses on restrictions on access to healthcare in East Jerusalem for Palestinians from the remainder of the oPt.

Non-Jerusalem Palestinian patients require permits for consultations and operations in East Jerusalem hospitals. As detailed below, the blockade imposed on the Gaza Strip since June 2007 has made access to East Jerusalem hospitals especially difficult for Gazan patients. In the West Bank, checkpoints and other obstacles can also delay the entry of both patients and ambulances to East Jerusalem facilities, including during emergencies. These restrictions also hamper the entry of West Bank medical staff and impair the smooth functioning of hospitals. More recent restrictions concern the importation of medicine and equipment to East Jerusalem hospitals from traditional West Bank providers (see *Interview with Dr. Tawfiq Nasser*).

In addition, construction of the Barrier in the Jerusalem area has affected access to medical services on both sides of the 'Jerusalem Envelope'. Residents of East Jerusalem localities on the 'West Bank side' of the Barrier must now pass through checkpoints to access the medical services within the urban area to which they are entitled under the Israeli National Health Insurance. Conversely, West Bank communities which now find themselves on the 'Jerusalem' side of the Barrier face bureaucratic and physical impediments in accessing routine and emergency health services in the West Bank (see Case Study *Um Al Asafir).*

CASE STUDY

UM AL ASAFIR

In addition to separating large parts of East Jerusalem and its population from the remainder of the West Bank, approximately 1,500 West Bank ID card holders are now located on the 'Jerusalem' side of the Barrier, see 'The Barrier in the Jerusalem Area' chapter. One such community is Um Al Asafir; residents face access restrictions to their health and other services which are located on the 'West Bank' side of the Barrier. Eight year old Ala' Zawahri has mental and physically disabilities. Living in a house trapped between Har Homa settlement and the Barrier, her parents have to make an arduous journey to Bethlehem or to Beit Sahur to obtain medical services for their daughter.

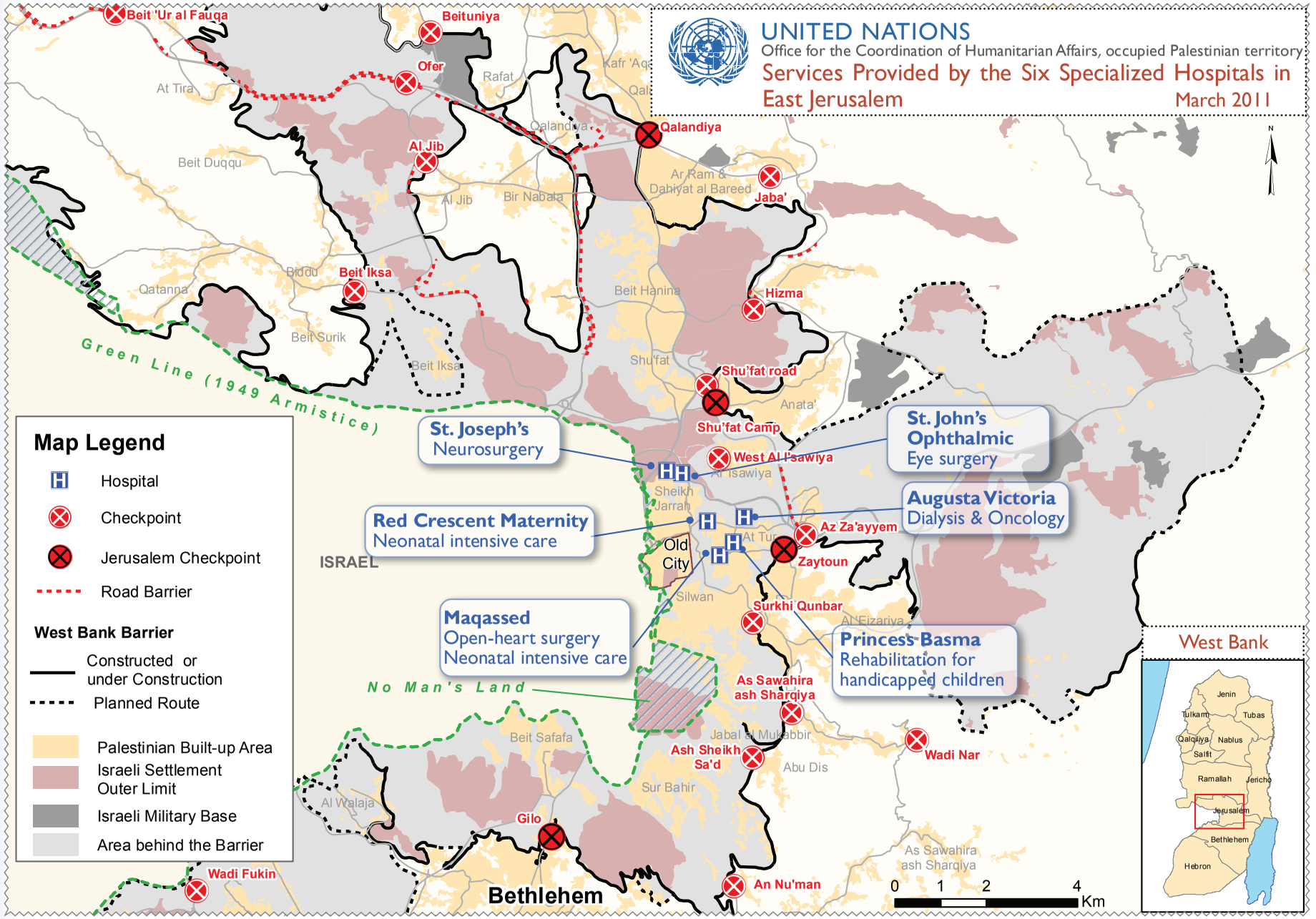
Just last week, we needed to bring Ala' to the doctor. She cannot speak, but when she cries, we know something is wrong, because usually she is very quiet. When she was little, we could drive to Bethlehem or Beit Sahur in less than 15 minutes. That was before the Barrier was built just outside our home. Now we have to find a taxi driver who actually comes here, to drive us to Gilo checkpoint. We then cross on foot carrying Ala' in our arms. Then we take another taxi to the clinic or hospital. All together 45 shekels one way. Most of the time, this takes one to one-and-a-half hours.

Ala' cannot eat by herself, she cannot even sit up. Most of the time she just lies quietly on her couch. She needs constant care and the doctor says that she will need it all her life. Here, where we live, there is no care for Ala' at all, no doctor, no mobile clinic. Nobody supports us in taking care of her. About 100 meters from here, in the Israeli settlement, there is everything. But we are not allowed to go there. We have West Bank ID cards, although we live on the Jerusalem side of the Barrier.

We have repeatedly tried to register Ala' for health insurance, but without success. Fifty-three members of our family live here in Um Al Asafir – nobody has health insurance. A friendly doctor in Bethlehem used to treat Ala' for free. But he died. Now we not only have to pay for transport and medicine, but for doctors' visits too. All in all, over 500 shekels since last year.

We have six other children. They are older and live with relatives in Beit Sahur on the other side of the Barrier in order to go to school and university easily. From the hill outside our house we can see where they stay – but in order to visit their handicapped sister Ala', they need to make the long journey through the checkpoint.[211]

Ala' and her mother, photo by Patrick Zoll, 2010



DISCLAIMER: The designations employed and the presentation of material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Reproduction and/or use of this material is only permitted with express reference to "United Nations OCHA oPt" as the source.

2. Palestinian Patients with West Bank ID Cards

Palestinians from the remainder of the West Bank who require treatment in East Jerusalem need to obtain a permit from the Israeli authorities. For patients who request financial assistance from the Palestinian Ministry of Health, a request is submitted by the patient's physician to the Referral Abroad Department (RAD) of the PMoH, which determines the eligibility of the patient and designates a hospital. The patient then sets up an appointment with the hospital following which, the RAD or the hospital sends a request to the Israeli Civil Administration to issue a permit for the specified period of the appointment or operation.[212] Patients can also make their own arrangements directly by contacting a hospital directly for an appointment and then requesting a permit by fax or online through the Israeli District Coordination Liaison Office.

In addition to the stress involved in waiting for the request to be granted (or denied), permits can be issued for a shorter period than the treatment requires, particularly if multiple consultations or operations are necessary.[213] Jerusalem hospitals report that males aged between 15 and 30 often have their requests for permits turned down on the grounds of security.[214] It can also be difficult for parents or family members of sick children to receive permits to escort patients to East Jerusalem: however, the Israeli Civil Administration claims that some ninety-eight percent of applications for permits for family members are granted, and that permits can also be granted to those with security records.

In addition, patients (including those who suffer from chronic diseases) often endure arduous journeys to access healthcare in East Jerusalem. Patients with West Bank ID cards are required to cross checkpoints on foot (vehicles with Palestinian license plates are forbidden from entering Israel and East Jerusalem), which often implies waiting in crowded lines for long periods. This can be especially stressful for people in poor health, the elderly, and those with disabilities. Princess Basma Hospital, which specializes in the rehabilitation of children, cites cases where wheelchairs and crutches cause problems for patients waiting in line, crossing revolving gates, or passing through metal detectors.[215]

In 2006, the Israeli Civil Administration agreed to facilitate the entry of medical staff and patients from the West Bank through all of the checkpoints leading into East Jerusalem. However, in July 2008, restrictions were tightened following a number of fatal attacks on Israeli citizens in Jerusalem by Palestinian residents of the city. Chronic patients and medical staff from the West Bank were only allowed entry into East Jerusalem through the pedestrian checkpoints at Qalandiya, Az Zaytoun and Gilo. These new

THE HOSPITAL BUS SYSTEM

In September 2004, Augusta Victoria Hospital set up a bus system to transport medical personnel and patients from the West Bank who require regular treatment (chemotherapy, radiotherapy, dialysis etc.) to East Jerusalem. This service was soon extended to the other five East Jerusalem Hospitals. The agreement with the Israeli authorities stipulated that, although patients and staff still need their permits to be checked, this would be done on board the bus. However, each bus has to include a designated 'security officer' from among the passengers who holds a Jerusalem ID card. When this person is on leave or otherwise absent, the bus is delayed. The limited number of vehicles and journeys during the day also restricts the number of patients and staff who can benefit from the service.[216]

restrictions result in patients, many with diseases such as cancer and cardiac disorders, being forced to cross through the crowded pedestrian checkpoints. In August 2009, an understanding was reached between the East Jerusalem Hospital Network,[217] and the Israeli Ministry of Defence, Ministry of Health and Civil Administration, whereby patients with chronic diseases would be facilitated through checkpoints. However, after an initial improvement, the situation for chronic cases has reverted has reverted, reportedly due to the reluctance of security personnel at the checkpoints to adhere to the understanding, although, with some interruptions, doctors are still benefiting from the agreement.

3. Palestinian Patients from the Gaza Strip

Due to the blockade imposed on the Gaza Strip since the Hamas takeover in June 2007, the health system in Gaza 'has never been in worse shape … and is functioning at less than half of its capacity,' according to the International Committee of the Red Cross. [218] Gaza suffers from a scarcity of drugs and consumables and a lack of functioning medical equipment.[219] Restrictions on the entry of machinery and spare parts limit the repair and maintenance of existing equipment.[220] In addition, with rare exceptions, health professionals have been unable to leave the Gaza Strip for training since 2000, severely undermining the quality of healthcare. This deterioration in the health services has resulted in an increase in the number of referrals of patients to medical facilities outside the Gaza Strip.

