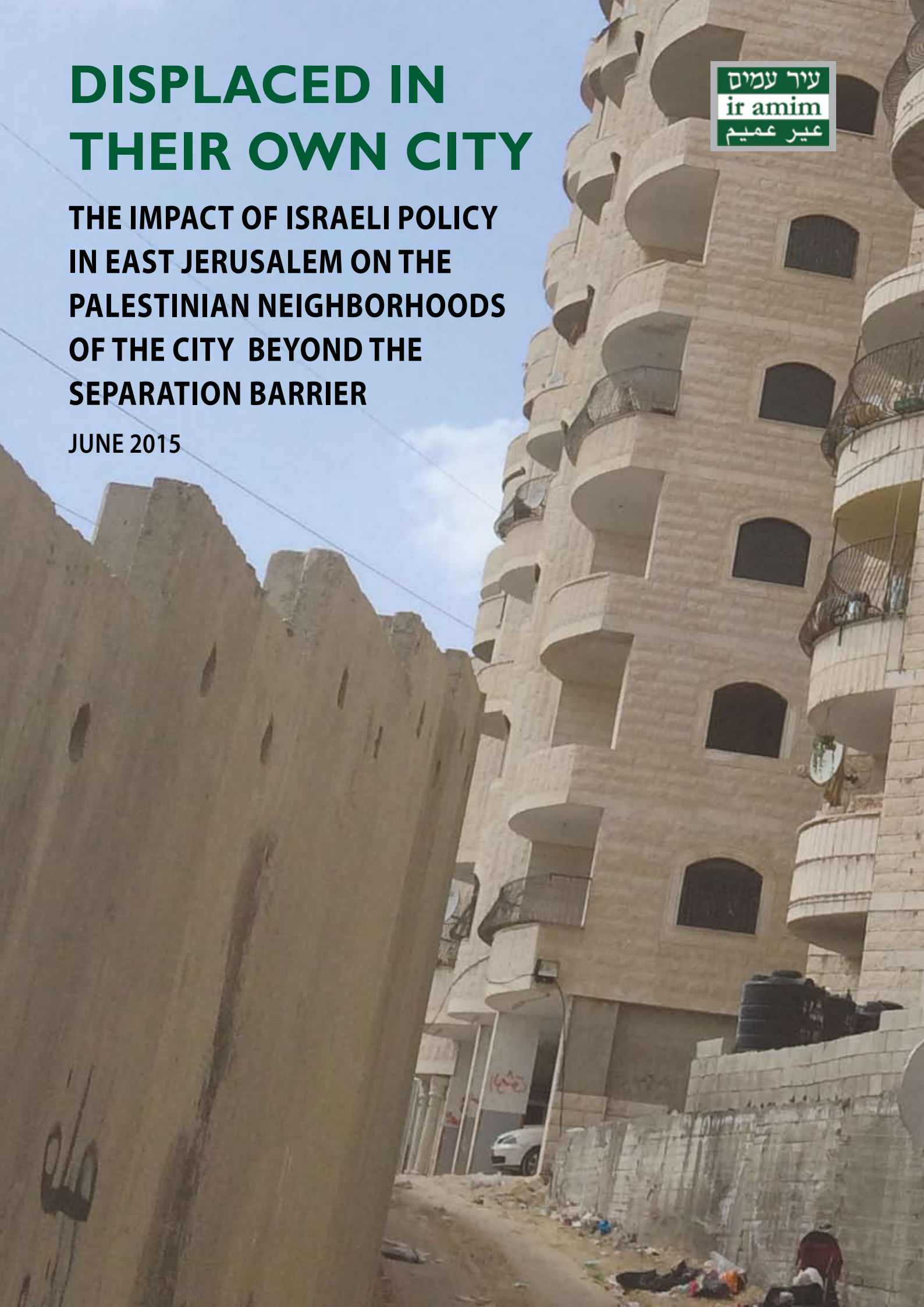


DISPLACED IN THEIR OWN CITY

THE IMPACT OF ISRAELI POLICY
IN EAST JERUSALEM ON THE
PALESTINIAN NEIGHBORHOODS
OF THE CITY BEYOND THE
SEPARATION BARRIER

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JUNE 2015

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INTRODUCTION



Kufir Aqab, view from the Separation Barrier

In June 1967 Israel annexed East Jerusalem, which had been under Jordanian rule, together with an additional 60 square kilometers of land in surrounding areas of the West Bank (henceforth, "East Jerusalem"). These areas were absorbed within the municipal boundary of the city. Approximately one-third of the annexed area was confiscated as part of a massive program to construct neighborhoods/settlements along the border of the annexed area, serving as buffers between the Palestinian neighborhoods and between the city in its new borders and the West Bank. Additional areas were confiscated, formally or in practice, by means of their declaration as national parks or green areas. Palestinian residents of East Jerusalem received the status of permanent residents, which left them excluded from both the Israeli and Palestinian political systems, creating a situation unparalleled in the Western world: an ethnic community deprived of civil and political rights within a democratic regime.

Israeli policy has always sought to maintain Israeli territorial control of East Jerusalem and to ensure a substantial Jewish majority in the city. From the earliest stage, this policy has had two key manifestations. The first is the annexation of East Jerusalem and the expropriation of one-third of the area for the Jewish public. The second is the denial

of political rights to Palestinian individuals and to the Palestinian collective (i.e. denial of full civil status and the right to vote and to be elected to institutions determining its fate).¹ This policy sought to strengthen the Israeli hold over Jerusalem in the present and in any future political agreement. The practical implementation of this policy included actions that grossly contradict the founding values of the State of Israel. Over the years, this contradiction and its practical manifestations have grown more extreme, both in terms of the restrictions and discrimination faced by Palestinian residents and in terms of worsening damage to the very values of Israeli society.

The construction of the Separation Barrier in Jerusalem began in 2004 and reflected an overall policy introduced by Ariel Sharon during his period in office as prime minister. The course of the Barrier was ostensibly to serve as a security buffer. In fact, it delineated a political boundary to Jerusalem that sought to ensure a firm Jewish majority and full territorial control of the city and surrounding areas. The Barrier removed the area of Kufir Aqab and Semiramis from the boundary of the city, as well as the Shuafat refugee camp, including the neighborhoods of Ras Khamis, Ras Shehadeh, and Dahiyat al-Salaam. It is estimated that at least one-fourth of the Palestinian residents of Jerusalem live in these neighborhoods, including tens of thousands of Palestinian Jerusalemites who have been linked to the city for generations by ties of family, livelihood, economics, identity, culture, and religion.

The Palestinian neighborhoods beyond the Separation Barrier present in an extreme form the broader processes that have taken place in East Jerusalem and Israel's attitude toward the Palestinian population in the city. Israeli policy in these neighborhoods has destabilized Palestinians' physical and symbolic linkage and belonging to their home city of Jerusalem; it has restricted their actions and their physical, social, economic, cultural, and political existence; and it has pushed tens of thousands of them into the neighborhoods beyond the Barrier; thus, in practical terms, displacing them from the city. Residents who are natives of the city are forced by economic and political forces to move to areas that offer relatively cheap and available housing, despite the lack of minimal services and the real fear that they may lose the residency status that still binds them to the city. This process forms part of a broader policy that has come to be known as the "silent transfer."

After separating many of the residents of East Jerusalem from the city by means of the barrier, Israel is now attempting to free itself completely of any obligations toward these residents. Approximately one decade after the establishment of the Separation Barrier, Israel accepts only minimal responsibility for life in the neighborhoods beyond the Barrier. Municipal services are virtually absent and the Municipality has all but completely abdicated responsibility for law enforcement, safety, and emergency services. Nevertheless, the Israeli government and the Municipality of Jerusalem continue to bear responsibility for the fate of the residents of these neighborhoods, so long as Israel maintains its control over East

¹ The residents of East Jerusalem can participate in municipal elections in the city, but cannot participate in Israeli general elections. Many of the decisions and policies that shape daily life in Jerusalem and the future of the city are taken by the Israeli government, over which they have no influence. Palestinian residents of Jerusalem can participate in elections to the Palestinian Authority but this body is prevented by Israeli law from operating in East Jerusalem.

Jerusalem. Protracted neglect of these neighborhoods since 1967; overcrowding and poverty; unsupervised construction; and the absence of law enforcement systems – phenomena that have grown more pronounced since the establishment of the barrier – have brought the neighborhoods beyond the Barrier to the brink of disaster.

The report: This report reviews various aspects of Israeli policy, from 1967 to the present day, that have created the current reality in which tens of thousands of Jerusalem residents have been sundered from the city since the establishment of the Separation Barrier and are virtually ignored by both the local and central governments.

The first two chapters of the report provide background information, describing the developments that led to the current reality in the neighborhoods beyond the Barrier: Chapter One reviews key aspects of Israeli policy toward the residents of East Jerusalem since 1967, while Chapter Two analyzes the primary ramifications of the Separation Barrier in terms of life in and around East Jerusalem. Chapter Three presents the core of the report, providing a detailed description of the reality of life in the neighborhoods beyond the Barrier. Chapter Four presents the report's conclusions.

The findings of this report issue a stark warning. The reality disclosed constitutes a disaster for Palestinians and is causing grave damage to the stability of life in Jerusalem, the foundations of Israeli society and to any future political resolution.

CHAPTER ONE: ISRAELI POLICY IN EAST JERUSALEM SINCE 1967

Since 1967, Israeli policy has been shaped to meet two complementary goals: First, to strengthen Israel's hold over East Jerusalem in the present and in any future negotiations and second, to weaken and erode any parallel claim on the part of the Palestinian people. Israel has taken a series of political and practical steps to meet these goals. First, it annexed East Jerusalem and the surrounding area, expropriated roughly one-third of the annexed area, and worked to secure a Jewish majority in Jerusalem by establishing massive Jewish neighborhoods on the confiscated land. Second, it attempted systematically and consistently to break the affinity between Palestinians and Jerusalem. Israel imposed legal, planning, and bureaucratic restrictions limiting Palestinians' freedom of action. It created a severe poverty crisis among the Palestinian population, and subsequently destabilized Palestinians' legal status and natural right to reside in their city of birth. Israel even interfered in Palestinians' personal lives, imposing restrictions via family unification regulations and through the Nationality Law (2003). Although the Supreme Court narrowly approved this law, it was the subject of sharp judicial criticism in a minority opinion (see below).

The following sections present key aspects of Israeli policy since 1967.

A. ANNEXATION AND CONFISCATION

In June 1967 Israel annexed East Jerusalem, which had been under Jordanian rule, together with an additional 60 square kilometers of land in surrounding areas of the West Bank (henceforth "East Jerusalem"), significantly expanding the municipal borders of the city² and applying Israeli law to the area. According to the principle of "maximum territory – minimum Arabs,"³ Israeli law was imposed on the area, but without granting the full range of rights this application implies in terms of the local population.⁴

Approximately one-third of the area annexed to the city, 23.4 square kilometers, was later confiscated for "public needs." Most of the confiscated land was under private Palestinian

2 Shaul Arieli, "Toward a Final Settlement in Jerusalem: Redefinition Rather than Partition," *Strategic Assessment*, vol. 8, no. 1, June 2005.

3 The quote is from Meron Benvenisti, deputy mayor of Jerusalem at the time. Nir Hasson, "Talk of the Day – 'Meron Benvenisti, Why Doesn't Jerusalem Exist Anymore?'" *Haaretz*, 29 May 2011 (in Hebrew).

4 See the detailed legal analysis of this issue by Atty. Talia Sasson in the Ir Amim report, *Permanent Residency – A Temporary Status Set in Stone*, May 2012.

ownership.⁵ The confiscations were carried out in a series of waves: during the three years following 1967; in 1980-1982; and in 1991. The confiscated land was used to establish the so-called “ring” and “bolt” neighborhoods/settlements.⁶

The new Israeli neighborhoods/settlements in the northeast of Jerusalem created an urban chain from the city center to Mt. Scopus, and then northward on to Pisgat Ze'ev, Neve Ya'akov, and Ramot. This chain was extended to the east (Armon Hanatziv/East Talpiot), the south (Gilo), and the southeast (Har Homa). The establishment of these neighborhoods in the annexed area was intended to secure three key goals: To disrupt the urban chain of Palestinian neighborhoods and villages within the new city limits; to create a divide between the city and the West Bank; and to surround the Old City Basin on the north, east, and south, thereby securing the de facto absorption of the area deep inside the State of Israel.⁷

B. ENSURING A JEWISH MAJORITY

Planning and development policy in Jerusalem is intended to ensure a substantial Jewish majority in the “unified” city as a foundation for sustaining the Israeli claim to possession of the city. The formal infrastructure for this approach was set in place in August 1973, when the Gafni Committee recommended that the government maintain the demographic balance at the time: 74 percent Jews and 26 percent Palestinians.⁸ By 2014, however, the proportionate size of the Palestinian population in the city had increased to 37 percent. The authors of the “Jerusalem 2000” outline plan noted with concern that there was no alternative but to amend the target for the “demographic balance,” which was now to be set at 60 percent Jews and 40 percent non-Jews.⁹ From the outset, the principle of “maintaining the demographic balance” dictated a systematic policy of discrimination against the Palestinian residents of Jerusalem. Over the years, as Israel drew ever further way from its desired demographic balance, it exacerbated its steps against the Palestinian population through a variety of restrictive policies, from non-registration of Palestinian land to widescale revocations of Palestinians' permanent residency status.

