

Forced Population Transfer

The Displacement of Palestinians in the Israeli Policies



A BROCHURE ISSUED BY
BADIL RESOURCE CENTER,
MARCH 2014

About this brochure / Disclaimer:

This brochure sheds the light on the Israeli policies that aim to and/or lead to the displacement of Palestinians. The information and recommendations outlined here are aim to elaborate the most important aspects of these policies.



FORCED POPULATION TRANSFER IS A WAR CRIME

Forced Population Transfer is a grave breach of the Geneva Conventions, and might even constitute an international crime: “Grave breaches[...]shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: [...] unlawful deportation or transfer...” (Article 147 of the fourth Geneva Convention Relative to the protection of civilian persons in Time of War).

“The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies” (Article 49 of the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War).

And:

“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive” (Article 49 of the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War).

And:

“The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory” (Article 8 of the Rome Statute of the International Criminal Court).

FORCED POPULATION TRANSFER IS A CRIME AGAINST HUMANITY

“Deportation or forcible transfer of population” means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law” (Article 7 of the Rome Statute of the International Criminal Court).



The Ongoing Displacement of Palestinians refers to the Israeli policies that continue to transfer Palestinians. Chief among those is the denial of the right of return to Palestinian refugees and internally displaced persons, the ongoing confiscation of lands and/or the restriction on the use thereof, home demolition, restriction on construction and development, imposition of permit regime, closures and blockade, and institutionalized discrimination.

LAND CONFISCATION

WHAT IS THE AREA OF THE CONFISCATED PALESTINIAN LAND?

Today, Israel controls more than 85 per cent of Mandate Palestine. This means that out of 94% originally owned by Palestinians in 1917, today less than 15 per cent of the lands on the sides of the Green Line are owned and/or accessed by Palestinians.

Today, only 3.5 per cent of the land in Israel is owned by Palestinian citizens of Israel, despite the fact they make 20 per cent of the population of Israel.

Today, Area C, which constitutes more than 60 per cent of the 1967 occupied West Bank, is under Israeli authority, and functions as a development and expansion reserve for Israeli colonies.

Today, Jerusalemite Palestinians own a mere 12.1 per cent of the city, although they make up almost 40 per cent of the population of the city.

WHAT ARE THE GOALS OF LAND CONFISCATION?

- Concentrating Palestinian communities and restricting their growth;
- Establishment and expansion of Israeli colonies: there are 236

colonies in the 1967 occupied Palestinian territory;

- The construction of the Annexation Wall. 85 per cent of the Annexation Wall is built, or planned to be built, on Palestinian land that was occupied in 1967. The Annexation Wall effectively annexed almost 10 per cent of the West Bank area so far;
- The construction of by-pass and Israeli-only roads for the colonies;
- Imposing security and buffer zones: these are areas that separate the colonies from the Palestinian surroundings. The designation of different types of security zones dissects the Palestinian geographic and demographic continuity;
- The allocation of reserves (green zones, archaeological sites, or public areas) in practice is a way to reserve areas for future colonial expansion;
- Taking over Palestinian natural resources, particularly water, and exclusively allocating them for Israeli- Jewish use.

Israel allocated land that was confiscated in Jerusalem (more than 87 per cent) as follows:

- 43.5 percent for Jewish colonial expansion;
- 41 percent designated as “green areas” run by the state. Building in these areas is either prohibited or extremely restricted;
- 3.4 per cent of the lands of East Jerusalem are allocated for roads and Israeli security purposes.

WHAT ARE THE METHODS OF TAKING OVER PALESTINIAN LANDS?

Israel employs various methods to take over Palestinian lands (confiscation, annexation, or prohibition and restriction on use). These methods include declaring a land as “state land”, a military area, a firing zone or a closed area for security reasons; green or archaeological area where building is prohibited; public space (roads, yards and parks); land owned by absentees (Palestinian refugees) which in this case is put under the custody of the state; or land that is claimed to being owned by Jewish-Israeli individuals or para-statal institutions like the Jewish Agency or the Jewish National Fund (JNF).