Patients requiring medical treatment which is unavailable inside the Gaza Strip were traditionally referred to hospitals in Egypt. Since the effective closure of the Rafah border crossing in 2007, Gaza patients have been increasingly referred to East Jerusalem instead: in 2008, the PMoH referred 3,118 patients to East Jerusalem, compared to 382 in 2006.[221] Most referrals are for life-threatening and serious conditions, requiring oncology, neurosurgery, orthopaedics and ophthalmology. Between January and December 2010, of the approximately 11,600 patients who applied for permits to seek treatment outside Gaza, 78.1 percent were approved, 16.3 percent were delayed and 5.6 percent were denied.[222] Patients who are rejected or delayed, risk missing surgery, deterioration in their health conditions and, in some cases, death.[223]

Even more than for West Bank patients, it is difficult for parents and family members of sick children from Gaza to receive permits to escort patients to East Jerusalem (see Case Study, *A Sick Child from Gaza*). Patients from the Gaza Strip can also be detained for interrogation at Erez Crossing. Physicians for Human Rights-Israel (PHR) reported that the Israel Security Agency (ISA), which is based at Erez Crossing and makes the final decision regarding exit permits, is attempting to recruit patients, making collaboration with the ISA a pre-condition for obtaining a permit to exit Gaza. From July 2007 to August 2008, PHR-Israel received 32 testimonies from patients, who report that their exit from Gaza was prevented after refusing to cooperate with ISA interrogators at the Erez Crossing.[224] PHR-Israel has also reported on the cases of three patients who were granted permits to leave Gaza for medical treatment only to be arrested at Erez crossing and transferred to Israeli detention facilities.[225]

CASE STUDY

A SICK CHILD FROM GAZA

Muhammad Dhahir is a five-year-old child from Tal Assultan, Gaza. Muhammad was diagnosed with leukaemia and was sent for treatment to Augusta Victoria Hospital for three months, returned to Gaza for two weeks and was sent back to Augusta Victoria Hospital for another two months. He will have to continue his treatment, and his trips in and out of Gaza, for another two and a half years. His grandmother has received a permit to accompany him.

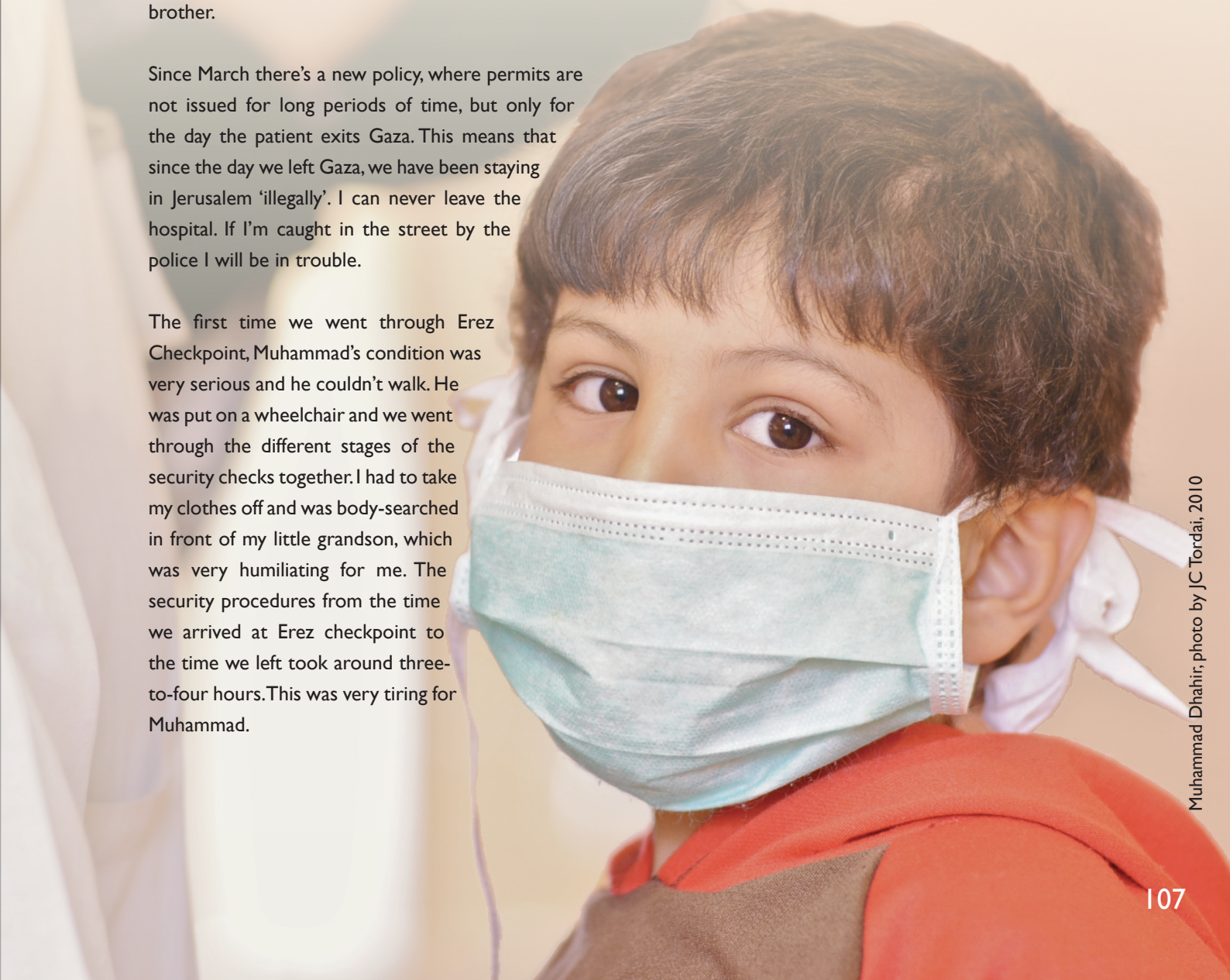
I'm the one who has to accompany Muhammad for his treatments in Jerusalem. His father's request for a permit was rejected on security reasons, and his mother is still breastfeeding his one-year-old brother.

Since March there's a new policy, where permits are not issued for long periods of time, but only for the day the patient exits Gaza. This means that since the day we left Gaza, we have been staying in Jerusalem 'illegally'. I can never leave the hospital. If I'm caught in the street by the police I will be in trouble.

The first time we went through Erez Checkpoint, Muhammad's condition was very serious and he couldn't walk. He was put on a wheelchair and we went through the different stages of the security checks together. I had to take my clothes off and was body-searched in front of my little grandson, which was very humiliating for me. The security procedures from the time we arrived at Erez checkpoint to the time we left took around three-to-four hours. This was very tiring for Muhammad.

The second time we went to Jerusalem, we had to face the same procedure, and this is what we will have to go through in the future as well. After the security checks, the trip to Jerusalem is an additional burden. We have to cover the transportation costs from Gaza to Jerusalem ourselves, amounting to NIS 300 each way.

Muhammad hasn't seen his parents for two months, but he speaks with them on the phone every day. He's happy to go back to Gaza and see them again in a couple of weeks. But then we'll have to come back here and start the treatment all over again.[226]



Muhammad Dhahir, photo by JC Tordai, 2010

4. Access to East Jerusalem Hospitals in Cases of Medical Emergency

Accessing East Jerusalem in cases of medical emergency can be difficult for Palestinians who hold West Bank ID cards.[227] A permit can be obtained on the day of the request although this requires coordination and means that the patient must be transferred 'back-to-back' from a Palestinian to an Israeli-plated ambulance. Concerns have been raised regarding the safety of the back-to-back system during medical emergencies,[228] and the fact that this public procedure undermines the dignity of patients.

In urgent cases, the Health Coordinator at the Israeli Civil Administration can also authorize the entry of Palestinian ambulances, by coordinating with the security personnel at the checkpoints: according to the Israeli civil Administration, there were 550 cases of Palestinian ambulances accessing East Jerusalem without prior coordination in 2010. However, even if permission is granted, emergency cases can be delayed at the checkpoints. In 2009, the Palestine Red Crescent Society (PRCS) recorded 440 delays and denials of ambulances throughout the oPt, two thirds of which occurred at Barrier checkpoints in Jerusalem.[229]

Access to East Jerusalem health facilities is also problematic in the case of emergency for East Jerusalem residents now located on the 'West Bank' side of the Barrier. Two ambulances stationed at the Palestine Red Crescent Maternity Hospital are authorized to evacuate Jerusalem residents from localities such as Kafr Aqab to medical facilities within the urban centre. Authorization is granted to cross the Barrier for one hour and is conditional on the installation of GPS devices in the PRCS ambulances, which is a requirement for ambulances in Israel. In addition, in order to enter some Palestinian neighbourhoods in East Jerusalem, citing security concerns, Israeli Magen David Adom ambulances require Border Police escorts, even when the patient is in a life-threatening situation.[230]

Back-to-back transfer of a patient from a Palestinian ambulance to an Israeli-plated ambulance at Qalandiya checkpoint, photo by Chiara Stefanini, 2009

5. Restrictions on Access to, and Employment in, East Jerusalem Hospitals for West Bank Medical Staff

Physical and bureaucratic obstacles also hamper the ability of medical staff to access their workplaces in East Jerusalem, to the detriment of both patients and hospitals. With the imposition of tightened restrictions in July 2008, West Bank hospital employees were only allowed to access East Jerusalem through the most crowded checkpoints of Qalandiya, Zaytoun and Gilo. This has resulted in long delays for staff and results in a disruption in patient care including the scheduling of consultations, operations and other services in East Jerusalem hospitals.

In August 2009, an understanding was reached between the East Jerusalem Hospital Network, the Israeli Ministry of Defence, Israeli Ministry of Health and the Civil Administration, whereby medical staff would receive a special stamp on their permits to facilitate their access through all checkpoints. An improvement ensued for one month, but by early 2010 the situation had reverted so that, while doctors can still pass through all of the checkpoints, access for other hospital staff access is uncertain and usually restricted to the busy pedestrian crossing points.

An additional restriction concerns the employment of West Bank staff, who comprise the majority of medical personnel in the six East Jerusalem hospitals. The hospitals report the imposition of a quota, with the result that while work permits can be renewed for West Bank Palestinians already working in the East Jerusalem hospitals, new applicants are refused. This measure causes difficulty for the hospitals in hiring new employees, as there are insufficient eligible Palestinian health professionals who are residents of East Jerusalem.

Due to insufficient work permits, the number of staff with West Bank ID cards employed in the East Jerusalem hospitals is decreasing. In 2007, 1,168 (roughly 70 percent) of the 1,670 East Jerusalem hospital staff were West Bank Palestinians; as of March 2009, this number had decreased to 915 (62.5 percent) of the 1,470 East Jerusalem hospital employees.[231] However,

MEDICAL STUDENTS

The future of the health system in the oPt depends on the professional level of its medical staff. Access for students to specialized training institutions in East Jerusalem is also crucial for the health of the Palestinian population as a whole. The main institution for medical training in the West Bank is Al Quds University in Abu Dis, which is now separated from East Jerusalem by the Barrier. About 150 to 160 students in the fourth, fifth and sixth year of studies at Al Quds Medical School are eligible for training in East Jerusalem hospitals. Some 90 percent of them are from the West Bank and need permits to attend training in specialities such as paediatrics, neonatology, surgery, internal medicine, cardiology and other areas: medical training in many of these specialities is not available at the same level elsewhere in the oPt. In June 2010, Al Quds Medical School reported that 11 students could not continue their training in East Jerusalem because the Israeli authorities had refused to renew their permits.[232] An additional problem is that, as the Israeli authorities do not recognize Al Quds University, graduates from its medical school cannot legally work in the East Jerusalem hospitals.

CASE STUDY

RESTRICTIONS ON HOSPITAL EXPANSION, MEDICAL EQUIPMENT AND PHARMACEUTICALS

INTERVIEW WITH DR. TAWFIQ NASSER

Dr. Nasser is the director of the Augusta Victoria Hospital and the coordinator of the East Jerusalem Hospitals Network, a coordinating body which brings together the six non-profit Palestinian-run hospitals in East Jerusalem. It was established in 1997 in order to promote better health services and improve access to health for both Jerusalem residents and Palestinians from the West Bank and Gaza.

In addition to restrictions on the access of patients and staff, what other problems do East Jerusalem hospitals face?

East Jerusalem hospitals have to deal with the same kind of building restrictions which apply to all buildings in East Jerusalem. The near-impossibility of carrying out renovation work or expanding existing facilities negatively affects our capacity to meet the needs of our patients. The hospital I manage, for example, is facing problems in expanding or carrying out renovations because of the difficulty in obtaining a building permit. To meet the increased demand for medical care from the Gaza Strip, we have been forced to look for an alternative solution and decided to rent the Mount of Olives Hotel, where we are accommodating Gaza patients who need treatment for an extended period of time, such as chemotherapy, but who don't need to be hospitalized.

