



Photo by Mahfouz Abu Turk

## THE PLANNING CRISIS IN EAST JERUSALEM: UNDERSTANDING THE PHENOMENON OF “ILLEGAL” CONSTRUCTION

This OCHA Special Focus addresses the phenomenon of “illegal” Palestinian construction in East Jerusalem resulting from the failure of the Israeli authorities to provide adequate planning for Palestinian neighbourhoods. This Special Focus provides a statistical overview of Israel’s demolition of unauthorized structures since 2000, provides

background on some of the key difficulties facing Palestinian residents of East Jerusalem in their efforts to build, and identifies a number of at-risk communities. In addition, it provides an overview of various NGO and community initiatives that aim to challenge and eventually overcome obstacles in the current municipal planning process.

## Executive Summary<sup>1</sup>

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In 1967, Israel occupied the West Bank and unilaterally annexed to its territory 70.5 km<sup>2</sup> of the occupied area, which were subsequently integrated within the Jerusalem municipality. This annexation contravenes international law and was not recognized by the UN Security Council or UN member states.<sup>2</sup> Irrespective of Israel's annexation, the area of East Jerusalem continues to form part of the occupied Palestinian territory (oPt) and its Palestinian residents remain protected by international humanitarian law (IHL).

Throughout its occupation, Israel has significantly restricted Palestinian development in East Jerusalem. Over one third of East Jerusalem has been expropriated for the construction of Israeli settlements, despite the IHL prohibition on the transfer of civilians to the occupied territory. Only 13 percent of the annexed area is currently zoned by the Israeli authorities for Palestinian construction, within which Palestinians have the possibility of obtaining a building permit. However, much of this land is already built-up, the permitted construction density is limited and the application process is complicated and expensive.

Moreover, the number of permits granted per year to Palestinians does not meet the existing demand for housing. The gap between housing needs based on population growth and the legally permitted construction is estimated to be at least 1,100 housing units per year.

As a result, Palestinian residents of East Jerusalem find themselves confronting a serious housing shortage caused by Israel's failure to provide Palestinian neighbourhoods with adequate planning. This shortage has been exacerbated in recent years by the reported influx of Palestinian Jerusalemites into the city due to Barrier construction and the threat of losing residency status in the city if they move outside the Israeli-defined municipal borders of Jerusalem.

Because of the difficulties Palestinians encounter trying to obtain building permits from the

Israeli authorities, and due to the lack of feasible alternatives, many Palestinians risk building on their land without a permit in order to meet their housing needs. At least 28 percent of all Palestinian homes in East Jerusalem have been built in violation of Israeli zoning requirements. Based on population figures, this percentage is equivalent to some 60,000 Palestinians in East Jerusalem, who are at risk of having their homes demolished by the Israeli authorities. This is a conservative estimate and the actual figures may be much higher.

### Continuing demolitions in East Jerusalem

Since 1967, the Israeli authorities have demolished thousands of Palestinian-owned structures in the oPt, including an estimated 2,000 houses in East Jerusalem. According to official statistics, between 2000 and 2008 alone, the Israeli authorities demolished more than 670 Palestinian-owned structures in East Jerusalem due to lack of permit. Of these, approximately 90 structures were demolished in 2008, displacing some 400 Palestinians. In 2009, OCHA has recorded the demolition of 19 Palestinian-owned structures in East Jerusalem, including 11 inhabited residential structures, due to lack of permit. As a result, some 109 Palestinians, including 60 children, were displaced.

Of particular concern are areas in East Jerusalem that face the prospect of mass demolitions. For example, the execution of pending demolition orders in the Tel al Foul area in 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.<sup>3</sup> In the Bustan area of the Silwan neighbourhood, which has received considerable media attention, some 90 houses are threatened with demolition, potentially displacing a further 1,000 Palestinians. In addition, some 500 residents of the Sheikh Jarrah neighborhood potentially face eviction as their homes are located on land whose ownership is contested by Israeli settlers.

## Similar policy in Area C

Israel's policy of home demolitions is not limited to East Jerusalem. Each year, hundreds of Palestinian-owned structures are demolished in Area C of the West Bank for lack of a building permit. Thousands of other Palestinian families in Area C face the constant threat of demolition due to outstanding demolition orders. In spite of a number of differences, the reality in both East Jerusalem and Area C is quite similar: Palestinian construction in most of these areas is severely limited, Palestinian families face ongoing displacement, and there is reduced space for the development of Palestinian communities.

## Impact on the Palestinian population

The demolition of houses causes significant hardship for the people affected. Not only must displaced families overcome the psychological distress of losing their homes, they are usually burdened with debt after the loss of their primary asset, the demolished house, and, if they have retained a lawyer, the payment of legal fees. In the case of East Jerusalem, families also face heavy fines imposed by the Jerusalem municipality and, in some cases, prison sentences.

Children, who represent over 50 percent of the Palestinian population, are particularly affected by the displacement of their families. In the immediate aftermath of demolitions, children often face gaps in education and limited access to basic services,

such as health care and clean water. Longer-term impacts include symptoms of psychological distress and diminished academic performance.

Highlighting the damaging impact of Israel's home demolitions and evictions in East Jerusalem, the UN Special Coordinator's Office noted in March 2009 that "(t)hese actions harm ordinary Palestinians, heighten tensions in the city, undermine efforts to build trust and promote negotiations, and are contrary to international law and Israel's commitments."<sup>4</sup>

Recent events indicate that the Jerusalem municipality will maintain, and possibly accelerate, its policy on house demolition.<sup>5</sup>

## The way forward

As the occupying power, Israel must ensure that the basic needs of the Palestinian population of the occupied territory are met. In order to meet this obligation, the Israeli authorities should immediately freeze all pending demolition orders and undertake planning that will address the Palestinian housing crisis in East Jerusalem. At the same time, support should be directed towards organizations and agencies working to meet the immediate and longer-term needs of families displaced as a result of demolitions. In addition, assistance is required for Palestinian communities that are attempting to challenge the restrictions in the current system through legal aid, planning initiatives and advocacy.

## Demolitions due to Lack of Permit in East Jerusalem

The Israeli authorities demolished approximately 90 Palestinian-owned structures in East Jerusalem in 2008 for lack of permit, displacing some 400 Palestinians.<sup>6</sup> This is the highest annual total of demolitions since 2004, when demolitions during the 2000-2008 period peaked.

Figure 1 shows the annual break-down of the 673 houses demolished in East Jerusalem due to the lack of building permits between 2000 and 2008.<sup>7</sup> These demolitions constitute a quarter of demolitions carried out by the Israeli authorities in the West Bank during the same period.<sup>8</sup>

Since the beginning of 2009, the Israeli authorities have carried out the demolition of 19 Palestinian-owned structures in East Jerusalem, including 11 inhabited, residential structures for lack of permit.<sup>9</sup>

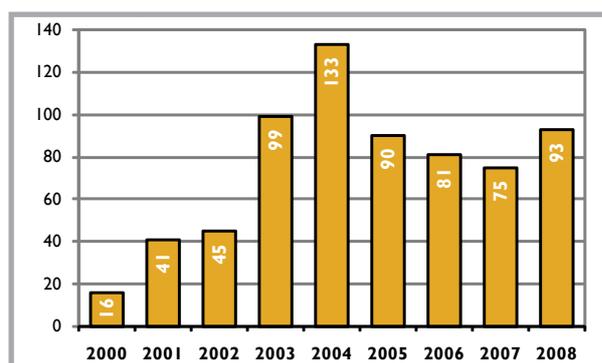


Figure 1: Demolitions in East Jerusalem, 2000-2008

Over 100 Palestinians, including 60 children, have been displaced as a result. These demolitions took place throughout East Jerusalem in the neighbourhoods of Beit Hanina, Silwan, At Tur, Jabal al Mukabbir, Ath Thuri, Ras Khamees, Wadi al Joz, Sur Bahir, 'Isawiya, Sheikh Jarrah, Beit Safafa, and the Old City.

### DISPLACEMENT RESULTING FROM ISRAEL'S DEMOLITION OF PALESTINIAN HOMES

Each year, hundreds of Palestinians living in East Jerusalem and Area C of the West Bank are displaced as a result of Israel's policy of demolishing Palestinian homes built without a permit. Thousands of others live with the ever-present risk of displacement due to outstanding demolition orders.

There has been no comprehensive study on what happens to families in the oPt after they have been displaced. However, organizations and agencies working on issues of displacement have observed that it has wide-ranging effects. Displaced families generally face significant financial difficulties, particularly in East Jerusalem, where 2/3 of the population lives in poverty.<sup>10</sup> In addition to economic losses stemming from fines, legal fees and the lost investment in a home, families may lose the contents of the house as well. An additional economic burden faced by many families post-demolition is the payment of rent, which places considerable stress on already limited financial resources.

Combined with psychological distress and debt burdens from the demolition, displaced families from East Jerusalem have few options for where to move, since the land they build on is generally their main family asset. Also, friends and relatives nearby already live in severely overcrowded residences.

