



## Forced Displacement in east Jerusalem

“The practice of enforcement measures such as forced transfers, evictions, demolitions and confiscation of homes and humanitarian assets and the obstruction of delivery of humanitarian assistance are contrary to Israel’s obligations under international law”- Lars Faaborg-Andersen, Ambassador of the European Union to Jerusalem.

### Introduction:

- One of the first steps that the Israeli polity undertook after the occupation of the West Bank and the Gaza Strip was the annexation of east Jerusalem.
- The annexation took place on 28 June 1967 through an authorization given by the Knesset- Israeli legislative body to extend Israeli laws to the eastern part of Jerusalem. Immediately after, the Israeli government issued orders that united both parts of the city under the jurisdiction of the existing Jerusalem Municipality. The annexation was completed, on the *de jure* level, with the enactment of Basic Law: Jerusalem, Capital of Israel in 1980.
- Since the annexation of east Jerusalem, the Israeli government has commenced in enforcing both legislative and executive measures towards the depopulation of the city of its Palestinian inhabitants.
- These measures include administrative and punitive house demolitions; house evictions and settlements; administrative and punitive revocation of residency; and imposition of conditions that make livelihood very difficult.
- Furthermore, since June 2002 the Israeli government commenced in constructing the Annexation Wall under security pretenses, severely fragmenting the Palestinian population in east Jerusalem and the wider West Bank.

### Illegal Annexation of east Jerusalem

- In accordance with Article 42 of the Hague Regulations of 1907, the annexation of Jerusalem amounts to an occupation, since the territory of east Jerusalem was placed under the authority of the hostile army.
- Therefore, the Geneva Conventions of 1949 apply in accordance with common Article 2(2) that sets the scope of the conventions to include partial and total occupation.
- The aforementioned measures and practices are in violation of several Articles of the “IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War on 12 August 1949,” as follows:
  - Article 33 on individual responsibility, collective penalties, pillage and reprisals, renders punitive house demolitions illegal in light of its prohibition of collective punishment.
  - Administrative and punitive house demolitions, house evictions, administrative and punitive revocation of residency, and settlement construction and expansion are all as well illegal measures in light of the



prohibition of Article 49 of individual and mass forcible transfer, and the transfer of the occupying power's part of its own civilian population into occupied territory.

- Administrative and punitive house demolitions are further rendered illegal due to the prohibition in Article 53 of destruction of personal property.

### **Administrative and Punitive House Demolitions**

- The United Jerusalem Town Planning Scheme, the planning and construction blue print of the Jerusalem Municipality, allocates and categorizes land in east Jerusalem as follows:
  - 35% of the land was confiscated for "public purposes," mostly for the construction of settlements.
  - 22% was designated as green land.
  - 30% remains unplanned.
  - Thus, only leaving 13 percent for construction, much of which is already built up.
- The application process to acquire building permits is complicated and expensive, as follows:
  - The process can take 5 to 10 years.
  - The requirements to obtain building permits include an adequate road system, parking spaces, and sanitation and sewage networks –elements over which Palestinians do not have control.
  - The process costs approximately \$30,000.
- According to the society of St. Ives, only 7% of the building permits issued in the past few years was granted to Palestinians and only 5% of Palestinian applications were granted.
- Consequently, Palestinians are forced to build or expand their houses illegally. As such, according to BADIL, it is estimated that at least 33 percent of all Palestinian homes in east Jerusalem lack building permits, placing over 90,000 individuals at risk of displacement.
- According to B'Tselem, at least 696 housing units have been demolished between 2004 and 2017, rendering 2,552 persons homeless, 1,389 of which are minors.
- Punitive house demolitions were utilized between 1967 and 2005 and their use was resumed since June 2014.
- According to OCHA, 682 punitive demolitions have taken place from 1967 to 2005 and from June 2014 onwards.
- Jerusalemites are prohibited from rebuilding their houses on the same site, whether they were executed through administrative orders or as a punitive measure.



### **House Evictions and Settlements:**

- House evictions in east Jerusalem are closely associated and linked with settlement activity.
- A combination of legislation is currently being used by the Jerusalem Municipality in order to evict Palestinians from their houses in east Jerusalem.
  - Third Generation Law refers to an amendment introduced into the Tenants Protection Law in 1972. The amendment restricted protection afforded to the tenants of a property up to the third generation of the original renter. According to Khalil Tufakji of the Maps and Survey Department of the Orient House, at least 338 Palestinians in the Old City of Jerusalem and an additional 80 in Silwan face such threats.
  - Legal and Administrative Matters Law enables Israelis to reclaim property they owned before 1948. According to the Civic Coalition for Palestinian Rights in Jerusalem, this piece of legislation is currently being used to evict 28 extended Palestinian families living in Sheikh Jarrah neighborhood within the context of the Toussia-Cohen Agreement.
- House evictions in east Jerusalem are taking place through legal proceedings initiated by Israeli religious and settler organizations, such as Ateret Cohanim, Ela'ad, Sephardic Community Committee and Kneseet Yisrael Committee. These organizations are filing law suits in the Magistrate Court; appeals are held in the District Court and the Supreme Court, often adjourning in its capacity as the High Court of Justice.