This, however, represents only a partial solution, as the hotel was not built to provide medical care and doesn't offer the same comfort and facilities that a hospital should have. Likewise, the Palestinian Red Crescent Society is unable to obtain permission to convert the Palace Hotel into an extension of its existing maternity hospital and Al Maqassed Hospital has been unable to obtain a building permit to add a fourth floor to accommodate additional patient demand. Instead, it has opened alternative services in Eizariya and Bir Nabala. This provides much needed health services to those who are unable to reach Jerusalem because of the Barrier: on the other hand, it decreases the demand for health services within East Jerusalem itself and increases the separation of the city from the West Bank.

Are there restrictions related to the access of pharmaceuticals?

Restrictions also affect the entry of medicines and pharmaceuticals from the West Bank. None of the medicines manufactured in the West Bank are allowed into East Jerusalem because of the alleged lack of compliance with the Israeli MoH standards. This clearly imposes a high financial burden on our East Jerusalem hospitals as we are forced to buy Israeli products, which can cost up to five times more than the Palestinian equivalent. This restriction also targets medicines imported from abroad through dealers in the West Bank.

Dr. Tawfiq Nasser, photo by JC Tordai, 2010

What is the situation concerning medical equipment?

In February 2009, the Government of Israel introduced new regulations which forbid Palestinian dealers in the West Bank from supplying medical equipment to East Jerusalem hospitals. Before that, both Palestinian and Israeli dealers representing foreign companies supplied East Jerusalem hospitals with medical equipment - this was authorized by the Paris Protocol of 1994. East Jerusalem hospitals are now required to purchase equipment through Israel or through Israeli suppliers. If we import through Ben Gurion Airport, the equipment must be approved before being delivered to the relevant hospital. This process can take several months during which time the hospital is charged for the storage.[233]

according to the Israeli Civil Administration, the quota of 1,500 permits for West Bank hospital staff has not been filled and additional permits could be issued, if requested.

PRCS ambulances also face permit restrictions on their Emergency Medical Technicians (EMTs) and drivers. In 2007, the PRCS was granted 32 permits for EMTs and drivers with West Bank ID cards, submitted from a pool of 90 names. In December 2009, following a two-week period without permits, only 12 permits were granted.[234]

Recommendations

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. International humanitarian law also provides for the maintenance of hospital and health services in the occupied territory as well as special protection for hospital personnel. To fulfil its obligations, the Government of Israel should:

- Ensure that specialized hospitals in East Jerusalem are accessible to all Palestinians from the remainder of the West Bank and Gaza Strip. Medical needs should be a priority in the allocation of permits.
- Offer facilitated passage for patients and the speedy transfer of patients in ambulances through all Barrier checkpoints into East Jerusalem.
- Allow access through all Barrier checkpoints for all staff from East Jerusalem hospitals who hold West Bank ID cards.
- Allow East Jerusalem hospitals to hire staff and purchase pharmaceuticals from the remainder of the oPt.
- Ensure access to specialized training for medical students in East Jerusalem hospitals.

CASE STUDY

LIFE IN AN ENCLAVE

The route of the Barrier in the Ras Al 'Amud area of East Jerusalem has created a new reality, dislocating the Surkhi and Qunbar communities to the 'West Bank' side. Combined, the two communities contain about 300 mixed Jerusalem and West Bank ID card holders. Access to the communities is through a gate, staffed by the Border Police. Service providers need to coordinate their entry with the IDF in advance, in order to bring in their vehicles. Access for anyone from outside the area, including by UN humanitarian workers, also requires 24-hour prior coordination. Two houses in the enclave are occupied by settlers: the access restrictions do not apply to the settlers or their visitors. The settler organization, Ateret Cohanim, has also initiated a plan to build 250 residential units for settlers in the enclave.[235]

The Surkhi and Qunbar communities illustrate many of the concerns detailed in this report: residency issues; restrictions on access and movement, and to health and educational services; settlement encroachment, and how the Barrier, in conjunction with checkpoints and the permit regime, is effectively re-drawing geographical realities, while compounding the separation of East Jerusalem from the rest of the West Bank.

1967 and the expanded municipal boundary

My name is Muhammad Hussein Al Qunbar and I am 60 years old. I belong to the Qunbar community, which is located in East Jerusalem. My wife comes from the same area. When we were young, we were shepherds and used to move around freely with our livestock in this area according to the season. This is probably the reason why in 1967 my wife was granted a Jerusalem ID card, while I have a West Bank ID card. She must have been grazing in the area that was included in Jerusalem, while I was only a few hundred meters away, in the area that remained the West Bank. This didn't matter much at that time, because there were no checkpoints or permits or Wall and people could move freely in and out of Jerusalem.

Residency status

In 1994, I applied for family unification. I never received it, but since 1998 I've been given temporary permits to live in Jerusalem, which need to be renewed every year. We have five children and two of the boys and their families live in the community here. Our two sons have Jerusalem ID cards, unlike my three daughters. I think the reason is that my daughters got married very early, at the age of 15. They were not entitled to their own ID cards so their names were put on my West Bank ID card. When they turned 16 and applied for their own ID cards, they were already living in the West Bank with their husbands, and were not given Jerusalem ID cards. Two of them have applied for family unification and have temporary permits like myself, because their husbands are from Jerusalem.

Our third daughter has neither a Jerusalem ID card nor a temporary permit. She lives in As Sawahira ash Sharqiya, which is only a kilometre away from us, but is behind the Wall. Because of the Wall and the checkpoints, we have to take a 30 kilometre detour if we want to visit her. With her West Bank ID card and without a permit to enter Jerusalem, she cannot come and visit us in the house where she was born.

The Barrier and Access & Movement

Even though we live within the Jerusalem municipal boundary and most of our Qunbar community have Jerusalem ID cards, our freedom of movement is very restricted. Our community is now cut off by the Wall on one side and a very steep valley with no access roads on the other. Those with Jerusalem ID cards or temporary permits, like myself, have two ways to get out of the enclave. We can walk on a long, steep dirt-track downhill until we reach Jabal Al Mukabbir, but this is not an option for me in my wheelchair.

The other way is to cross through the Wall – from Jerusalem into Jerusalem again – through a gate which is operated by the Border Police.

This gate doesn't work like a normal checkpoint. It's only for granting access to us and the Surkhi community. About five years ago the Border Police drew up a list with the names of the members of the two communities which is kept at the gate. Only those who are registered on the list have access to our area and can get in by car. Those who were not included on the list – because they were not present on the day of the registration, or because they got married and moved here afterwards – face big problems and are dependent on the mood of the soldiers at the gate.

One of my two daughters who have permits to stay in Jerusalem lives here with her husband who moved to this community after they got married. Even though he has a Jerusalem ID card, his name isn't on the list, which was made before he moved in. He is a minibus driver and once, when my daughter was pregnant, the soldiers wouldn't let him take his vehicle in. My daughter had to walk all the way from the gate to her home, which is around one kilometre.

Like myself, my parents were not given Jerusalem ID cards at the time of the 1967 census because they were outside the Jerusalem municipality boundary, even if only few hundred meters away. So they're living here with us in Jerusalem 'illegally'. Their names were included in the list at the gate, to allow them to go down the road as far as Lazarus checkpoint and to cross into the West Bank. They were only allowed to use that stretch of road between the gate and the checkpoint. However, they closed the Lazarus checkpoint a year or so ago. Now, the only way for those with West Bank ID cards to cross the Wall into the West Bank is to travel downhill on foot– there are no roads there which cars can use – to reach the main Jabal Al Mukabbir road, and then continue as far as Al Sawahira Al Sharqiya checkpoint. My father is 95 and my mother 80 and it's impossible for them to walk such a distance and on such a track, so they're confined to the house.

When we receive visitors, it is a nightmare to get them in. If they come by car, they have to leave it at the gate and we pick them up from there. With my disability I can't drive, but I'm lucky because my son, who lives upstairs, has a car. The same goes for the stuff we need to bring in. There are no shops here

Muhammad Al Qunbar, photo by JC Tordai, 2010

so we have to do all our shopping outside. We can bring in only a limited quantity of food and other goods - what the Border Police decides is for our 'household use.' We can't stock up so we need to leave our community and go shopping every couple of days. For those of us who don't have cars, bringing in food is a big problem.

Access to Education

Our community is too small to have schools or health facilities. My grandchildren face huge problems in getting to school. We can see the school from our homes, but it's located on top of the opposite hill, so the children need to go downhill all the way to the bottom of the valley and then climb up again. The children from our neighbours, the Surkhi community, are picked up by a minibus at the gate and taken to school. We asked the Municipality to provide our children with the same facility but they never got back to us.

Access to Health

I am disabled and have to use a wheelchair and it is very difficult for me to go anywhere, especially the long journey to visit my daughter on the other side of the Wall in As Sawahira ash Sharqiya. On the way back into Jerusalem after visiting my daughter, with my West Bank ID card my access is restricted to Zaytoun, a pedestrian checkpoint. With my wheelchair it is very hard for me to go through the turnstiles and security checks. I last saw her a year ago, when she received a permit to take her son to Al Maqassed hospital in Jerusalem.

If we take my parents out through the gate by car – which they can do, as their names are still on the list – once we are on the other side, we risk having our car confiscated, as Jerusalem ID card holders are not allowed to drive West Bank residents who don't have permits. When they are really sick we take the risk, drive them through the gate and take them to Al Maqassed hospital. Once we are there, we need to pay for their medical fees because, as West Bank residents, they don't benefit from any health insurance.[236]

The gate regulating access to the Surkhi and Qunbar enclave, photo by OCHA, 2009

Photo by Patrick Zoll, 2010

CONCLUSION

East Jerusalem is increasingly separated from the remainder of the occupied Palestinian territory.

Following the war of 1967, the Government of Israel unilaterally annexed East Jerusalem and the surrounding West Bank hinterland, an area of approximately 70 Km^2. This unilateral annexation contravenes international law and is not recognized by the international community which considers East Jerusalem part of the occupied Palestinian territory. Successive UN Security Council and General Assembly resolutions have stated that all legislative and administrative measures taken by Israel to alter the character and status of Jerusalem, are null and void and must be rescinded.

These measures have increasingly cut off East Jerusalem – the focus of Palestinian political, commercial, religious and cultural life, and a hub for medical and educational services – from the rest of the occupied Palestinian territory. The unilateral annexation, and the designation of a separate residential status for East Jerusalem Palestinians, has resulted in Palestinians from the remainder of the West Bank and the Gaza Strip being restricted from residing within the Israeli-defined municipal boundary. Access into East Jerusalem has been constrained since the early 1990s, when Israel imposed a general closure on the West Bank and the Gaza Strip and implemented a permit regime which requires non-Jerusalem Palestinians to obtain permits to enter Israel and East Jerusalem. The granting of such permits is restricted, the permits themselves are of limited duration, become invalid during periods of general closure and permit-holders are restricted to pedestrian passage through four checkpoints into East Jerusalem.

As detailed in this report, the increasing isolation of East Jerusalem from the remainder of the oPt exacts significant humanitarian impact. Teachers and students who hold West Bank ID cards face difficulty in reaching educational facilities within the city. Bureaucratic and physical restrictions also hamper the ability of non-Jerusalem medical staff and patients to access the six specialist hospitals in East Jerusalem. The majority of the population in the oPt is prevented from exercising its right to freedom of worship at the Muslim and Christian holy places, including during the Muslim and Christian holidays. The handover of checkpoints in the Jerusalem area to the Israeli Crossing Points Administration (CPA) is also expected to significantly affect humanitarian access into East Jerusalem on the part of UN agencies and their NGO partners.