KARMIZUR COLONY EXPAND ON THE EXPENSE OF BEIT OMMAR LAND, HEBRON, APRIL 2013 (PHOTO BY ISM)

PROHIBITION ON THE RIGHT TO USE LAND

Israel employed different policies aiming to control the maximum area of land with the minimum number of people on it. Land confiscation and annexation are the most effective tools in achieving this goal, based on British Mandate Emergency Regulations, Israeli legislation, and military orders. For example, a land can be declared a 'state land', or 'without owners – owned by absentees' and so forth.

Where land cannot directly be confiscated or annexed, Israel employs a tactic of prohibition or restriction on the rights to use the land, which leads to de facto confiscation: this is so because the land stays officially under Palestinian ownership, but the owners are denied the right to use it.

WHAT IS MEANT BY PROHIBITION/RESTRICTION ON THE RIGHT TO USE LAND?

The right to use includes two interrelated rights: the right to access and the right to invest land.

The right to access means that the owner has the right for direct

enjoyment of the property use, like the right to pass/reach to the property, living in it, building on it, and farming it.

The right to invest means that the owner has the right to get the benefit from products of the property, like harvest, rent or even moral benefit that may result from allocating all or part of the property for public use.

WHAT ARE THE MANIFESTATIONS OF ISRAELI PROHIBITION ON THE RIGHT TO USE LAND?

The Annexation Wall

According to the declared plans, 85 per cent of the Annexation Wall will pass through the West Bank.

267,000 Palestinian have been separated from the rest of the Palestinian society as a direct result of the construction of the Wall.

No less than 50 per cent of the West Bank agricultural lands has been denied or restricted because of the Wall.

Upon completion, almost 50 per

cent of the West Bank lands will be effectively annexed, besieging the population in an area less than 12 per cent of its British Mandate area.

Closed Military Areas

According to Military Order number 1651, a military commander has the power to close a given area for security reasons (military training for example). Israel employs this military order arbitrarily and in violation to international humanitarian law. By utilizing this military order alone, Palestinians have been prohibited from using 18 per cent of the area of the West Bank (mainly in south Hebron Hills and the Jordan Valley).

Seam Zone

The Seam Zone is made of 1967 occupied Palestinian land that is located between the Green Line and the Annexation Wall. Israel declared them as 'closed military areas'. 23,000 Palestinians who live in these areas are required to obtain Israeli permits to continue to live there!

More than 150 Palestinian communities have been affected

by the construction of the Annexation Wall. Palestinian land owners in the Seam Zone are required to obtain special permits from Israel to access their lands. The conditions for getting permits are extremely difficult to meet, thus effectively hindering of farming.

