

**EVICTION, RESTITUTION AND  
PROTECTION  
OF  
PALESTINIAN RIGHTS IN JERUSALEM**

*prepared by*

**BADIL Resource Center  
for Palestinian Residency and Refugee Rights**  
*(publication forthcoming)*

**April 1999**

PO Box 728  
Bethlehem, Palestine  
tel/fax 972-2-274-7346 or 277-7086  
email: [badil@baraka.org](mailto:badil@baraka.org)  
url: [www.badil.org](http://www.badil.org)

# Introduction

For more than fifty years, Palestinian Arab Jerusalem has undergone a process of eviction. Israel's objective of strengthening the status of Jerusalem as the capital of Israel by establishing an overwhelming Jewish majority in Jerusalem has, concomitantly, included a host of measures aimed at reducing the historic Palestinian Arab presence in the city. These measures have evolved over the past five decades from forced removal of Palestinians to include a host of administrative and so-called legal procedures which can only be characterized as a kind of 'low-intensity' ethnic cleansing.<sup>1</sup> Collectively, these measures have led to the expulsion of some two hundred thousand Palestinians from the city and a massive disentanglement of basic Palestinian rights in Jerusalem.

Current local and international debate on the future status of Jerusalem along with proposals for a solution of the Jerusalem issue often fail to address how Palestinian rights in Jerusalem, which have been abrogated cumulatively over the past fifty years, will be redressed. By focusing on both historical and current Israeli policies towards the Palestinian population of Jerusalem, this report aims to re-introduce neglected components of the Palestinian experience in order to contribute to a more comprehensive approach to restitution and protection of Palestinian rights in the city as a key component to any solution to the issue of Jerusalem.

---

<sup>1</sup> As with low-intensity conflict, this kind of ethnic cleansing is waged by means other than those used in situations of war, including political, economic, and informational instruments and while localized has regional and global implications.

The first section of the report describes the eviction of Palestinians from Jerusalem by overt force and subsequent Israeli measures to prevent the return of displaced Palestinians to the city. The following section examines how the appropriation of Palestinian property and massive land expropriation has forced Palestinians out of Jerusalem. The final section of the report explores Israeli administrative and legal measures, such as residency laws and urban planning, which aim to reduce Palestinian presence in the city.<sup>2</sup>

---

<sup>2</sup> The figures cited for population and properties in many cases are estimates due to the absence of systematic and complete statistical data. As regards properties, similar problems exist. The cases cited, therefore, are examples of much larger losses.

# Eviction by Overt Force

While armed conflict often results in significant population movements, it would be inaccurate or at best incomplete to attribute the displacement of Palestinians from Jerusalem during the 1948 and 1967 wars simply as an inescapable consequence of war without examining in greater detail Zionist and later Israeli policy concerning Palestinian residents of the city. The eviction of Palestinians from Jerusalem in 1948 (and other areas of Palestine slated for a Jewish state under UN Resolution 181 of 1947<sup>3</sup>) was, in fact, the logical corollary of Zionist thinking in the decades and years leading up to the establishment of the state of Israel in Palestine.<sup>4</sup> Prominent Zionist leaders were not interested merely in the creation of a state in Palestine, but rather in the establishment of a Jewish national homeland with as few as possible Palestinian Arabs within its borders.<sup>5</sup> The concept of population transfer as a means of reducing the size of the Palestinian Arab population thus resonated strongly within Zionist circles.<sup>6</sup>

---

<sup>3</sup>UN General Assembly Resolution 181 (II) of 29 November 1947 is commonly referred to the "Partition Plan." Under the Partition Plan, the Jewish minority in Palestine, which owned approximately 6% of the entire land area, was to be accorded 54% of Palestine in which to establish a Jewish state. The Resolution called for the internationalization of Jerusalem *and* included provisions for the protection of property rights.

<sup>4</sup>The displacement and dispersal of Palestinians was also a function of great power regional interests and a weak and divided Palestinian leadership.

<sup>5</sup>See, for example, Yosef Weitz, "Retro-active Transfer: A Scheme for the Solution of the Arab Question in the State of Israel," cited in Benny Morris, *The Birth of the Palestinian Refugee Problem, 1947-1949* (Cambridge: Cambridge University Press, 1987), p. 136.

<sup>6</sup>For more on Zionist thinking concerning transfer see Benny Morris, "Yosef Weitz and the Transfer Committees 1948-49," *Middle Eastern Studies*, vol. 22, no. 4 (1986), pp. 522-561; Simha Flapan, *The State of Israel: Myths and Realities* (London: Croom Helm, 1979), pp. 259-266; and, Nur Masalha, *Expulsion of the Palestinians* (Washington, DC: Institute for Palestine Studies, 1992).

In Jerusalem, the eviction of the Palestinian Arab population, particularly in the western areas of the city, which had a large Jewish population, had become particularly important to the Zionist movement with the collapse of the UN Partition Plan. Strategically, the Palestinian population in these areas, including the Palestinian villages adjacent to Jerusalem, obstructed territorial contiguity between the Jewish population in Jerusalem and that in the coastal areas. Symbolically, moreover, the success of the Zionist movement in Jerusalem had become a weathervane for Zionist efforts to establish a state. For many Zionists, failure to acquire control over Jerusalem, portended failure of the entire Zionist project.<sup>7</sup>

While many in the Zionist movement had once accepted the Palestinian Arab presence in Jerusalem as a *fait accompli* necessitating the partition of city<sup>8</sup>, by early 1948 the acquisition of control over Jerusalem had become synonymous with driving the local Palestinian Arab population out of the city and its adjacent villages. A variety of methods, including psychological warfare, attacks on neighbourhood infrastructure (telephone and electrical

---

<sup>7</sup>See statements, for example, by Ben-Gurion in David Ben-Gurion, *Israel, A Personal History* (Tel Aviv: Sabra Books, 1972), p.153. For more on the development of Zionist political orientation towards Jerusalem see Terry Rempel, "Dispossession and Restitution," *Jerusalem 1948, The Arab Neighborhoods of Jerusalem and their Fate in the War* (Jerusalem: Institute of Jerusalem Studies and Badil Resource Center for Palestinian Residency & Refugee Rights, 1999), pp. 189-237.