More recently, construction of the Barrier in the wider Jerusalem area is intensifying the separation of East Jerusalem from the remainder of the West Bank, by compounding existing administrative restrictions with a physical obstacle. The Barrier 're-locates' Palestinian communities which were incorporated within the extended municipal boundary in 1967 to the 'West Bank' side, resulting in residents' impeded access to services and fears for their future residency status as the Barrier takes on the appearance of permanency. The Barrier walls out West Bank neighbourhoods and suburbs – in addition to the cities of Ramallah and Bethlehem – which have historically benefited from close social, family and economic ties to East Jerusalem. As Palestinian communities are cut off from the urban centre, all of the 'municipal' and the majority of the 'metropolitan' settlements in the Jerusalem area are incorporated onto the 'Jerusalem' side of the Barrier. As is the case in the remainder of the West Bank, the Barrier also brings Palestinian land in the settlements' wake, thus separating rural communities from their agricultural resources and livelihoods.

The concerns raised in this report – the revocation of residency status; planning, zoning and housing restrictions; demolitions & evictions; restricted access to services; settlement activity and Barrier construction – are significantly increasing the humanitarian vulnerability of the Palestinian residents of East Jerusalem. Palestinians are remaining in the city – for fear of revocation of residency and social benefits, reduced access to services among other concerns – but in the long term, failure to address these push factors risks undermining the Palestinian presence in East Jerusalem.

For Palestinians who hold permanent residency status, their ability to reside in East Jerusalem is not guaranteed, and their ID cards can be revoked unless they prove that their 'centre of life' lies within the Israeli-defined municipal boundary. Inherent discrimination in restrictions on 'family unification' and the difficulties in registering children also prevent families of 'mixed residency' status from conducting normal lives Jerusalem.

Since 1967, Israeli measures have systematically discriminated against the Palestinian population in East Jerusalem in matters relating to planning, zoning and building. Over one third of the annexed territory has been expropriated for the construction of Israeli settlements, contrary to international law. Only 13 percent of this area is currently zoned for Palestinian construction, much of which is already built-up. The number of building permits granted annually to Palestinians in East Jerusalem does not meet existing housing needs, resulting in a chronic housing shortage, demolitions of 'illegal' construction and displacement. The *Jerusalem Local Outline Plan 2000* ('Master Plan'), instead of providing a solution to this housing crisis, appears designed to preserving a demographic majority of Jews vis-à-vis Arabs in the city.

Concerning services, East Jerusalem Palestinians, in general, have adequate access to the Israeli health care system which is recognized to be of a high standard and is widely used by eligible beneficiaries. However in education, the chronic shortage of classrooms and the unsuitable or substandard condition of existing facilities results in pupils often accommodated in rented structures which do not meet basic educational and health standards. Many parents cannot access free education and have to resort to fee-paying alternatives. In addition, many pupils are not enrolled in any educational institution or fail to complete the secondary educational cycle.

Regarding settlements, the territory expropriated for their construction and expansion results in a corresponding reduction in the land and resources available for Palestinian residential and commercial growth. The settlements in the Jerusalem area, both 'municipal' and 'metropolitan', have been integrated into the urban fabric, provided with modern infrastructure and services, in contrast to Palestinian neighbourhoods of East Jerusalem where services do not meet the requirements of the residents. An inequitable allocation of municipal resources between the two parts of the city, results in a severely underdeveloped residential and public infrastructure, deteriorating sewage and drainage facilities, and inadequate community facilities and public parks in East Jerusalem.

In recent decades, settler organizations have been targeting land and property to create an 'inner' layer of settlements within Palestinian residential areas, in the so-called 'Holy Basin' area. Archaeological activity in these areas has also added to the public space which the settlers control. A government-sponsored 'Open Spaces' project will expand this domain and further constrain Palestinian construction and space in East Jerusalem. The impact of this

settlement activity areas includes restrictions on public space, residential growth and freedom of movement; increased friction and violence; loss of private property and forced displacement. In addition, the presence of such settlements in Palestinian areas, by creating irreversible 'facts on the ground', further complicates a negotiated division of the city and a peaceful solution to the question of Jerusalem.

The Way Forward

Improving conditions for the Palestinian population of East Jerusalem remains a key concern for UN agencies and their NGO partners. The Humanitarian Country Team has identified East Jerusalem as a strategic priority in the 2011 Consolidated Appeals Process (CAP), which is the principal needs assessment, monitoring and consolidated fundraising mechanism for the humanitarian community in the oPt. The designation of East Jerusalem as an area of 'significant vulnerability' derives from ongoing movement restrictions, including to humanitarian personnel; shrinking living space for Palestinians, due to restricted planning and zoning, and demolitions and evictions; the denial or restrictions on the right to access a basic education; and exposure to economic deprivation, psycho-social pressures and physical insecurity for Palestinians, among other concerns. It is hoped that this report will increase awareness of these issues, encourage the Government of Israel to take measures to address them, and contribute to an enhanced response on the part of UN agencies and their partners to humanitarian, early recovery and development needs of Palestinians in East Jerusalem.

As the occupying power, Israel is responsible under international humanitarian and human rights law for ensuring that the humanitarian needs of people under its occupation are met, including in East Jerusalem, and that Palestinian residents are able to exercise their human rights, including the right to freedom of movement, work, housing, health, education, and to be free from discrimination, among others. Israel is also responsible for ensuring that East Jerusalem remains an integral part of the West Bank and that the entire Palestinian population has the right to reside in, and access the city, including for specialized health and education, work, social, cultural & family relationships and for worship at the Muslim and Christian holy places. The recommendations outlined at the end of each chapter are interim steps to mitigate the negative effects of some of these measures. Only the full implementation of relevant UN Security Council resolutions, in the context of a negotiated permanent status agreement, will realize an end to the 1967 occupation and a just resolution to the question of Jerusalem.

Endnotes

1. According to the Israeli Central Bureau of Statistics (ICBS), by the end of 2009 there were 275,900 Palestinians living within the municipality of Jerusalem; http://www1.cbs.gov.il/ishuvim/ishuv2009/bycode.xls. According to the Jerusalem Institute for Israel Studies, *Jerusalem: Facts and Trends, 2009/2010*, p. 11, 98 percent of the Palestinian population of Jerusalem lives in the areas annexed in 1967 (East Jerusalem). Based on that, it can be estimated that the number of Palestinians residing in East Jerusalem was approximately 270,000 by the end of 2009. http://jiis.org/.upload/facts-2010-eng%20(1).pdf
2. Text largely derived from United Nations, *The Question of Palestine and the United Nations*, New York 2008, pp. 4-7.
3. *Ibid*., pp. 10, 112.
4. Law and Administration Order (No. 1), *Kovets Ha-Takanot*, Vol. 2064, p. 2690, 28 June 1967 (in Hebrew).
5. ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004*. . The full text of the ICJ opinion can be found at: http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4
6. *Ibid*., para. 163.
7. Source: The Jerusalem Center for Socio-Economic Rights: *http://www.jcser.org/index.php?option=com_content&view=article&id=471:jcser-reveals-the-number-of-revoked-id-cards-during-2007-and-2008&catid=33:special-reports&Itemid=34*
8. Kafr 'Aqab – physically separated from the urban centre by the Barrier, but still located within the officially-defined municipal boundary of Jerusalem – has become the main locality of choice for couples with 'mixed residency' status; see chapter on the Barrier in this report.
9. Amir S. Cheshin, Bill Hutman and Avi Melamed, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem*, Harvard University Press, 1999, p. 37. Amir Cheshin served as Senior Adviser on Arab Affairs to former Jerusalem Mayor Teddy Kollek, Bill Hutman was a journalist at the Jerusalem Post, and Avi Melamed served as Deputy on Arab Affairs to Teddy Kollek and his successor as Mayor of Jerusalem, Ehud Olmert.
10. See, *inter alia*, UN Security Council Resolutions 252, 476 and 478.
11. Only those who were present in the city during the census were granted a Jerusalem ID card, leaving those who at the time were travelling or residing abroad, including in any other part of the West Bank or the Gaza Strip, without permanent residency status.
12. 'Israel declared that any East Jerusalem resident wanting Israeli citizenship was entitled to it, provided that he or she met certain conditions stipulated by law, including relinquishing citizenship of another country and demonstrating some knowledge of Hebrew. Persons granted citizenship were required to swear allegiance to the state. For political reasons, most East Jerusalem residents did not request Israeli citizenship.' HaMoked, B'Tselem, *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians*, April 1997, p. 4. However, applications for Israeli citizenship on the part of East Jerusalem residents have increased recently: 'Over the past five years, about 3,000 Palestinians applied for Israeli citizenship, and about 2,300 received it, according to the Interior Ministry.' 'More e. Jerusalem Palestinians seeking citizenship', *The Jerusalem Post*, 12 January 2011. http://www.jpost.com/NationalNews/Article.aspx?id=203269
13. HaMoked, B'Tselem, *The Quiet Deportation*, pp. 3, 6.
14. In addition, the National Insurance Institute may revoke the social benefits of a Palestinian resident after two years of the person residing 'abroad', including other parts of the oPt.
15. 'This discrimination is particularly blatant as far as the West Bank is involved. A non-Palestinian permanent resident who moves to a Jewish settlement in the Occupied Territories maintains his status and rights pursuant to a number of regulations enacted by Israel to ensure that Israeli law applies to the settlements. A Palestinian permanent resident who moves to the West Bank, even only a few meters from the city's borders, is liable to lose all rights as a resident. Inherent in this policy is that Israel considers the West Bank to be part of Israel when Israelis are involved and as 'outside of Israel' when the persons are Palestinians.' HaMoked - B'Tselem, *The Quiet Deportation*, p. 24.
16. This policy recognized the need for Palestinians to travel to Jordan and other Arab countries, not only for temporary visits or business trips, but also for continuous residence abroad, including for study purposes, work, and family ties.
17. Family members were also allowed to extend the exit permit for a relative outside of Jerusalem, each time for a period of twelve months and for a total period of five to six years. HaMoked - B'Tselem, *The Quiet Deportation*, p. 13.
18. *Ibid*.
19. Moreover, in 1973, the Israeli cabinet decided that Palestinians moving elsewhere to the West Bank were entitled to preserve their social insurance rights. This decision was revoked in 1998. Yehezkel Lein, 'The Holy City in Human Dimensions: The Partition of Jerusalem and the Right to Social Security', *Netherlands Quarterly of Human Rights*, Vol. 26/2, 2008.
20. HaMoked - Center for the Defence of the Individual: *Written submission for Consideration Regarding Israel's Third Periodic Report to the UN Human Rights Committee*, July 2010, p. 2. http://www2.ohchr.org/english/bodies/hrc/docs/ngos/Hamoked_Israel99.pdf
21. B'Tselem – *Revocation of residency*, http://www.btselem.org/english/Jerusalem/Revocation_of_Residency.asp
22. B'Tselem, http://www.btselem.org/english/Jerusalem/Revocation_Statistics.asp. In addition, according to the Jerusalem Center for Economic and Social Rights, 721 residencies were revoked in 2009 and 108 until 6 June 2010.
23. HaMoked - Center for the Defence of the Individual versus the Minister of the Interior, HCJ 2227/98. http://www.hamoked.org/items/3055_eng.pdf
24. HaMoked, B'Tselem, *Application to join the Jerusalem District Court as Amicus Curiae in the case of Hatham Siag Versus the Minister of the Interior*, December 2008.
25. Shahar Ilan, 'E. J'lm residents lose civil status at rapid rate', *Ha'aretz*, 24 June 2007.
26. Ministry of Interior information conveyed to HaMoked: Center for the Defence of the Individual, under the Freedom of Information Law, 9 November 2009.
27. *Ibid.*
28. Interview conducted 23 March 2010.
29. HaMoked, B'Tselem, *Forbidden Families: Family Unification and Child Registration in East Jerusalem*, January 2004, p. 7.
30. International Covenant on Civil and Political Rights of 1966, articles 17, 23, 26.
31. Concluding Observations of the Human Rights Committee, Israel, 21 August 2003. http://www.unhcr.org/refworld/country,,,CONCOBSERVATIONS,ISR,,3fdc6bd57,0.html
32. Military permits for 'purposes of family unification' now prohibit the recipient from working in Israel: the permits specifically state that they are for family unification only, although recipients can apply for work permits, which may or may not be granted. In September 2010, HaMoked submitted a letter challenging the policy of permits excluding the ability to work.
33. HaMoked, B'Tselem, *Forbidden Families*, p. 8. 'During this period, the Interior Ministry made conflicting demands on the spouses and more than once even ignored rules that the Ministry itself had set. The Ministry often changed the procedures without informing the public and without explaining the new requirements. The Ministry's policy created hardships for couples in every stage of the application process.'
34. See HaMoked, B'Tselem, *Forbidden Families*, pp. 15-20, for a discussion of 'The stated justification – security' versus 'The real reason – demographics'.