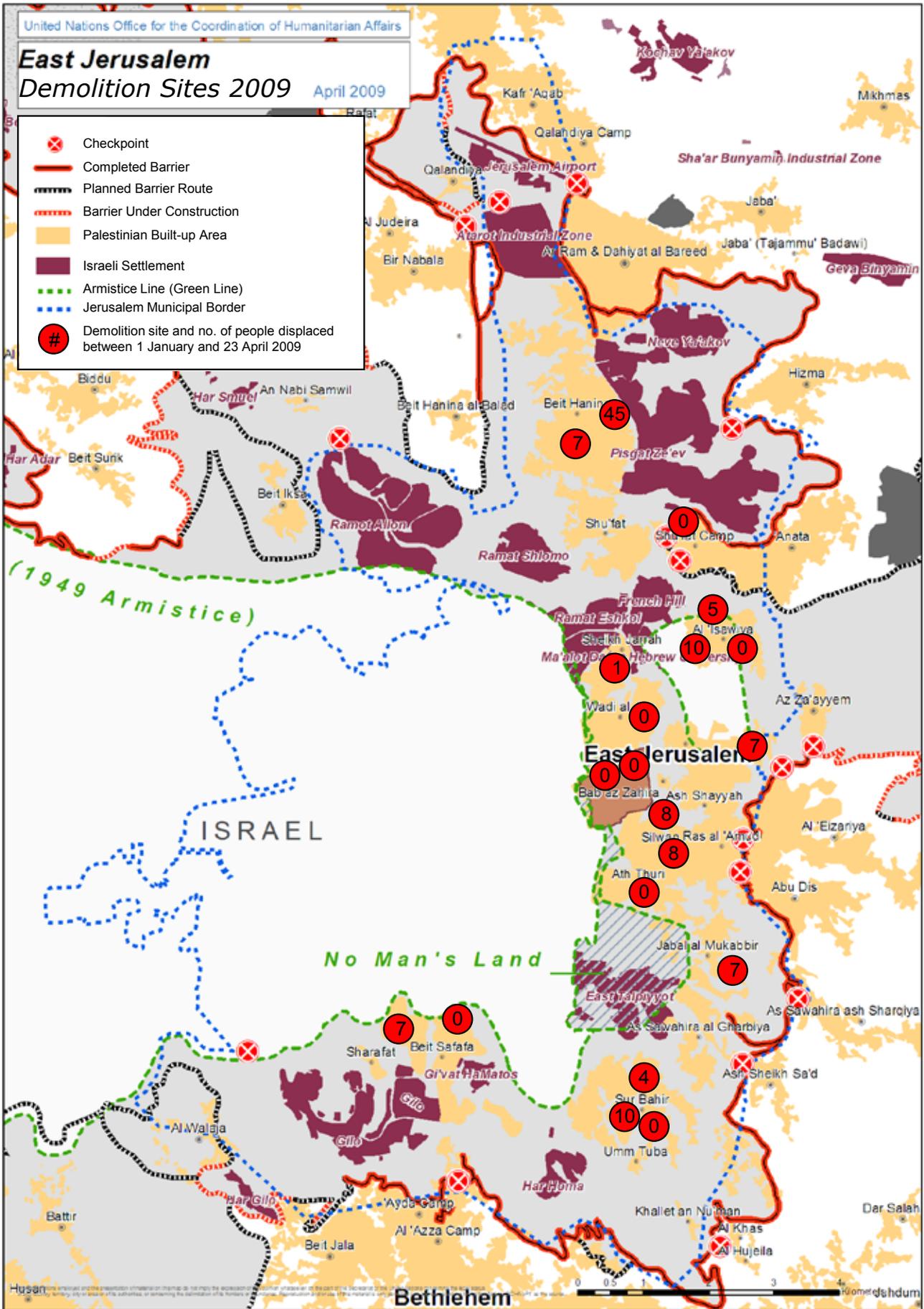
In 2007, the Palestinian Counseling Center, Save the Children UK and the Welfare Association conducted a survey of Palestinians whose homes were demolished in the West Bank and Gaza Strip for various reasons, including during military operations, for lack of permit and for punitive reasons. The survey 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.<sup>11</sup>

Given their vulnerability, children are frequently disproportionately impacted by the displacement of their families. According to the 2007 survey, in the immediate aftermath of a demolition children face gaps in education, a reduced standard of living and limited access to basic services, such as water and health. The survey found that emotional and behavioural problems persist even after the six month period immediately following the demolition. Symptoms of psychological distress found among children included increased aggression, depression, difficulty concentrating and bedwetting problems, among others. Long-term effects on education include lower academic achievement rates and early drop out.

# East Jerusalem Demolition Sites 2009

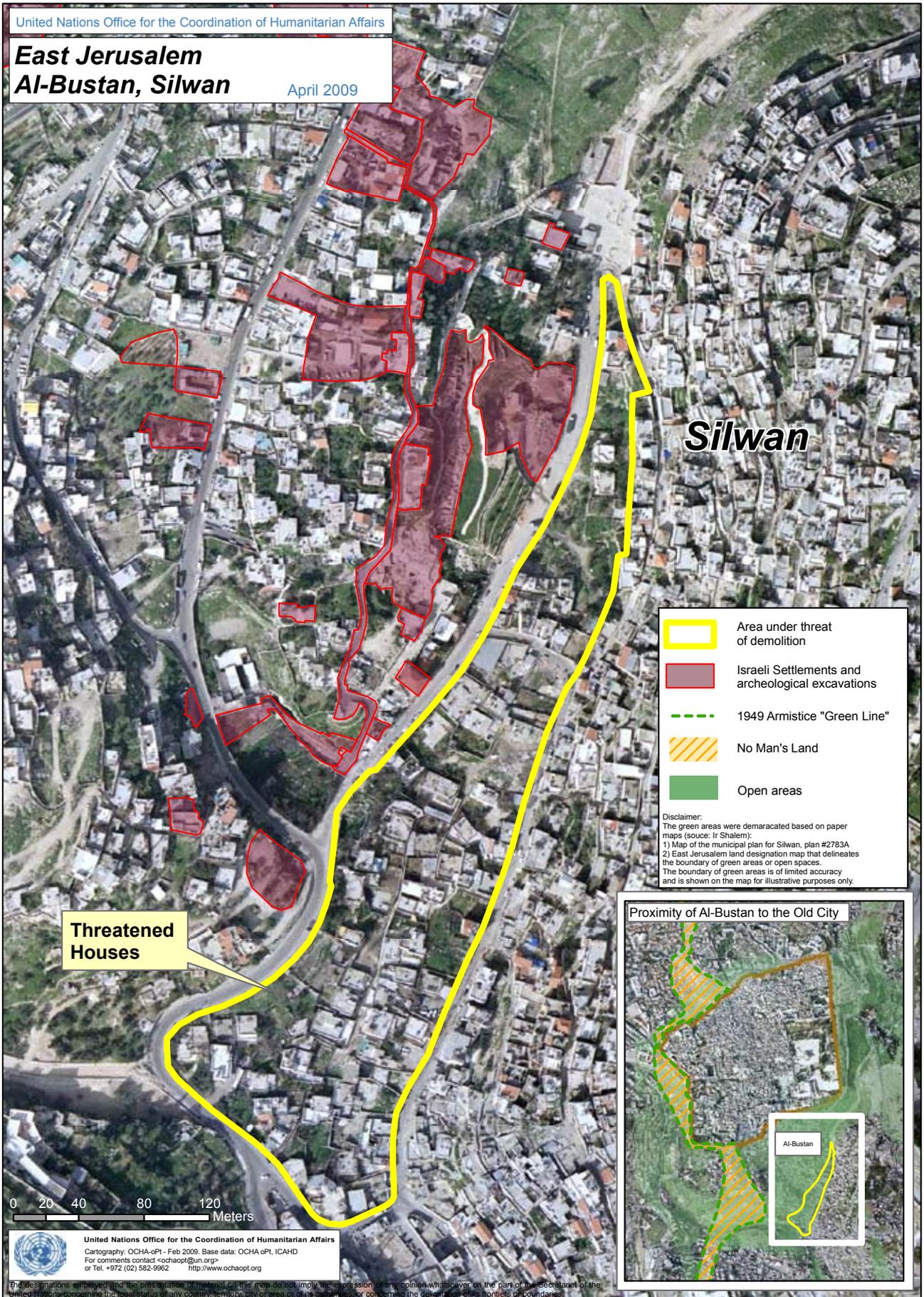
April 2009

- Checkpoint
- Completed Barrier
- Planned Barrier Route
- Barrier Under Construction
- Palestinian Built-up Area
- Israeli Settlement
- Armistice Line (Green Line)
- Jerusalem Municipal Border
- Demolition site and no. of people displaced between 1 January and 23 April 2009



# East Jerusalem Al-Bustan, Silwan

April 2009



## CASE STUDY I: MASS DEMOLITIONS PENDING IN AL BUSTAN AREA OF SILWAN<sup>12</sup>

More than 1,000 Palestinians risk losing their homes if the Jerusalem municipality carries out its plan to clear “illegal” constructions in the Al Bustan area of Silwan, located just south of the Old City’s walls.