5 Quote from Meron Benvenisti, then deputy mayor of Jerusalem. Nir Hasson, “Talk of the Day’ – Meron Benvenisti: Why Jerusalem No Longer Exists,” *Haaretz* 29 May 2011 (in Hebrew).

6 The “ring” neighborhoods are Neve Ya'akov, Gilo, East Talpiot, Ramot Alon, and Pisgat Ze'ev. The “bolt” neighborhoods are Ma'alot Dafna, Ramat Eshkol, Givat Hamivtar and French Hill, Tzameret Habirah, and the Government Campus.

7 Menachem Klein, *Doves in the Sky of Jerusalem – The Peace Process and the City, 1977-1999*, Jerusalem Institute for Israel Studies, 1999, 216-218 (in Hebrew).

8 Interministerial Committee to Examine the Pace of Development in Jerusalem (Gafni Committee), *Recommendations for an Adjusted and Integrated Pace of Development*, Jerusalem, August 1973, 3 (in Hebrew).

9 Section 1.1.1(A) of the Program Goals, *Jerusalem 2000 Local Outline Plan*, 4-6 (updated to 25 March 2007; in Hebrew). The plan did not receive statutory status; regardless, its documents have continued to serve as de facto guidance for the planning committees. See also Nathan Marom, *The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem*, Ir Amim & Bimkom, December 2004, 16-19 (in Hebrew).



Expansion of Har Homa against the backdrop of Sur Baher, where planning and construction is restricted

C. NON-REGISTRATION OF LAND

After annexing the areas of East Jerusalem, Israel froze the land regularization and registration processes in the West Bank – work that had begun during the British Mandate and continued during the period of Jordanian rule. This freeze related solely to non-Jewish property owners; in the new neighborhoods built on confiscated land the registration of land in the name of the new (Jewish) owners was implemented in full.

As of today, approximately one-half of the land in East Jerusalem is not registered in any form.

The freeze in land registration gravely impaired the ability to pursue an orderly process of planning and construction and created numerous obstacles to the possibility of legal construction for Palestinians in East Jerusalem. Until 2001, the authorities confined themselves to demanding property tax authorizations and various affidavits from applicants for building permits in East Jerusalem.¹⁰ Since the end of 2001, however, Israel has begun to demand that applicants register their land with the Land Registry, which entails complex and extremely expensive proceedings. In Israel proper, of course, these proceedings are implemented by the authorities and at their expense; in East Jerusalem applicants are forced to navigate numerous obstacles as they attempt to complete the process by themselves.

¹⁰ *The Planning Deadlock*, note 9 above, 60-66. See Map No. 2: Map of Land Regularization in East Jerusalem, in Appendix B.

As if this were not enough, any attempt by a Palestinian to register land – almost 50 years after the annexation of East Jerusalem to Israel – may put the claimed land at risk of seizure by the General Custodian or the Custodian of Absentee Property for the purported reason that some of the landowners, their heirs or their descendants do not live within the city, and accordingly have lost possession of their property. Alternatively, the authorities claim that the property, or part thereof, was under Jewish ownership prior to 1948. Residents report that the fear of losing properties in this manner is a real concern, leading many of them to abandon their attempts to secure registration or to refrain from embarking on the process altogether.

The Israeli policy of obstructing land registration has affected Palestinian residents on three different levels. On the individual level, the policy sought to disconnect people from their own property, thereby fostering a sense of personal insecurity. On the social and community level, the instrument of non-registration of land has created “uncertainty and [served as] an effective tool for limiting the economy, commerce, and real estate of the Palestinian population in East Jerusalem,” to quote Attorney Elias Khoury, an expert in land law who regularly appears in Supreme Court petitions.¹¹ On the diplomatic and political level, Israel has used this instrument to erode Palestinians’ collective legal and property rights, and hence their very belonging to their homeland.

D. PLANNING FREEZE, BUILDING RESTRICTIONS, BUREAUCRATIC OBSTACLES AND “JERUSALEM 2000”

Since 1967, no general outline plan has ever been approved for East Jerusalem. In the absence of such a plan, construction in most of the annexed area is virtually impossible. This “temporary” situation continues to apply to this date, creating, together with the policy of non-registration of land, a combined mechanism largely preventing legal construction by Palestinians. The absence of planning has enabled Israel to refrain from developing physical infrastructures (roads, water, drainage, sewage, and electricity) and social infrastructures (education and health) for Palestinian neighborhoods. In 1983 it was finally decided to prepare an outline plan for the Palestinian neighborhoods of East Jerusalem, but even now only some 20 percent of the annexed area is formally earmarked for Palestinian neighborhoods.¹² The remainder of the area is either unplanned or earmarked for Jews.

Even when plans have been prepared, they have not been formulated in cooperation with the Palestinian population or adapted to meet their current and future needs. The plans ignore the acute needs for construction in the Palestinian sector;¹³ the capacity for

11 From a lecture by Elias Khoury entitled “Palestinian Society in East Jerusalem – An Inside View,” given at the Jerusalem Days Conference, Ben Zvi Institute, 5 July 2012.

12 *The Effects of the New Outline Plan for Jerusalem on the Palestinian Neighborhoods*, Bimkom, 13 January 2010 (in Hebrew).

13 The general pattern is based on the concentration of homes of a single family, or the extension of the parental home, and on a traditional allocation of land in the neighborhood, rather than on an arbitrary allocation of land for different zonings.

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construction in these neighborhoods is limited relative to the Jewish neighborhoods;¹⁴ and arbitrary planning imposes low building densities, low-rise construction, and a small number of apartments per dunam. In March 2015, for example, the District Committee approved a plan that was depicted as “a solution to the housing problem in East Jerusalem.” The plan provided for the future construction of no more than 2,200 housing units, while the natural growth of the Palestinian population requires the construction of 1,500 housing units a year.¹⁵

Moreover, some 30 percent of the total area of East Jerusalem has been defined as “green areas,” where construction is completely prohibited,¹⁶ while the areas around the neighborhoods in the Historic Basin have been declared “national parks.” In both instances, many of the declarations lack any rationale in planning, environmental or historical terms, and demonstrate no attempt to even consider residents’ needs.¹⁷

The Jerusalem 2000 Outline Plan – the first to address Jerusalem within its municipal boundaries as extended in 1967 into a single planning area – attempted to formalize in law the de facto policy applied in East Jerusalem since 1967. The plan makes modest improvements in terms of construction opportunities in Palestinian neighborhoods but virtually ignores the growth rate of the Palestinian population in the city over the years and the accumulated shortage of apartments in the Palestinian neighborhoods of the city. Thus, for example, the plan proposes to allocate just 2,600 dunams for the expansion of development areas in Palestinian neighborhoods (construction of 8,320 apartments), compared to 9,500 dunams for the new Jewish neighborhoods/settlements; and allows for the densification (e.g. vertical expansion) of built-up areas in Palestinian neighborhoods.¹⁸ The plan offers no solutions for the substantial shortage of schools and classrooms, the improvement of neglected infrastructures, or the development of new commercial and employment areas.¹⁹ In any case, promotion of the plan was delayed for four years at

14 For example, construction in the Palestinian neighborhood of Jabal Mukaber has been restricted to two or three floors, whereas in the Jewish Nof Zion settlement, which is situated within the borders of Jabal Mukaber, construction of four or five floors has been permitted.

15 Nir Hasson, *Haaretz*, 3 September 2014 (in Hebrew).

16 *The Effects of the New Outline Plan*, note 12 above. See also *The Planning Crisis in East Jerusalem: Understanding the Phenomenon of “Illegal” Construction*, United Nations Office for the Coordination of Humanitarian Affairs – Occupied Palestinian Territory (OCHA), April 2009, 7-8.

17 See the Ir Amim documents, *The Mt. Scopus Slopes National Park – Political Interests instead of the Residents’ Welfare*, 1 January 2012, and *Developments in East Jerusalem – November 2012 Newsletter* (on Ir Amim’s website).

18 *Jerusalem 2000 Local Outline Plan, Updated Comments on the Plan by Bimkom*, Bimkom, 6 August 2007, 2-5 (in Hebrew). See also letter by Attorney Keren Tzafir of the Association for Civil Rights in Israel and Attorney Yishai Shneydor, legal advisor to Bimkom, to Ruth Yosef, Jerusalem District Supervisor and Chairperson of the District Planning and Building Committee, dated 6 March 2011.

19 *Bimkom’s Comments on the Jerusalem 2000 Local Outline Plan*, Bimkom, May 2006, 8-13 (in Hebrew); *Effects of the New Outline Plan*, note 12 above. See also the Ir Amim document, *Jerusalem 2000 Outline Plan: General Analysis and Comments*, June 2009 (in Hebrew). As of 2014, the shortage of classrooms in East Jerusalem was approximately 3,055. See *Shortage of Classrooms in East Jerusalem: Annual Survey*, Ir Amim, August 2014.



Demolition of a house in Jabal Mukaber

the instruction of former Interior Minister Eli Yishai, who opposed the approval of additional construction in Palestinian neighborhoods of East Jerusalem.²⁰

In addition to the planning mechanisms detailed above, and the fact that many Palestinians applying for building permits are unable to prove land ownership (see previous section) and are therefore unable to acquire a permit, Israel has also imposed a long series of regulations and bureaucratic procedures delaying or preventing attempts by Palestinian residents of East Jerusalem to construct homes with permits. For example, Israel has not established a sewage system in East Jerusalem, which currently lacks some 50 kilometers of sewage lines. Israel now conditions approval of building plans on the presence of a sewage system, and demands that applicants for building permits finance—at great personal cost—establishment of such systems. In Israel proper, infrastructure work of this kind is undertaken by a public authority and funded by means of a sewage levy.²¹ Israel also requires applicants to prepare parking spaces on the basis of the standards applied in West Jerusalem,²² and conditions the issuance of building permits for six-floor buildings on access roads with a width of at least 12 meters. The imposition of road construction costs on applicants means that such projects are economically unviable.²³

20 Nir Hasson, “Interior Minister Yishai Refuses to Approve Jerusalem Outline Plan due to Increase in Construction for Palestinians,” *Haaretz*, 11 June 2009 (in Hebrew). See also the letter by Attorneys Tzafrir and Shneydor, note 18 above.

21 *Between What Is Declared and What is Feasible: Planning Policy in East Jerusalem*, Ir Amim and Bimkom, January 2010, 6-7.

22 *Ibid.*, 5-6. See also the provisions of *Local Outline Plan No. 5166 – Granting of Rights for Parking Areas and the Determination of a Standard for Parking Places*.

23 *Ibid.* See also *Between What Is Declared and What Is Feasible*, note 21 above, 8.

As a result of these hurdles, most Palestinian construction in the area annexed to Jerusalem is undertaken without permits. In some cases, construction fails to meet accepted engineering standards, and in most cases it fails to meet private – let alone communal – needs. Evaluations of the extent of non-permitted building vary according to the period in question and the identity of the evaluator. In 2004, the Municipality's Planning Department estimated that some 15,000 homes in East Jerusalem were constructed without a permit. In 2010, a Bimkom report estimated that some 20,000 homes were constructed without a permit.²⁴ According to statistics prepared by Bimkom and Ir Amim, during the period 1992-2001 some 80 percent of total construction in the Palestinian sector was undertaken without permits.²⁵ The Municipality demolishes between 50 – 100 housing units built without permits every year. We may assume that the number of buildings in East Jerusalem constructed without a permit is now considerably higher in both absolute and proportional terms, in light of the rapid and dense construction that has taken place in the neighborhoods beyond the Separation Barrier (see below).

E. THE RESIDENTS OF EAST JERUSALEM: FROM CITIZENS TO RESIDENTS, FROM RESIDENTS TO IMMIGRANTS IN THEIR OWN CITY, AND FROM IMMIGRANTS TO DISPLACED PEOPLE IN THEIR OWN CITY

E.1 FROM CITIZENS TO RESIDENTS

"At the center of the democratic regime stands the individual. In a representative democracy, the members of the legislative body are the representatives of the sovereign, the people. A person who does not have the right to vote and to be elected has no ability to influence the allocation of resources and priorities... They have no involvement in the allocation of resources for infrastructures, health, and education. They have no other influence... Basic human rights such as freedom of expression and the right to equality are conditional on the good will of the ruler. This is the reason why international treaties consider citizenship to be a basic human right."²⁶

When Israel annexed East Jerusalem, it imposed Israeli law on the annexed area. Due to domestic political considerations, Israel did not aim to naturalize the Palestinians who lived in the annexed areas and who were Jordanian citizens; in any case, international law prohibited it from doing so. Instead, Israel defined these Palestinians as "temporary residents," thus making the residents of East Jerusalem non-citizens of their own homeland. Their formal connection to their previous country of residence was disrupted and they were denied the

24 15,000 housing units out of a total of 53,225 in East Jerusalem. The figure was quoted in the *Jerusalem 2000 Local Outline Plan*, section 4.6, Report No. 4, prepared for the Jerusalem Municipality and chairperson of the District Planning and Building Committee, 6 March 2011.