<sup>8</sup>David Ben-Gurion, *Memoirs*, IV (Tel Aviv, 1974), pp. 230, 237-38 [Hebrew]; Ben Gurion letter to Wise, 23 June 1937, and letter to Shertok, 23 July 1937 [Hebrew] cited in Motti Golani, "Jerusalem without Zion: The Jerusalem Question, 1947-1949," *The American Journal of Israeli History*, vol. 16, no. 1 (1995), p. 40. Also see comments of the Jewish Agency in UN, General Assembly, 2nd Session, 19 November 1947, *Report of Sub-committee I to the Ad-Hoc Committee on the Palestinian Question*, A/Ac.14/34, Ad-Hoc Committee on the Palestinian Question, Annex 19, p. 247 cited in Yossi Feintuch, *US Policy on Jerusalem* (New York: Greenwood Press, 1987), pp. 10-11.

lines), and the bombing of public buildings and private residences, were employed by Zionist forces to force the Palestinian Arab population out of Jerusalem.<sup>9</sup> The critical drive to expell Palestinians from the city to ensure Zionist control of Jerusalem and expand the borders of the Jewish state allotted under Resolution 181, came in the spring of 1948 with the implementation of Plan Dalet and the launching of Operation Nahshon on April 6, closely followed by the brutal massacre of more than 100 Palestinian men, women and children in the western Jerusalem village of Deir Yasin on April 9.

In a matter of months the western areas of Jerusalem had been transformed from a mixed urban setting into one where the Jewish presence (and Palestinian absence) was virtually absolute.<sup>10</sup> If one takes the median population estimate for Palestinian residents of the western areas of Jerusalem and the adjacent villages, less than half a percent of the original Palestinian population of the western area of the city remained in the neighbourhoods that fell under Israeli control. Accounting for the net growth in the Palestinian Arab population between 1946 and

---

<sup>9</sup>Krystal also notes that the *Haganah* High Commander in Jerusalem, Israel Amir, ordered that Arabs be driven out of the mixed neighbourhoods with the outbreak of fighting in the city to prevent Jews from leaving those neighbourhoods. For more on the 1948 war in Jerusalem see Nathan Krystal, "The Fall of the New City," *Jerusalem 1948*, pp. 92-153.

<sup>10</sup>Based on estimates by Golan only 750 individuals of the entire non-Jewish population remained in the western Palestinian neighbourhoods of Jerusalem and of those 550 were Greeks who continued to live in their houses in the German and Greek colonies. Arnon Golan, *The New Settlement Map of the Area Abandoned within the State of Israel During Israel's War of Independence and After (1948-1950)*, PhD dissertation (Jerusalem: Hebrew University, 1993), p. 27.

1948, as many as 80,000 Palestinians were evicted from the city and the four western villages later incorporated into Jerusalem.<sup>11</sup>

The displacement of Palestinian Jerusalemites might have only been temporary but for the measures adopted by Zionist institutions and the Israeli government to prevent the return of refugees to the city, thus ensuring that the displacement of Palestinians was a kind of forced and permanent migration from Jerusalem.<sup>12</sup> As with the case of other depopulated towns and villages in Palestine, the Israeli government attempted to prevent the return of Palestinian Arabs to Jerusalem through the settlement of Jewish immigrants in Palestinian homes. It was Moshe Dayan in 1948, for example, who ordered the settlement of Jews in the southern Jerusalem neighbourhoods of Talpiyot, Ramat Rahel and Abu Tor in order to "remove" those areas from negotiations regarding the boundaries of Jewish control in the western areas of the New City of Jerusalem.<sup>13</sup> By the middle of May 1948, Zionist organizations had already housed several thousand Jews in Palestinian neighbourhoods of the city.<sup>14</sup> Between September 1948

---

<sup>11</sup>Janet Abu Lughod, "The Demographic Transformation of Palestine," *The Transformation of Palestine*, Ibrahim Abu Lughod, ed. (Evanston, IL: Northwestern University, 1971), p. 159. Abu-Sitta arrives at the same figure, 79,298 according to the following breakdown: Jerusalem, 69,693; Deir Yasin, 708; Lifta, 2,958; Malha, 2,250; 'Ayn Karim, 3,689. Salman Abu-Sitta, *The Palestinian Nakba, 1948* (London: The Palestinian Return Centre, 1998), pp. 42 and 44.

<sup>12</sup>For more on the development of Israeli policy concerning Palestinian refugees as it relates to Jerusalem see Rempel, "Dispossession and Restitution."

<sup>13</sup>Israel State Archives, Foreign Ministry, 2431/2, Dayan to Eytan, the Foreign Ministry, 15 March 1949 cited in Morris (1987), p. 193.

<sup>14</sup>*Ibid.*, p. 29.

and August 1949, an additional 16,000 Jews were settled in Palestinian homes in Jerusalem.<sup>15</sup>

Although the initial displacement of Palestinian Jerusalemites in 1967, due in part to psychological terror, bombs and property destruction, was significantly less than that in 1948, similar measures were adopted in the immediate days after the 1967 war to reduce the Palestinian population in the eastern areas of the city by force and thereby enhance Israeli control over the newly occupied areas of Jerusalem. Buses and trucks were requisitioned by the Israeli government to transport Palestinian Jerusalemites to Jericho and the Jordanian border. Scores of Palestinian homes, properties and some religious sites were destroyed. According to the last Jordanian census in 1961, some 60,000 Palestinians lived in the eastern part of the city. Based solely on the natural rate of increase, the population of Jerusalem may have reached as high as 70,000 by 1967. The 1967 Israeli census recorded some 44,000 Palestinians living within the area of the former Jordanian municipality, suggesting that approximately 26,000 Palestinians were displaced from the city as a result of the 1967 war.<sup>16</sup>

One of the first measures taken by the Israeli government in Jerusalem in 1967 was to forcibly evict the Palestinians living in the Jewish quarter of the Old City. In the period following the end of the 1948 war and the 1967 Israeli occupation of the eastern areas

---

<sup>15</sup>Dov Joseph, *The Faithful City, The Siege of Jerusalem, 1948* (New York: Simon and Schuster, 1960), pp. 326-27.