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. However, as this area is the natural expansion of the Silwan village, construction has occurred there. Of the 90 houses located in the “green” area, the large majority have received demolition orders. The Jerusalem municipality reports that there is currently no intention to demolish 21 of the buildings, which were present in Al Bustan prior to 1992, including seven to 11 which were built before 1977.<sup>13</sup>

According to the residents’ lawyer, between 1977 and 2005, there were attempts by residents of the area to apply for building permits that ended in failure due to the status of the area as “green.” In 2005, after learning that the city engineer had ordered in 2004 the “removal of the illegal construction”<sup>14</sup> in Al Bustan in congruence with earlier municipal plans, the residents of Al Bustan submitted a planning scheme in an attempt to change the status of the area from “green” to “residential.” While the plan, which cost residents USD 77,000, was under review, most of the demolition orders were not executed.<sup>15</sup> On 17 February 2009, the Regional Planning Committee rejected Al Bustan’s plan, thereby paving the way for the execution of pending demolition orders. On 22 February 2009, municipality staff accompanied by Israeli forces carried out a survey of the buildings in Al Bustan, leading residents to fear that demolition of their homes was imminent.

The magnitude of the potential displacement has raised concerns among human rights groups and the diplomatic community. Commenting on reported plans to demolish homes in Silwan, the US Secretary of State criticised Israel, stating: “Clearly this kind of activity is unhelpful and not in keeping with the obligations entered into under the ‘road map’.”<sup>16</sup> Since the plan’s rejection, no additional demolitions have been carried out by the municipality, but the threat to the houses remains. In March 2009, Jerusalem Mayor Nir Barkat stated that “it is very fair to assume that [in the end] there will not be residential housing” in Al Bustan.<sup>17</sup>

## Building Conditions in East Jerusalem

In 1967, Israel occupied the West Bank and unilaterally annexed to its territory 70.5 km<sup>2</sup> of the occupied area, which were subsequently integrated within the Jerusalem municipality and are now referred to as “East Jerusalem”. This annexation contravenes international law and was not recognized by the UN Security Council or UN member states.<sup>18</sup>

Of this land, 35 percent (24.5 km<sup>2</sup>) has been expropriated for Israeli settlements, in spite of the IHL prohibition on the transfer of the occupying

power’s civilians into occupied territory.<sup>19</sup> According to the Israeli human rights organization B’Tselem, most of this expropriated land was privately-owned Arab property.<sup>20</sup> Over 195,000 Israeli settlers now live in settlements in East Jerusalem.<sup>21</sup>

Of the 70.5 km<sup>2</sup>, 35 percent (24.7 km<sup>2</sup>) has master plans that have been approved by the Jerusalem District Committee.<sup>22</sup> The remaining 30 percent (21.3 km<sup>2</sup>) has remained unplanned since 1967 (planning is under way in some areas, but not yet approved).

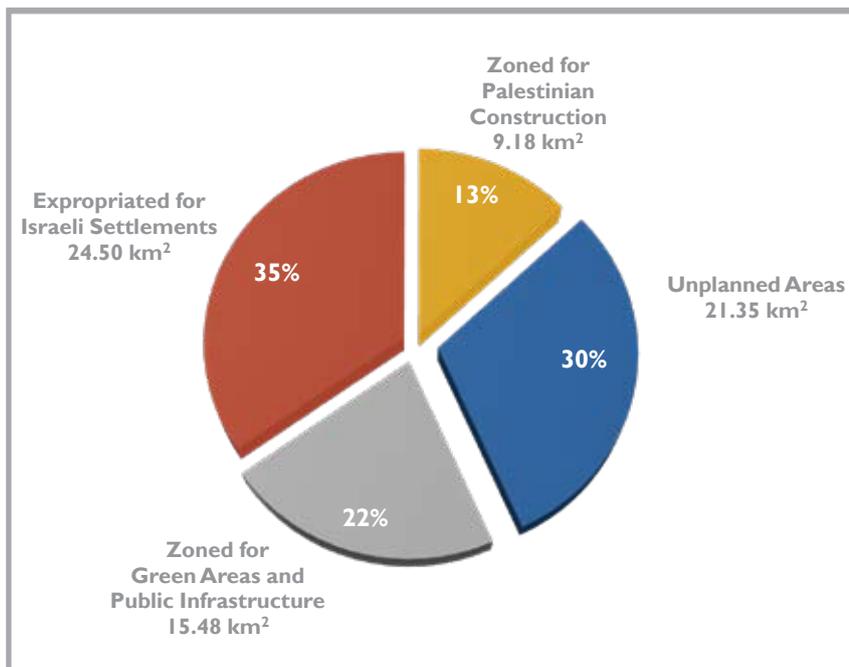


Figure 2: Division of East Jerusalem Land

Of the 24.7 km<sup>2</sup> that are planned, approximately 15.5 km<sup>2</sup> (63 percent) are designated as “green areas”, where no construction is allowed, or for public purposes, such as roads and other infrastructure. This leaves only 9.2 km<sup>2</sup> (13 percent of the total East Jerusalem area) available for Palestinian construction, and much of this is built-up already. Even in these areas, Palestinians face difficulties that hinder their ability to obtain a permit.

First, before construction can begin on a vacant piece of land included within the 24.7 km<sup>2</sup> that have master plans, 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.

While the need to designate part of the land for green or public areas is a normal planning requirement, the nature of land ownership in East Jerusalem makes completing this task difficult: most of the lands are held in small, privately-held plots that must be first united in order to ensure the equitable 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.<sup>23</sup>

Second, if public infrastructure (i.e. roads, sewerage, 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, no construction is permitted in areas with insufficient public infrastructure. The development of public infrastructure remains the responsibility of the Jerusalem municipality; however, very few resources have been allocated for this purpose in East Jerusalem. As a result, new construction in neighbourhoods lacking public infrastructure is prohibited.

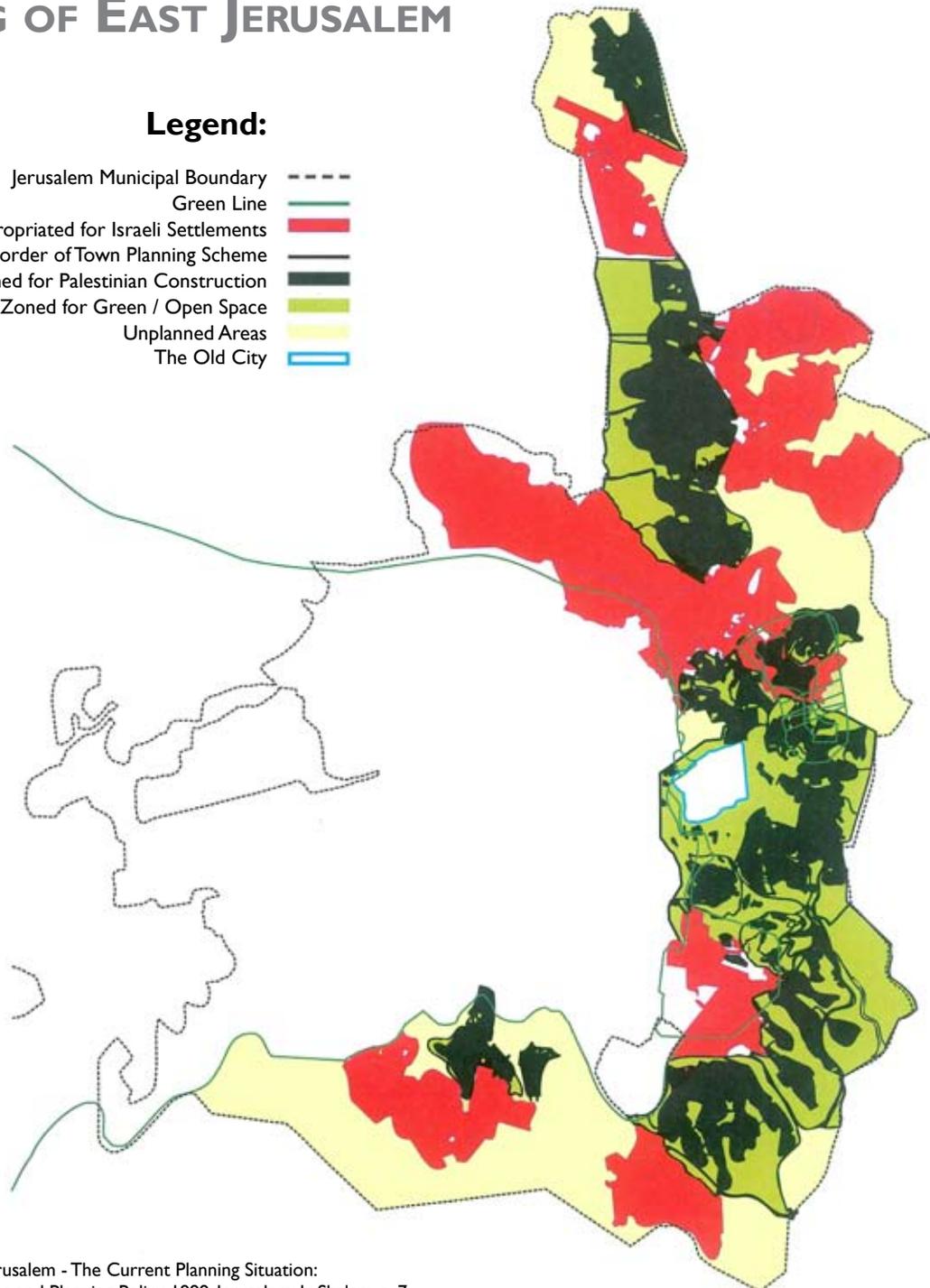
Third, strict zoning in Palestinian areas of East Jerusalem limits construction density, thereby reducing the number and size of structures which may be built on any given plot of land. In many cases, the density (known as plot ratio) permitted is half (or, in some cases, much less than half) that found in neighbouring Israeli settlements in East Jerusalem, or in West Jerusalem.<sup>24</sup>