35. The law 'applies solely to Palestinians and those of Palestinian origins, and allows non-Palestinians and those of non-Palestinian origins to proceed with their applications for obtaining Israeli nationality and/or permanent residency when they are married to Israeli spouses.' Civic Coalition for Defending the Palestinians' Rights in Jerusalem (CCDPRJ), *Residency Rights in Jerusalem*, 2008, p. 22. One of the amendments expanded the prohibitions of the law to apply to non-Palestinian, residents of 'enemy states' – Syria, Lebanon, Iraq and Iran – listed in an annex to the law.
36. 'As for requests that have not yet been approved, if they were submitted prior to 12 May 2002, the date of the government's decision, they will be processed. If they are approved, the spouse residing in the Occupied Territories will only be given temporary permits, issued by the Civil Administration, to enter Israel.' HaMoked, B'Tselem, *Forbidden Families*, p. 12.
37. 'HaMoked with other human rights organizations petitioned the High Court of Justice, challenging the constitutionality of the law. In May 2006, the Court rejected the petitions. Although in the ruling, six of the eleven justices on the panel wrote that the law was unconstitutional and constituted a disproportionate violation of the constitutional rights of Arab citizens and residents of Israel to family life, the Court allowed the Knesset the possibility of replacing it with a different arrangement within seven months, and did not abolish it.' HaMoked - Center for the Defence of the Individual: *Written submission for Consideration Regarding Israel's Third Periodic Report to the UN Human Rights Committee*, July 2010. p. 4. http://www2.ohchr.org/english/bodies/hrc/docs/ngos/Hamoked_Israel99.pdf
38. After passage of the amendment, several additional petitions were submitted to the High Court of Justice, challenging the constitutionality of the law. The petitions are still pending before the Court. They are: HCJ 5030/07 *HaMoked v. Minister of Interior*, HCJ 830/07, *Tabila v. Minister of Interior*; HCJ 544/07, *Association for Civil Rights in Israel v. Minister of Interior*; and HCJ 466/07, *Galon v. Minister of Interior*.
39. HaMoked, *Written submission for Consideration Regarding Israel's Third Periodic Report to the UN Human Rights Committee*, p. 5. According to Physicians for Human Rights, which submitted several applications to the Committee, 'the Humanitarian committee is unable to provide fair and realistic solutions to the many who have been adversely affected by the (Nationality and Entry into Israel) Law.' Physicians for Human Rights, *No civil status, no hope: A close look at the 'Humanitarian' Committee of the Citizenship Law*. http://www.phr.org.il/uploaded/Microsoft%20Word%20-%20Humanitarian_Committee_PositionPaper_English_July10%20_2_.pdf
40. The International Campaign against Revoking the Residency Rights of Palestinians from East Jerusalem, Brochure; *About Us and Israel's Policies*, 2010.
41. Based on Women Center for Legal Aid and Counseling (WCLAC), *Voices of Palestinian Women*, 2010 and OCHA interviews conducted 7 May and 29 July 2010.
42. HaMoked, B'Tselem, *Forbidden Families*, p. 26.
43. HaMoked, *Written submission for Consideration Regarding Israel's Third Periodic Report to the UN Human Rights Committee*, p. 5.
44. Interview conducted 16 August 2010.
45. See http://www.btselem.org/english/Jerusalem/Discriminating_Policy.asp.
46. Bimkom-Planners for Planning Rights and Ir Shalem, *The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem*, 2005, p. 25 (Hebrew). This section is also drawn from the work of the Israeli Committee against House Demolitions (ICAHD), in particular, Meir Margalit, *No Place Like Home, House Demolitions in East Jerusalem*, March 2007.
47. Margalit, *No Place Like Home*, p. 16.
48. Complicated land ownership has also made parcellation, or subdivision, of land, often necessary when planning an area, difficult. See Box, *Land Registration in East Jerusalem.* See also, Bimkom, *Planning Deadlock*, English Abstract, p. 5, and Margalit, *No Place Like Home*, pp. 17-18 and 20-21.
49. For example, there is a shortage of approximately 70 km of main sewage pipes in East Jerusalem. See Bimkom and Ir Amim, *Making Bricks Without Straw*, January 2010. According to the Jerusalem Municipality's November 2010 *Survey of Infrastructure in East Jerusalem* report, some NIS 1.9 billion is required to bring the level of infrastructure in East Jerusalem up to that of West Jerusalem. Survey prepared by Engineer Ehud Tayar.
50. There are similar requirements related to parking spaces which make it difficult for Palestinians to obtain permits.
51. For example, the settlement of Pisgat Ze'ev has a construction density of 90-120 percent, while the nearby Palestinian neighbourhood of Beit Hanina has a construction density of 50-75 percent. Likewise, the settlement of Ramat Shlomo has a density of 90-120 percent compared to the Palestinian neighbourhood of Shu'fat, which has a density of 75 percent. For these and other comparisons, see Margalit, *No Place Like Home*, pp. 18-19. While regulating density is a necessary planning requirement, density restrictions in certain areas of East Jerusalem have been problematic and resulted in situations where Palestinian families are denied the ability to legally add an additional story to a family home, while an adjacent Israeli settlement is allowed to construct multi-story buildings.
52. Exchange rate as of 9 November 2010, NIS 3.6 = US$ 1. Figure derived from fees per unit provided by the Jerusalem Municipality Fees and Charges Department, upon the request of Jerusalem Municipal Council Member Meir Margalit, January 2010.
53. See Bimkom and Ir Amim, *Making Bricks Without Straw: The Jerusalem Municipality's New Planning Policy for East Jerusalem*, January 2010. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/NewPlanningPolicyFinalEnglish(1).pdf
54. See final section of this chapter.
55. Bimkom, *Building Permits for Palestinian Neighbourhoods in East Jerusalem.* http://eng.bimkom.org/Index.asp?CategoryID=146&ArticleID=145.
56. For example, in a low-income neighbourhood (such as Um Tuba or As Sawahira al Gharbiya), the fee for a 200m² house on a half dunum plot of land would cost between NIS 42,000 - 60,000 (approximately US$ 11,700 - 16,700). According to Jerusalem City Council member Meir Margalit, in a relatively more affluent area, such as Beit Hanina, the fee can reach NIS 72,000 - 162,000 (US$ 20,000 - 45,000).
57. Municipal figures for permit applications and permits granted for the period between 2006 and November 2010, provided to OCHA by Jerusalem Municipal Council member Meir Margalit,
58. Bimkom, *Building Permits for Palestinian Neighbourhoods in East Jerusalem.*
59. Ir Amim, *A Layman's Guide to Home Demolitions in East Jerusalem*, March 2009, p. 4. http://www.ir-amim.org.il/Eng/_Uploads/dbsAttachedFiles/HomeDemolitionGuideEng(1).doc. Average of authorized units based on municipal figures for the years 2006 - November 2010, provided by Meir Margalit.
60. For some of the other challenges faced by Palestinians residents due to the lack of planning and services in East Jerusalem, see Case Study, *Impact of the Barrier on Kafr 'Aqab* in *The Barrier in the Jerusalem Area* chapter of this report.
61. Source, 2000-2007, B'Tselem website, official figures; 2008 and 2009, official figures provided by Meir Margalit; 2010, OCHA figures.
62. Ir Amim, *Jerusalem Master Plan 2000, General Analysis and Comments*, June 2010. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/master.pdf
63. For background, see Bimkom, *Planning in Jerusalem: The Implications of the New Outline Plan of Jerusalem for Palestinian neighbourhoods*, December 2009. http://eng.bimkom.org/Index.asp?ArticleID=138&CategoryID=98&Page=1

64. For example, Ir Amim estimates that by 2030, there will be a shortfall of at least 15,000 housing units, *Jerusalem Master Plan 2000*, June 2010.
65. Bimkom, *Planning in Jerusalem*, December 2009. According to Ir Amim, the *Local Outline Plan* will allow for the construction of 13,500 new housing units for Palestinians, of which, 10,000 will be available by 2030. See Ir Amim, *Jerusalem Master Plan 2000*, June 2010.
66. Bimkom, ACRI, *Letter submitted to the Jerusalem District Committee for Planning and Construction*, August 2010. Original text in Hebrew.
67. See Section 7.2.1, *Maintaining a Jewish Majority in the City while Attending to the Needs of the Arab Minority*, of the unofficial translation of the *Local Outline Plan Jerusalem 2000*, Report No. 4, prepared for the Jerusalem Municipality by the Planning Administration, City Engineer, City Planning Department. Original Hebrew version of the plan available on the website of the Jerusalem Municipality, http://www.jerusalem.muni.il.
68. Association for Civil Rights in Israel, The *State of Human Rights in East Jerusalem, Facts and Figures*, May 2009, p. 38. http://www.acri.org.il/pdf/eastjer2009.pdf.
69. In early 2009, the Jerusalem Municipality reported that it had no intention of demolishing 21 of the buildings, which were present in Al Bustan prior to 1992, including between seven and 11 structures which were built before 1977. Legal opinion by Jerusalem Municipality Legal Advisor, Yossi Havilio, *Demolitions in Al Bustan Neighbourhood - Kings Valley Silwan*, 8 March 2009, number 2009-0236-1126.
70. Letter from Jerusalem City Engineer Uri Shitreet to Director of the Construction Supervision Department, 11 November 2004, number 2004-0181-332.
71. An individual whose house has received a demolition order can go to court to freeze the order on the basis that the plan under review, if approved, would legalize the house.
72. According to the residents' urban planner, the municipality's proposal is problematic as there is insufficient space in the proposed relocation area, the host residents are under no obligation to share their property with their neighbours, and many of the remaining structures cannot sustain second or third floors without being demolished and rebuilt.
73. Percent of 'illegal' construction calculated by OCHA based on a number of sources: minimum estimates based on figures for residential units, natural growth and unauthorized structures included in the *Local Outline Plan* 2000. Higher estimates based on number of residential units according to municipal tax records. Number of population affected based on population figure of 270,000 for East Jerusalem. For *Local Outline Plan* figures, see Section 4.6, *Local Outline Plan Jerusalem 2000*. For the number of dwellings in 2009 according to municipal tax records, see Table X/14 - Dwellings in Jerusalem, by Area, Quarter, and Sub-Quarter, 2009, *Israel Statistical Yearbook*, Jerusalem Institute for Israel Studies, http://www.jiis.org.il.
74. General outline plan AM/9, approved in the late 1970s, covers 10,800 dunums of East Jerusalem land around the Old City and adjacent neighbourhoods. The detailed plans for Ath Thuri, Silwan, Ras Al 'Amud, Ash Shayyah, As Suwwana, and At Tur were developed in accordance with AM/9.
75. Source: For the years 2004 - 2008, see ICAHD data sheet on East Jerusalem demolitions: http://icahd.org.dolphin.nethost.co.il/wordpress/wp-content/uploads/2010/05/East-Jerusalem-english.pdf. Data for 2000 - 2003 and 2009 provided by Meir Margalit. For more details on fines and other penalties, see Margalit, *No Place Like Home*, pp. 10-12.
76. According to ICAHD, Israeli authorities have demolished over 24,000 homes in the oPt, including East Jerusalem, since 1967. See ICAHD, *Statistics on House Demolitions*, available at: http://www.icahd.org. For the estimate of 2,000 houses demolished in East Jerusalem since 1967, see IPCC, *Jerusalem on the Map III*, p. 37.
77. Annual demolition figures derived from official figures for the years 2000 - 2009, combined with demolitions recorded by OCHA during 2010. Official demolition figures for the years 2000 - 2007 were provided to B'Tselem by the Jerusalem Municipality and the Ministry of Interior, see http://www.btselem.org/english/Planning_and_Building/East_Jerusalem_Statistics.asp. Official figures for 2008 and 2009 provided to OCHA on 23 December 2010 by Jerusalem Municipal Council member Meir Margalit. Please note, official figures do not include 'self-demolitions,' so these have been excluded from Figure 2 for 2010.
78. This figure includes structures demolished by all Israeli authorities, including by the Israel Nature and Parks Authority.
79. 66.8 percent of non-Jewish families in Jerusalem live below the poverty line compared to 23.3 percent of Jewish families. Israeli Central Bureau of Statistics, published by the Jerusalem Institute of Israel Studies, *Table VI\2 - Extent of Poverty among Families in Jerusalem by Religion and Family Characteristic*, 2007. http://jiis.org/.upload/yearbook/2007_8/shnaton%20F0206.pdf. It should be noted that the poverty definition employed differs from that used by the Palestinian Central Bureau of Statistics (PCBS). Therefore, this rate is not comparable to PCBS poverty rates for the remainder of the West Bank.
80. Survey conducted by Palestinian Counselling Center, Save the Children-UK and the Welfare Association, *Broken Homes, Addressing the Impact of House Demolitions on Palestinian Children and Families*, May 2007. http://www.savethechildren.org.uk/en/docs/Broken_Homes_English_low_res.pdf
81. 22 December 2010. http://www.ochaopt.org/documents/house_demolition_23_12_2010_press_release_english.pdf
82. Interview conducted 26 May 2010. Footage of the immediate aftermath of the demolition available at http://www.youtube.com/watch?v=Y5gv6AYwo4s The Israeli Committee against House Demolitions (ICAHD) rebuilt the Taryaki home in July 2010. See *ICAHD and Spanish Human Rights Activists Rebuilding 4 Homes*, http://www.icahd.org/?p=5623
83. Jerusalem Municipality, *Municipality of Jerusalem Statement on the UN Report, 'The Planning Crisis in East Jerusalem'*, 1 May 2009.
84. In Beit Hanina, in Al Addaseh area, IPCC is developing a new detailed plan for a 667 dunum area that holds the potential for building 2,500 new residential units. Thus far, 160 demolition orders have been frozen. IPCC is involved in a range of additional planning activities in East Jerusalem, beyond those outlined above.
85. In addition to attempting to provide planning solutions, a key benefit of these planning initiatives is that in many cases, they enable individual residents to secure a temporary freeze of outstanding demolition orders while the planning process is underway.
86. In 2008 alone, Palestinians submitted 190 plans. Ir Amim, *A Layman's Guide to Home Demolitions in East Jerusalem*.
87. See *Settlements in East Jerusalem* chapter of this report.
88. Interview conducted 6 January 2011. The names have been changed at the subject's request.
89. According to the Jerusalem Institute for Israel Studies, the number of settlers in Jerusalem was 195,500 at the end of 2008. *Jerusalem: Facts and Trends 2009/2010*, p. 11. http://jiis.org/.upload/facts-2010-eng%20(1).pdf.
90. 'The placement of smaller urban settlements for Israeli Jews … in the metropolitan area surrounding Jerusalem, was intended both to forestall the spread of the Palestinian Arab housing construction and to inject an Israeli Jewish population into the predominantly Arab population of the metropolitan region.' Michael Dumper, *The Politics of Jerusalem since 1967*, Columbia University Press, p. 116.
91. See OCHA, *The humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank*, July 2007, p. 15. http://www.ochaopt.org/documents/ TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_Intro.pdf
92. A new light rail system currently under construction in