<sup>16</sup> The Israeli census for 1967 suggests that a much smaller number of Palestinians were displaced due to the negative migration of Palestinians from the city during the Jordanian administration of the eastern neighbourhoods of Jerusalem. The fact remains, however, that whether Palestinian Jerusalemites left the city before or during the war, most were prevented from returning once eastern Jerusalem came under Israeli control.

of Jerusalem, many Palestinian families had moved into vacant housing in the Jewish quarter, most of which had been owned by Palestinians but rented to Jews prior to 1948.<sup>17</sup> Sources indicate that between 4,000 and 6,500 Palestinians were evicted from the Old City in 1967 including 135 Palestinian families residing in the Moroccan quarter. The families were given three hours notice before the historic quarter, dating back to CE 1320, was completely demolished to create a large plaza adjacent to the Western Wall of the *Haram Ash-Sharif*.<sup>18</sup> Several mosques, two *zawiyas*<sup>19</sup>, and many endowed (*waqf*) and non-endowed residences were destroyed. This included 99 properties of the Abu Madyan *waqf* and at least 55 private *waqfs*, of which the largest number came from the al-Khalidi, al-Asali, and the Ja'ouni families.<sup>20</sup> No attempt was made to find alternative residences for the evicted families. Including those Palestinians who were evicted from their homes soon after the end of the war, some 30,000 Palestinians

---

<sup>17</sup>On the question of ownership in the Jewish quarter see, for example, Meron Benvenisti, *Jerusalem: The Torn City* (Minneapolis: Israel Typeset Ltd. and the University of Minnesota, 1976), p. 239 and Sami Hadawi, Schedule of Area of Ownership Map from Palestine Survey Maps and Taxation Records.

<sup>18</sup>For a detailed account see Benvenisti. A.L. Tibawi, *The Islamic Pious Foundations in Jerusalem: Origins, History and Usurpation by Israel* (London: Islamic Cultural Centre, 1985), p. 35; R. Khatib, "The Judaization of Jerusalem and its Demographic Transformation," *Jerusalem: The Key to World Peace* (London: Council of Europe, 1980), p. 114 cited in Michael Dumper, "Israeli Settlement in the Old City of Jerusalem," *Journal of Palestine Studies*, no. 4 (Summer 1992), p. 37. On the *waqf* see Yitzhak Reiter, *Islamic Institutions in Jerusalem* (Kluwer Law International, 1997), p. 41.

<sup>19</sup>A sufi convent or hostel.

<sup>20</sup>Other families who lost property included the Da'ani, Hariri, Daqqaq, Abdo, Hallaq, Khatib, usayni and Quttayni families. Dumper (1994), p. 158. Between 1968 and 1969, an additional two-dozen multi-family homes were demolished by Israeli authorities for so-called security reasons. *Jerusalem Post*, 17 December 1969, cited in Gideon Weigert, *Israel's Presence in East Jerusalem* (Jerusalem, 1973), p. 93.

were displaced from their homes and from Jerusalem in 1967.<sup>21</sup> This included some of the 7,500 Palestinians from the western areas of Jerusalem who found shelter in East Jerusalem during the 1948 war.<sup>22</sup>

---

<sup>21</sup>The actual number of Palestinians who were displaced from their homes in 1967 and from Jerusalem as well is uncertain. Pfaff gives a range of 7,000 to 30,000. Richard Pfaff, *Jerusalem: A Keystone of an Arab-Israeli Settlement* (Washington, DC: American Enterprise Institute for Public Policy Research, 1969), p. 36 cited in Henry Cattán, *Jerusalem* (London: Croom Helm, 1981), p. 77.

<sup>22</sup>Washington National Record Center, Suitland, Maryland, RG84 cited in Michael Palumbo, *The Palestinian Catastrophe* (London: Faber and Faber, 1987), p. 101.

# Eviction by Expropriation

Palestinian Jerusalemites have also been forced out of the city due to the expropriation of their property. This expropriation has consisted primarily of two different types: expropriation of properties of Palestinians who were displaced from the city during the 1948 and 1967 wars and the expropriation of property of Palestinians still present in Jerusalem. The first type of expropriation was facilitated by the formalization of Zionist and later Israeli administration of Palestinian refugee properties through legislation which effectively transferred ownership, under Israeli law, from the original Palestinian owners to either the state of Israel or to Jewish citizens of the state. The second type of expropriation was facilitated through legislation which enabled the Israeli government to acquire privately held Palestinian land for public purpose.

In the western areas of Jerusalem, Palestinian property, including buildings and land, was transferred from the *Haganah* High Command which administered the properties during the war to an Israeli custodian of abandoned property in June 1948 under the Abandoned Areas Ordinance.<sup>23</sup> The Ordinance authorized the creation of regulations for "the expropriation and confiscation of movable and immovable property, within any abandoned area." The property, including Islamic *waqf*, was later administered by an Israeli Custodian of Absentees' Property. Despite falling under the provisions of the Absentee's Property Law, Christian *waqf* was not

---

<sup>23</sup>*Laws of the State of Israel*, Authorized Trans. from the Hebrew. vol. 1, Ordinances 5708-1948, pp. 25-26.

expropriated, with the exception of property belonging to the Anglican church.<sup>24</sup>

With the adoption of the Absentees' Property Law in March 1950, the Custodian was permitted to lease or sell the property to a Development Authority subsequently established by the Israeli government.<sup>25</sup> Funds from the sale of Palestinian properties were supposedly held in fund for the original owners of the property. Frequently, however, properties were sold at a rate less than market value while proceeds from sales (less legal and administrative expenses) were returned to the Development Authority in the form of a loan.<sup>26</sup> Urban *waqf* was transferred to the Ministry of Religious Affairs who acted as an agent of the Custodian.<sup>27</sup> Funds from the sale of the *waqf* properties was turned over to the Ministry of Religious Affairs. The exact status of the holdings of the Custodian at present and funds received through property sales are uncertain due to the lack of access to Custodian records. Specific files can only be released by a court order.

In the western areas of the New City of Jerusalem, Palestinians owned at least 7,293 dunums (of 16,231 dunums) of land, some 10,000 homes along with thousands of commercial

---

<sup>24</sup>For details see Dumper (1994), p. 40.