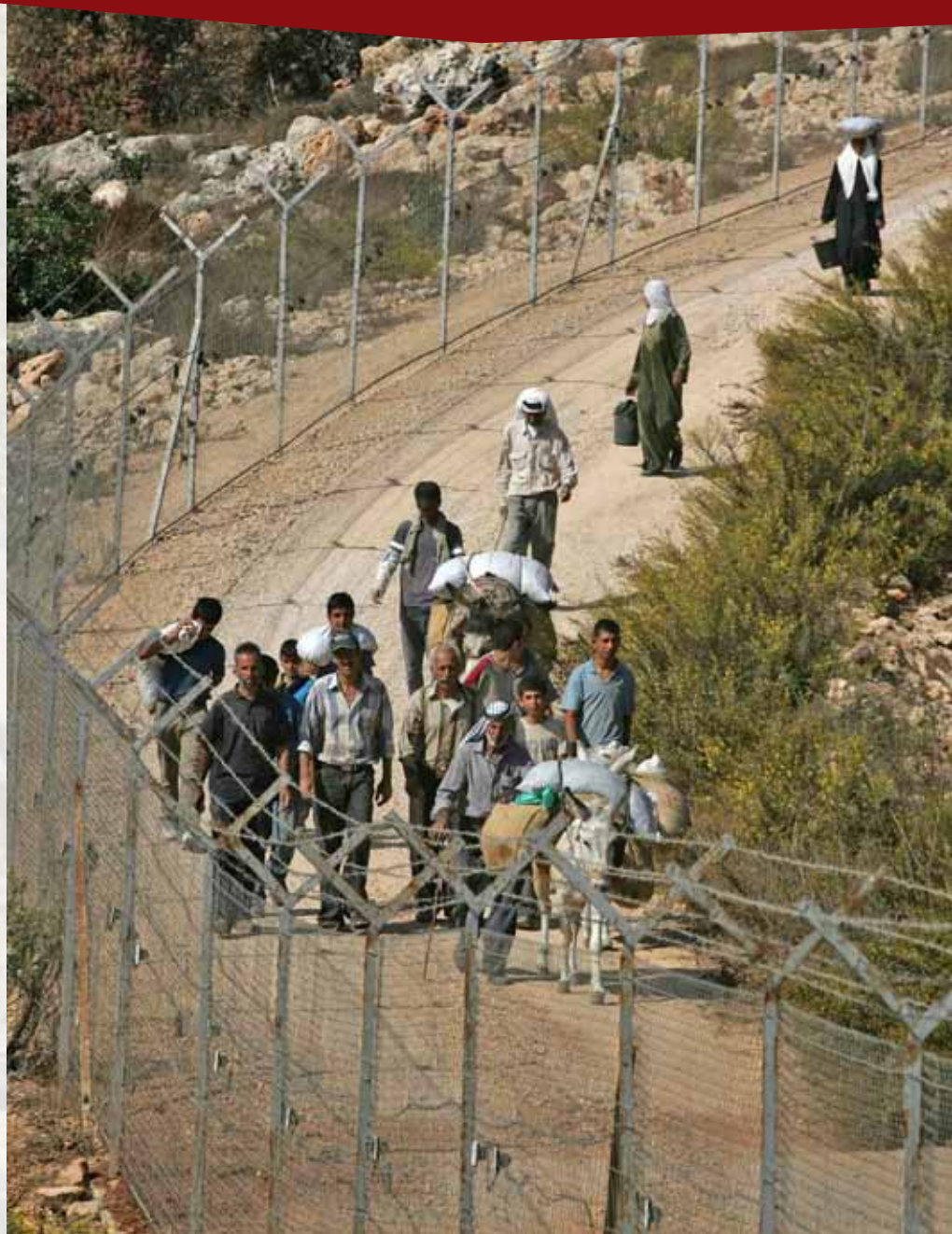
80 gates are scattered along the course of the Annexation Wall. Palestinian farmers are not allowed to cross the gates but in specific times.

Buffer Zones

Buffer Zones in the Gaza Strip: is a strip of Palestinian land and sea surrounding the Gaza Strip, and which is imposed by force by Israel. Palestinians are not allowed to use this area for farming, fishing nor even transportation.

Land Buffer Zone: The land strip stretches along the northern and eastern borders of the Gaza Strip with Israel, ranging in width between 300 and 1,500 meters, swallowing by that 17 per cent of the Gaza Strip area.

Naval Buffer Zone: extends for 20 miles along the central areas of the Gaza Strip coast,



and is 3 nautical miles wide. Palestinians are strictly prohibited from sailing in a 1.5 nautical mile strip in both the northern and southern edges of the Gaza Strip coast.

Natural Reserves

According to Israeli military orders, a military commander has the power to declare an area as a natural reserve. These orders do not only define the criteria or characteristics of the natural reserve, but this is left to the discretion of the military administration. This has been an effective tool for taking over Palestinian lands through prohibiting them from construction and development. The notion of harming a natural reserve has been expanded to include residing, grazing or picking anything from that area.

Since 1967, Israel declared 114 natural reserves in the 1967 occupied Palestinian territory, in an area more than 350,000 dunams – which amounts for 6 per cent of the area of the West Bank.

Parks

According to Military Order 363 (Amendment No. 89) the military commander has the power to declare an area as a park, which would be managed by the Israel Nature and Parks Authority. Like Natural Reserves, there are no criteria for designating parks. By utilizing this military order, Israel takes over Palestinian lands for the construction of roads, development of infrastructure for the park, and charging for entry. Since 1967, Israel declared 18 parks inside the 1967 occupied Palestinian territory.