Jerusalem will, *inter alia*, further strengthen the connection between the settlements in East Jerusalem and the urban centre.

93. These provisions are considered international customary law, but see also Articles 27, 49 and 53 of the Fourth Geneva Convention and Articles 46, 53 and 55 of the Hague Regulations.
94. See e.g. Security Council Resolution 466 of 22 March 1979; General Assembly Resolution 13/7 of April 2010; and Human Rights Council Resolution 10/18; as well as the *Advisory Opinion of the ICJ on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* of 9 July 2004.
95. Ir Amim, *Beyond the Wall*, January 2007, p. 6. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/BeyondTheWalEng(1).doc
96. Meir Margalit, *Seizing Control of Space in East Jerusalem*, 2010, p. 125.
97. *Ibid*., p. 126. 'This strategy is not a secret. In interviews with the media, settlers reiterate that underlying each settler's home is the stated intention to sever the continuity of Arab presence in the city and to sabotage the prospects of coexistence.'
98. '650 Palestinian Arabs [were] evicted in the Old City when the Municipality demolished the Maghraib quarter on June 10 [1967] to make way for a plaza fronting the Western Wall ... and some 4,000-5,000 Palestinians [were] evicted as a result of the later (second half of the 1970s) expropriation of Palestinian Arab property in the area designated as the enlarged Jewish quarter.' Dumper, *The Politics of Jerusalem since 1967*, p.74.
99. Amir S. Cheshin, Bill Hutman and Avi Melamed, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem*, Harvard University Press, 1999, p. 216. 'The method was simple: companies formed by settler activists … would try to locate Arab homes whose owners, they believed, had fled the country in the 1967 war. The settlers, now given official positions by the government, would register the homes with the custodian for absentee properties. By law, the custodian was supposed to determine if the Arab owners indeed fled the country, and if so put the property up for sale. Instead the custodian took the settlers – who did not hide their goal of taking over as many Arab homes as they could – at their word and turned them over to them.' *Ibid*., p. 217.
100. Ir Amim, *The Absentee Property Law in East Jerusalem: Recent Developments and their Significance*, April 2005, p. 5. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/AbsenteePropertyLawReportEng(1).doc 'It is estimated that in June 1967 approximately 10,000 of the residents of East Jerusalem had been born and lived in West Jerusalem before 1948 and because of the war had abandoned their homes and properties, which were then taken over by the government of Israel under the Absentee Property Law (1950) and transferred to Israeli public or private entities.' Yitzhak Reiter and Lior Lehrs, *The Sheikh Jarrah Affair: The Strategic Implications of Jewish Settlement in an Arab Neighborhood in East Jerusalem*, The Jerusalem Institute for Israel Studies, 2010, p. 47, citing Meron Benevisti, *Facing the Sealed Wall*, Jerusalem, 1973, p. 204.
101. See Town Planning Schemes 11536 & 2591, cited in Ir Amim, *Evictions and Settlement Plans in Sheikh Jarrah: the Case of Shimon HaTzadik*, June 2009. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/SheikhJarrahEngnew.pdf
102. *Ibid*., pp. 5-6.
103. 'Since the property was not absentee property when the army entered East Jerusalem, and would not have turned into absentee property if East Jerusalem had continued to be part of Judea and Samaria (the *West Bank*), we did not see any justification for the annexation of Jerusalem resulting in taking away property from somebody who was not actually absent.' *Ibid*., p. 6.
104. Cheshin, Hutman and Melamed, *Separate and Unequal*, p. 214.
105. Association for Civil Rights in Israel (ACRI), *Unsafe Space: The Israeli Authorities' Failure to Protect Human Rights amid Settlements in East Jerusalem*, September 2010, p. 36. http://www.acri.org.il/pdf/unsafe-space-en.pdf
106. In 2004, the Absentee Property Law was also employed to confiscate land isolated by the Barrier in the southern Jerusalem area from Bethlehem farmers. The lawyer who had been petitioning the IDF to grant access permits to the farmers was eventually informed that 'the land no longer belongs to them, but is being placed in the possession of the Custodian of Absentee Property.' In the face of international pressure and opposition from then Attorney Menachem Mazuz, the government rescinded the decision. Meron Rapaport, 'Land Lords', *Ha'aretz*, 20 January 2005.
107. Ir Amim, *Shady Dealings in Silwan*, May 2009, p. 14. http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/Silwanreporteng.pdf
108. See OCHA, *The Case of Sheikh Jarrah: Updated Version*, October 2010, http://www.ochaopt.org/documents/ocha_opt_sheikh_jarrah_factsheet_2010_10_11_english.pdf, Also, the Civic Coalition for Defending Palestinian Rights in Jerusalem, *Dispossession and Eviction in Jerusalem: A Summary of the Story of Sheikh Jarrah*, 2009. http://www.civiccoalition-jerusalem.org/ccdprj.ps/new/pdfs/Sheikh%20Jarrah%20Report%20(2).pdf
109. 'The eviction of Palestinian families from Sheikh Jarrah underscores the lack of symmetry regarding the return of property, given that these are refugee families who owned property within the Green Line before 1948, including West Jerusalem', Reiter and Lehrs, *The Sheikh Jarrah Affair*, p. 46.
110. Meir Margalit, *Seizing Control of Space in East Jerusalem*, pp. 136-137.
111. Ir Amim, *Shady Dealings in Silwan*, p. 17.
112. *Ibid*., p. 11.
113. *Ibid*. 'The first contract 'was hidden from relevant government bodies such as the Israel Antiquities Authority' and the second 'contrary to the opinion of the senior professional echelon in the Israel Nature and Parks Authority.'
114. The site attracted 380,000 visitors in 2008 and 270,000 in 2009. *Report of the Nature and Parks Authority for 2009*, p. 79, cited in B'Tselem, *Caution - Children Ahead: The illegal Behavior of the Police towards Minors in Silwan suspected of Stone Throwing*, December 2010, p. 6. http://www.btselem.org/Download/201012_Caution_Children_Ahead_Eng.pdf
115. A petition signed by a number of Israeli and international scholars in opposition to the manner in which archaeology is being conducted in Silwan, declares: 'We, the undersigned, renew our support for, or join the call, to take archaeology in the City of David out of the hands of Elad. We have found new causes for concern in the conduct of archaeological work in this area, with increasing evidence of doubtful professional practices that are the inevitable result of the untenable ethical position implicit in the ongoing excavations. We call upon the Israel Antiquities Authority and the Israel Nature and National Parks Authority to take the lead in transforming the antiquities of Jerusalem into an instrument of mutual respect and understanding between the different communities in Jerusalem including the residents of Wadi Hilweh in Silwan, and between the different cultures to which they are heirs. We call upon these organizations to put a stop to the overt political exploitation of the antiquities of Jerusalem.' *http://www.alt-arch.org/report.php*
116. Another section of the main road in Wadi Hilweh collapsed in January 2010.
117. Information from Hagit Ofran, Peace Now, interview and tour 29 July 1010, and Attorney Danny Seidemann, interview 23 August 2010.
118. Ir Amim PowerPoint presentation, *The Volcanic Core: The struggle over the Old City and its Historic Basin*, December 2009, Slides 24/25. 'The plan's execution, is assigned to the JDA, which will hire 'subcontractors' –which seems to be a codename for the involvement of private and ideological

bodies such as the settlers' associations already active in East Jerusalem.' Peace Now Settlement Monitoring Team unpublished report, April 2009.