<sup>25</sup>*Laws of the State of Israel*, vol. 4, 5710-1949/50. Authorized Trans. from the Hebrew, pp. 68-82. Ben Gurion rejected a plan to outright sell the land to the Jewish National Fund (JNF) fearing that the government would be accused of confiscating the property illegally under international law. Arnon Golan, "The Transfer to Jewish Control of Abandoned Arab Lands during the War of Independence," *Israel: The First Decade of Independence*, S. Ilan Troen and Noah Lucas, eds. (Albany, NY: State University of New York Press, 1995), p. 424. Don Peretz, *Israel and the Palestine Arabs* (Washington, DC: The Middle East Institute, 1959), p. 162.

<sup>26</sup>Sabri Jiryis, "The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel," *Journal of Palestine Studies*, no. 3 (1973), p. 78.

<sup>27</sup>Reiter, p. 41.

properties in the area of the city that came under Israeli control in 1948.<sup>28</sup> One third of the land that came under Israeli control in the New City was privately owned by Palestinians. In the Palestinian villages that were annexed to the *de facto* Israeli municipality of West Jerusalem, namely Lifta, Deir Yasin, 'Ayn Karim, and Malha, Palestinians owned approximately 90 percent of the land, or about 27,000 dunums.<sup>29</sup> At most, 1,000 dunums of land in the western part of Jerusalem, remained in Palestinian hands after 1948.<sup>30</sup> There are no exact figures as to the amount of *waqf* property in Jerusalem at the time of the war, however, Kupferschmidt notes that most Muslim properties were endowed.<sup>31</sup> Additionally, Reiter notes that some 8,000 dunums of *waqf* land belonging to the Abu Madyan *waqf*, the same *waqf* that owned the Moroccan quarter in the Old City, was expropriated in the western areas of Jerusalem to establish Israel's Hadassah hospital in 'Ayn Karim, the Yad Vashem Holocaust Memorial and residential housing for Jews.<sup>32</sup>

Many Palestinian properties were subsequently used for the establishment of Israeli national institutions in Jerusalem.<sup>33</sup> The

---

<sup>28</sup>This includes the Palestinian share of government and municipal land, roads and railways, but excludes no-man's land and property owned by Christian Missions. The latter constituted 15.21% of the land that fell under Israeli control in the western areas of the city, but in general was not confiscated under the Absentees' Property Law. Hadawi map, note 17 above.

<sup>29</sup>Ibrahim Mattar, "To Whom Does Jerusalem Belong?" *Jerusalem* (Washington, DC: The Center for Policy Analysis on Palestine, 1993), p. 9. Sami Hadawi, *Palestinian Rights and Losses in 1948* (London: Saqi Books, 1988), pp. 278-79.

<sup>30</sup>Hadawi (1988), p. 180.

<sup>31</sup>Dumper (1994), p. 106. Dumper notes that the problems related to determining the extent of *waqf* property relate to delineation of borders and the lack of concise publicly accessible records.

<sup>32</sup>Reiter, p. 41.

<sup>33</sup>For a summary of properties see Salman Abu-Sitta, "Documenting Arab Properties in West Jerusalem, B. Notes on the Landowners Record of the UN Conciliation

Israel Knesset, for example, was built on land belonging to the Akal and Haram families of Lifta.<sup>34</sup> The official residence of the Israeli President was built on land belonging to the Salameh family in Talbiya.<sup>35</sup> One of the Jamal family homes now houses a club for Jewish immigrants. Other notable buildings taken by the Custodian include the Sansour family building at the corner of Ben Yehuda and Jaffa Road which now houses, among other businesses, a branch of Bank Leumi and the Cinematheque building which is property of the Dmeri family. In the village of Malha, Israel has constructed the large Kanyon Yerushalaim or Malha Mall and Teddy sports stadium. In Deir Yasin, the old village center has been fenced in and transformed into the Kfar Sha'ul Mental Hospital.

Unlike the situation in 1948, relatively few emptied Palestinian homes fell under Israeli control in 1967. Due to the fact that Jews owned little land in the eastern areas of Jerusalem, apart from some 5 dunums in the Old City and close to 1,000 dunums in total in Atarot and Nabi Yacoub north of the city, combined with the fact that most Palestinians were unwilling to sell their property to Israeli Jews or the state, the government concluded that expropriation was the only means to acquire control of land in Palestinian areas of the city. During an August 1967 Israeli City Council meeting in which councillors discussed the outlines of future municipal policy, mayor Kollek noted that if there was no so-called state land in the eastern areas of the city,

---

Commission for Palestine for Urban West Jerusalem in 1948," *Jerusalem 1948*, pp. 240-57.

<sup>34</sup>Allison Hodgkins, *Israeli Settlement Policy in Jerusalem: Facts on the Ground* (Jerusalem: PASSIA, 1999), p. 12.

<sup>35</sup>*Ibid.*, p. 13.

land purchases or confiscations would be necessary to facilitate the growth of the Jewish population. Kollek went on to note that it was “dubious” that purchase would be an option.<sup>36</sup> The 1968 Master Plan prepared for the new enlarged Israeli municipality concurred with Kollek’s assessment. According to the plan, “[t]he effective development of the city will apparently require the expropriation of substantial areas.”<sup>37</sup>

The expropriation of Palestinian land in the eastern areas of Jerusalem at once provided the government with living space to expand the Jewish population and secure Israeli control over Jerusalem while shrinking the area available for Palestinian growth, forcing many Palestinian Jerusalemites to leave the city in search of housing and land for development. Inside the Old City of Jerusalem the Israeli government enlarged the Jewish quarter to four times its original size with the expropriation of 29 dunums of land of Palestinian land in 1968. Altogether some 116 dunums of land, or about 15% of the Old City, was expropriated under the Appropriation of Lands for Public Use Law for so-called public purpose to re-establish a Jewish presence in the Old City. Out of 700 stone buildings confiscated, only 105 had been owned by Jews prior to 1948. Included in the expropriation were 1,048 apartments owned by Palestinians and 437 workshops or commercial stores.<sup>38</sup> Twelve of the properties were *waqf* properties.<sup>39</sup>

---

<sup>36</sup>*Minutes of and Decisions taken at Meeting No. 34.*

<sup>37</sup>*1968 Master Plan Interim Report* (Jerusalem: The Jerusalem Master Plan Bureau).

<sup>38</sup>G. Dib and F. Jabber, *Israel’s Violation of Human Rights in the Occupied Territories: A Documented Report* (Beirut: Institute of Palestinian Studies, 1970), p. 176 cited in Dumper (Summer 1992), p. 38.