25 In numerical terms, just 1,400 of the total 6,700 buildings constructed in East Jerusalem during this period had a building permit. Marom, *The Planning Deadlock*, note 9 above.

26 Talia Sasson, "The Status of Jerusalem," *Permanent Residency*, note 4 above, 20.

right to enjoy equal rights and status in the country into which they were annexed against their will. They received distinctive Israeli identity cards highlighting their status as residents of East Jerusalem which enabled them to move freely and to work in Israel, and also entitled them to social benefits such as national insurance and, later, health insurance. Temporary residency status included the right to participate in municipal elections, but not to receive an Israeli passport. Most important, residents were denied the right to vote for or be elected to the legislative body in the country to which they had been annexed – Israel. Accordingly, they were denied the right to enjoy substantive influence over their lives and their fate.

This reality, which contradicts the provisions of the Fourth Geneva Convention,²⁷ is the most crucial factor in the fabric of relations between Palestinians in East Jerusalem and the State of Israel. These residents have come to constitute a national community that lacks civil and political rights within a democratic society. Even if Palestinian residents could theoretically influence their own fate through participation in municipal bodies, in practical terms this influence would remain limited. In the case of Jerusalem, most urban planning and budgets are subject to government control or originate in national public bodies.

E.2 FROM RESIDENTS TO IMMIGRANTS IN THEIR OWN CITY: THE SUPREME COURT RULING IN THE MUBARAK 'AWAD CASE

In 1998, Supreme Court President Aharon Barak ruled that the legal status of Palestinian residents of East Jerusalem is identical to that of immigrants to Israel. This determination was made as part of the ruling in a petition submitted by Mubarak 'Awad, a Palestinian native of Jerusalem who had emigrated to the United States. The Israeli authorities sought to deport 'Awad from Israel on the grounds of political activity hostile to the State of Israel.²⁸

Barak ruled that the proper law to be used in regulating the status of East Jerusalem residents is the Entry to Israel Law. In 1967, he wrote, Palestinians received Israeli identity cards, but they did not receive permits for permanent residency. This permit, he continued, is “an abstract concept... reflecting the reality of permanent residency, and it may expire [...] Indeed, when this reality vanishes, it expires automatically, without any need for a

27 See article 47 of the *Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War*. The article establishes that no action of the occupying power, including annexation, can negate the rights granted by the convention. See also: Talia Sasson, “The Status of Jerusalem,” note 26 above, 29, as well as HCJ 2797/11, *HaMoked Center for the Defense of the Individual and Association for Civil Rights in Israel* (deleted by the petitioners on the recommendation of the justices on the grounds of generalization, 21 March 2012).

28 'Awad was born in Jerusalem in 1943 and received an Israeli identity card after 1967. In 1970 he traveled to the United States, and in 1978 he received American citizenship. In 1985 he married an American citizen, and he currently serves as a professor at the American University in Washington DC. In May 1988, Prime Minister and Interior Minister Yitzhak Shamir ordered that 'Awad be deported from Israel on the grounds that he was present in the country unlawfully and was engaged in “overt and intensive political activity against Israel’s rule in Gaza and the West Bank.” For further details about 'Awad, see Akiva Eldar, “The Prophet of Civil Disobedience Hopes that the Seeds He Has Sown Will Produce the Palestinian Spring,” *Haaretz*, 8 July 2011 (in Hebrew).

formal act of nullification.”²⁹ In ‘Awad’s case, Barak ruled, “the petitioner at a certain stage relocated the center of his life to the United States, and he is no longer to be considered a person permanently resident in Israel.”

Barak did not explain why ‘Awad’s residency – and that of the other Palestinian residents of East Jerusalem – is subject to the Entry to Israel Law, as if Palestinian residents were foreign immigrants wishing to reside in Israel. In reality, of course, it is Israel that migrated into ‘Awad’s land. Thus the residents of East Jerusalem became hostages in their homeland. If circumstances oblige them to leave their city, or if they wish to do so for reasons of work, studies, the high cost of living, family life, or any other reason, they risk losing their residency.³⁰

Several years after this ruling was granted, Israel began to apply it extensively in order to revoke the residency status of thousands of Palestinian residents of East Jerusalem (see below). This practice has been a primary influence on the migration of residents to the neighborhoods beyond the Barrier.

E.3 FROM IMMIGRANTS IN THEIR OWN CITY TO DEPORTEES FROM THEIR OWN CITY: THE DENIAL OF RESIDENCY STATUS AND THE SILENT TRANSFER

Since the end of 1995, on the basis of Barak’s ruling, the Interior Ministry has acted to revoke the residency status of East Jerusalem residents who cannot prove they have lived within the city limits in recent years. This policy has been dubbed “the silent transfer.” Although it has not had any significant impact on the demographic balance in the city, it has created a sense of persecution among the residents of East Jerusalem – those who reside within the city limits, and even more so those who live outside of Jerusalem. At the time Israel began to implement this policy, it was estimated that the latter category included some 50,000 to 80,000 persons.³¹

Some observers argue that the policy was a derivative of the Oslo process.³² Be that as it may, in 1995 the state presented its principled position on the issue. In a reply to one of the petitions submitted that year against its new policy, it declared: “The granting of a permit for residency in Israel is no trivial matter... and it is well known that aliens do

29 Ruling in *Hj 382/88, Mubarak ‘Awad v Yitzhak Shamir, Prime Minister and Interior Minister, et al.*, dated 5 June 1988: <http://www.hamoked.org.il/items/1430.pdf>

30 For further discussion, see Attorney Yossi Wolfson’s commentary on the ruling on the website of HaMoked: <http://www.haomked.org.il/Document.aspx?dID=Documents1317#>

31 Menachem Klein, *Doves in the Sky*, note 7 above, 203-7.

32 Actions taken in this context included the restriction of the activities of Palestinian individuals within the city, the closure of institutions identified with the Palestinian Authority (such as the Orient House), support for the establishment of new Jewish neighborhoods/settlements in East Jerusalem (such as Har Homa), and support for settler associations that sought to settle in the hearts of Palestinian neighborhoods. See Shaul Arieli, *A Border between Us and Them: Ways to Resolve the Israeli-Palestinian Conflict*, Aliyat Hagag Books, Yediot Acharonot and Sifrei Hemed, 2013, 391-2 (in Hebrew).



Checking identity cards near Damascus Gate

not have any inherent and a priori right to receive such a status.”³³ In other words, the Palestinian residents of Jerusalem are considered foreign nationals whose residency is an act of grace, rather than a right. Eli Suissa of Shas, who served as interior minister from June 1996 through July 1999, saw this policy as an important component in the struggle to maintain a Jewish majority in Jerusalem, and stated openly that he sought to increase the Jewish majority “to over 80 percent.”³⁴

Application of this policy of massive revocation began in the 1990s, without any publicity, when East Jerusalem residents began to encounter problems when conducting business at the Interior Ministry office in East Jerusalem. Palestinians were asked to prove that they resided within the city limits of Jerusalem, for example by presenting evidence of payment of municipal taxes, rental contracts, water, electricity and telephone bills, authorization of medical treatment, confirmation that their children attended schools in the city, or proof of their place of work. Those unable to provide proof were informed that their permit for permanent residency had “expired automatically,” on the grounds that their “center of life” had been relocated “outside the State of Israel.” This policy was applied even in cases when, due to the housing crisis within Jerusalem, residents had relocated to the Palestinian neighborhoods immediately adjacent to Jerusalem and continued to conduct most of their

33 Section 3 of the State’s response in *HCJ 7930/95, Nariman Mahfuz et al. v Interior Minister et al.* Five different interior ministers served over the course of 1995 – the late Yitzhak Rabin, Uzi Baram, David Libai, Ehud Barak, and Chaim Ramon, who remained in the position until 18 June 1996. All of these ministers served on behalf of the Labor Party.

34 Quoted by Yael Stein, *The Silent Transfer Continues: Revocation of Residency Status and Social Rights of East Jerusalem Palestinians*, B’Tselem and HaMoked Center for the Defense of the Individual, September 1998, 6.

work and family business and receive services within the city. Those whose residency had expired were required to leave the city within 15 days. Re-entry into the city, whether for the purpose of family visits, work, or studies, became subject to permits. At the same time, those who lost their residency status no longer received accompanying social benefits – health insurance and national insurance.³⁵

The policy was moderated to a degree during the period of Ehud Barak's administration (1999-2001);³⁶ however, application of the policy continues to this day and enjoys the support of the Supreme Court, which refuses to reconsider Supreme Court President Aharon Barak's ruling in the 'Awad case.³⁷

According to Interior Ministry figures, between 1967 and 2013 the residency of some 14,200 Palestinian residents of East Jerusalem was revoked: approximately 3,100 between 1967 and 1995, and 11,000 between 1995 and 2013. The revocation of residency status reached a peak in 2008, when the permanent residency permits of 4,577 Palestinians were revoked³⁸ by Meir Shetrit, the interior minister at the time. The most recent case receiving widespread publicity occurred at the end of 2014.³⁹

Perhaps ironically, the policy of revoking permanent residency has twice been reinforced in the context of peace processes: in 1995, one year after the Oslo Accords, during the period of office of the late Prime Minister Yitzhak Rabin, when all four interior ministers were from the Labor party; and the year after the Annapolis Conference, during the Ehud Olmert administration, when both the prime minister and Interior Minister Meir Shetrit were from the Kadima party.

E.4 FAMILY UNIFICATION

Another obstacle put in the way of East Jerusalem residents by the Israeli Interior Ministry is the demand that those residents who marry Palestinians who are not residents of East Jerusalem, and who wish to live with their partner within the city limits, must submit an application for family unification. The outcome of the application is determined at the discretion of the interior minister and deliberations in each case take an average of five

35 See Appendix 2 to Stein, *The Silent Transfer: The Revocation of Residency of East Jerusalem Palestinians*, B'Tselem and HaMoked Center for Defense of the Individual, April 1997, Application Form for Family Unification, 32.

36 Additional Affidavit of Response in *HCJ 2227/98 and 476/97, HaMoked Center for the Defense of the Individual et al. and Sausan et al. v Interior Minister et al.*, 15 March 2000.

37 See the HaMoked website, *Supreme Court Approves the Silent Transfer Policy*: <http://www.hamoked.org.il/Document.aspx?dID=Updates1178> (in Hebrew).

38 For further details, see Appendix 2 to Stein, *The Silent Transfer*; note 35 above, 11. See also Ir Amim, *Developments in East Jerusalem*, note 17 above.

39 This case involved Tamam Zubeidi, 38, who was born in the Old City and lived there until 2006, when she traveled to Vancouver, Canada together with her husband, a resident of the Occupied Territories, for the purpose of doctoral studies. Although she was careful to renew her documents each year, the Interior Ministry informed her that her status, as well as that of her daughter, had expired "through an orderly proceeding and in accordance with the law." Nir Hasson, *Haaretz*, 13 August 2014 (in Hebrew).

years. Since the middle of 2002, in accordance with a government decision, the processing of such applications has effectively been frozen “in light of the security situation, and due to the ramifications of the processes of migration and settlement of aliens of Palestinian origin in Israel, including by means of family unification.”⁴⁰ The policy seeks to “block this phenomenon and maintain the character of the State of Israel as a Jewish and democratic state in the long term,” according to the Population Authority.⁴¹ A year later, the policy was formally established via the Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003, which prohibits Israelis (citizens and/or residents) who marry residents of the Occupied Territories or Arab countries from living within Israel with their partners.⁴² In January 2012, after a protracted legal struggle by human rights organizations, the Supreme Court issued a majority ruling rejecting petitions against the extension of the validity of the Citizenship Law. The court established that the right to family life of an Israeli citizen who marries an alien “does not necessarily include their right to realize family life in Israel.” Justice Asher Grunis, at the time deputy president of the court, added: “Human rights are not a recipe for national suicide.”⁴³

The late Justice Edmund Levy, in the minority opinion, disagreed with Grunis (supported by Justice Miriam Naor, who since January 2015 has served as the new president of the Supreme Court). Levy’s comments imply that in reality, it is ignoring human rights that creates a recipe for suicide of the democratic regime.⁴⁴

According to the law, residents of the Occupied Territories who wish to live in Israel alongside a partner who is a resident of East Jerusalem must arrange their presence in Israel solely by means of obtaining temporary permits, and even this is possible only if the partner who is a resident of the Occupied Territories is aged 25 or above (in the case of a woman) or 35 and above (in the case of a man). Moreover, regularization of the status of the partner in Israel often involves a protracted struggle lasting many years, during which time the Interior Ministry routinely refuses to grant temporary permits. Thus the couple faces the

40 Government Resolution No. 1813, 12 May 2002.

41 Presentation of the Interior Ministry’s Population Authority on the subject of alien migration and settlement in Israel, May 2002.