119. Ir Amim PowerPoint presentation, *The Volcanic Core: The struggle over the Old City and its Historic Basin*, Slide 32.
120. Peace Now Settlement Monitoring Team, unpublished report, April 2009, p. 17. 'The map of the open-spaces government projects covers almost all of the unbuilt plots around the Old City.' *Ibid*., p. 12.
121. *Ibid*., p. 6.
122. Ir Amim PowerPoint presentation, *The Volcanic Core*, Slide 35.
123. Jerusalem Institute for Israel Studies, *Jerusalem Statistical Yearbook 2009* (Table C/8, available at http://jiis.org.il/.upload/as%20C08090.pdf.
124. Peace Now Settlement Monitoring Team, unpublished report, April 2009, p. 11.
125. Ir Amim, *Shady Dealings in Silwan*, 2009, p. 22.
126. Peace Now Settlement Monitoring Team, Unpublished report, April 2009, p. 19.
127. ACRI, *Unsafe Space*, p. 31.
128. *Ibid*., p. 4.
129. *Ibid*.
130. Interview conducted 12 May 2010.
131. ACRI, *Unsafe Space*, p. 16. 'In 2010, the cost of these security services came to a total of NIS 54,540,000, funded entirely by Israeli taxpayers.' These costs are projected to increase: 'Security expenses for settlers living in Palestinian neighbourhoods in East Jerusalem went up in the new budget, reaching NIS 3,160 per settler. This represents a rise of 40 percent in the settler security budget, from NIS 54.5 million in 2010 to NIS 146 million in 2011 and 2012.' Akiva Eldar, 'New state budget gives settlements NIS 2 billion - and more', *Ha'aretz*, 31 December 2010. http://www.haaretz.com/print-edition/news/new-state-budget-gives-settlements-nis-2-billion-and-more-1.334390
132. *Ibid*, p. 18.
133. According to an investigation conducted by B'Tselem, between November 2009 and October 2010, at least 81 minors from Silwan were arrested or detained for questioning, at least 32 of them in October, the vast majority on suspicion of stone-throwing. B'Tselem contends that in the course of this activity, 'the Jerusalem police repeatedly breached the law, and particularly the Youth Law, which grants minors extra rights in a criminal proceeding.' B'Tselem: *Caution - Children Ahead: The illegal Behavior of the Police towards Minors in Silwan suspected of Stone Throwing*, December 2010, p.4.
134. This includes psychological distress such as depression, difficulty in concentrating and increased aggression. See Palestinian Counseling Center, Save the Children UK, the Welfare Association, *Broken Homes: Addressing the Impact of House Demolitions on Palestinian Children & Families*, April 2009.
135. Interview with Nasser Ghawi, whose extended family, together with that of Maher Hanoun, was evicted from Sheikh Jarrah on 2 August 2009. Interview conducted 8 June 2010.
136. Ir Amim, *Beyond the Wall*, January 2007.
137. The Government of Israel has stated that 'the Security Fence is a manifestation of Israel's basic commitment to defend its citizens, and once completed, it will improve the ability of the IDF [Israeli Defence Forces] to prevent the infiltration of terrorists and criminal elements into Israel for the purpose of carrying out terrorist attacks or the smuggling of arms and explosives.' http://www.seamzone.mod.gov.il/Pages/Heb/default.htm
138. The total area located between the Barrier and the Green Line is 9.4 percent of the West Bank, including No Man's land. See OCHA/WHO Special Focus, *Six years after the International Court of Justice Opinion on the Barrier: The Impact of the Barrier on Health*, July 2010, p. 2. http://www.ochaopt.org/documents/ocha_opt_special_focus_july_2010_english.pdf
139. ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004*, para. 141. The full text of the ICJ opinion can be found at: http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=5a&case=131&code=mwp&p3=4
140. *Ibid*., para. 163.
141. Currently, the CPA requires regular searches of UN vehicles unless the driver is an international staff member holding a Ministry of Foreign Affairs identification card; national UN staff are subject to body searches and required to walk through the crossings the CPA currently operates. Such searches are contrary to the UN Privileges and Immunities, *Convention on the Privileges and Immunities of the United Nations*, adopted by the General Assembly in 1946.
142. See Shaul Arieli and Michael Sfard, *The Wall of Folly*, 2008, chapter 4; B'Tselem and Bimkom, *Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank*, December 2005. http://www.btselem.org/Download/200512_Under_the_Guise_of_Security_eng.pdf
143. In June 2009, following a petition by the Sawahreh and Abu Dis local councils, the State informed the High Court of Justice that it had decided to freeze construction of the Barrier around Ma'ale Adummim due to 'budget constraints and other needs that the defence establishment faces.' B'Tselem, *Israel freezes construction of Separation Barrier in Ma'ale Adummim area*, 24 September 2009.
144. Nine Palestinian communities with approximately 21,000 residents will also be affected and face reduced access to Bethlehem City, the major services centre for health, education, markets and trade. Bethlehem farmers who reside on the 'Palestinian side' of the Barrier will also face reduced access to their land behind the Barrier. For more information on the impact of the Barrier on the Bethlehem governorate, see OCHA, *Shrinking Space: Urban Contraction and Rural Fragmentation in Bethlehem Governorate*, May 2009. http://www.ochaopt.org/documents/ocha_opt_bethlehem_shrinking_space_may_2009_english.pdf
145. Ir Amim, *Beyond the Wall*, January 2007.
146. When a girls' school in Kafr Aqab requested assistance from the Palestinian Authority (PA) in nearby Ramallah to deal with chronic litter problems, 'Jerusalem Mayor Nir Barkat sent inspectors who prevented the PA people from entering the neighbourhood. The school administration was also reprimanded and warned not to do it again.' Tzippi Malikov, 'New cleaning contractor in Jerusalem: The Palestinian Authority', *Yedioth Yerushalayim*, 2 November 2009. On 2 November 2010, Palestinian Prime Minister Salam Fayyad cancelled a scheduled visit to a dedication ceremony for a new PA-funded school in the Palestinian neighbourhood of Dahiyat al Salam, after Israeli Public Security Minister Yitzhak Aharonovitch issued a warrant, reaffirming that no PA event could take place within the municipal boundary without prior permission from the Israeli authorities.
147. 'A boys' school in the East Jerusalem village of Kafr 'Aqab suspended classes yesterday to protest police officers' alleged failure to intervene when seven armed men stormed the school, assaulted the principal and locked 400 students in the building, according to parents of students at the school.' Nir Hasson and Liel Kyzer, 'Classes suspended at East J'lem school to protest police inaction over raid', *Ha'aretz*, 24 December 2009.
148. Government Decision 3873, 10 July 2005.
149. Such as a post office and an Israeli Ministry of Interior branch operating twice a week at Qalandiya checkpoint, a school in Kafr Aqab partially funded by the Israeli Ministry of Education and a new school in Ras al Khamis. Eli Oshrov, 'Beyond the Fence', *Zman Yerushalayim*, 12 July 2010.
150. See *Restrictions on Access to Health* in this report, regarding ambulance access in the case of emergency for East Jerusalem residents now located on the 'West Bank' side of the Barrier.

151. For example, Yakir Segev, who holds the portfolio for East Jerusalem within the Jerusalem Municipality, is reported as saying: 'The municipality has internalized the message which came from the Israeli government that these neighbourhoods are not part of Jerusalem, and is acting in accordance. … Formally, they are part of Jerusalem but in nearly other practical manifestation, they are not. The State removed itself from all responsibility.' 'Israel foregoing J'lem villages on other side of fence', *Ynet*, 18 January 2010.
152. Interview conducted 9 August 2010.
153. This is the number of communities and individuals in this category which have been identified and surveyed to date by OCHA.
154. See Case Study, *Um al Asifir*, in the *Restrictions on Access to Health* chapter on this report.
155. See OCHA *Five Years after the International Court of Justice Advisory Opinion*, July 2009, pp. 16-19. http://www.ochaopt.org/documents/ocha_opt_barrier_report_july_2009_english_low_res.pdf For more on the background and impact of the Barrier, including East Jerusalem, see the UN video documentary, *Walled Horizons*, narrated by Pink Floyd founding member, Roger Waters, at: http://www.youtube.com/watch?v=rLqd0z2lrRY
156. These restrictions have a particularly devastating impact on women, who usually move to live with their husband's extended family on marriage and are therefore separated from their own families, friends and communities. Women's Center for Legal Aid and Counselling (WLAC), *Life Behind The Wall*, November 2010, p. 28.
157. Interview conducted 10 August 2010.
158. Abdalla Owais 'Transformations between east Jerusalem and its neighbourhoods' in International Peace and Cooperation Center, *Jerusalem and its Hinterland*, 2008, p. 56.
159. *Ibid*., p. 55.
160. *Ibid*.
161. '[T]he wall precipitated a migration into East Jerusalem and the Old City of thousands of Palestinians who moved from the neighbourhoods and suburbs that were cut off from the city by the barrier. This influx exacerbated the already poor socio-economic life of the city. East Jerusalem and its Old City witnessed a perceptible deterioration in the quality of urban life and in service levels.' International Peace and Cooperation Center, *Jerusalem the Old City: The Urban Fabric and Geopolitical Implications*, 2009, p. 6.
162. *Ibid*., p. 56. '[I]n some areas of Ar Ram, especially in the Ar Ram-Bir Nabala Junction, merchants paid up to US$ 1,000 per square meter to rent commercial space at this strategic junction.' *Ibid*., p. 60.
163. Interview with Al Ram Village Council, 9 July 2010.
164. Interview with Bir Nabala Village Council, 26 May 2010.
165. Interview with Abu Dis Village Council, 8 August 2010.
166. In a survey of some 1,008 households conducted in the Jerusalem governorate in 2006, 34.8 percent of households reported having been displaced by the Barrier and its associated regime. Badil Resource Center for Palestinian Residency and Refugee Rights and the Norwegian Refugee Council/Internal Displacement Monitoring Centre, *Displaced by the Wall: Pilot Study on Forced Displacement caused by the Construction of the West Bank Wall and its Associated Regime in the Occupied Palestinian territories*, September 2006, p. 29.
167. Data collected from relevant village councils, May-August 2010.
168. The increase in the cost of land in Al Ram, conflicting with the trend recorded in Bir Nabala and Abu Dis, is explained by the fact that the community's land reserves are much more limited than in the other two localities. Some 7,500 dunums of land around Al Ram have been cut off by the Barrier, leaving only 2,300 dunums.
169. Interview Ar Ram Village Council, 4 August 2010.
170. Information on Biddu communities and agricultural gates from UNRWA.
171. The number of permits issued, however, remains disputed. While the Israeli authorities claim that as many as 10,000 were issued, Palestinian sources argue that there were no more than 3,000.
172. Interview conducted with Nizar Habash, head of the Palestinian Holy Family Scout Group in Ramallah, 13 April 2010.
173. *Sefer Ha-Chukkim 5709*, p. 287; LSI, vol. 3, p. 125. According to this law, compulsory education applies to all children between the ages of 5 and 18 inclusive. This education is provided free of charge throughout the entire system from age five. A 1984 amendment to the law grants free government-sponsored preschool education to all three-to-four year old children, which is being gradually implemented, but has not yet been applied to East Jerusalem.
174. 'Uncoordinated planning between the different supervising bodies may lead to contrary and sometimes conflicting directions; for example, the variation in the instructions regarding schooling days and hours and school holidays causes confusion to families, especially when a family has children attending schools run by different authorities.' Civic Coalition for Defending the Palestinians, Rights in Jerusalem (CCDPRJ), *Education Rights in Jerusalem*, 2008, p. 11.
175. ACRI, Ir Amim, *Failed Grade: Palestinian Education System in East Jerusalem 2010*, August 2010, p. 3. http://www.acri.org.il/pdf/EJeducation2010en.pdf
176. Data from the *Waqf* Directorate of Education, May 2010.
177. Interview with Ms. Sawsan Safadi, *Waqf* Directorate of Education, May 2010.
178. Amir S. Cheshin, Bill Hutman, Avi Melamed, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem*, Harvard University Press, 1999. pp. 101-105.
179. Although all categories follow the same curriculum, there are modifications. For example, the UNRWA school curriculum also includes some human rights-related material in their curriculum and municipal schools do not teach some of the content of the PA textbooks, such as the subject of 'national education.'
180. ACRI, Ir Amim, *Failed Grade: Palestinian Education System in East Jerusalem 2010*, August 2010, p. 2. The lower estimate is from the Knesset Education Committee, the higher number from the Jerusalem Municipality.
181. Association for Civil Rights in Israel (ACRI), *Human Rights in East Jerusalem: Facts and Figures*, May 2010, p. 48, citing Jerusalem Municipality data. The corresponding dropout rate for Jerusalem's Jewish sector is 7.4 percent. The drop-out rate, as defined by the municipality, is determined by a pupil being absent from school for a specified number of days. According to the Palestinian Ministry of Education and Higher Education, the drop-out rate for boys in *Waqf* schools in East Jerusalem is 6.5 percent compared with 2.8 percent in Ramallah. http://www.acri.org.il/pdf/eastjer2010.pdf
182. 'The external manifestation of that reality can be seen in Jerusalem today at every turn – from the dozens of high school-age Palestinian boys working in the markets and the warehouses of the stores and supermarkets in the industrial areas to the dozens of grade school-age children scrambling between the cars at some of the city's main intersections selling various goods to drivers.' ACRI, Ir Amim, *Failed Grade*, p. 4. According to figures collected by the Palestinian organization Al-Maqdese, the number of drug addicts in the Jerusalem district is 6,000 and the number of casual drug users is 22,000.
183. ACRI, *Human Rights in East Jerusalem*, p. 47.
184. State Comptroller, Annual Report 59b, May 2009, cited in ACRI, Ir Amim, *Failed Grade*, p. 5.
185. *Ibid*. According to ACRI, 'the main reason given by the Jerusalem municipality for the failure to build classrooms is the unavailability of land for construction, but as the mapping of property submitted by the city to the Court in 2006 clearly shows, sixteen lots of land were available for construction at the time. After payment of approximately US$ 10 million in compensation, it would have then been

possible to immediately build 123 classrooms. Another 17 lots could have been appropriated at a higher price (an estimated US$ 28 million) and allowed for construction of an additional 262 classrooms.' ACRI, Ir Amim, *The Arab-Palestinian School System in East Jerusalem as the 2009-2010 School Year Begins*, September 2009.