<sup>39</sup>Dumper (1994), p. 119. The Company for the Reconstruction and Development of the Jewish Quarter offered some compensation and assistance with mortgages for the

In order to ensure Israeli control over all of Jerusalem through the rapid expansion of the Jewish population in all areas of the city, the municipal area was increased by roughly ten times the size of the previous Jordanian municipality which had consisted of 7,000 dunums. The new municipal borders delineated by the Interior Minister as authorized under the Municipalities Ordinance (Amendment No. 6) Law, (1967) by a long list of coordinates, included the maximum amount of undeveloped Palestinian land but the minimal number of Palestinians.<sup>40</sup> Under the amendment, the Interior Minister was authorized to make changes to the municipal boundaries without public inquiry. The total municipal area defined by Israel thus reached 108,000 dunums. By the 1990s, some 29,000 dunums of land had been expropriated from Palestinians in the eastern areas of Jerusalem.

In many cases, Palestinian families have been hit more than once by Israeli land expropriations. The Akal family who lost land in the western areas of Jerusalem also lost property in the eastern areas of Jerusalem. Hodgkins provides the following details of Akal family losses in eastern Jerusalem: 17 dunums for the Israeli police headquarters in Sheikh Jarrah; 3.2 dunums for the Kupat Holim Health Center; 30 dunums for the expansion of Road 1 which traverses the former dividing line in Jerusalem and extends to the northern Jewish settlements<sup>41</sup>; 36 dunums for a playground near the Sheikh Jarrah police station; and, 12 dunums for the bypass road bridge over Shu'afat to Pisgat Ze'ev settlement.<sup>42</sup> The

---

displaced Palestinians but these offers were rejected by Palestinians who opposed Israel's occupation and expropriation of land.

<sup>40</sup>*Laws of the State of Israel*, vol. 21, 5727-1966/67: pp. 75-76.

<sup>41</sup>Land was also confiscated from endowed Khalidi lands and the Jarallah family.

<sup>42</sup>Hodgkins, p. 47.

family was offered a pittance of less than a shekel per dunum (3 NIS per acre). By comparison, a Palestinian citizen of Israel acquired a 49 year lease for 36 dunums of Palestinian refugee property held by the Israel Lands Authority in eastern Jerusalem in early 1999 for NIS 9.5 million.<sup>43</sup>

Even in cases where Palestinian property owners have been able to prove title to their land in Israeli courts, expropriation has proceeded for Jewish development. Such was the case with the Burqan family home in the area of the expanded Jewish quarter of the Old City. After nearly a decade in court, the Supreme Court of Israel ruled that the family had an unquestionable right to their property, but on grounds of so-called public utility, they had no right to live in the home. In 1977 the family was forcibly expelled and the property was sold at a public auction in which the Burqan family was denied participation.<sup>44</sup>

It is interesting to note that the 1950 Absentees' Property Law was not applied to Palestinian residents in the eastern areas of Jerusalem in 1967 even though most Palestinian Jerusalemites, by virtue of their Jordanian citizenship, were considered absentees under the law. Implementation of the law on such a massive scale was deemed to be politically impossible. Under Article 3 of the Legal and Administrative Matters (Regulations) Law which was adopted in 1968, Palestinian residents from the eastern neighbourhoods of Jerusalem were given an exemption from the Absentees' Property Law.<sup>45</sup> The law, however, stipulated that the exemption was limited to those eastern areas of Jerusalem

---

<sup>43</sup>*Ha'aretz* (19 January 1999).

<sup>44</sup>Hodgkins, p. 27.

<sup>45</sup>*Laws of the State of Israel*, vol. 4, 5710-1949/50. Authorized Translation from the Hebrew, pp. 68-82.

occupied in 1967 - defined as *that area* - meaning that Palestinian residents of whose property in the western areas of the city was expropriated during and after the 1948 war could not qualify for an exemption from the Absentees' Property Law, relative to that property. At the same time, the Law accorded Jews the right to return to their properties in the eastern areas of Jerusalem.<sup>46</sup>

In the late 1980's and 1990's, however, the Absentees' Property Law has increasingly become a tool of the municipality and the Israeli government to disentitle Palestinians of their properties in order to increase Jewish settlement in the eastern areas of Jerusalem including the Old City. The Klugman Committee, for example, determined that the Israeli government was illegally involved in the acquisition and transfer of Palestinian properties through the Custodian of Absentees' Property and the Housing Ministry to Israeli settlement associations. The Committee labelled the performance of the Custodian as "defective in the extreme [...] by any standards," seemingly echoing comments of the Israeli Supreme Court some forty years earlier. At that time, the Supreme Court had noted, in reviewing the Absentees' Property Law, that "[t]he interests of the Arab citizens were ignored and evidence presented by the Custodian to certify them as absent were frequently groundless..."<sup>47</sup> Despite these findings, the Israeli government continues to confiscate Palestinian property in Jerusalem.

---

<sup>46</sup>Articles 5(c) and (d).

<sup>47</sup>Don Peretz, *Palestinian Refugee Compensation* (Washington, DC: The Center for Policy Analysis on Palestine, 1996), p. 5.

# Eviction By Legal and Administrative Policies

The primary means of eviction of Palestinians from Jerusalem after 1967 has been through so-called legal and administrative policies under which Palestinian Jerusalemites have been denied the right to live in the city.<sup>48</sup> Due to systemic discrimination in Israel's residency laws and municipal planning policies, thousands of Palestinians have been forced out of Jerusalem. Combined with the installation of military checkpoints at all major entrances to Jerusalem in the early 1990s, these policies make it increasingly difficult for Palestinian Jerusalemites to return to their hometown once they have been forced out.

By far the largest number of evictions of Palestinian Jerusalemites in recent years is due to the revocation of blue identity cards which grant so-called permanent residency to Palestinians living in the city.<sup>49</sup> Only those Palestinians (and their descendents) who were registered in the 1967 Israeli census were accorded permanent residency status in Jerusalem. As so-called permanent residents of Jerusalem, Palestinians are defined as

---

<sup>48</sup>For more details on these policies see, Eitan Felner, *A Policy of Discrimination, Land Expropriation, Planning and Building in East Jerusalem* (Jerusalem: B'tselem, 1995); Lea Tsemel and Ingrid Jaradat Gassner, *The Trap is Closing on Palestinian Jerusalemites* (Jerusalem: Alternative Information Center, 1996); *Living in Jerusalem* (Jerusalem: Palestine Housing Rights Movement, 1996).