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 both the size of the proposed building and the size of the plot. The fees are considerable, and for many Palestinians, are prohibitive. For example, the fees for a permit to construct a small 100 m<sup>2</sup> building on a 500 m<sup>2</sup> plot of land will amount to approximately NIS 74,000 (USD 17,620).<sup>25</sup>

Unlike in West Jerusalem or Israeli settlements in East Jerusalem, however, building by Palestinians in East Jerusalem is generally small-scale, carried out by individual families or a few together, rather than larger-scale housing projects.<sup>26</sup> Also, plot ratio restrictions applicable in Palestinian neighbourhoods mean that there are fewer housing

# ZONING OF EAST JERUSALEM

- Legend:**
- Jerusalem Municipal Boundary - - - -
  - Green Line ———
  - Expropriated for Israeli Settlements ———
  - Border of Town Planning Scheme ———
  - Zoned for Palestinian Construction ———
  - Zoned for Green / Open Space ———
  - Unplanned Areas ———
  - The Old City ———



Source: Ir Shalem, East Jerusalem - The Current Planning Situation: A Survey of Municipal Plans and Planning Policy, 1999, Jerusalem: Ir Shalem, p. 7.

units in the proposed construction, compared to Israeli areas where the plot ratio (and, thus, number of inhabitants) is higher. As a result, there are fewer people among which permit costs can be shared. Furthermore, because of the way the fees are structured, applications for permits for smaller buildings (which are symptomatic of East

Jerusalem) have higher per-square-meter fees than larger buildings. For example, the fees for a permit to construct a building four times as large as the previous example, 400 m<sup>2</sup>, on the same plot size will only be roughly twice as expensive, about NIS 157,000 (USD 37,380).

## CASE STUDY II: DEMOLITION FOR SETTLEMENT EXPANSION

East Talpiot Settlement

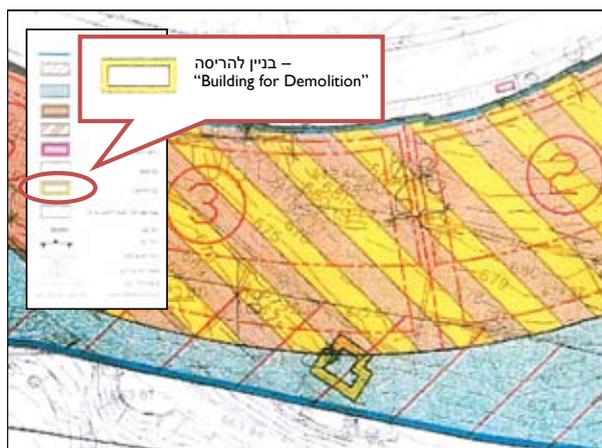
As Sawahira al Gharbiya

Mahmoud Alayyan's House

Photo by James Weatherill

Mr. Mahmoud Alayyan and his family live south of the Israeli settlement of East Talpiot. The house, located on a hill north of Sur Bahir neighbourhood, was originally built by his family in 1963, before Israel occupied East Jerusalem. In 1999, Mr. Alayyan built an 81 m<sup>2</sup> extension onto his home, without obtaining a permit, in order to accommodate his growing family.

Shortly after completing the addition in September 1999, Mr. Alayyan received an order to appear in court because he had constructed his home without a permit. The court charged him a fine of NIS 20,000 (approximately USD 4,700), which he paid in instalments, and gave him a period of 1 ½ years in which to obtain a building permit or his home would be demolished. In 2000, he approached the municipality to inquire how he could legalize the extension on his home. According to Mr. Alayyan, the municipality told him that approving construction was impossible as his home is located in a "green area". Mr. Alayyan heard nothing more from the municipality for another eight years.



Detail from the construction plan for the expansion of the settlement of East Talpiot, which indicates that Mahmoud Alayyan's house has been designated for demolition.

In January 2009, Mr. Alayyan received a notice from the municipality reminding him that he should demolish the extension to his home. He was then summoned to appear in court on 22 February 2009. While preparing for the court hearing, Mr. Alayyan went to the municipality and was informed that the settlement of East Talpiot has received final approval to begin construction of 180 new housing units in the "green area" surrounding his home. The plan<sup>27</sup> states that Mr. Alayyan's entire home (not just the extension) has been designated for demolition to make way for the settlement's expansion. He has never received any demolition order for the original part of his home built in 1963.

His court case has been postponed until June 2009. Thus far, Mr. Alayyan has spent a total of NIS 50,000 (approximately USD 12,000) to cover legal fees and the fine from the municipality. If carried out, demolition of the Alayyan home will result in the displacement of nine people, including Mr. Alayyan, his pregnant wife, their four children, his two sisters, and his mother.

The permit application process can take several years and applying for a permit does not guarantee that one will be granted. According to information provided to OCHA by the Jerusalem municipality, the number of permit applications more than doubled between 2003 and 2007 (138 to 283); however, the number of permits granted remained relatively the same, ranging between 100 and 150.<sup>28</sup> Because of the fees, the long delays, and the uncertainty associated with the permit application process, many Palestinians build houses on their own private land, without first obtaining building permits.

The phenomenon of “illegal” construction is not limited to the 13 percent of East Jerusalem where Palestinians are actually able to apply for a permit. For example, in most of the densely populated neighbourhoods around the Old City of Jerusalem, such as Silwan and Ath Thuri, the natural expansion

area of Palestinian communities has been designated as a green area, where no construction is allowed.<sup>29</sup> In these cases, affected residents must incur the high cost of developing new plans to try and change the status of an area from “green” to “residential”, before applying for a permit is even a possibility. A similar situation exists in areas of East Jerusalem that are not yet planned.

Palestinians who build without permits face the risk of home demolition and other penalties, including steep fines, confiscation of building equipment, and possible prison sentences. Between 2001 and 2006, the Jerusalem municipality collected an average of NIS 25.5 million per year (USD 6.07 million) in related fines.<sup>30</sup> None of these penalties exempt a house owner from the need to obtain a building permit for the structure.

#### SIMILAR POLICY IN AREA C OF THE WEST BANK

Israel's policy of home demolitions is not limited to East Jerusalem. Each year, hundreds of Palestinian-owned structures are demolished in Area C of the West Bank for lack of a building permit. Area C, in which Israel retains control over the planning sphere, constitutes approximately 60 percent of the West Bank, and contains most of the land available for natural expansion of the more densely populated Palestinian towns and cities.

Some entire communities, such as Khirbet Tana in the Nablus governorate and Al Aqaba in the Tubas governorate, are at-risk of displacement due to pending demolition orders. In the first quarter of 2009, OCHA recorded the demolition of 25 Palestinian-owned structures, including nine residential structures, in Area C due to lack of permit, displacing 46 Palestinians, including 30 children. Of note, all of the displaced were living in or next to the EI area to the east of East Jerusalem, which is planned for settlement expansion to link Ma'ale Adumim with Jerusalem. Some of the displaced had their residential structures demolished more than once during this period. As with East Jerusalem, thousands of other Palestinian families face the constant threat of demolition given that there are some 3,000 outstanding demolition orders in Area C.

The planning legislation and institutions, including those authorizing and executing the demolition orders, differ between East Jerusalem and Area C. The Jerusalem municipality and Ministry of Interior oversee planning issues, and authorize and oversee the demolition of homes in East Jerusalem. In Area C, the Israeli Civil Administration is responsible for these matters. In spite of these differences, however, the reality in both areas is quite similar: Palestinian construction in most of these areas is banned and almost automatically criminalized by the Israeli authorities. Between 2000 and 2007, some 94 percent of Palestinian applications for building permits in Area C were rejected by the Israeli Civil Administration.<sup>31</sup> Also similar are the impacts of the policy, the most serious of which are the continued displacement of Palestinian families and reduced space for the development of Palestinian communities in the oPt.<sup>32</sup>

## The Prevalence of 'Illegal' Construction

According to the Local Outline Plan for Jerusalem 2000, which was approved by Jerusalem's Local Committee for Planning and Building, 15,000 residential units, at least 28 percent of all Palestinian homes in East Jerusalem, have been built in violation of Israeli zoning requirements. As a result, at least 60,000 Palestinian residents are at risk of having their homes demolished. This estimate is conservative and the percentage may be as high as 46 percent.<sup>33</sup>

According to research conducted by the Israeli NGOs Bimkom – Planners for Planning Rights and Ir Shalem, between 1992 and 2001, the Jerusalem Municipality issued 1,400 building permits for construction in East Jerusalem, while 6,700 construction works were carried out.<sup>34</sup> As such, some 80 percent of construction was carried out without a permit during this period.