Archaeological Sites

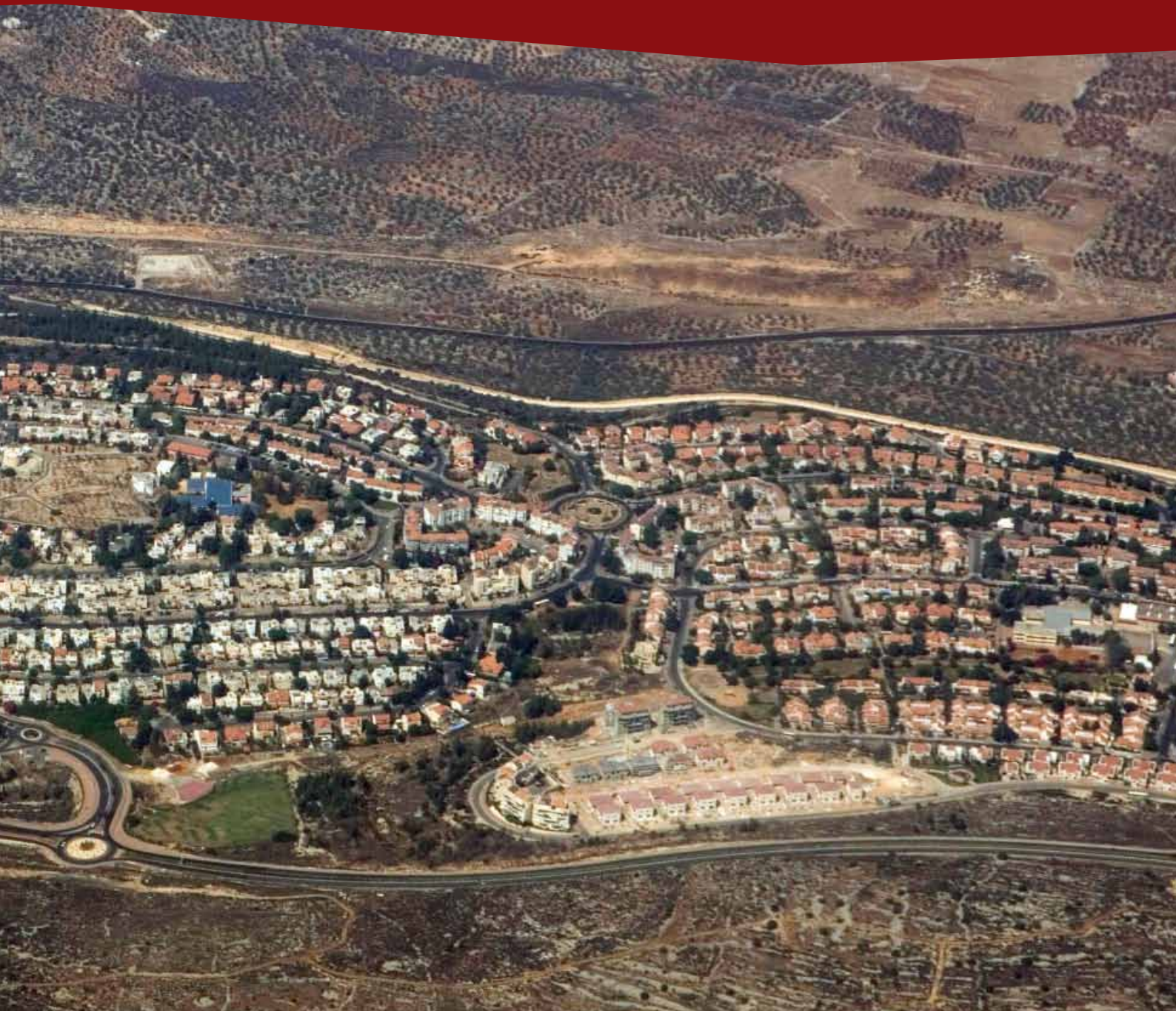
According to military orders and Israeli laws, all archaeological sites, whether discovered before or after issuing the laws, should be administered by the Israel Antiquities Authority, which has the power to confiscate a certain area or prohibit its use, for the purpose of research, excavation or protection of historic heritage.

These notions were expanded in

2010, and 6 new archaeological sites were declared in the 1967 occupied Palestinian territory. Effectively, Israel takes over these lands from their Palestinian owners, prohibits them from accessing their properties while granting access to Jewish colonizers, as it is the case in the village of Susiya, south of Hebron.

Ring of Colonies

This refers to Palestinian-owned lands that are adjacent to Israeli colonies that have not been confiscated, but their owners are not allowed to access them without special permits issued by the Israeli Military Administration. Such permits are rarely issued.



ARIEL PHOTO OF A BLOCK OF SETTLEMENTS IN THE WEST BANK, 2010 (ActiveStills)

RESTRICTIONS ON CONSTRUCTION

HOW ARE RESTRICTIONS ON PALESTINIAN CONSTRUCTION INTEGRATED IN THE ISRAELI LEGISLATION?