<sup>49</sup>This status is based on the *Law of Entry into Israel (1952)*. *Sefer Ha-chukkim*, no. 11 of 15th Elul, 5712 (5 September 1952), p. 354 cited in Usama Halabi, "Confiscation of Ids and Revocation of 'Permanent Resident' Status by Ministry of Interior, and The Israeli Supreme Court Approvals – (An Update)" Monograph. According to Yoram Deinstein, an expert in international law, citizenship should be granted automatically under International Law. Nathan Kyrstal, *Urgent Issues of Palestinian Residency in Jerusalem* (Jerusalem: Alternative Information Center, 1994), p. 8.

foreigners under Israeli law, even though Jerusalem is their hometown. Palestinians not holding blue identity cards are not permitted to live in the city. The Jerusalem property of Palestinians not holding blue identity cards is subject to confiscation under the provisions of the 1950 Absentees' Property Law. While some 66,000 Palestinian Jerusalemites were registered in the 1967 census as many as 30,000 Palestinians were not registered.<sup>50</sup> Most of these unregistered Palestinians were either living abroad at the time of the 1967 war, had fled the city and were unable to return or lived in areas adjacent to but not included within the expanded municipal boundaries.<sup>51</sup>

While permanent residency conveys some of the rights (i.e. entitlement to public education and welfare), and most of the duties (payment of national and municipal taxes, registration of companies, institutions) of Israeli citizens, it does not convey a legal right to residency, but a privilege granted solely at the deliberation of the Israeli Interior Minister. In 1974 the *Law of Entry into Israel* (1952) was amended by the *Entry into Israel Regulations* which specified the conditions under which permanent

---

<sup>50</sup>Tsemel and Jaradat Gassner, p. 7. Census of Population and Housing, September 1967. Dr. Bernard Sabella estimates that some 7,630 Palestinian Jerusalemites were outside the country during the war and thus were not registered in the Israeli census. The census did not include residents of Shuafat refugee camp which was contained inside the new borders of the city, although they were issued blue Jerusalem ID cards.

<sup>51</sup>Palestinian areas, such as Abu Dis, Azariya, Anata, Bir Nabala, Hizma, Ram, Sawhira al-Sharqiyya, az-Za'im along with parts of Beit Hanina, which were home to Jerusalemite families and whose residents were integrated into the economic and social life of the city were excluded. Today the combined population of these areas is around 64,000 according to the 1998 Palestinian Census. Still other Palestinians found themselves in a situation where village land was annexed to Jerusalem but village residents never accorded permanent residency status. For details on one such village, Bir 'Ona, see *Article 74*, issues no. 17(September 1996), 19(March 1997) and, 25(September 1997) (Bethlehem: BADIL Resource Center).

residency in Israel would expire. Between 1967 and 1995, some 5,000 Palestinian Jerusalemites staying abroad for work or study lost their residency rights in Jerusalem based on these regulations.<sup>52</sup>

Revocation of Palestinian residency rights in Jerusalem was stepped up in 1996 based on a re-interpretation of the 1974 Regulations and the investigation of Palestinian Jerusalemites to determine their status. This new policy conditions Palestinian residency rights in the city with physical presence (permanent domicile, "center of life") which must be documented during any interaction with the Interior Ministry. The required documents (property ownership certificates, rent contracts, tax receipts, etc) are difficult to obtain for a population living in conditions of displacement, disownership and economic and social marginalization. Two years after the adoption of this new policy 2,083 Palestinian Jerusalemites have had their blue ID cards confiscated.<sup>53</sup>

An unknown number of Palestinians have been forced to leave Jerusalem because they cannot obtain residency status for their non-Jerusalemite spouse or for their children. Based on the *Law of Entry into Israel* (1952), Palestinian Jerusalemites cannot transfer their residency rights in the city to their relatives, unless they are granted family reunification by the Israeli Interior Ministry. Until 1994, the Ministry did not accept family reunification applications from female Jerusalemites. This policy often means that Palestinian families who wish to live together in

---

<sup>52</sup>Estimate by local human rights organizations; partial Israeli Interior Ministry records list 3,185 cases for the same period. Israeli Interior Ministry to BADIL Resource Center, 7 July 1997.

<sup>53</sup>Interior Ministry to BADIL Resource Center, September 1998. Israel's High Court is scheduled to hear a challenge to this policy by local NGOs on 22 April 1999.

Jerusalem must often choose between living illegally, under Israeli law, in the city with constant risk of fines, imprisonment or eviction, or living legally outside of Jerusalem with the risk that their right to live in the city will be revoked by the Interior Ministry. Israeli figures released in 1998 to the UN Committee for Social, Economic, and Cultural Rights list 4,622 family reunification approvals between 1991-1995. Data released by the Interior Ministry in 1996 list only 1,770 approvals for the same period. While Israel issues contradictory official figures, it is known that the annual number of requests exceeds Israeli approvals by several thousand.

Moreover, since 1982, the Interior Ministry has not permitted the registration of Palestinian children as Jerusalem residents, if the child's father does not hold a Jerusalem ID card even though the *Law of Entry into Israel*, Article 12, does provide for the option of child registration by the mother/custodian. Without proper registration, children are ineligible for medical treatment under the National Insurance program along with a host of other services, including public schooling. Palestinian families are thus faced with a choice between maintaining their status as Jerusalemites or the provision of a higher quality of life for their families. The Israeli Ministry of Health and National Insurance Institute have also refused to cover health care expenses for Palestinian newborns in the city until an investigation is carried out to determine if the newborns parents hold Jerusalem ID cards and can prove that Jerusalem is their "center of life".<sup>54</sup>

Thousands of Palestinians have also been forced to leave Jerusalem due to politically motivated, systemic discrimination in

---

<sup>54</sup>As of late March 1999, this policy was being challenged in Israel's High Court by human rights organizations in Israel. *Ha'aretz* (31 March 1999).