42 See the text of the law on the Knesset website (in Hebrew): <http://www.knesset.gov.il/laws/heb/FileD.asp?Type=1&LawNum=1901&SubNum=2>. For discussion regarding the registration of children, see Yael Stein, *Forbidden Families: Family Unification and Child Registration in East Jerusalem*, B’Tselem and HaMoked Center for the Defense of the Individual, January 2004, 20-24.

43 Ruling in *HCJ 466/07, 544/07, 830/07, and 5030/07* dated 11 January 2012: <http://elyon2.court.gov.il/files/07/660/004O30/07004660.o30.htm>. For further details regarding the legal struggle against the Citizenship Law, see the website of the Association for Civil Rights in Israel: <https://www.acri.org.il/en/category/east-jerusalem/citizenship-and-residency-east-jerusalem/>

44 “The continued existence of the Citizenship and Entry into Israel Law casts a heavy shadow over the chances that democracy in Israel can withstand the challenges it has faced hitherto. Those who believe that the majority, on the basis of whose decisions this law came into the world, will be able over the long term to withstand its evil influence [...] are mistaken, since it embodies the power to destabilize the very foundation on which we all stand shoulder to shoulder. Rather than a mere chink, the Citizenship and Entry into Israel Law [...] threatens to tear a hole in a wall that has hitherto proved resilient – the wall of a ‘Jewish and democratic state.’ The damage caused by the law is grave. Its injury is resounding. Its enactment is a formative event in the history of Israeli democracy.” Ruling in *HCJ 466/07, 544/07, 830/07, and 5030/07*, minority opinion.

risk of removal to the Occupied Territories during the lengthy application process.⁴⁵ After the family unification application is approved, usually after a long wait, the partner who is a resident of the Occupied Territories receives a temporary permit for a period of one year, which must be renewed annually. Each time the applicant must again submit documents and affidavits proving that their “center of life” is in Jerusalem, and each time they are again subject to interrogation and to security and criminal investigations.⁴⁶

Moreover, according to the current legal situation, if one parent is a resident while the other lacks status, their child is only entitled to receive the status of the resident parent after the parent submits an application to the Interior Ministry for the registration of the child in the Israeli Population Registry. If, for any reason, the resident parent fails to do so shortly after the child’s birth, they will be required to prove that their child lives with them permanently in Israel as a condition for the approval of their application. If a child was born outside the borders of Israel, the situation is even more complicated; the same is true if parents register a child in the Palestinian Population Registry, even if the child has lived their whole life in Jerusalem.

E.5 SUMMARY OF DEVELOPMENTS PRIOR TO THE ESTABLISHMENT OF THE SEPARATION BARRIER

Since the annexation of East Jerusalem, Israel has worked to destabilize the bond between Palestinian residents and their native city. Over the years, extensive areas have been confiscated in order to establish Israeli neighborhoods/settlements or “national parks” and, with the full cooperation of the Israeli government, settlements have been created in the hearts of Palestinian neighborhoods. At the same time, harsh restrictions have been imposed on the planning and registration of Palestinian land. Due to the Supreme Court ruling, the status of permanent residency, which was an inferior one from the outset, has been defined as an “abstract” status that may “expire automatically.” This reality has been used extensively to displace thousands of Palestinian residents from the city. Government and municipal authorities have imposed a policy of neglect and discrimination in the provision of services and the construction of infrastructures. Budgetary investment in East Jerusalem is approximately one-tenth of the municipal budget, despite the fact that the Palestinian

45 Andrea Szlecsan and Noga Kadman, *Temporary Order? Life in East Jerusalem under the Shadow of the Citizenship and Entry into Israel Law*, HaMoked Center for Defense of the Individual, September 2014, 28.

46 The temporary permit does not entitle the holder to social benefits and health care entitlements. Following a petition submitted to the Supreme Court by the Association for Civil Rights in Israel and other human rights organizations, a special committee established by the state decided that the provisions of the National Health Insurance Law would be applied to the holders of the residency permits. However, this arrangement is expensive, discriminatory, and falls short of that provided for family members who are residents or citizens of Israel: HCJ 2649/09, *Association for Civil Rights in Israel et al. v Health Minister et al.*, as well as the subsequent National Health Insurance Regulations (Registration with HMOs, Rights and Obligations of Recipients of a Residency Permit in Accordance with the Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003, 5774-2014. Holders of these permits frequently encounter additional difficulties in opening bank accounts, holding Israeli driver’s licenses, and so forth. Following a further petition submitted by HaMoked, the holders of permits in family unification processes are now permitted to work as salaried employees within Israel. HCJ 6615/11, *Salhab et al. v Interior Minister et al.*, 2013.

population accounts for close to 40 percent of the total population of the city.⁴⁷ Alongside other factors, this neglect has made the Palestinian residents of East Jerusalem the poorest collective in Israel (see the following chapters).

Over the years, this constellation of pressures has encouraged many Palestinians to leave the heart of East Jerusalem and to move to the suburbs beyond the annexation line, as was the case prior to the construction of the Separation Barrier. The Barrier has destabilized this fragile equilibrium and has been one of the primary factors behind a new wave of migration by poor Palestinian residents of the city to the neighborhoods beyond the Barrier. The following chapters will examine this phenomenon in depth.

47 For example, the Jerusalem Municipality budget for implementation in East Jerusalem in 2013 accounts for 10.1 percent of the municipal budget, while Palestinian residents account for 37 percent of the total population of the "unified city". See the Ir Amim document: http://www.ir-amim.org.il/sites/default/files/PL_Investment%20in%20East%20Jerusalem%20December%202014-2%2025%2015.pdf

CHAPTER TWO: CONSTRUCTION OF THE SEPARATION BARRIER

In 2002, at the height of the second intifada and following intense public pressure, the Israeli government announced its intention to build a separation barrier between Israel and the main centers of the Palestinian population. Construction of the Separation Barrier provoked international opposition, with the International Criminal Court (ICC) in The Hague ruling that the Barrier was illegal on the basis that much of it was constructed within the West Bank, leaving blocks of settlements on the “Israeli” side of the Barrier, and causing massive disruption to the fabric of Palestinian life and land.⁴⁸ The course of the Barrier in the Jerusalem area was the subject of particularly fierce criticism as it reinforced the impression that Israel was exploiting security circumstances, as grave as they may have been, to establish extensive political facts on the ground.⁴⁹

Since the 1990s, Israeli policy has proceeded on two contradictory tracks. On the political track, Israel has committed itself to a process of negotiations and accepted the paradigm of a two-state solution, implying a compromise on Jerusalem. On the other track, however, Israel’s race to prevent the partition of Jerusalem by way of massive construction has only accelerated.⁵⁰ Despite Israel’s policies in Jerusalem, however, the Jewish majority in the city has continued to decrease. The Israeli aspiration to secure a 70:30 demographic majority of Jews over Palestinians was subdued by forecasts that Palestinians would soon constitute 40 percent of the city’s population,⁵¹ a shift which Israel considers to be an impediment to its ability to defend Jerusalem’s status as an Israeli city and which has exposed a reality that Israel had attempted to obscure over the years: without a political division of sovereignty, Jerusalem has increasingly become a binational, inegalitarian, and undemocratic city.

48 *Advisory Opinion*, 9 July 2004: <http://www.icj-cij.org/docket/files/131/1671.pdf>

49 G. Auerbach and I. Sharansky, *Planning and Politics in Jerusalem*, Floersheimer Institute for Policy Studies, Hebrew University of Jerusalem, 89-90.

50 Following the Oslo Accords, and despite fierce Palestinian and international protests, Israel constructed the neighborhoods/settlements of Har Homa and Ramat Shlomo and expanded the older neighborhoods. Moreover, bypass roads were constructed leading to the settlement blocs to the south and north of Jerusalem, at enormous expense and through the additional confiscation of massive areas of Palestinian land. The settlements themselves were expanded dramatically. The Israeli establishment embraced settlements inside the Palestinian neighborhoods in the Historic Basin of the city and provided generous public support for these efforts. Whenever the possibility of progress in the peace process emerged, the “settlement reflex” was activated in response. This was the case in 2008, for example, after Prime Minister Olmert returned from the Annapolis Conference, which produced the “Road Map.” Israel subsequently issued tenders for a then record number of 1,931 Israeli housing units in East Jerusalem. The same was the case in 2012, when the Netanyahu government faced increasing pressure and the United Nations voted to admit Palestine as a non-member state. In response, tenders were issued for 2,386 housing units. Yet again, in 2014, in response to the diplomatic initiative by US Secretary of State John Kerry and following the collapse of his efforts, Israel issued tenders for 2,620 housing units. See Ir Amim report *Jerusalem: the Rising Cost of Peace* <http://www.ir-amim.org.il/sites/default/files/2.17%20Rising%20Cost%20of%20Peace.pdf>

51 See Chapter One.

During the 1990s, in response to political and demographic threats, Israeli decision makers adopted a metropolitan approach to Jerusalem, reflected in the term “Greater Jerusalem.” This course of action sought to effectively annex the surrounding settlement blocks of Givat Ze’ev to the north, Ma’ale Adumim and its satellites to the east, and Gush Etzion to the south, to the city. Serious security incidents that had occurred in lead-up to the construction of the Barrier were used as a rationale for promoting this policy.

The planned route of the Barrier in the Jerusalem area includes the three main settlement blocks, while excluding Palestinian neighborhoods and locales.⁵² The initiative was implemented by means of a sophisticated system of fences that once again expanded the boundaries of the city while leaving many of the Palestinians who live in the areas that have been unilaterally added to the city trapped inside internal fences that disconnect them from the surrounding areas.⁵³ While in the political arena Israel adopted approaches based on compromise in the spirit of the Clinton Parameters, it acted on the ground to advance a vision of expansion even beyond the boundaries of the 1967 annexation, further dissecting the West Bank in a way that profoundly damages any possible two state solution.⁵⁴

The Separation Barrier created a profound divide between the West Bank and Jerusalem. Checkpoints along the Barrier prevent Palestinians from the West Bank from entering Jerusalem (with the exception of a small number of permit holders). Access to service and commercial centers and hospitals in East Jerusalem, which formerly served the population of the entire West Bank, is also restricted solely to those who hold permits. Access by residents of the West Bank (Muslims and Christians) to their holy places in Jerusalem and to their historic and symbolic assets in the city is extremely limited, with the exception of high holidays (and even on such occasions, age and gender restrictions are often imposed).

It is difficult to overestimate the devastating impact the Separation Barrier has had on East Jerusalem itself. Prior to the establishment of the Barrier, East Jerusalem functioned as the commercial, social, cultural, and political center of the West Bank. The Barrier tore East Jerusalem from the rest of the West Bank. In 2001, Israel closed the Orient House, which had been a focal point of Palestinian cultural and political life, followed by the closure of more than 20 economic and social institutions. Over the past decade, Israeli internal security ministers have issued over 80 orders shutting down Palestinian events in Jerusalem, including cultural, educational, and employment related events, leading to the near total elimination of

52 The Barrier has not been constructed in full in the Ma’ale Adumim and Gush Etzion areas. According to the state’s declarations in petitions submitted against the Barrier, Israel does not intend to resume construction of the Barrier in these areas in the near future. However, this course has been realized through general construction policy, and particularly through the construction of massive infrastructures connecting the three blocks to Jerusalem (such as the connection of the Begin Road to the Tunnel Road, while bisecting the Palestinian village of Beit Safafa in the process).

53 Such as the villages of Bir Nabala, Al-Jib, and Beit Hanina al-Balad in the vicinity of Givat Ze’ev. See also Eyal Hareuveni, *Arrested Development: The Long-Term Impact of Israel’s Separation Barrier in the West Bank*, B’Tselem, 2012, 43-5.

54 See Meron Benvenisti, *Haaretz*, 28 August 2003, quoted in: Auerbach and Sharansky, *Planning and Politics in Jerusalem*, note 49 above.

organized Palestinian activity in Jerusalem.⁵⁵ East Jerusalem has continued to maintain some stability during this period by sustaining diverse ties with its Palestinian surroundings; still, the disconnection of East Jerusalem from the West Bank and its closure to West Bank residents has dealt a mortal blow to East Jerusalem's economic, social, and cultural life.

A Palestinian research institute found that during the five-year period of 2003-2008, no fewer than 500 businesses were closed in East Jerusalem.⁵⁶ These closures caused enormous economic and social damage to the Palestinian population in the city. Further, the study also found a substantial rise in levels of unemployment, poverty, and residential congestion among Palestinians in Jerusalem.⁵⁷ Construction of the Barrier also had a strong influence on the level of poverty in East Jerusalem, though it was not the sole contributor. In 2000, the poverty rate in East Jerusalem was 60 percent—itself a staggering statistic—but since the construction of the Separation Barrier this figure has risen constantly, and by 2012 no fewer than 75 percent of Palestinian residents, and 82 percent of children, lived below the poverty line.⁵⁸

During the decades preceding construction of the Separation Barrier, many Palestinian residents of Jerusalem, prompted by severe restrictions imposed on Palestinian construction in East Jerusalem, moved to suburbs outside the municipal boundaries of the city, including A-Ram, Al-Izzariyya, and Abu Dis. The Barrier disconnected these suburbs from Jerusalem and generated a wave of migration back to the city by tens of thousands of residents seeking to avoid daily checkpoints and motivated by the fear that continuing to live in areas outside the city would put their residency status at risk. The return of tens of thousands of residents to the city increased pressure on already debilitated infrastructures in the city and further exacerbated the severe shortage of housing in East Jerusalem. As a result, housing costs in East Jerusalem increased by tens of percentage points, while the standard of living fell consistently. Poorer residents of East Jerusalem, whose numbers rose sharply following construction of the Barrier, bore the brunt of this trend: unable to cope with housing prices inside Jerusalem, they gradually found the only available alternative was to move to the neighborhoods the Barrier had disconnected from the city.