The regime of granting permits for construction or renovation, for residence, industry or agriculture is another mechanism for the ongoing displacement of Palestinians. It complements other tools of displacement, and it is carried out through planning and building permits.

WHAT IS MEANT BY THE ISRAELI MATERIAL AND ADMINISTRATIVE LIMITATIONS THAT ARE IMPOSED ON PLANNING AND BUILDING?

In order to restrict Palestinians in separate and constrained communities while spreading colonizers on the widest possible area, Israel impose a series of material limitations, or barriers, on Palestinians. These include the colonies themselves, buffer zones, the Annexation Wall and Israeli-Jewish-only bypass roads. In addition to the physical barriers, legal obstacles include excluding Palestinians from the

planning and zoning process on their own areas, the imposing of Israeli master plans on them, and the discriminatory permits regime that controls all aspects of Palestinian life in the present and in the future, according to Israeli interests.

WHAT IS THE RELATIONSHIP BETWEEN ADMINISTRATIVE-MILITARY CATEGORIZATIONS OF LAND TO BUILDING PERMITS?

According to the Oslo Accords, the 1967 occupied West Bank was divided into three areas: A (18 per cent), B (22 per cent), and C (60 per cent). Only in Area A the Palestinian National Authority has full civil and security authority (but not sovereignty), including the power to plan and issuing licenses for building.

HOW IS PALESTINIAN DEVELOPMENT BLOCKED IN AREA 'C'?

Before signing the Oslo Accords, Israel delegated the powers of planning and development in the 1967 occupied Palestinian territory to the "Civil Administration"

(in fact it is the Israeli Military Administration), which was established in 1981. After signing the Oslo Accords, these powers were transferred to the Palestinian National Authority in Areas A and B. The largest area (Area C) remained under full Israeli security and civil jurisdiction, and Israel keeps the authority for planning and development to itself. Israel allocates only 1 per cent of Area C for Palestinian development and building.

WHAT ARE THE CONDITIONS FOR GETTING BUILDING PERMITS?

Proof of ownership, or legal possession of the land, according to the Israeli-imposed criteria, through submitting documents of inheritance, sale, tax receipts, maps, or any other relevant document;

- The pre-existence of public infrastructure (water and sewage system and electricity lines) in connection with the property; (installment of public services is the responsibility of Israel in Area C and Jerusalem which constitutes a severe form of

discriminatory policies of Israel)

- That the planned property exist in a surveyed area (by providing a topographic map);
- Paying the high fees for the license;
- That the planned property does not clash with Israeli plans (which are laid out without the participation of Palestinians, most often they are inaccessible to them,

and are subject to constant modifications according to the Israeli needs).

WHAT IS THE IMPACT OF ISRAELI RESTRICTIONS ON CONSTRUCTION?

Only 1 per cent of Area C (which is under full Israeli control and constitutes more than 60 per cent of the West Bank) is allocated for Palestinian construction, and is conditioned to Israeli almost-impossible to meet requirements.

Only 9 per cent of the 1967 occupied East Jerusalem is allocated for Palestinian construction, most of which is already inhabited. The Israeli conditions for receiving a building permit are extremely difficult to meet.

On average, Israel denies more the 94 per cent of Palestinian building permits applications.



SILWAN VILLAGE IN JERUSALEM, FEBRUARY 2013 (PHOTO BY SWS CAMPAIGN)

HOME DEMOLITIONS

WHAT IS MEANT BY THE HUMAN RIGHT FOR ADEQUATE HOUSING?

International law, in particular International Human Rights Law, guarantees the security of civilians under occupation (by protecting the right for housing in order to prevent displacement or arbitrary expulsion). The human right for adequate housing comes to protect other, related, rights, like the right to establish a family, have a family life and ensure family unity.

WHAT ARE THE ISRAELI EXCUSES FOR HOME DEMOLITIONS?

- Building without proper Israeli permit, or contradictory to permission specifications;
- Building in the buffer zone in Gaza Strip;
- Building in the Seam Zone;
- Building in a military area;
- Building in a green area, park or natural reserve.

WHAT ARE THE TYPES OF HOME DEMOLITIONS?