Israel's urban planning policies which deprive Palestinian neighbourhoods of space for their natural expansion, place restrictions on the development of existing built-up areas, and reduce the quality of life due to inadequate and unequal investment in municipal services and infrastructure.<sup>55</sup> A key determinant of Israel's urban planning policy for Jerusalem is the maintenance of the demographic balance between Palestinians (28%) and Jews (72%).<sup>56</sup> Given the higher rate of natural increase in the Palestinian community and the negation migration of Jews from the city, urban planning has become an important in maintaining the so-called demographic balance in the city. While Israel has argued that the application of Israeli law to East Jerusalem, which included the *Law of Entry*, was necessary to equalize services and prevent discrimination, in reality there has been an increasing gap in services between the Palestinian and Israeli Jewish areas of the city.<sup>57</sup>

One of the most visible results of this kind of politically motivated urban planning is the severe housing shortage in Palestinian neighbourhoods, estimated to be at least 21,000 units. Even though some 29,000 dunums of Palestinian land have been

---

<sup>55</sup> As noted in the first Israeli Master Plan for the city in 1968, urban planning was to focus on the "enhancement of the city's character, in keeping with the status of Jerusalem as the capital of Israel." This wording, as born out in subsequent planning documents and municipal development, meant that urban planning of Jerusalem would focus on the Jewish sector of the city with minimal funds being expended on the Palestinian sector.

<sup>56</sup>See Israeli planning documents cited in Felner, pp. 45-6. Amir Cheshin, *Municipal Policies in Jerusalem – An Account from Within* (Jerusalem, PASSIA, 1998), p. 14.

<sup>57</sup>In a 1967 letter to the Secretary General of the United Nations, Israeli Foreign Minister Aban Ebban noted that the application of Israeli law to the eastern areas of Jerusalem related to the development of "ecumenical habits and thought and action," and the delivery of municipal services to eastern Jerusalem. Letter reprinted in *Documents on Jerusalem*, (Jerusalem: PASSIA, 1996), pp. 100-102.

expropriated for public purpose, not a single home for Palestinians has been constructed with public funds on this land.<sup>58</sup> An additional 30,000 dunums of land has been defined as "green land" where building is forbidden. This land is frequently re-zoned for public use to facilitate Jewish growth in the city. By 1994, space for Palestinian urban development had been restricted to 10,000 dunums and further reduced to 6,000 dunums in 1998 placing severe physical and emotional strains on the Palestinian population who were forced into increasingly overcrowded conditions or forced to leave the city and risk losing their residency rights.<sup>59</sup>

Within existing Palestinian neighbourhoods, Palestinians face additional planning obstacles which prevent the natural and healthy development of urban communities. In many areas of eastern Jerusalem it is simply not possible for Palestinians to build homes due to the absence of approved Town Planning Schemes.<sup>60</sup> Many Palestinian Jerusalemites who are unable to acquire a building permit, but require additional space for their families in Jerusalem, often end up building without a permit. Israel frequently responds by demolishing these homes. Some estimates place the number of homes targetted for demolition in Jerusalem in Palestinian neighbourhoods as high as 2,000 with approximately 50 Palestinian homes demolished annually. According to

---

<sup>58</sup>Felner, p. 61. The only government initiative for Palestinian housing was a project initiated in al-Izariyya outside the expanded borders of East Jerusalem.

<sup>59</sup>*Statistics on Israeli Housing Demolitions and Planning Policy in East Jerusalem*, Palestine Human Rights Information Center (PHRIC), June 1994. Conversation with Danny Seidemann, Ir Shalem.

<sup>60</sup>In 1974, the 1966 Jordanian Town Planning Scheme for the metropolitan area of Jerusalem was frozen leaving East Jerusalem without a town planning scheme. While schemes were eventually instituted for new Jewish settlements, most Palestinian areas still do not have approved Town Plan Schemes.

Seidemann, while some 10,000 permits have been issued for private Palestinian construction in East Jerusalem since 1967 (the government does not construct public housing for Palestinians), Israeli Jews have been granted a total of some 70,000 permits for public and private construction in the eastern areas of Jerusalem.<sup>61</sup> In addition to restrictions on the number of new dwellings, Palestinians also face restrictions on land development density and building heights. The living space in existing Palestinian neighbourhoods, moreover, is increasingly restricted by the encroachment of nearby rapidly expanding Jewish settlements and the construction of new inner city bypass roads which skirt and hem in Palestinian neighbourhoods while providing efficient access to Jewish settlements.<sup>62</sup> Inadequate investment in municipal services and infrastructure relative to the Jewish population in the city places further pressures on Palestinian Jerusalemites, providing a kind of negative encouragement to leave the city. The state of municipal service provision in Palestinian neighbourhoods in the eastern areas of Jerusalem has been examined repeatedly by the Israeli municipality. Most reports acknowledge the extreme discrepancies between Jewish and Palestinian neighbourhoods in the city. Palestinian residents, for example, pay 26% of the cost of municipal services but often receive only 5% of those services.<sup>63</sup> While the municipality is aware of these kinds of disparities, nothing has been done to substantially equalize services in the city. In 1997, Israeli Mayor

---

<sup>61</sup>Ir Shalem, 1998.

<sup>62</sup>Road number 5, for example, which connects to Road 4 passes through and further fragments Beit Safafa in the south, while Road 4 divides Beit Hanina and restricts its development to the north.

<sup>63</sup>Krystal (1994), p. 36.

Ehud Olmert announced a plan to invest \$40 million in Palestinian neighbourhoods of Jerusalem to strengthen Israeli control over the city but most of this money was to come out of existing budgets, where budget allocation has always been targeted towards Jewish development at the expense of Palestinian development.<sup>64</sup> Even where special money has been budgeted for equalizing services in Palestinian neighbourhoods of Jerusalem, it is often spent on projects outside of those neighbourhoods.<sup>65</sup>

Vitullo provides a laundry list of the disparities in municipal investment between Jewish and Palestinian areas of Jerusalem. In terms of services, of the 122 neighbourhood centers and clubs for the elderly, seven are located in eastern Jerusalem. There is one community center and one library in eastern Jerusalem or less than 5% of the available services. Of the 1,087 sports facilities and an additional 77 planned in the city, all but one major soccer field and outdoor playing field are inaccessible to Palestinians. In the municipal budget allocated for security and emergencies, including shelters, civil guards, alarms and volunteer services, only fencing is provided for East Jerusalem schools. Of the 988 units of municipal gardens, green strips, public parks and small parks, only two inadequately maintained public parks exist in East Jerusalem. Israeli taxes, moreover, are applied at the same rate as the rate applied to Jewish neighborhoods in the city, despite

---

<sup>64</sup>According to Israeli lawyer Danny Seidemann of Ir Shalem, the investment will only “scratch at the edges” of the problem. “Under the assumption that every penny will be expended in the next year, that means that the government investment per capita will go down from 1 to 6 to 1 to 4.” Interview, 8 May 1997. Most of the infrastructure improvements noticeable in East Jerusalem in 1997-98 have in fact been funded by an 18 million dollar European grant. Anita Vitullo, “Israel’s Social Policies in Arab Jerusalem,” *Jerusalem Quarterly File*, no. 2 (1998), p. 18.