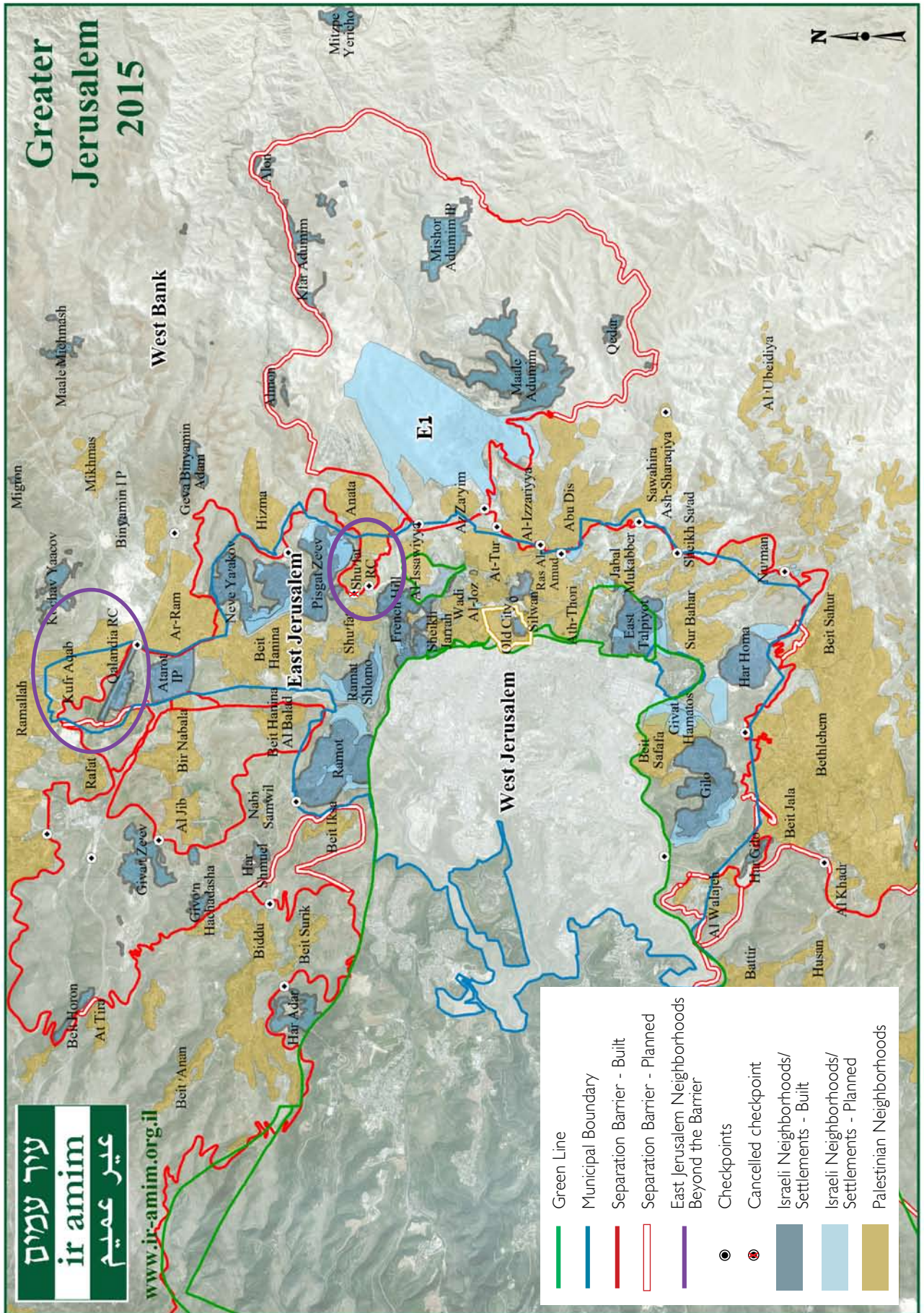
The Separation Barrier not only expanded the effective area of Jerusalem into the West Bank, disconnecting the Palestinian population trapped within the Barrier from its surroundings; it also disconnected East Jerusalem from Palestinian neighborhoods that had been an integral part of the city since 1967 and whose inhabitants were Jerusalem residents. Between one-fourth and one-third of the residents of East Jerusalem now live in these areas, separated from their city by the Barrier. Officially, these neighborhoods are part of Jerusalem and their residents pay taxes to the Jerusalem Municipality. In practical terms, the Municipality and other Israeli authorities avoid these areas and have abandoned them to their fate. The next chapter describes the condition of these neighborhoods in detail.

55 Ir Amim, *Jerusalem: The Rising Cost of Peace*, note 50, 26-7; *Extreme Makeover? The Withering of Arab Jerusalem*, International Crisis Group, Middle East Report No. 135, 20 December 2012, 1-3.

56 Robert Brooks, "The Wall and the Economy of the Jerusalem Governorate," in: *The Wall – Fragmenting the Palestinian Fabric in Jerusalem*, International Peace and Cooperation Center, Jerusalem, 2007, 41.

57 *Ibid.*, 37.

58 Figures of the National Insurance Institute quoted in Ir Amim, *Jerusalem: The Rising Cost of Peace*, note 50, 27.



CHAPTER THREE: THE EAST JERUSALEM NEIGHBORHOODS BEYOND THE BARRIER

The Separation Barrier disconnected Palestinian neighborhoods that had formed an integral part of the city since 1967 and whose residents are Jerusalemites who hold Israeli identity cards. In the northeast of the city, the Barrier uprooted large Palestinian neighborhoods from the city that have formed part of its municipal area since they were annexed to Israel in 1967. Kufr Aqab and Semiramis lie to the north of Atarot (Qalandiya) airfield, while the areas left to the northeast of the Barrier include the Shuafat refugee camp and its adjacent neighborhoods of Ras Khamis, Ras Shehadeh, and Dahiyat al-Salaam (“New ‘Anata.”) According to various estimates presented below, these neighborhoods have a total population of up to 100,000 Palestinians, the majority of whom are Jerusalem residents and many of whom previously lived in Palestinian neighborhoods within the Barrier. Most of them are employed in Jerusalem inside the Barrier, shop in the city, and meet there with friends and family. Their children attend educational institutions in the city and they use health and religious services in the city. These residents are subject to Israeli rule and law, belong to the Jerusalem Municipality, and live within the city limits. In historical and political terms, they are Jerusalem residents, and the city is their homeland. Despite all of these ties, they have been uprooted from their city – or, perhaps more accurately, their city has uprooted itself from them.



Kufr Aqab, beyond the Separation Barrier



A view from Pisgat Ze'ev to Ras Khamis

As we saw in Chapter One, since Israel annexed East Jerusalem it has repeatedly declared the “unity” of West and East Jerusalem. However, this unity relates solely to the land of East Jerusalem and not to its Palestinian population – residents who are not Israeli citizens. These residents have faced massive pressures, including profound neglect in the provision of physical and social infrastructures, a grave housing crisis, and ongoing threats to their residency status. Construction of the Barrier intensified the division and segregation of Palestinian space in Jerusalem, disconnecting entire neighborhoods from their municipal lifeline and from sources of livelihood and identity. This policy has consistently pushed the poorer and weaker residents of East Jerusalem into the neighborhoods beyond the Barrier.

A. BACKGROUND

Kufr Aqab was founded in the sixteenth century and is now divided into four neighborhoods. The largest neighborhood is Kufr Aqab, which is situated to the east of the main road to Ramallah, and most of which lies within the Jerusalem city limits (a smaller section forms part of the West Bank).⁵⁹ Semiramis is situated to the west of the road to Ramallah and lies completely within the city of Jerusalem. The area is represented by a local committee called the North Jerusalem Committee.

The Shuafat refugee camp area includes the refugee camp itself, the neighborhood of Ras Khamis to the north of the camp, Ras Shehadeh to the south, and Dahiyat al-Salaam (also

59 Israel confiscated 2,037 dunams of village land in the West Bank, to the east of the village. The land was used to establish the settlement of Kochav Ya'akov.

known as “New Anata”) to the east. Shuafat is the only refugee camp situated entirely within the Jerusalem municipal boundaries. It was constructed in 1965-1966 by the Jordanian authorities as part of efforts to evict most of the Palestinian refugees concentrated in the Mu’askar camp in the A-Sharf section of the abandoned Jewish Quarter of the Old City of Jerusalem. The camp has an area of 203 dunams. In 1967, it had a population of 3,368 people living in 500 apartments.⁶⁰ The neighborhoods of Ras Shehadeh, Dahiyat al-Salaam, and Ras Khamis developed mainly during the years following the Oslo Accords.

Since the 1990s, these neighborhoods have attracted the more vulnerable segments of the East Jerusalem population, including residents of East Jerusalem who are married to Palestinian residents of the West Bank or to partners from the Palestinian Diaspora. In the absence of official inspections, these residents can be relatively less anxious that their partners will be expelled from the borders of Jerusalem or face harassment from the Israeli security forces. In addition, the grave housing crisis drives many residents from neighborhoods in the heart of East Jerusalem to these areas. Newcomers enjoy significantly lower real estate prices due to the lack of inspection, while still being able to remain within the municipal boundaries of the city. This dynamic has intensified sharply since construction of the Separation Barrier.⁶¹

As noted above (see also Chapter Two), construction of the Separation Barrier in 2004-5 created two waves of migration. The first consisted primarily of middle-class residents who lived in the suburbs outside the municipal boundaries of the city, where they had moved to avoid the neglect and severe building restrictions inside East Jerusalem. Many of these residents, estimated to number tens of thousands, fearing the negative impact of the Barrier on their way of life and their residency status, subsequently moved back into the core neighborhoods of East Jerusalem, accepting far worse living conditions than they had been able to enjoy in the suburbs. This wave created intense pressure on the already limited housing market in East Jerusalem, precipitating a second wave of migration by poorer residents who left neighborhoods within the city and moved to Jerusalem neighborhoods beyond the Barrier where they could secure relatively cheap and available housing.

A survey published in 2005 by the Jerusalem Institute for Israel Studies highlighted some of the economic ramifications of the migration to the neighborhoods beyond the Barrier. The survey found that prior to 2000, 17 percent of all employed persons in Semiramis earned less than NIS 2,000 a month. Following the wave of migration, this proportion rose to 55 percent of all those employed – in an area where unemployment was 10 percent. Thus the wave of migration clearly led to a drastic decline in average earning levels per household.

60 The residents of the Shuafat refugee camp came from 56 villages in West Jerusalem (e.g. Katamon, Lifta, Malha, Al-Walajah), as well as from the Beit Shemesh area, Lod, Ramle, and Jaffa.

61 Abdalla Owais, “The Wall and the Enclaves: Case Studies in Disrupted Communities,” in: *The Wall – Fragmenting the Palestinian Fabric in Jerusalem*, International Peace and Cooperation Center, Jerusalem, 2007, 98; *Shu’fat Refugee Camp Profile*, UNRWA West Bank Research Office: http://www.ochaopt.org/documents/opt_campprof_unrwa_shufat_oct_2008%20.pdf

In the Shuafat refugee camp area, which is closer to the center of Jerusalem, some 70 percent of the workforce is employed in Jerusalem, while the total unemployment rate in the area is 25 percent. Construction of the Separation Barrier has had a similar impact here. Prior to 2000, the proportion of families in the Shuafat area that did not include any unemployed person was eight percent; after 2004, the figure rose sharply to 18 percent.⁶²

As we have seen in the previous chapters, since 1967 the Palestinian population in East Jerusalem has been weakened significantly. Construction of the Separation Barrier struck at this vulnerability, creating waves of migration to the city that heightened economic pressure and in turn led thousands of poorer residents to leave their homes and relocate to the neighborhoods beyond the Barrier. Construction of the Barrier therefore pushed populations characterized by low earning levels into the neighborhoods beyond the Barrier. Moreover, the daily challenges of crossing the checkpoints forced some of those who moved to these neighborhoods to quit working in Jerusalem, further weakening their economic status (see below). These processes, along with other contributors such as Israeli authorities' abandonment of these neighborhoods (discussed below), created a particularly vicious cycle.

As we will see, it would be a mistake to examine these issues from an exclusively socioeconomic angle. While many of the aspects of this phenomenon belong to the socioeconomic sphere, the fundamental factor that catalyzed these processes is political.

B. DEMOGRAPHIC FOG

No Israeli, Palestinian, or international body is currently in possession of reliable statistics concerning the number of residents of East Jerusalem who live in the neighborhoods beyond the Barrier.