The number of permits granted per year does not meet the existing demand for housing, nor the annual growth in this demand. The Israeli organization Ir Amim reports that natural growth among Palestinians in East Jerusalem requires the construction of 1,500

housing units per year.<sup>35</sup> In 2008, 125 building permits were issued, allowing for the construction of approximately 400 housing units.<sup>36</sup> As such, the current gap between housing needs and the legally permitted construction is at least 1,100 housing units per year. However, the gap may be even higher considering that some of the permits are issued for additions to existing structures, as opposed to new housing units.

Due to the lack of proper urban planning, the underinvestment in public infrastructure and the inequitable allocation of budgetary resources, East Jerusalem is overcrowded and the public services (e.g. roads, schools, parks, etc.) do not meet the needs of the Palestinian population.<sup>37</sup> The housing shortage has been exacerbated in recent years due to an influx into the city of Palestinian Jerusalemites, in order to avoid falling on the eastern side of the Barrier, where they risk losing direct access to municipal services.<sup>38</sup> Another factor contributing to the influx is the fear of losing residency rights, which can be revoked by the Israeli authorities if Palestinian Jerusalemites live outside the municipal boundaries of Jerusalem.<sup>39</sup>

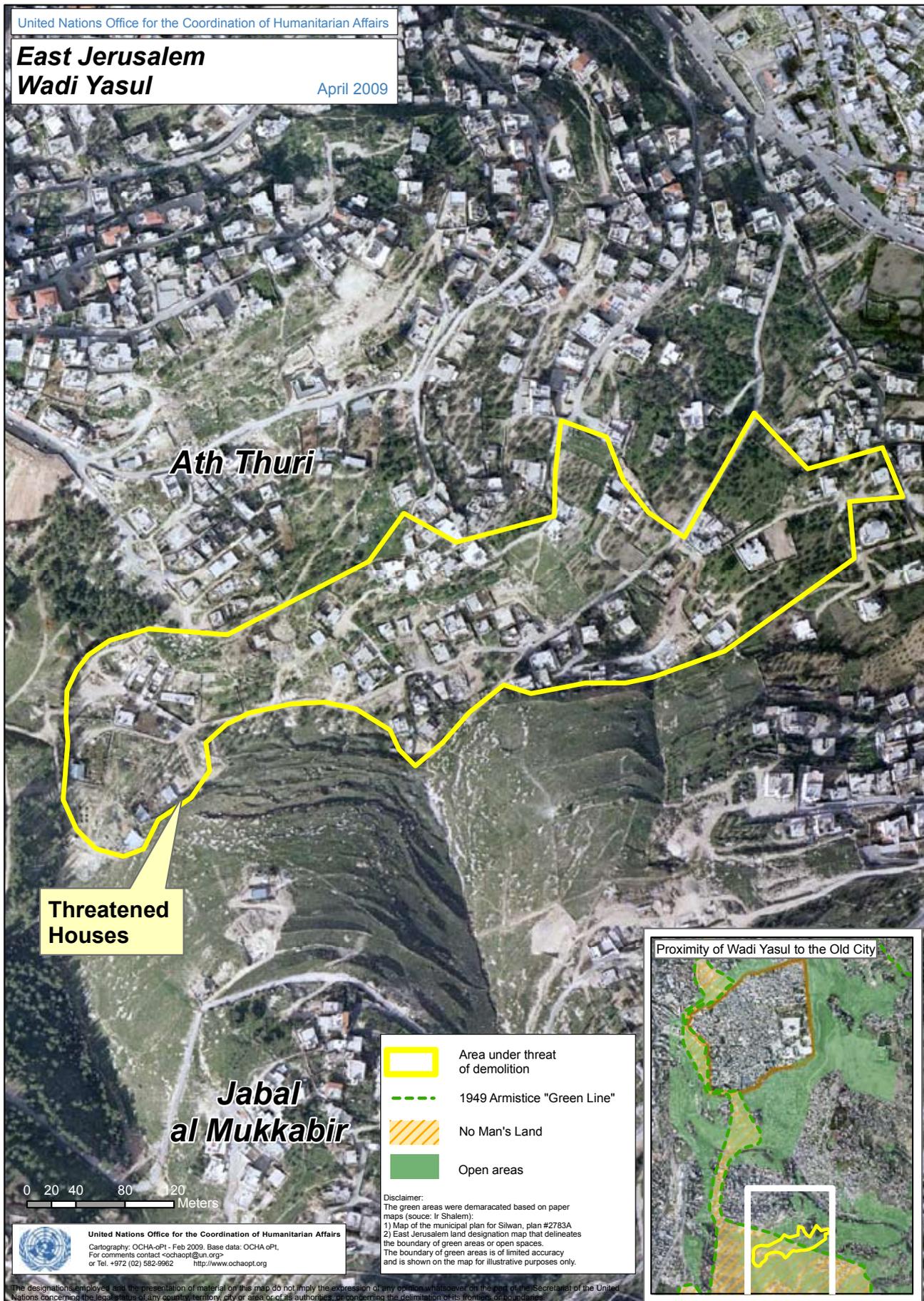
### CASE STUDY III: MASS DEMOLITIONS PENDING IN WADIYASUL

Like Al Bustan, the entire neighbourhood of Wadi Yasul, located between Ath Thuri and Jabal al Mukabbir, is threatened with demolition because the houses have been built in an area that has been zoned by the Jerusalem municipality since the late 1970s as a "green area".<sup>40</sup> The 400 residents are at risk of losing their homes if the Israeli authorities execute the demolition orders that have been distributed to all 55 buildings in the area.<sup>41</sup>

In an attempt to prevent these demolitions, residents prepared and submitted a detailed plan for their neighbourhood in March 2004. In 2005, the plan passed the first stage of the approval process from the Ministry of Interior District Planning Committee, but required several substantial modifications.<sup>42</sup> On 4 November 2008, in spite of the initial approval given, and after the community had dedicated years of work revising the plan and spent more than USD 50,000 on it, the District Planning Committee rejected it. According to the Committee, the proposed plan is incompatible with the Local Outline Plan for Jerusalem 2000, which maintains that the area should remain a "green area," where no development is permitted.<sup>43</sup> The community has now undertaken the additional financial burden of retaining a lawyer to appeal the committee's decision.

# East Jerusalem Wadi Yasul

April 2009



United Nations Office for the Coordination of Humanitarian Affairs  
Cartography: OCHA-oPt - Feb 2009. Base data: OCHA oPt,  
For comments contact <ochaopt@un.org>  
or Tel. +972 (02) 582-9962 <http://www.ochaopt.org>

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Israeli and Palestinian organizations monitoring Israel's policy of demolishing Palestinian homes for lack of permit argue that discrimination and political considerations have played a strong role in planning issues in East Jerusalem.<sup>44</sup> For example, the Israeli human rights organization B'Tselem has observed that while building flourished in Jewish settlements in East Jerusalem, the Jerusalem municipality did not establish outline plans for Palestinian areas. The organization notes: "The few plans that were approved were primarily intended to prevent new construction by declaring broad expanses of land as 'green areas', restricting the building percentages on the lots, and setting narrow borders."<sup>45</sup> Bimkom's assessment is that "planning in East Jerusalem is based on considerations that do not meet accepted legal, administrative and constitutional norms, such as government fairness, reasonability, proportionality and the protection of human rights."<sup>46</sup>

According to Amir Cheshin, a former municipality official, a key element shaping planning policy in

Jerusalem has been Israel's demographic concerns related to the size of the Palestinian population, as is evident in the government policy that seeks to maintain a ratio of 70 percent Jews to 30 percent Arabs in the city.<sup>47</sup> This policy is directly addressed in the Local Outline Plan for Jerusalem 2000. The plan was originally approved by Jerusalem's Local Committee in 2006. According to Bimkom, it was also approved by the District Committee in 2008 and opened for objections. It discusses the government's goal of maintaining a Jewish majority in the city, and offers suggestions of how to achieve a 60/40 ratio in light of the unlikelihood of meeting the 70/30 goal because of the higher birthrate among the Palestinian population.<sup>48</sup>

According to the Association for Civil Rights in Israel (ACRI), the planning pattern outlined by Bimkom and B'Tselem above will continue as the 2000 plan "perpetuates the discriminatory policies [in Jerusalem's planning] by failing to provide adequate housing units, employment sources, and infrastructure in East Jerusalem."<sup>49</sup>

#### SHEIKH JARRAH: RISK OF DISPLACEMENT FROM EVICTIONS

On 5 March 2009, orders for eviction within 10 days were issued for two buildings, owned by the Hanoun and Al Ghawi families, in the Sheikh Jarrah neighbourhood of East Jerusalem. An estimated 51 Palestinians, including 22 children, now face imminent displacement.

The affected buildings are in the same area as that of the Al Kurd family, who were forcibly evacuated from their home in November 2008 after residing in it since the 1950s. The Al Kurd eviction occurred several months after a Jerusalem court ruled in favour of a group of Israeli settlers, who possessed an Ottoman-era bill, which they claimed proved their ownership of the land on which the house was built. The buildings of the Hanoun and Al Ghawi families are affected by the same court decision. Though the families' lawyer recently obtained documents from an Ottoman archive in Turkey which he reports prove Palestinian ownership of the land, attempts to introduce this new evidence before the relevant Israeli courts have been unsuccessful.<sup>50</sup> An estimated 500 persons currently reside in houses located on land in the contested area.