Punitive demolitions: 6 per cent of the homes demolished by Israel belong to Palestinians who resisted the occupation;

Administrative demolitions:

23 per cent of the homes demolished by Israel are claimed not have been properly licensed. Most of these cases are in Jerusalem and in Area C.

Military demolitions: more than 70 per cent of the demolitions of Palestinian homes by Israel were carried out during military operations, or for the purpose of clearing areas for military training, as it is the case with Palestinian Bedouin communities.

WHAT ARE THE ISRAELI JUSTIFICATIONS FOR HOME DEMOLITIONS?

According to Article 119 of the 1945 Defence (Emergency) Regulations (enforced by British Mandate), “A Military Commander may by order direct the forfeiture to the Government of Palestine of any house, structure, or land from which he has reason to suspect the any firearm has been illegally discharged, or any bomb, grenade or explosive or incendiary article illegally thrown, or of any house, structure or land situated in any area, town, village, quarter or street the inhabitants or some of the inhabitants of which he is satisfied have committed,

or attempted to commit, or abetted the commission of, or been accessories after the fact of the commission of, any offence against the Regulations involving violence or intimidation or any Military Court offence”

And according to Article 125 of these Regulations, “A Military Commander may by order declare any area or place to be a closed area for the purposes of these Regulations”.

According to the 2006 Israeli Army Field Manual/instructions, which includes the rules and regulations for soldiers conduct during military missions, there is no problem in demolishing a construction if the enemy is hiding in it, or if it is suspected that the enemy is using it as a hiding place”.

THE IMPACT OF HOME DEMOLITIONS:

- 536 Palestinian villages and towns were destroyed between 1947 and 1949, and their populations where expelled, either in full or in part;
- More than 27,000 Palestinian structures were destroyed by Israel between 1967 and the end of 2012.


- 11,000 Palestinian housing units were demolished in Gaza Strip between 2000 and the end of 2008 as a result of military operations;
- No less than 3,600 homes were destroyed, either completely or partly, during the Israeli invasions into Gaza Strip: Operation Cast Lead (2008-2009) and Operation Pillar of Defense (2012).



HOUSE DEMOLITION IN JERUSALEM, 2010 (ACTIVESTILLS)

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY AND CIVIL SOCIETY

- Study and address the root causes of the ongoing forcible displacement of Palestinians by Israel. After 66 years of a protracted Nakba, civil society and influencers continue to bear the duty of promoting awareness of and effective responses to Israel's system of occupation, apartheid and colonialism that prevents Palestinian self-determination and constitutes the root cause of Israel's policy of population transfer;
- Develop mechanisms and take effective measures to bring Israel into compliance

- 
- with international law. Responsibility and accountability for injuries, loss of life and property should be pursued through investigations, ensuring reparations and prosecuting those guilty of serious international human rights and humanitarian law violations;
- Improve response mechanisms in the occupied Palestinian territory by focusing efforts not only on short-term emergency aid, but also on preventing forced displacement through filling protection gaps

- as medium and long-term needs;
- Lobby governments to cease diplomatic, military and economic support of and cooperation with the state of Israel;
 - Develop solidarity movement approach by institutionalizing and regulating solidarity with Palestinians/ Palestine, supporting comprehensive human-rights based solution ensuring the fundamental rights of Palestinians (self-determination, return and equality), lobbying governments to provide Palestinians

- including those in exile with protection they are need to in accordance to international standards, conducting awareness raising campaigns in face of Israeli propaganda and violations;
- Ensure reparation and remedies for Palestinian victims, through practical measures to facilitate housing and property restitution and compensation by Israel.

The UN Special Rapporteur on Adequate Housing has noted that “in very different legal and geographical contexts, from Galilee and the Negev to the West Bank, she received multiple similar complaints from Palestinians, notably concerning a lack of or discriminatory planning, which seriously hampers the urban and rural development of these communities. As a consequence, a disproportionate number of members of such communities live and sometimes work in structures that are unauthorized or illegal and liable to eviction and demolition.”

(UN Special Rapporteur on Adequate Housing, Report: Country visit - Israel and OPT, 2012, § 96 – 99).



PLANTING HUNDREDS OF OLIVE TREES IN THE LANDS UNDER THE THREAT OF CONFISCATION, BEIT JAJA, MARCH 2012 (PHOTO BY BADIL)