According to data from the Jerusalem Statistical Yearbook, currently updated to 2012 and based on the most recent census held in 2008 (on which the Municipality relies for planning and allocation of services to the neighborhoods of the city), Kufr Aqab-Semiramis has a population of just 16,850, while the Shuafat refugee camp and the neighborhood of Dahiyat al-Salaam have a population of 21,200 – a total of 38,050 residents in the two areas combined.⁶³ However, the authors of the survey – Dr. Maya Hoshen and Yair Asaf-Shapira – warn that these figures are unreliable and that many residents do not report on changes

62 Israel Kimchi, "Impacts of the Separation Barrier on Palestinian Residents in the City and in the Metropolitan Area," in: Israel Kimchi, ed., *The Security Fence in Jerusalem: Ramifications on the City and Its Residents*, Jerusalem Institute for Israel Studies, 2006, 77, 79 (in Hebrew).

63 Table C/14 – Population of Jerusalem by Age, Quarter, Sub-Quarter, and Statistical Area, 2012, in: *Jerusalem Statistical Yearbook 2014*, Jerusalem Institute for Israel Studies (in Hebrew). The statistical area of Kufr Aqab used in the yearbook also includes the Atarot industrial zone, which does not include any residential buildings, while the statistical area of the Shuafat refugee camp and Dahiyat al-Salaam also includes Ras Khamis and Ras Shehadeh: http://www.jiis.org.il/upload/yearbook2014/shanot_C1414.pdf



Ras Shehadeh against the backdrop of French Hill

of address. Moreover, both these areas saw under-reporting in the most recent census.⁶⁴

Other authorities update their figures in a similar manner. In 2008, during a hearing in a Supreme Court petition submitted by the neighborhood committees of Ras Khamis, Dahiyat al-Salaam, 'Anata, and others, the justices estimated that "over 20,000 Palestinians who are permanent residents of the State of Israel live in the areas," as well as "between 2,000 and 10,000 Palestinian residents of the West Bank."⁶⁵ In October 2007, the Civil Administration estimated that "some 55,000 non-Jewish residents, mainly residents of the State of Israel" lived in the two areas beyond the Separation Barrier.⁶⁶ In 2006, the Jerusalem

Institute for Israel Studies estimated that "some 65,000 Palestinian residents of Jerusalem are expected to cross the checkpoints into Jerusalem every day."⁶⁷ In 2012, the Jerusalem Envelope Administration (an administrative body established for the neighborhoods beyond the Barrier) estimated that approximately 60,000 "holders of Jerusalem identity cards" live in the neighborhoods beyond the Barrier.⁶⁸ Lastly, a 2014 Association for Civil Rights in Israel report estimated that the number of residents of these neighborhoods is "over 100,000," adding that each of these two areas (Kufr Aqab-Semiramis and the Shuafat refugee camp

64 Conversation with Dr. Maya Hoshen and Yair Asaf, 26 December 2012. The yearbook itself warns: "Over the years, some of the Palestinian Arab residents of Jerusalem have relocated to locales adjacent to the city. Despite this migration, most of the residents have refrained from reporting on leaving the city in order not to lose their resident status and the rights accruing from this status. On the other hand, some Palestinian Arabs who are not residents or citizens of Israel live in Jerusalem without having received a permit for this purpose, and accordingly are considered persons unlawfully present in Israel. The figures for both these population groups are partial and are not included in the official population estimates. The size of both these population groups is unknown, and any estimate in this regard is no more than a hypothesis and is not reflected in the population figures included in the yearbook. Following the establishment of the Separation Barrier, many Palestinian Arabs who hold the status of residents of Israel have moved back into Jerusalem. As in the past, the migration movements of this population are largely unreported to the Interior Ministry and accordingly do not appear in the official statistics." *Jerusalem Statistical Yearbook 2014*, note 52.

65 Para. 2 in the ruling *HCJ 6193/05, Residents Committee of Ras Khamis, Residents Committee of the Neighborhood of Dahiyat al-Salaam and Anata et al. v. the Authority Empowered in accordance with the Land Seizure Law et al.*, dated 25 November 2008.

66 State Ombudsman's Report 59A for 2008, 67.

67 Kimchi, "The Operating Regime for the Security Barrier around Jerusalem: Possible Ramifications for the City," *The Security Fence in Jerusalem*, note 51, 15.

68 <http://www.jscc.matnasim.org/BRPortal/br/PI02.jsp?arc=132624>

and its surroundings) has a population of “between 60,000 and 80,000 people,” producing a total of between 120,000 and 160,000 residents.⁶⁹

The demographic fluctuations seen in different parts of the city are apparent in a report published by WAC-MAAN, the Workers Advice Center. In 2011-2012, the report states, 4,460 Palestinian residents left their homes in neighborhoods in the heart of Jerusalem (the Old City, Wadi al-Joz and so forth). During the same period, 4,560 residents moved to the neighborhoods beyond the Barrier.⁷⁰ At the beginning of 2013, Munir Zaghayer (Abu Ashraf), head of the North Jerusalem Committee (the committee of Kufr Aqab-Semiramis), estimated that over the decade since 2003, the population of the neighborhood had quadrupled. On the basis of the scale of construction and reports from local organizations, Abu Ashraf estimated that the neighborhood had a population of over 60,000, though he was unable to state for certain how many individuals are Jerusalem residents, and that at the current pace of construction, the population of the neighborhood will reach 100,000 by 2016.⁷¹

Although all of these figures are estimates, it can be suggested that the areas of East Jerusalem beyond the Separation Barrier have a total population that is at least twice the official estimate, i.e. about 76,000, and possibly close to 100,000 Palestinians, most of whom are residents of Jerusalem. This figure represents between one-fourth and one-third of the total Palestinian population of East Jerusalem.⁷² A certain percentage of this population represents residents who have submitted an application for family unification and who are living in the neighborhoods beyond the Barrier until the application is approved (or more likely, rejected).⁷³

In the absence of up-to-date figures, data referenced in this section are based on conservative estimates. The lack of data is partly a consequence of the dramatic changes these neighborhoods have undergone due to migration and rapid construction; but is mainly attributable to the persistent tendency of Israeli authorities to ignore these neighborhoods, and perhaps even an intention to shroud developments in these areas in a cloak of imprecision.

69 This estimate is based on the reply of Hagihon Water Company to a petition submitted by the Association for Civil Rights in Israel concerning the supply of water to the Ras Khamis, Rah Shehadeh, and Dahiyat al-Salaam neighborhoods, as well as the Shuafat Refugee Camp (HCJ 2235/14). In its reply, Hagihon estimated that the number of residents of these neighborhoods alone is approximately 80,000 (sections 21-22).

70 Ma'an Workers Advice Center, *East Jerusalem – A Socioeconomic Disaster: The Conduct of the National Insurance Institute and the Employment Service as Part of Government Policy to Drive Palestinian Residents beyond the Barrier and to “Enhance Israeli Sovereignty,”* October 2014 (in Hebrew). The figures are based on the statistical yearbooks of the Jerusalem Institute for Israel Studies for 2013-2014.

71 Conversation with Munir Zaghayer, head of the North Jerusalem Committee, 4 February 2013.

72 According to the official estimate of the Central Bureau of Statistics, the Arab population of Jerusalem at the end of 2013 numbered 303,900. As clarified in the Jerusalem Yearbook, however, this estimate does not include the unknown number of Palestinian residents who live in the city without official residency status, a population that is estimated at tens of thousands. *Israel Statistical Yearbook*, No. 65, 2014.

73 On 26 June 2014, in response to a freedom of information request submitted by Ir Amim, the Population Authority stated that between 2003 and 2013, a total of 5,130 applications for family unification were submitted by permanent residents of East Jerusalem subject to the terms of the Citizenship and Entry into Israel Law, 5763-2003 (Temporary Provision). Of this number, 2,878 applications were submitted by men and 2,252 by women. Just five applications were approved for permanent residency – three for men and two for women. In addition, 2,918 permits to be present in the city were granted – 1,753 for men and 1,165 for women. A total of 1,614 applications were rejected – 764 for men and 850 for women.

C. GOVERNMENTAL ABANDONMENT AND OFFICIAL NEGLECT

C.1. THE WITHDRAWAL OF GOVERNMENTAL AND MUNICIPAL SERVICES

Even before the establishment of the Separation Barrier, the Jerusalem Municipality's attention to infrastructure and residents' needs in the neighborhoods now located outside the Barrier was woefully inadequate. Since construction of the Barrier, the lack of attention has become almost complete. The overall scene is one of neglect and abandonment. Roads, traffic lights, schools, parks and electric, water, and sewage infrastructures are either in extremely dilapidated condition or simply non-existent.

Following the annexation of the Shuafat refugee camp to the Jerusalem city limits, residents insisted on their status as refugees and on the presence of the United Nations Relief and Works Agency (UNRWA), the body responsible for providing services and employment for Palestinian refugees.⁷⁴ As a result, and with the exception of garbage collection, since 1967 the Jerusalem Municipality has ignored the needs of the Shuafat camp, claiming that UNRWA is responsible for the area. UNRWA continues to provide education, welfare, and medical



Building density in Ras Shehadeh

⁷⁴ Nadav Shragai, *Demography, Geopolitics, and the Future of Israel's Capital: Jerusalem's Proposed Master Plan*, Jerusalem Center for Public Affairs, 2010. See also comments by the former advisor to the mayor of Jerusalem on East Jerusalem affairs, Amir Cheshin: "Jerusalem Municipality never provided services to the camp," in Ronen Medzini, "Kollek's Advisor: Entry of Authorities into Shuafat is Foolish," *Ynet*, 10 February 2001 (in Hebrew).

services for residents of the camp who are registered as refugees. At the beginning of the first intifada, the Municipality ceased garbage collection services in the camp; since 1988, UNRWA has assumed management of the camp's sanitation needs as well. In the adjacent neighborhoods, garbage collection is also extremely inadequate. The Municipality pays garbage contractors according to population estimates well below the actual number of residents, with inevitable consequences on quality of services.⁷⁵ As a result, some three to seven tons of garbage a day are burned in the camp, creating an environmental hazard.⁷⁶

Water, sewage and road infrastructures are likewise in dire need of repair and restoration. Based on past service arrangements between the Jordanian authorities and UNRWA, residents of the Shuafat camp refuse to pay the Municipality for the water supply. Since 1988 they have been unofficially connected to the municipal water grid. However, residents of the other neighborhoods beyond the Barrier, including those adjacent to the refugee camp, regularly pay their municipal taxes as required, including payments for electricity and water. The first and only sewage line installed in the Shuafat camp area by the Municipality was established in the 1970s, after an outbreak of cholera was identified in the area.⁷⁷ The system is now collapsing under the volume of sewage; and as a consequence, sewage often flows through the streets. Unregulated connections to the electric grid and the poor condition of the grid itself result in frequent power outages, particularly during the winter. About 16 kilometers of the 32 kilometers of roads in the camp require renovation.

In March 2014, the water supply to homes in the Shuafat refugee camp and the three neighboring areas was disconnected. Only a small number of homes in low-lying sections of the area continued to receive water, leaving tens of thousands of residents without a supply for several weeks. After three weeks of urgent appeals to Hagihon (Jerusalem's water supply company), the Jerusalem Municipality, and the Ministry of Infrastructure met with no response, residents and the Association for Civil Rights in Israel petitioned the Supreme Court.⁷⁸ In its response to the petition, Hagihon claimed that no defect had occurred in the water infrastructure during the period, and that the low water pressure was due to the fact that the scope of infrastructure in the area had not been expanded to keep pace with the sharp rise in population. The justices on the panel agreed that the problem was acute and demanded a solution, but judged that such a remedy would require considerable time. Accordingly, they granted the state 60 days' continuance to show progress on the matter.

In their responses to the petition, the authorities admitted that the water infrastructure in the neighborhoods beyond the Barrier is far from adequate given the volume of residents. The Water Authority and the Ministry of Infrastructure suggested that the problem could

75 Eli Osherov, "East Jerusalem: Authorities Neglected the Area – Hamas and Tanzim Seized Control," *NRG*, 13 July 2010 (in Hebrew).

76 *Shuafat Camp Profile*, Applied Research Institute – Jerusalem, 2012. See also: Amir Cheshin, "The Story of an Ex-Territory," *Haaretz*, 14 February 2010 (in Hebrew).

77 Amir Cheshin, Bill Hartman and Avi Melamed, *Separate and Unequal: The Inside Story of East Jerusalem*, Harvard University Press, Cambridge, 1999, 23, 130-4.

78 HCJ 2235/14, *Sanduka v Governmental Water and Sewage Authority*, see also ACRI website: <http://www.acri.org.il/en/2015/01/18/ej-water-2015/>



Main road in the Shufat Refugee Camp

be solved by widening the main water pipes but refused to install additional infrastructure or to connect homes to the grid, claiming that most of the residents live in homes constructed without permits. The petitioners argued that such action would not solve the problem and would only perpetuate the violation of residents' basic rights. They further argued that residents had no recourse but to construct homes without permits due to the authorities' long-standing failure to plan the area. And, according to the petitioners, in similar instances solutions had been found enabling the connection of homes to the water grid.