## Zoning and Planning Initiatives

Palestinian communities, together with Palestinian and Israeli organisations, such as the International Peace and Cooperation Center (IPCC) and Bimkom, are attempting to develop planning schemes that meet the needs of the Palestinian population in East Jerusalem.

Though the space available for Palestinian construction is extremely limited, at this time, there

are six large planning schemes being developed according to Bimkom. These plans seek to re-plan some 5,000 dunums of land in East Jerusalem. While 60 percent of the area being planned is included within the 9.2 km<sup>2</sup> already zoned for Palestinian residential construction, the rest (close to 2,000 dunums) is currently zoned as "green areas" or has never been planned.<sup>51</sup> Therefore, if these plans are approved by the municipality, the total area of East

**CASE STUDY IV: THE DISPLACEMENT OF THE JUM'A FAMILY FROM AS SAWAHIRA AL GHARBIYA**



Photo by James Weatherill

In 2000, Ali Jum'a built a 100-m<sup>2</sup> house in As Sawahira al Gharbiya on a ½ dunum plot of private land he inherited from his family. Though Mr. Jum'a's father had built their family home in the same area before 1967, it was designated a "green area" in the 1970s. Four years after constructing his house, Ali Jum'a received a notice to appear in court because he had constructed his home without a building permit. The family paid NIS 5,000 in fees for legal representation. The court fined Mr. Jum'a NIS 32,000 for building without a permit and instructed him to obtain a building license.

Between 2004 and 2007, Mr. Jum'a's family went through the permit application process, which entailed hiring an engineer to develop a plan of the area that, if approved, would alter its status from "green" to "residential". Developing the plan cost over NIS 63,000, an amount shared by a number of his extended family with homes in the area; his share was approximately NIS 9,300. In April 2007, the Jerusalem District Committee rejected the plan and two months later the Israeli authorities demolished the house.

In July 2007, the Israeli Committee Against House Demolitions (ICAHD) helped Mr. Jum'a's family rebuild their house. Immediately thereafter, the family received a new demolition order, which they again unsuccessfully appealed. On 25 November 2008, the house was demolished for the second time, displacing Mr. Jum'a's family of eleven, including seven children between six months and 16 years of age. The family now lives in a rented apartment in Jabal al Mukabbir. There are multiple other houses, along with a mosque, in the area that have pending demolition orders against them.

| ITEM                                   | COST  |
|--|---|
| Construction cost of house             | 200,000 NIS                                 |
| Legal fees for first house             | 5,000 NIS                                   |
| Fine for building without a permit     | 32,000 NIS                                  |
| Share of surveyor fees                 | 3,000 NIS                                   |
| Share of engineer fees to develop plan | 6,300 NIS                                   |
| Legal fees for second house            | N/A (paid by ICAHD)                         |
| <b>TOTAL</b>                           | <b>247,300 NIS<br/>(approx. USD 59,000)</b> |

Figure 3: Breakdown of costs associated with building the Jum'a house

Jerusalem which is zoned for Palestinian residential construction will be increased, and Palestinians will have greater opportunities to build new housing. In addition to these large planning schemes, individual Palestinians also submit hundreds of plans for small areas. In 2008 alone, Palestinians submitted 190 plans.<sup>52</sup> It is usually more difficult, however, for these smaller plans to be approved as they are often produced with limited resources and do not sufficiently take into account larger existing plans.

In June 2008, IPCC succeeded in receiving initial approval for a master plan for the neighbourhoods of Deir al Amoud and Al Mintar in eastern Sur Bahir. The existing 193 houses (about 240 housing units) in the area of the plan had been threatened with demolition for having been built without permits in a "green area". If successful, the plan will create potential for the construction of 500 new housing units in the neighbourhoods, in addition to allowing residents to use it in building permit applications to authorize existing construction. IPCC is also working on plans for the Tel Adassi area of Beit Hanina and Jabal al Mukabbir.

Bimkom has been working since 2004 to develop a new outline plan for the East Jerusalem neighbourhood of Al 'Isawiya. Working closely with members of the community for the past five years, Bimkom is attempting to address its most urgent needs in terms of housing, services, economic development and community life.<sup>53</sup> Like IPCC's plan in Sur Bahir, the plan seeks not only to provide new housing possibilities for Palestinians in the neighbourhood, but also to help residents in applications to legalize houses previously built without permits. While demolitions continue to take place in Al 'Isawiya, most recently on 18 November 2008, the development of the plan has assisted residents in judicial proceedings to request the freezing of individual demolition orders while the plan is under review.

In the Khalet el 'Ein area of the Mount of Olives, a community-based organization, the At Tur Development Society, has been working with the Office of the Palestinian Prime Minister's Advisor on

Jerusalem Affairs to produce a master plan of the area that, if approved, would enable residents to obtain permits for their homes. The targeted area, which is part of At Tur neighborhood, is located behind the Augusta Victoria hospital. All 85 buildings (420 housing units) in the area have pending demolition orders. Since the demolition orders were initially received in late 2001, the At Tur Development Society has been engaged in negotiations with the Jerusalem municipality. A major stumbling block has been the municipality's plan to earmark 700 of 1,100 dunums of land covered by the plan for a national park.

The Advisor on Jerusalem Affairs has also supported the approximately 2,000 residents of the area by appointing a lawyer with the role of challenging the pending demolition orders. Thus far, the lawyer has succeeded in freezing the demolition orders for 360 out of 420 housing units while the plan is under review. Efforts are underway to obtain a similar freeze for the remaining 60 housing units.

Additional planning is urgently required in many other neighbourhoods of East Jerusalem to meet the needs of the growing Palestinian population, and to legalize existing housing units to prevent further demolitions and displacement. Because of the shortcomings of many small, privately-funded neighbourhood planning schemes that have been submitted, there is a need to develop new and revised plans that meet the needs of the Palestinian population and take into account the larger master plans that already exist. Unfortunately, however, town plan development takes years and can cost hundreds of thousands of dollars. At present, East Jerusalem planning initiatives are under-funded and, as a result, existing planning is inadequate for the current and future Palestinian population.

These planning initiatives complement a range of activities, include ongoing legal aid and advocacy efforts by Israeli and Palestinian NGOs, designed to raise awareness regarding Israel's policy of home demolitions and mitigate its impact on Palestinian residents of East Jerusalem, along with efforts to challenge the legality of demolitions in the Israeli courts.

## CASE STUDY V: FAILED ATTEMPTS TO LEGALIZE APARTMENTS IN AL ABBASIYA AREA OF ATH THURI

On 5 March 2009, after a protracted legal battle, the residents of 34 apartments in two buildings in the Al Abbasiya area of Ath Thuri were notified by the Israeli authorities that they must evacuate their apartments within ten days because the buildings would be demolished sometime after 15 March 2009. The approximately 240 residents of the affected apartments have lived in the buildings for at least five years, and many purchased their apartments believing that they had been built with a valid permit. Good faith efforts undertaken by the residents to legalize their building have met with repeated denials from the municipality.



One of the two buildings in Al Abbasiya area of Ath Thuri which the Jerusalem municipality intends to demolish. The sign on the building was hung by residents to protest the municipality's demolition policy after the 240 residents received eviction orders on 5 March 2009.

As opposed to many areas of East Jerusalem, the neighbourhood of Ath Thuri has a detailed plan, but it permits a plot ratio of just 50 percent in Al Abbasiya, where the apartments are located. While the landowner of the two threatened buildings received a construction permit from the Jerusalem municipality before he began construction in 2000, he exceeded the density ratio and the two apartment buildings were built at a density ratio of 180 percent. As a result, in 2001, the municipality issued a demolition order against the buildings.

In 2006, the Jerusalem municipality took the landowner to court in order to force him to demolish the buildings. In addition to ordering the demolition of the buildings, the court fined the landowner, who had left the country, NIS 2.5 million, sentenced him in absentia to eight months in jail, and gave him a year to prepare a revised construction plan to legalize the buildings. The landowner never paid the fine or submitted a revised plan.

Since that time, the Jerusalem municipality has rejected all attempts by the residents to legalize the buildings, on the grounds that they are not the original landowners and, therefore, do not have legal standing to apply for a permit.<sup>54</sup> After years of legal proceedings, the Israeli High Court in February 2009 rejected an appeal from the residents that would allow them one additional year to prepare a detailed plan. Two weeks later, the residents received the eviction orders. With demolition imminent, the residents sued the municipality to gain standing as the owners of the buildings and recently had the demolition order suspended by the Jerusalem district court.

Photo by James Weatherill

## Conclusion

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Since 1967, Israel has failed to provide Palestinian residents of East Jerusalem with adequate planning to meet natural population growth. While Palestinians face significant obstacles to legal building on the 13 percent of East Jerusalem designated for Palestinian construction, Israeli settlements have flourished on the 35 percent of land expropriated for them, in contravention of international law.