<sup>65</sup>Cheshin, p. 63.

measurable differences in per capita income which is on average one-third that of Israelis.<sup>66</sup> The high rate of Arnona or property tax, for example, in many areas of the Old City, means that Arnona payments often exceed annual rent.<sup>67</sup>

Changes in National Insurance policy have also led to the eviction of Palestinian Jerusalemites even though many Palestinians continue to pay premiums in order to maintain their status as residents of Jerusalem despite the fact that they cannot claim the benefits due to the fact that they are living outside the municipal boundaries. In 1973, the National Insurance Institute changed its policy to allow payments to Palestinians with Jerusalem IDs who resided outside the municipal boundaries of the city.<sup>68</sup> Many Palestinians took advantage of this change to find more comfortable, less expensive housing in areas adjacent to the municipality. In 1984, however, payments to ID card holders living outside the municipality were terminated. Some Palestinian families attempted to move back into Jerusalem, not always with success, however, due to the shortage of housing in Palestinian neighbourhoods of the city. The move also placed a greater strain on the already limited housing market leading to a rise in the cost of housing and in turn forcing other families to move outside the municipality in search of more affordable housing. An estimated 60-70,000 Palestinian Jerusalemites are believed to have left Jerusalem to locations in the surrounding West Bank or abroad due to these legal and administrative measures.

---

<sup>66</sup>Vitullo, pp. 18-19.

<sup>67</sup>Ibid..

<sup>68</sup>Krystal (1994), pp. 23-4.

# Conclusion

More than 50 years after acquiring control of Jerusalem, Israel continues to engage in a type of ethnic cleansing in the city, to the extent that close to 200,000 Palestinian Jerusalemites, not including their descendents, have been forced into exile. While Palestinian Jerusalemites owned as much as 80% of Jerusalem lands in 1948 if the land Palestinian religious institutions and state land is included, today they are restricted to some 6,000 dunums or 7.3% of the area in the eastern parts of Jerusalem occupied in 1967. This amount drops to 4.3% if the entire area of Jerusalem is included.<sup>69</sup> It is estimated that about 8% of the Palestinian population who hold Jerusalem ID cards migrates annually to the West Bank due to restrictive and discriminatory Israeli administrative and legal measures.<sup>70</sup> The number of Jerusalem refugees and their descendents from 1948 alone, is estimated to be around 480,000 bringing the total number of Palestinians prevented from returning to Jerusalem, their hometown, at well over half a million.<sup>71</sup> Based on recent estimates calculated by Kibursi, the value of losses sustained in Jerusalem in 1948 - including material losses, human suffering and psychological damage and pain - amounted to some 27 billion dollars in 1994.<sup>72</sup>

Palestinians face new challenges regarding regarding the protection of their rights in Jerusalem. In the summer of 1998, the Israeli government floated the idea of creating an 'Umbrella

---

<sup>69</sup>This excludes land owned by Palestinian citizens of Israel which Hadawi noted was not more than a 1,000 dunums after the 1948 war.

<sup>70</sup>Vitullo, p. 13.

<sup>71</sup>Abu-Sitta.

<sup>72</sup>See estimates in Rempel, "Dispossession and Restitution," p. 176.

Municipality.' While the government has argued that the introduction of such an umbrella would merely serve to integrate and provide for efficient delivery of municipal services, it is doubtful that Palestinians living in these areas would receive any more benefits than those in the eastern areas of Jerusalem. On the contrary, Palestinians would probably face similar development restrictions as have been applied for decades. While Israel would never have to use the term annexation under such a scheme, additional large areas of the West Bank would be annexed *de facto* to Israel, mirroring the same process employed in the eastern areas of Jerusalem. Israel has also begun privatizing Palestinian refugee property in Jerusalem, further complicating the return of Palestinian properties. In the summer of 1998, for example, it was reported that 45 acres of absentee property (residential houses and flats) was sold to Jewish buyers for negligible amounts at flexible terms.<sup>73</sup>

In a recent report issued by the UN Commission for Economic, Social and Cultural Rights, the Commission found these practices to be in explicit violation of the Charter on Economic, Social and Cultural Rights to which Israel is a signatory. Not only did the Commission deplore house demolitions, land confiscations, restrictions on family reunification, removal of ID cards, closure and substandard housing and living conditions, it also noted that the "excessive emphasis upon the State as a 'Jewish State,' encourages discrimination. International law and UN Resolutions concerning Palestinian refugees and Jerusalem, moreover, support the rights of Palestinians to return to their homes and their properties and

---

<sup>73</sup> *The Jerusalem Times* (31 July 1998) citing *Kol Ha'ir*.

receive restitution for damages.<sup>74</sup> While restitution of Palestinian rights in Jerusalem can never replace the loss of individuals and a way of life, it is a common principle of international law that remedies must be implemented where rights have been abrogated. Such remedies, it is hoped will mediate against the occurrence of such catastrophes in the future.

For Palestinian Jerusalemites, and for the Palestinian people in general, the issue at stake is the legitimate correction of cumulative displacement and "disownership" experienced over the past five decades. The grievances, hopes and demands of Palestinians do not start nor end with dates and rules defined by powerful states or individuals at some negotiation table. Peaceful co-existence in the multi-cultural and multi-ethnic city of Jerusalem will become a reality only if the issues of the Palestinian people are addressed according to international law, including United Nations resolutions.

---

<sup>74</sup>For more details on international law see Rempel, "Dispossession and Restitution," and BADIL's international packet for refugee rights, "Reclaiming the Right of Return, Towards a Campaign for the Defense of Palestinian Refugee Rights in the Post-Oslo Era," (April 1999).