In January 2015, following a series of hearings, the Supreme Court justices ruled that by way of a provisional and incomplete response, the authorities must upgrade the existing water lines in order to increase the water pressure in the neighborhoods. The Court also ruled that meetings must be held with the residents to arrange collection of payments for water.

With regard to infrastructure, the Palestinian Authority renovated the roads in Dahiyat al-Salaam after the Jerusalem Municipality ignored countless appeals from residents. Ibrahim, a teacher who lives in the neighborhood, explains: "I dare not even dream of a playground, a garden with trees, flowers, and benches. But I do expect to have a road. The Israelis didn't do anything for us. So we turned to the Palestinian Authority and they paved a road – just one road, but at least there's one safe road here. Maybe one day it will even have speed bumps."

When Salam Fayyad, the Palestinian prime minister at the time, was invited to a ceremony to inaugurate the renovated road, the Israeli Ministry of Internal Security issued a special order preventing him from entering the area.⁷⁹

79 Avy Yissacharof and Nir Hasson, "PA Prime Minister Salam Fayyad Cancels Visit to Ceremony in East Jerusalem," *Haaretz*, 2 November 2010 (in Hebrew).

In Kufr Aqab-Semiramis, only four kilometers out of the total 25 kilometers of roads are paved and in reasonable condition. Eight kilometers of road are in a dilapidated condition, while 10 kilometers are completely unpaved. Even the paved roads—including those located near schools—lack sidewalks, signage, and pedestrian crossings. The only traffic light in the area is permanently broken. The water pipes are outmoded and approximately one-fourth of the water supplied to the village is wasted due to leakage.

Sewage from the village is removed to open areas bordering the village, without treatment or purification. Approximately 10 percent of the buildings in the village have saturation pits for sewage, also without mechanisms for treatment or purification.⁸⁰ In the early 2000s, the residents collected money to renovate the sewage system, but even the renovated system has proven incapable of coping with the rapid population growth in the area.⁸¹ In 2012 the Jerusalem Envelope Administration issued a tender for the renovation and repair of the roads in Kufr Aqab but the tender has not been implemented, despite the damage caused to roads in the area by the heavy rains that winter.⁸²

About three years ago, Minister of Transportation, National Infrastructure and Road Safety, Yisrael Katz, and Jerusalem Mayor Nir Barkat announced a new long-term plan to develop transportation and road infrastructures in East Jerusalem, with total costs of half a billion shekels.⁸³ Toward the end of 2014, Ir Amim contacted the holder of the transportation portfolio in the Jerusalem City Council, the mayor of the city, and the Ministry of Transportation through Attorney Mouin Odeh and demanded that the plan be implemented in the neighborhoods beyond the Barrier.⁸⁴ On 15 February 2015, Attorney Danny Liebman, the deputy legal advisor to the Municipality, replied that “although the areas of the neighborhoods lie within the municipal area of Jerusalem, since the establishment of the security fence, when responsibility for security in these areas was transferred to the IDF, the Municipality encounters difficulties in supplying services in these areas... As part of this situation, the Municipality also encounters difficulties in executing infrastructure works, repairing and paving roads and sidewalks and signs in the neighborhoods.”

Attorney Liebman added that in the neighborhoods within the Barrier, the Jerusalem Municipality is working to narrow the gaps, while at the same time practically admitting that nothing had been done or would be done in the neighborhoods beyond the Barrier: “In the current state of affairs, the execution of the plan for the development of infrastructures and roads in these neighborhoods will be possible when a security situation or security

80 *Kufr 'Aqab Village Profile*, Applied Research Institute – Jerusalem, 2012.

81 Conversation with Munir Zaghayer, head of the North Jerusalem Committee, 4 February 2013.

82 *Tender 1/201, Renovation and Rehabilitation of Roads in the Jerusalem Envelope Administration – Kufr Aqab, Semiramis, and Al-Matar, north of Atarot (Qalandiya) Crossing*. <http://www.jssc.matnasim.org/BRPortal/br/PI02.jsp?arc=360937>

83 http://he.mot.gov.il/index.php?option=com_content&view=article&id=1963:dover-2012-02-22&catid=56:dover-c-1&Itemid=65

84 The letter was sent on the following dates: To the holder of the transportation portfolio in the Jerusalem City Council – 23 September 2014; to the mayor of Jerusalem – 8 December 2014; and to the Ministry of Transportation – 11 December 2014.



Collapsed road in Kufr Aqab

arrangement is maintained that permits its implementation.”⁸⁵ This is not the only instance in which security has been used as a pretext for withholding services from the residents of the neighborhoods beyond the Barrier, despite the fact that the unique security situation in these neighborhoods is a direct result of the actions of the Israeli authorities. Moreover, and as emerges from Attorney Liebman’s comments, the issue of security has become a means for transferring responsibility from the civilian authorities to the military. The significance of this process will be discussed in greater detail.

At the beginning of 2014, the Knesset Public Petitions Committee held its first discussion on the subject of the grave shortage of services and infrastructures in the neighborhoods beyond the Barrier. Over 20 representatives of the Municipality and government ministries attended the discussion, held subsequent to a letter sent by Ir Amim on behalf of the North Jerusalem Committee to MK Adi Kol, then head of the Knesset committee. The letter detailed the lack of fire and emergency health services in the neighborhoods beyond the Barrier, including obstacles to entry and passage of ambulances. It also noted serious shortfalls in education, transportation, sewage and drainage services, sanitation, public spaces, and checkpoint conditions. Ir Amim observed that the Jerusalem Envelope Administration, established by the government, effectively served to distance residents from the Municipality and to obscure its responsibility for service provision. The Municipality referred residents to the Administration, which in turn claimed it had not received necessary funding. Most representatives of the authorities who attended the discussion did not dispute the claims.

85 Letter from Attorney Liebman dated 15 February 2015 in response to the above-mentioned letters from Ir Amim.



Main road in Kufr Aqab, near Qalandiya Checkpoint

Fire authority representatives admitted to particularly long response times, requesting allocation of land in the Qalandiya area for construction of a fire station.⁸⁶

Following the petitions submitted during construction of the Separation Barrier, the State of Israel promised that a government service compound would be established close to the checkpoints to provide residents of the neighborhoods with services from the Interior Ministry, the National Insurance Institute, and the National Employment Service. The State also promised to fund special transportation “for all students living outside the Barrier,”⁸⁷ to establish a community administration, to build new schools and rent classrooms, to allocate municipal hotlines, and to arrange alternative traffic routes for residents of the neighborhoods and for rescue teams in the event of an emergency.⁸⁸ In 2005, Jerusalem Mayor Uri Lupoliansky estimated that “the establishment of a reasonable system of services” for the residents of the neighborhoods beyond the Separation Barrier of the type detailed above, alleviating the need for them to cross the entrance checkpoints to the city on a daily basis, would cost approximately NIS 80 million.⁸⁹

86 Minutes of the committee meeting: <http://knesset.gov.il/protocols/data/rtf/zibur/2014-02-12-01.rtf>. During March 2014, additional meetings and discussions were held to discuss the licensing of ambulances and water problems in the Shuafat refugee camp and the Kufr Aqab area. See minutes from the meeting on 19 March 2014: <http://knesset.gov.il/protocols/data/rtf/zibur/2014-03-19.rtf>

87 Sections 58 and 59 of the ruling in *HCJ 5488/04, 6080/04 and 3648/04*, and section 13 in the ruling in *HCJ 6193/05*.

88 Government Resolution No. 3873, dated 10 July 2005 regarding preparations by government ministries on the matter of the “Jerusalem Envelope” and attention to the population in the Jerusalem District due to the establishment of the Barrier: <http://www.pm.gov.il/PMO/Archive/Decisions/2005/07/des3873.htm>

89 Illeal Shahr, “Binational Road,” *NRG*, 19 March 2005. Shaul Arieli and Michael Sfar, *The Wall of Folly*, Sifriyat Aliyat Hagag, 2008, 312 (in Hebrew).

In practice, in 2011 and 2012 the Jerusalem Envelope Administration (established in 2006) received a budget of NIS 1.33 million a year.⁹⁰ For the sake of comparison, the budget of the community administration in the adjacent Jewish neighborhood of Pisgat Ze'ev, whose population is half that of the two areas beyond the Barrier, was NIS 11.21 million in 2011⁹¹ – i.e. almost 10 times greater than the budget for the neighborhoods beyond the Barrier.

The only educational institution the Jerusalem Municipality has established in the neighborhoods beyond the Barrier is a boys' school in the area of the Shuafat refugee camp in a building that previously served as a goat pen. The school was established alongside a metal factory, contrary to the warning of the Ministry for Environmental Protection, which opposed human habitation of the building. Following a Supreme Court petition submitted by the students' parents, the Municipality closed the factory.⁹² In August 2014, a new municipal elementary school was opened in Kufr Aqab with six classrooms. The school is situated in a new four-story building in the Al-Matar neighborhood in Atarot. Despite meeting all the requisite building standards, for months the Municipality refused residents' request to rent the classrooms in the building in order to cope with the shortage in the area. Ir Amim raised this subject during the above-mentioned discussion in the Knesset Public Petitions Committee, effectively pressuring the Municipality to rent the building. Because the Municipality did not announce the lease of the building until the end of August, residents only managed to register students for six classes. In the future, they hope to operate six additional classes in the school.

In many places, the severe shortage of classes necessitates holding studies in shifts and in badly overcrowded classrooms. Although the Municipality acknowledges the problem, its actions to ensure the proper education of children in these neighborhoods are far from adequate.⁹³ As a result, thousands of students travel to schools inside Jerusalem every day, using municipal transportation services that wait for them on the "Jerusalem" side of the Qalandiya and Shuafat crossings, thereby requiring them to navigate checkpoints on their way to and from school (see infobox on pages 53-54).

In contrast to the lack of vital services, some official agencies have intensified their activities in these neighborhoods. Since 2003, the National Insurance Institute has hired private companies to undertake investigations concerning residency status in the neighborhoods

90 *Jerusalem Municipality – Proposed Budget for 2011 and 2012*, details of budgets for Social Division. See also comments by the director of the Jerusalem Envelope Administration, Collin Hames, in: Ronen Medzini, "Israel Has Abandoned the Jerusalem Villages beyond the Barrier," *Ynet*, 8 January 2010 (in Hebrew).

91 *Programmatic Report for 2011 by Pisgat Ze'ev Community Administration*, as submitted to the Registrar of Associations in the Ministry of Justice.

92 Tali Nir, "Educational Filth in Jerusalem," *NRG*, 20 August 2009. For further details of this episode, see the website of the Association for Civil Rights in Israel: <http://www.acri.org.il/en/2008/09/24/acri-submits-two-petitions-on-behalf-of-east-jerusalem-children/>

93 See comments of the director of the Jerusalem Envelope Administration, Colin Hames, at a meeting of the Knesset Internal Affairs and Environment Committee, *Minutes No. 387 of a Meeting of the Internal Affairs and Environment Committee regarding the Conduct of the Israeli Government and the Jerusalem Municipality in the Jerusalem Neighborhoods beyond the Barrier*, 30 May 2011.



Sewage near a school in Kufr Aqab

beyond the Barrier. The investigators are accompanied by private security contractors.⁹⁴ Investigations involve intrusive questions and examinations concerning residents' lifestyles, family lives, and homes, as well as questioning of relatives and neighbors. Such investigations require a level of sensitivity and professionalism that cannot be provided by a contractual body disconnected from the institution that provides the service. Residents who have undergone questioning perceive the investigators as being highly motivated to lead the investigation to conclusions that would substantiate revocation of their residency status.⁹⁵

Colin Hames, until recently head of the Jerusalem Envelope Administration, admitted that the staffing level is "inconsistent with the needs." He reported that his requests to upgrade the administration's operations and to secure budgets to develop infrastructures in the areas beyond the Separation Barrier were rejected on the grounds of "lack of budgets," or simply went "unanswered."⁹⁶ Hames stated that the situation in the neighborhoods "is due to a protracted process of neglect by the various arms of central government, by the heads of the Municipality over the years, and by the residents of the neighborhoods

94 *Minutes No. 84 of a Meeting of the Knesset Labor, Welfare and Health Committee*, December 2003. See also: Chiodelli, F., "Re-shaping Jerusalem: The Transformation of Jerusalem's Metropolitan Area by the Israeli Barrier," *Cities* 31, 2013, 417-24.

95 Chiodelli, "Re-shaping Jerusalem," note 94.

96 Letter from Colin Hames, director of the Jerusalem Envelope Administration, to Meir Margalit, then holder of the East Jerusalem portfolio on Jerusalem City Council, dated 11 October 2012. See also Hames' comments in Medzini, "Israel Has Abandoned," note 90.

themselves.” He commented that in Kufr Aqab “there is no governmental presence in the neighborhood for purposes of public order. This fact also means that municipal enforcement agencies refrain from entering the neighborhood, so that the condition of infrastructures and the social situation in the neighborhood continues to deteriorate [...] The situation is not much different in the other Jerusalem neighborhoods [beyond the Barrier] [...] Since the establishment of the obstacle [i.e. the Separation Barrier] and the absence of enforcement agencies, the character of construction has changed [...] This has created increasing pressure on infrastructures that were already defective, but it has also led to the uncontrolled immigration of residents from the Judea and Samaria area into the municipal area of Jerusalem, contrary to the law.”