Much of the land zoned for Palestinian construction is already built up. In addition, the possibility of obtaining a permit in this 13 percent is constrained by a number of factors, including a complicated and expensive application process, the necessity of an approved detailed plan for the area, and limits on the size of construction, or plot ratio, which is generally less than half that allowed in neighbouring Israeli settlements or in West Jerusalem. A small percentage of Palestinians succeed in obtaining the requested building permit and the number of permits issued by the Jerusalem municipality consistently fails to meet demand. Outside this 13 percent, Palestinian construction is completely banned.

This situation has resulted in a housing crisis for the Palestinian population characterized by a shortage in housing and widespread “illegal” construction in East Jerusalem. Compounding this crisis are the increasingly difficult living conditions for Palestinians stemming from the inequitable allocation of budgetary resources that has resulted in inferior services in Palestinian areas of East Jerusalem. As a result, there are increasingly fewer options available to Palestinian East Jerusalemites to attain appropriate housing within the city. Those

who move outside the Israeli-defined municipal boundaries, however, risk having their residency status in the city revoked by the Israeli authorities.

It is against this backdrop that Israel’s demolition of “illegal” Palestinian construction occurs. Recent events indicate that the Jerusalem municipality will maintain, and possibly accelerate, its policy on house demolition.<sup>55</sup> This gives rise to a number of concerns, foremost among which is the displacement of Palestinian families and the daily instability experienced by those for whom demolition is pending.

As the occupying power, Israel must ensure that the basic needs of the Palestinian population of the occupied territory are met. Central to meeting this obligation is the need for the Israeli authorities to undertake planning that will address the Palestinian housing crisis in East Jerusalem. As a positive first step, the Israeli authorities should freeze pending demolition orders.

In addition to actions required from the Israeli government, support is needed for local and international organizations and agencies working to meet the immediate and longer-term needs of displaced families and those facing the imminent threat of displacement. At the same time, support should be directed towards assisting Palestinian communities that are attempting to address Palestinian housing needs within the current restrictive system by legal aid, planning initiatives and advocacy.

## End Notes

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- 1 See body of report for sources of information found in Executive summary.
- 2 United Nations Security Council Resolution 252 of 1968 reaffirmed that the “acquisition of territory by military conquest is inadmissible” and noted that “all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status.”
- 3 The Jerusalem municipality and the Ministry of Interior refuse to publish exact figures on the number of outstanding demolition orders against Palestinian homes in East Jerusalem: Meir Margalit, *No Place Like Home: House Demolitions in East Jerusalem*, Israeli Committee Against House Demolitions, March 2007, p. 8. Unofficial sources, however, estimate that up to 1,500 residential buildings in East Jerusalem currently have demolition orders against them. See *Jerusalem on the Map III*. Jerusalem: The International Peace and Cooperation Center. 2007. p. 37.
- 4 Richard Miron, Chief Public Information Officer, Office of the United Nations Special Coordinator, March 2009.
- 5 Tsipi Malkuv, “The policy of demolishing homes [in Jerusalem] will continue at an increased rate; From now on the house demolition will be carried out with explosives,” Yedioth Yerushalaim, 3 April 2009.
- 6 Demolition figure derived from official figures for the period January – August 2008, combined with demolitions recorded by OCHA during the last quarter of 2008. Official demolition figures were provided to B’Tselem by the Jerusalem municipality and the Ministry of Interior in September and November 2008, respectively, through the Freedom of Information Act. URL: [http://www.btselem.org/english/Planning\\_and\\_Building/East\\_Jerusalem\\_Statistics.asp](http://www.btselem.org/english/Planning_and_Building/East_Jerusalem_Statistics.asp). Number of displaced from B’Tselem. URL: <http://www.btselem.org>. According to the Israeli Committee Against House Demolitions (ICAHD), Israeli authorities have demolished 18,000 homes in the oPt, including East Jerusalem, since 1967. Of these, some 6,000 houses were demolished in the immediate aftermath of the 1967 war, while another 2,000 were demolished in the early 1970s in the Gaza Strip. For the estimate of 2,000 houses demolished in East Jerusalem since 1967, see *Jerusalem on the Map III*, p. 37.
- 7 The figures on houses demolished by the Jerusalem municipality were provided to B’Tselem by the municipality on 11 March 2004 and 4 November 2008, following a request under the Freedom of Information Law. The figures on houses demolished in East Jerusalem by the Ministry of Interior were provided to al-Quds Center for Social and Economic Rights on 5 December 2004 by the Ministry’s Strategic Planning Department, and in a letter of 24 September 2008 to B’Tselem from Daniel Segev, who is responsible for freedom of information matters relating to the Ministry. The figures on demolitions by the Ministry of Interior in 1999-2001 were taken from the September 2004 report of the Israeli Committee Against House Demolitions. URL: [http://www.btselem.org/english/Planning\\_and\\_Building/East\\_Jerusalem\\_Statistics.asp](http://www.btselem.org/english/Planning_and_Building/East_Jerusalem_Statistics.asp).
- 8 Figure derived from official statistics for Area C demolitions due to lack of building permits between 2000 and September 2007 (1,663) and OCHA figures for the period 1 October 2007 – 31 December 2008. The official data was provided to Israeli Knesset Member Chaim Oron in response to a parliamentary query he placed, and later published by Peace Now in: “Area C: Palestinian Construction and Demolition Stats – February 2008.” URL: <http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=495&docid=3159>. For more information on Area C demolitions, see OCHA Special Focus, “Lack of Permit” Demolitions and Resultant Displacement in Area C, May 2008, URL: [http://www.ochaopt.org/documents/ocha\\_opt\\_special\\_focus\\_demolition\\_area\\_c.pdf](http://www.ochaopt.org/documents/ocha_opt_special_focus_demolition_area_c.pdf).
- 9 In addition to the 19 structures demolished for lacking the requisite building permits, two other structures were rendered uninhabitable in East Jerusalem by the Israeli authorities – one by demolition, and one by sealing with concrete – as a “deterrent” related to two attacks on Israeli citizens during 2008. Data from 1 January to 23 April 2009.
- 10 Sixty-seven percent of non-Jewish families in Jerusalem live below the poverty line compared to 21 percent of Jewish families. Israeli Central Bureau of Statistics, published by the Jerusalem Institute of Israel Studies, Table VI/2 - Extent of Poverty 1 among Families in Jerusalem by Religion and Family Characteristic, 2006. URL: [http://www.jiis.org.il/imageBank/File/shnaton\\_2007/shnaton\\_F0206.pdf](http://www.jiis.org.il/imageBank/File/shnaton_2007/shnaton_F0206.pdf). Please note 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.
- 11 Survey conducted by the Palestinian Counseling Center, Save the Children – UK and the Welfare Association in 2007. “Broken Homes: Addressing the Impact of House Demolitions on Palestinian Children and Families”, publication forthcoming.
- 12 The case studies in this report are based on OCHA field work, meetings with planning experts, affected communities and their lawyers, and NGOs monitoring planning issues.
- 13 Legal opinion by Jerusalem municipality legal advisor, Yossi Havlev, “Demolitions in Al Bustan Neighbourhood – Kings Valley Silwan,” 8 March 2009, number 2009-0236-1126.
- 14 Letter from Jerusalem City Engineer Uri Shitreet to Director of the Construction Supervision Department, 11 November 2004, number 2004-0181-332.
- 15 An individual whose house has received a demolition order can go to court to freeze the demolition order on the basis that the plan under review would legalize his house if the plan is approved.

16 Quoted in: Rory McCarthy, "Clinton condemns Israel's demolition of Arab East Jerusalem homes," *The Guardian*, 4 March 2009, and Barak Ravid, "Clinton: Israel's demolition of East Jerusalem homes harms peace efforts," *Ha'aretz*, 4 March 2009.

17 Etgar Lefkovits, "Barkat may relocate Silwan residents", *The Jerusalem Post*, 19 March 2009. URL: <http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1237461629053>.

18 UNSC Resolution 252. "East Jerusalem" is defined as the part of the city that is east of the 1949 Armistice line (Green Line). There is no clear delineation of how far east the city extends as the municipal boundary line established by Israel after the 1967 war is not recognized by the international community, nor was the formal annexation of the city by Israel in the 1980's (see UNSC Resolution 476 and 478).

19 Article 49, paragraph 6, of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War states that the occupying power "shall not deport or transfer parts of its own civilian population into the territory it occupies." In 2004, the International Court of Justice concluded that Israeli settlements in the oPt are in breach of international law, and Israel's settlement activity has been condemned by the UN Security Council. International Court of Justice, *Advisory Opinion on The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, 9 July 2004. Also see, Annex I of OCHA report, *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank*, July 2007, p. 68.

20 B'Tselem, "Policy of discrimination in planning, building and land expropriation," URL: [http://www.btselem.org/english/Jerusalem/Discriminating\\_Policy.asp](http://www.btselem.org/english/Jerusalem/Discriminating_Policy.asp).

21 Population as of end of 2008. Figures calculated by OCHA based on the assumption of an even population growth in both East and West Jerusalem, based on ICBS population figures for the whole of Jerusalem.