### **Revocation of Residency:**

- After the annexation of east Jerusalem in 1967, Israel conferred the status of permanent residents on Palestinians, instead of granting them citizenship status. Despite the connotation of the word permanent, this residency may be revoked.
- Currently, two main methods are utilized to revoke residencies of Palestinians in east Jerusalem: the “center of life” policy and as a punitive measure.
- The center of life policy follows the Entry into Israel Law of 1952 and its accompanying regulations of 1974.
  - Regulation 11(c) states “a permanent residency permit expires if the holder leaves Israel and settles in another country.”
  - Regulation 11(a) clarifies that “settles in another country” means as having lived for more than seven years in another country, having received the status of permanent resident in a foreign country, and having become a citizen of another country.
  - Between 1967 and 1995, residency in the remainder of the West Bank or Gaza Strip was not considered settlement outside of Israel. This was altered in 1995 through a directive issued by the legal advisor of the Ministry of Interior to the east Jerusalem Office.
  - According to B’Tselem and HaMoked, at least 14,565 residencies were revoked between 1967 and 2015, more than 11,000 of which were revoked after 1995.



- The employment of punitive revocation of residency has taken place since 2006
  - Following Palestinian Legislative Council elections, the Ministry of Interior decided to revoke the residencies of three newly elected members and the appointed Minister of Jerusalem affairs, rationalizing their decision with the affiliation of the targets with Hamas.
  - Accelerated intervention by the civil society and the filing of a petition to the Supreme Court, halted the revocation, which has been pending since.
  - The outbreak of violence in the West Bank in October 2015 enabled the Israeli government to act without awaiting the verdict of the Supreme Court. On 14 October 2015, the Israeli security cabinet issued a decision to the effect of revoking the residency of “terrorists.” The decision, however, did not provide the definition and/or criteria of who constitutes a terrorist.
  - In January 2016, the permanent residency status of four Palestinians were revoked, three of which were accused of throwing stones, in light of a “breach of allegiance.”

#### **Annexation Wall:**

- The Israeli government commenced in the construction of the annexation Wall in June 2002.
- While the Israeli government rationalizes the construction of the Wall under security pretenses, according to Al-Haq, 85% of the wall is constructed inside the West Bank instead of on the green line. Furthermore, only 3% of the Wall around east Jerusalem is built along the green line.
- The construction of the Wall has not only further isolated Jerusalem from the remainder of the West Bank, but also divided and isolated Jerusalemite communities from one another.
- Despite the imposition of the permit system in 1991 and its repercussions, many families of mixed marriages have managed to find ways of maintaining their family life. However, following the construction of the Wall, this has become virtually impossible, promoting many mixed families to move to areas outside the wall that fall within the boundaries of the Jerusalem municipality.
- According to Al-Haq, it is believed that the Wall will form the new municipal boundary of east Jerusalem, thus threatening the status of at least 30,000 Palestinians residing outside the Wall.

#### **Indirect Methods of Forced Displacement:**

- Several indirect methods are employed by the Israeli government and municipality to drive Palestinians outside of east Jerusalem.
- Such measures include imposition of checkpoints, imposition of restrictions on the registration of newborns, and creating highly difficult and harsh living conditions of services through underdevelopment and discrimination in provision of services.



- These measures are removing and/or driving Palestinians out of Jerusalem. This would enable the Ministry of Interior and National Insurance Institute to revoke their residencies in accordance with the “Center of Life” policy.
- Difficult restrictions are imposed on the registration of newborns into mixed families, whereby one parent holds Jerusalem residency and the other holds West Bank residency. In such cases, the parents receive a form entitled “notification of a live birth,” that requires the parents to submit a “request to register a birth” to the Ministry of Interior and attach proof that their “center of life” has been Jerusalem for at least the past two years. Proof of residency could include rental lease agreement or house ownership documents, water, electricity and telephone bills and payment of municipal tax. According to the Jerusalem Center for Social and Economic Rights, there are at least 10,000 unregistered children in east Jerusalem.
- According to ACRI, discrimination in provision of services is directly linked to the underfunding and scarcity of allocated resources to east Jerusalem. This has thus resulted in shortages of public services and infrastructure, including health, education, welfare, postal, and water and sewage systems.