186. *Ibid.*
187. Knesset Research and Information Centre, *The Education System in East Jerusalem: Classrooms and Curricula*, May 2000, cited in ACRI, Ir Amim, *Failed Grade,* p. 6. 'More than a quarter of all of the nonstandard classrooms (188 of 647) are defined as classrooms in an 'unsuitable condition,' about one fifth (157) are defined as being in a 'fair condition' and only 155 are in a 'suitable condition'; another 147 nonstandard classrooms operate in rooms intended to be 'appendix rooms.' *Ibid.*
188. ACRI, *Human Rights in East Jerusalem,* p. 47. As in other sectors, there is a wide discrepancy in the distribution of resources between East and West Jerusalem: in 2008, the financial allocation for a child attending elementary school in West Jerusalem was more than four times the amount of his/her counterpart in East Jerusalem. *Ibid.*, p. 49. In response to the ACRI report, the Jerusalem Municipality announced that it was spending more on education in East Jerusalem than in the West. 'Ahead of Jerusalem Day, reports highlight extent of city's poverty', *Ha'aretz*, 11 May 2010.
189. As part of its 'Right to education for all' campaign, the Palestinian organization Al-Maqdese, succeeded in providing places for 94 Jerusalem pupils in municipal schools.
190. ACRI, Ir Amim, *Failed Grade*, p.1. ACRI has submitted a petition to the Israeli High Court seeking compensation for parents in East Jerusalem who are forced to pay tuition fees due to the lack of space in the municipal school sector.
191. Interview conducted with Faten Mgahed, head of the Parents' Committee, 24 March 2010. As of November 2010, none of the additional planned facilities had been constructed.
192. *Ibid.*
193. The Coalition for Implementation of the Free Compulsory Education Law for Preschool Children in East Jerusalem, *Preschool Education in East Jerusalem*, December 2006.
194. Data from the *Waqf* Directorate of Education in Jerusalem, May 2010.
195. Interview with Dima Samman, Head of the Jerusalem Affairs Unit, Palestinian Ministry of Education and Higher Education, 29 June 2010.
196. Data from the Palestinian Ministry of Education and Higher Education, 2010.
197. Information from Dr. Suleiman Rabadi, director of the Collège des Frères and Vice President of a committee of Christian private schools operating in East Jerusalem.
198. Information from Madrasati Initiative, 13 July 2010.
199. Interview conducted 17 June 2010. The name has been changed at the subject's request.
200. Interview conducted 26 May 2010.
201. On 7 July 2010, in a Supreme Court hearing on behalf of a Gaza student prevented from reaching her studies in the West Bank, the Israeli Ministry of Defence announced that, despite its recent relaxation of the blockade on Gaza, there would be no relaxation of the policy preventing the travel of persons in and out of Gaza in all but exceptional humanitarian cases. GISHA News Release, *Israel announces no easing for travel of people into and out of Gaza*, 7 July 2010. http://www.gisha.org/index.php?intLanguage=2&intItemId=1841&intSiteSN=113
202. Information from Al Quds University, 12 July 2010.
203. Interview conducted 23 June 2010.
204. 'Continuing membership in the Israeli health care system' was the principal benefit cited in a survey of East Jerusalem Palestinians, in the event of their neighbourhood becoming part of the State of Israel following a comprehensive peace agreement. Council on Foreign Relations, Pechter Middle East Polls, *The Palestinians of East Jerusalem: what do they really want?,' Detailed Survey Results*, 12 January 2011. http://pechterpolls.com/wp-content/uploads/2011/01/Detailed-Survey-Results-on-E-Jerusalem-1-10-11-1034pm-Eastern.pdf
205. Palestinians in East Jerusalem who are not entitled to the Israeli national health insurance programme – because their residency has been revoked, or they are West Bank Palestinians living in Jerusalem on permits (through family reunification), or illegally – are assisted by certain NGO clinics in the Old City of Jerusalem who provide them with basic health services. As an alternative, they can register with a private health insurance programme provided by some of the health funds.
206. 'Research carried out in hospitals in (West) Jerusalem shows that about half of the Arabic-speaking patients do not understand the instructions they are given for post-treatment care because they are given in Hebrew. … In addition to the lack of language services, none of these establishments provide religious services to Muslims or Christians. … Jews may receive visits from a rabbi, have meals provided by various religious organizations according to their specific Kashrut needs, or pray in an in-hospital synagogue.' Hagai Agnon-Snir, 'Cross-border medical practices series: a call for cultural competency in Jerusalem's medical services', *Common Ground News Service - Middle East*, 27 May 2009. http://www.commongroundnews.org/article.php?id=25565&lan=en&sp=1
207. Jewish residents of West Jerusalem have 25 such clinics at their disposal – of which three also serve East Jerusalem – while East Jerusalem has only four mother and child clinics: *Barkat rejects plan for baby clinic in Silwan neighborhood*, Ha'artez, 21 December, 2009.
208. In 2009, Palestinians with West Bank ID cards accounted for 61.7 percent of all admissions to East Jerusalem hospitals and patients referred from Gaza another 10 percent. UNRWA also operates a large health centre inside the Old City of Jerusalem and reserves 40 beds in Augusta Victoria Hospital for refugee patients from the remainder of the West Bank and the Gaza Strip.
209. Concluding Observations in 1998, 2001 and 2003.
210. See OCHA/WHO Special Focus: *Six years after the International Court of Justice Opinion on the Barrier: The Impact of the Barrier on Health*, July 2010. http://www.ochaopt.org/documents/ocha_opt_special_focus_july_2010_english.pdf
211. Case study taken from OCHA/WHO Special Focus: *The Impact of the Barrier on Health*, July 2010.
212. Information from World Health Organization (WHO), *East Jerusalem Hospitals: Restrictions on Access to Health*, June 2009. The procedure for obtaining permits also includes a thorough security check by the Israeli Authorities, which involves the applicant's past history, relatives, friends, political and religious affiliation.
213. According to Ms. Dalia Bassa, the Health Coordinator at the Israeli Civil Administration, chronic patients can receive long-tern permits for the whole period of the needed treatment, if the hospital requests such permits. According to the Israeli Civil Administration, approximately 150,000 permits were issued for patients from the West Bank, and their escorts and visitors, to hospitals in East Jerusalem in 2010. Another 25,000 permits were issued to patients from the West Bank, and their escorts and visitors, to hospitals in Israel.
214. The Israeli Civil Administration states that there is no policy of denying permits to any age category and that 'health is above security.' Meeting with Jerusalem Periphery District Coordination Liaison Office, 9 March 2011.
215. According to the Israeli Civil Administration, special facilitated access through checkpoints can be arranged for those in wheelchairs, and similar hardship cases, upon the request of the hospital. In addition, there are humanitarian lanes which are open daily at Qalandiya checkpoint which provide facilitated access for patients and other eligible

cases.

216. According to the Israeli Civil Administration, multiple 'security officers' may be nominated.
217. The East Jerusalem Hospital Network is a coordinating body which brings together the six non-profit Palestinian-run hospitals in East Jerusalem.
218. International Committee of the Red Cross (ICRC), *Gaza: ailing health-care system puts lives at risk*, 1 July 2010. http://www.icrc.org/web/eng/siteeng0.nsf/html/palestine-interview-250610
219. According to the World Health Organization, hundreds of items of equipment have been waiting to enter Gaza for up to a year. WHO Press Statement, 'Unimpeded access of medical supplies needed for Gaza', 1 June 2010. http://www.emro.who.int/palestine/reports/advocacy_HR/advocacy/WHO%20-Press%20statement-June2010.pdf
220. 'Certain types of medical equipment are especially difficult to bring into Gaza. Among the items that are restricted by Israel are image diagnostic devices. The Israeli government has refused or delayed entry to this kind of device because it is considered to be dual-use technology. For example, it is very difficult to import x-ray equipment due to the presence of sophisticated electronics, components that the Israeli Authorities argue can be used for weapons development.' WHO, *Medical equipment in Gaza's Hospitals, Internal Management, the Israeli Blockade and Foreign Donations*, July 2009, pp. 6-7. http://www.emro.who.int/palestine/reports%5Cmonitoring%5CWHO_special_monitoring%5Cgaza%5CMedical%20equipment%20in%20Gaza%20EB%20report(July09).pdf Despite the reported easing of the blockade following an Israeli cabinet decision of 20 June 2010, as of November 2010, six X-ray machines had still been delayed entry.
221. Data from the Palestinian Information Center. An easing in the opening of the Rafah crossing since June 2010, has resulted in the number of medical cases referred to Egypt almost doubling between June and October 2010 (41.7% of total referrals), compared to the period January-May, 23.7%. *WHO Monthly Report: Referral Abroad of Patients from the Gaza Strip*, October 2010. http://issuu.com/who-opt/docs
222. *WHO Monthly Report: Referral Abroad of Patients from the Gaza Strip*, December 2010. http://issuu.com/who-opt/docs
223. Thirty-four patients have died while waiting for referral since the beginning of the 2009. *WHO Monthly Report: Referral Abroad of Patients from the Gaza Strip*, December 2010. http://issuu.com/who-opt/docs
224. PHR, *Holding Health to Ransom: GSS Interrogation and Extortion of Palestinian Patients at Erez Crossing*, August 2008. http://www.phr.org.il/uploaded/HoldingHealthToRandsom_4.pdf Of the 92 patients whose applications were delayed in June 2010, 61 were called for an interview with the GSS. *WHO Monthly Report: Referral Abroad of Patients from the Gaza Strip*, June 2010. http://issuu.com/who-opt/docs
225. PHR, *The Israeli Security Agency's unacceptable practice: setting traps for sick patients*. http://www.phr.org.il/default.asp?PageID=116&ItemID=546
226. Interview conducted 3 May 2010.
227. Under a special procedure, in cases of medical emergency, the Israeli authorities may grant exit permits to patients from the Gaza Strip, which can take from a few to twenty-four hours.
228. 'The army is also aware of the danger of the back-to-back method. [The] head of the International Organizations Desk in the Civil Administration … confirmed these concerns regarding the back-to-back procedure, noting that the transfer of a patient in a serious condition from one ambulance to another is dangerous.' PHR, *Emergencies on hold: Entry of Palestinian Ambulances into East Jerusalem*, August 2007, p. 20.
229. PRCS, *Humanitarian Duty Report*, 2009, pp. 44, 47. http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/DNEO-84BCZK-full_report.pdf/$File/full_report.pdf
230. PHR, Adalah, Al Mezan press release, 19 November 2009.
231. WHO, *East Jerusalem Hospitals: Restrictions on access to health*, June 2009.
232. OCHA, *Humanitarian Monitor*, May 2010. http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2010_06_21_english.pdf Two of the students whose permit renewals were refused reported that they were asked by the GSS to report on their colleagues as a condition for renewal. According to the Israeli civil Administration, permits are refused solely on security grounds and some 600 medical trainees from the West Bank were granted permits to attend East Jerusalem hospitals in 2010.
233. Interview conducted 7 July 2010.
234. Jerusalem ID holders are not automatically allowed to drive PRCS ambulances in Jerusalem. In 2009, out of five names submitted, four were rejected on security grounds.
235. See Ir Amim, http://www.ir-amim.org.il/eng/?CategoryID=339&ArticleID=917
236. Interview conducted 2 July 2010.

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