22 Nathan Marom, *The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem* (Hebrew), December 2004, Bimkom – Planners for Planning Rights and Ir Shalem, p. 25. This section is also drawn from the work of the Israeli Committee Against House Demolitions, in particular see Margalit, March 2007.

23 Resolving land ownership issues is complicated in East Jerusalem due to the large number of heirs owning a particular plot; difficulties in proving ownership according to municipal guidelines; the inability to register land in Jerusalem since 1967; and the possibility of the Israeli authorities invoking the Absentee Property Law of 1950. See Bimkom and Ir Shalem, *The Planning Deadlock*, English Abstract, 2005, p. 5. Also see Margalit, March 2007, pgs. 17-18 and 20-21.

24 For example, the settlement of Pisgat Ze'ev has a construction density of 90-120 percent, while the 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 while the

Palestinian neighbourhood of Shu'fat has a density of 75 percent. For these and other comparisons, see Margalit, March 2007, pgs. 18-19.

25 Exchange rate as of 5 April 2009, 4.2 NIS = USD 1. Figure derived from fees per unit published in Meir Margalit, March 2007.

26 *Jerusalem on the Map III*, p. 37.

27 Plan #7977, available on the municipality's website.

28 Information provided by the Jerusalem municipality to OCHA on 16 December 2008.

29 General outline plan #AM/9, approved in the late 1970s, covers 10,800 dunums of East Jerusalem land around the Old City and the immediately adjacent neighbourhoods. The detailed plans for Ath Thuri, Silwan, Ras Al Amud, Ash Shayyah, As Suwana, and At Tur were developed in accordance with AM/9.

30 Margalit, March 2007, p. 10. Fines are determined based on an average cost of construction per square meter, as determined by the municipality. For example, in 2005, the average cost was determined to be USD 300 per square meter of construction. As such, a person who built a 100 m<sup>2</sup> house would face a basic fine of USD 30,000. Other fines can be applied if so requested by the prosecution. These can amount to up to 25 percent - 50 percent more. For more details on fines and other penalties, see Margalit, March 2007, pgs. 10-12.

31 Ministry of Defense data provided to Member of Knesset Chaim Oron in response to a parliamentary query he placed, and later published by Peace Now in: "Area C: Palestinian Construction and Demolition Stats – February 2008". Enforcement of planning regulations in Area C, including house demolitions, generally occurs outside the boundaries of the so-called Special Outline Plans created by the Israeli Civil Administration. As a rule, applications for permits are submitted only in regard to houses constructed in these areas and only after the Civil Administration has issued a "stop work order", the step prior to the issuance of a final demolition order.

32 OCHA Special Focus, "'Lack of Permit' Demolitions and Resultant Displacement in Area".

33 According to the Local Outline Plan, 2004 data indicate that there are 53,226 housing units in East Jerusalem: 38,226 are authorized housing units and an additional 15,000 have been built without permission. In other words, 28.2% of housing units are "illegal". Other data, however, indicate that the percentage of "illegal" housing units in East Jerusalem may be as high as 45.7%. For example, using data from municipal tax records (Arnona), OCHA estimates that in 2006 there were 36,508 residential units in East Jerusalem, including the 15,000 "illegal" units, which would mean that 41% of all housing units in East Jerusalem were "illegal". Information from Jerusalem city council member Meir Margalit also indicates a figure for "illegal" construction that exceeds 41%; according to Margalit, municipal tax records showed that there were 40,658 residential units in East Jerusalem as of December 2008, including the 15,000 "illegal" units. Given that the Local Outline Plan estimates that 900

"illegal" housing units are constructed per year, by 2008, there would have been a total of 18,600 "illegal" housing units. Based on these figures, the percentage of "illegal" construction in East Jerusalem can be as high as 45.7%. Accordingly, the number of Palestinians who are at risk of having their homes demolished in East Jerusalem can be as high as 102,825 (45.7% of the total Palestinian population of 225,000). (For Local Outline Plan figures, see Section 4.6, Local Outline Plan Jerusalem 2000, Report No. 4, prepared for the Jerusalem municipality by the Planning Administration, City Engineer, City Planning Department. Hebrew version available at URL: [http://www.jerusalem.muni.il/jer\\_main/defaultnew.asp?lng=1](http://www.jerusalem.muni.il/jer_main/defaultnew.asp?lng=1). For the source of OCHA's 2006 figures, see Table X/12 - Dwellings in Jerusalem, by Area, Quarter, Sub-Quarter and Statistical Area, 2006, URL: [www.jiis.org.il/imageBank/File/shnaton\\_2006/shnaton\\_J1205b\\_w.xls](http://www.jiis.org.il/imageBank/File/shnaton_2006/shnaton_J1205b_w.xls). Information from Jerusalem city council member Meir Margalit was provided to OCHA in a telephone conversation on 16 April 2009).

34 Bimkom and Ir Shalem, *The Planning Deadlock*, English Abstract, 2005, p. 2.

35 Ir Amim, "A Layman's Guide to Home Demolitions in East Jerusalem," March 2009, p. 4. URL: [http://www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/HomeDemolitionGuideEng\(1\).doc](http://www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/HomeDemolitionGuideEng(1).doc).

36 Ibid.

37 For more details on the shortage of classrooms, see the UN Humanitarian Monitor, September 2008 and the Association for Civil Rights in Israel (ACRI), "Background Information on East Jerusalem, Education Fact Sheet", September 2008, URL: <http://www.acri.org.il/eng/story.aspx?id=533>. For lack of infrastructure, see ACRI, "East Jerusalem, Facts and Figures", June 2008. URL: <http://www.acri.org.il/pdf/EastJer2008eng.pdf>.

38 For more information on the Barrier's impact on East Jerusalem, see the OCHA report, "The Humanitarian Impact of the West Bank Barrier on Palestinian Communities: East Jerusalem", Update No. 7, June 2007. URL: [http://www.ochaopt.org/index.php?module=displaysection&section\\_id=105&static=0&edition\\_id=&format=html&period=50:YEAR](http://www.ochaopt.org/index.php?module=displaysection&section_id=105&static=0&edition_id=&format=html&period=50:YEAR).

39 According to official figures published by B'Tselem, in 2006, the Israeli authorities revoked the residency of 1,363 Palestinians. This was the highest number of revocations in any year since 1967.

40 General outline plan #AM/9 designated the area of Wadi Yasul as "open space" or "green".

41 Please note that there are other areas in the immediate vicinity of Wadi Yasul where houses have demolition orders against them, but, in this case study, the focus is on the 55 houses in Wadi Yasul for which engineers formulated a detailed plan and attempted to change the status of the area from green to residential.

42 One such modification involved the total area to be included within the detailed plan. For example, based on recommendations from municipal planning authorities, the planned area was revised from 35 dunums to 95 dunums to include the whole valley. It was later reduced

to 77 dunums in order to exclude land that was claimed by the Jewish National Fund.

43 Minutes of discussion by the Jerusalem District Planning Committee, available on the Jerusalem municipality website at URL: <http://www.jerusalem.muni.il>.

44 For more information on how political considerations have played a role in planning in East Jerusalem, see the publications of the Israeli Committee Against House Demolitions, Bimkom and B'Tselem cited herein. Also see B'Tselem, "Legal status of East Jerusalem and its residents", URL: [http://www.btselem.org/english/Jerusalem/Legal\\_Status.asp](http://www.btselem.org/english/Jerusalem/Legal_Status.asp); and Usama Halabi, "Israeli Laws and Judicial System as Tools for Accomplishing Political Objectives in Jerusalem," published by The Civic Coalition for Defending the Palestinians' Rights in Jerusalem, June 2007.

45 See supra note 20

46 Bimkom and Ir Shalem, *The Planning Deadlock*, English Abstract, 2005, p. 2.

47 Amir S. Cheshin, Bill Hutman and Avi Melamed, *Separate and Unequal, The Inside Story of Israeli Rule in East Jerusalem*, Harvard University Press, 1999.

48 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 Jerusalem municipality by the Planning Administration, City Engineer, City Planning Department.

49 ACRI, "East Jerusalem, Facts and Figures."

50 Nir Hasson, "Turkish documents prove Arabs own E. Jerusalem building," Ha'aretz, 19 March 2009.

51 From a meeting between OCHA and Bimkom planner, Efrat Cohen Bar, on 9 March 2009.

52 Ir Amim, "A Layman's Guide to Home Demolitions in East Jerusalem."

53 Bimkom, from the description of "The Kaminker Project," URL: <http://eng.bimkom.org/Index.asp?ArticleID=88&CategoryID=131&Page=1>.

54 In response to the 2006 court order, the owners of the 34 apartments submitted a new construction plan in 2007 to the municipality in an attempt to receive a plot ratio variance (e.g. an exception) to legalize their buildings. The municipality's appeal, which was upheld by the Jerusalem appeals' court, held that the residents were ineligible to apply for a plan because they were not the original landowners. Upon obtaining a power of attorney from the original landowner, residents again went to court to continue the planning process. In May 2008, the district court gave the residents an additional year to develop the detailed plan, but the municipality objected and in January 2009 the appeals' court cancelled the district court's decision to allow additional time. The residents appealed to the Israeli High Court and, on 18 February 2009, the High Court rejected their appeal.

55 See supra note 5.