A decade after the establishment of the Barrier, the government and the Municipality have implemented virtually none of their promises to provide services for the residents of the areas beyond the Barrier.

C.2 THE LACK OF LAW AND ENFORCEMENT AUTHORITIES

Like the other authorities, the Israel Police has almost completely suspended any operations in the neighborhoods beyond the Barrier. In his report for 2008, the State Comptroller noted that “there are no police operations to enforce or maintain order in these neighborhoods.”⁹⁷ Former head of the Jerusalem Envelope Administration, Colin Hames, defined the situation as one of “lawlessness.”⁹⁸ The Palestinian Police is prohibited from operating in the Jerusalem area.

In the Shuafat refugee camp area there are no police stations or police points. Large police forces occasionally enter the area to make a show of presence.⁹⁹ Local residents generally perceive the police as a tool of oppression rather than as a governmental body responsible for protecting their security.¹⁰⁰

97 State Comptroller's Report 59A for 2008, 2 March 2009, regarding the “the Obstacle” and crossings in the “Jerusalem Envelope,” 70, 89-90.

98 Osherov, “East Jerusalem,” note 75. See also Hames' reactions to this incident and to an additional incident when “Palestinian detectives using live fire chased drug dealers within an apartment building in Kufr Aqab,” in *Minutes No. 387*, note 93.

99 Efrat Weiss, “Shuafat Refugee Camp: Hundreds Throw Stones at Security Forces,” *Ynet*, 27 December 2008 (in Hebrew); Efrat Weiss and Ronen Medzini, “New Clashes in Shuafat: 9 Suspected of Throwing Stones,” *Ynet*, 9 February 2010 (in Hebrew); Ronen Medzini, “Kollek's Advisor,” note 74.

100 Aryeh Amit, former commander of the Jerusalem District Police: “The police operated in the east of the city as a military system whose principal function was to protect [Israel] from the residents rather than to protect them.” Aryeh Amit, “The Old City of Jerusalem – The State of Israel's Volcano: Alternatives for Security Arrangements,” in: *The Old City – A Summary following the Discussions of a Think Tank*, ed. Ruth Lapidot with Amnon Ramon, Jerusalem Institute for Israel Studies, 2002, 107. In an article in *Ynet*, Amit added that “the Jerusalem Police did not operate in the east of the city as a traditional policing force. Its operations were based on the model of a small army, and it saw its principle function as being to protect [Israel] from the residents of the east of the city, rather than to protect them.” Aryeh Amit, “Who's Jerusalem?” *Ynet*, 26 May 2001 (in Hebrew). See also comments by Jerusalem District Police Commander Mickey Levy in an interview for *MyNet*: “We have no need for them [the Arab neighborhoods]... The Israel Police doesn't go in there,” Ari Gilhar, “Mickey Levy: Arab Neighborhoods Endanger the City,” *MyNet*, 20 February 2011. For further discussion regarding attempts by the Police to consolidate its control in East Jerusalem during the “Oslo years,” see Hillel Cohen, *The Market Square is Empty – the Rise and Fall of Arab Jerusalem, 1967-2007*, Hebrew University and Jerusalem Institute for Israel Studies, 2007, 55-60 (in Hebrew). Also, meeting with Attorney Elias Khoury on 21 January 2013.

This governmental vacuum attracts criminals and criminal activity. In 2011, the head of the General Security Service, Yuval Diskin, attended a meeting of the Knesset Foreign Affairs and Defense Committee. He described the areas beyond the Separation Barrier as “no man’s land” where “there is a high level of criminal activity.”¹⁰¹ A large drug trade operated for many years close to the entrance to the Shuafat refugee camp, serving dealers and consumers from throughout Israel. The head of the neighborhood committee complained dozens of times to the police and even provided the police with photographs and information documenting activities. He testified at Knesset committee meetings about the situation.¹⁰² Despite these actions, the drug business in the area was not shut down until 2014.¹⁰³

The police also refrain from intervening in violent incidents within the camp, including the use of live fire leading to fatalities.¹⁰⁴ UNRWA reports frustration among residents of the refugee camp at the failure of the police to enforce the law against drug dealers and violent criminals.¹⁰⁵ In one incident, in 1998, a group of residents from the Dahiyat al-Salaam neighborhood organized and offered the Jerusalem Municipality a plot of private land to construct a school for neighborhood children. The Municipality did not respond to the offer and following construction of the Separation Barrier, violent gangs seized control of the area and built a residential building on it.¹⁰⁶ In January 2010, a gang of armed criminals entered a school in Kufr Aqab and held some 400 students hostage for hours. Although residents and parents begged the Israel Police to intervene, they did not come to the scene.¹⁰⁷

The Israeli Police is active in these areas mainly in response to what are defined as “security incidents,” such as stone or Molotov cocktail throwing, or attacks against Jewish residents and Israeli security forces. During the events of the summer of 2014, residents of Pisgat Ze’ev complained that shots were fired at their homes.¹⁰⁸ On 23 August, a Border Police detail shot a resident of the camp who had been identified a few days earlier firing from within the camp toward Pisgat Ze’ev. On 5 November 2014, Ibrahim al-Akari, a member of Hamas who lived in the Shuafat refugee camp, carried out an attack at a light rail station close to the Sheikh Jarrah neighborhood in which he ran over a group of people, killing one Israeli and injuring thirteen. Al-Akari was shot and killed.¹⁰⁹ Following the attack, security forces entered the refugee camp, triggering fierce clashes.

101 Pinchas Woolf, “GSS Head: ‘A No-Man’s Land is Developing in Jerusalem,’” *Walla!*, 18 January 2011 (in Hebrew).

102 *Minutes No. 387*, note 93. See also Osherov, “East Jerusalem,” note 75.

103 Uzi Rosenberg, “Jerusalem’s Drug ATM – Shuafat Camp,” *Haaretz*, 21 November 2011 (in Hebrew). Meeting with Attorney Nisreen Alyan of the Association for Civil Rights in Israel, 31 December 2012.

104 Meeting with Khader al-Dibs, member of the local committee of the Shuafat refugee camp, 2 January 2013.

105 *Shu’fat Refugee Camp Profile*, note 61.

106 Meeting with Attorney Elias Houry on 21 January 2013.

107 <http://www.haaretz.co.il/news/education/1.129625>

108 <http://www.haaretz.co.il/news/politics/1.2413601>

109 http://www.mako.co.il/news-military/security-q4_2014/Article-dc55876579f7941004.htm

In the absence of a police response to violent crimes, including domestic violence and murder, local residents committees attempt to mediate to ensure that victims receive compensation. These committees are no substitute for the law; moreover, they lack any formal authority to enforce their decisions.¹¹⁰

The common denominator linking incidents such as those described above is the vacuum of government accountability. Attorney Elias Khoury observes:

The growing strength of criminal elements in East Jerusalem has destabilized the personal security of normative residents of the city. The police is not, and never has been, perceived by East Jerusalem residents as a body that protects society, imposes civil order, and ensures public security. On the contrary: it is perceived as standing behind the criminals, supporting them, and giving them free rein to act, whether through silence or omission, so that they can crush Palestinian society from within. As a result, normative families have begun to take non-normative steps to protect themselves, establishing their own extended family army to confront the criminal gangs...¹¹¹

These comments provide background to the next topic, an issue in which the governmental vacuum is most visible: land and construction.

D. THE BUILDING JUNGLE

Prior to construction of the Separation Barrier, the neighborhoods of the Shuafat refugee camp and Kufr Aqab-Semiramis suffered from the same building challenges as other parts of East Jerusalem. A small number of localized building plans were approved in the Shuafat area over the years, but no overall outline plan was introduced to address residential needs, roads, water, sewage, and educational and social institutions, despite repeated requests by residents.¹¹² In 1993, preparation of an outline plan for Kufr Aqab-Semiramis was initiated. The plan was approved in 2005 but by this time it was no longer current¹¹³ and offered no solutions for the lack of housing and physical and social infrastructure that had only been compounded by construction of the Barrier. As with other plans prepared by the Municipality for the Palestinian neighborhoods of East Jerusalem, the outline plan for Kufr Aqab-Semiramis sought to limit construction; was prepared without the participation of residents; and aspired to preserve the ostensibly "rural" character of the area, ignoring its actual urban character and residents' urgent needs.¹¹⁴

110 Osherov, "East Jerusalem," note 75. Lecture "Palestinian Society in East Jerusalem," note 11.

111 Lecture "Palestinian Society in East Jerusalem," note 11.

112 Meeting with Nasser Jubran, representative of the Dahiyat al-Salaam neighborhood committee, 19 December 2012.

113 See the provisions of the *Kufar Aqab Outline Plan*: <http://www.tabainfo.co.il/document/166367> and the plan diagram: <http://www.tabainfo.co.il/document/181703>

114 The plan included an area of just 1,310 dunams, restricted building rights to 50-90 percent of the plot areas, and permitted a maximum density of just 4-6 apartments per dunam and a maximum building height of 2-3 stories.



Collapsed wall of a building in Kufr Aqab

Following establishment of the Barrier, a process of rapid construction began in the neighborhoods of Kufr Aqab-Semiramis and in and around the Shuafat refugee camp. Construction was driven by the enormous demand for available and relatively cheap housing solutions among East Jerusalem residents who had been pushed out of the core neighborhoods of the city by political and socioeconomic developments. The massive demand for housing attracted entrepreneurs and contractors who had identified a tremendous economic opportunity, enhanced by the lacuna in land registration, construction inspection, and enforcement (see Chapter One).

Attorney Khoury describes the ramifications of this phenomenon in its most extreme form:

Growing activities by criminals and forgers; the seizure of land and properties belonging to owners who live outside the area in Amman, the Gulf, or other foreign countries, or belonging to defenseless individuals or weak families who lack the support of a large family; the invasion of properties based on forged paperwork; creating facts on the ground; construction without permits, without proper infrastructure, and to excessive heights; and selling apartments to those desperate for housing. Complaints to the police met with no response. The Municipality only comes to the area after construction has been completed and occupants have moved in. All these developments exacerbated still further the public's sense of a lack of personal security



Building density, Kufr Aqab: Adjacent to the exposed foundation of one building, a hole is already being dug for another building

and impaired commercial stability. In this way the neighborhoods became slums controlled by criminals...¹¹⁵

This destructive equation includes three powerful factors: The availability of unsupervised land; a profound housing crisis and enormous demand; and the economic interests of entrepreneurs and contractors. The equation lacks one key element: regulation. No Israeli body, whether municipal or governmental, has even attempted to enforce standard regulations such as the prevention of criminal interests; ensuring lawful registration of land; issuing building permits; and enforcing environmental, planning, and engineering standards relating to safety, infrastructures, and the development of public areas consistent with the type and scope of construction.

The almost complete absence of inspection bodies provided powerful fuel for the frenzied construction that took place in these neighborhoods

following construction of the Barrier. The following figures offer some impression of the scale of construction that took place. As of 2012, the number of building starts in Kufr Aqab-Semiramis accounted for 83 percent of the total number of building starts in the entire city of Jerusalem.¹¹⁶ As of the beginning of 2013, some 1,282 new apartments were nearing completion, all in high-rise buildings.

From a planning perspective and in practical terms, construction takes place without permits and without any inspection by the relevant authorities. In the absence of such inspection, and in light of the tremendous pressure and economic interests motivating this construction, building work in both areas advances without preparation of proper infrastructures for water, drainage, sewage, electricity, and roads. No land is left in reserve for educational or public institutions. Water supply is erratic and requires the use of individual pumps to raise water to the higher stories, resulting

115 Lecture by Attorney Elias Khoury: "Palestinian Society in East Jerusalem," note 11.

116 Calculation by the Jerusalem Institute for Israel Studies, based on the number of building starts in the first three quarters of 2012. The calculation estimated that the number of building starts in that year was 1,540. See Nimrod Busso, "Despite Government Declarations: Sharp Fall in Residential Construction in Jerusalem," *The Marker*, 25 December 2012.

in shortages and subsequent disputes between neighbors. The new buildings are connected to outmoded sewage infrastructures insufficient for dealing with the large volume of rainwater that accumulates, sometime sending sewage flowing into the streets. Lobbies of many of the new buildings face directly onto narrow and makeshift village roads that are damaged by heavy winter rains as, for example, during the winter of 2012-2013. In theory, every new building should be accessible to fire-fighting and emergency vehicles, should be constructed from fireproof materials, and should be provided with fire-fighting equipment and an available water supply in the event of a fire emergency.¹¹⁷ In reality, very few new buildings meet these standards.

Once again, these problems are not unique to the neighborhoods beyond the Barrier. The distinction is the enormous scope of the problems in these areas, due in particular to the absence of enforcement and to the total chaos around land registration. The inability to prove ownership of the areas around their homes and the impossibility of registering joint homes eliminates any possibility for people to plan and develop environmental and communal infrastructures. The land problem is also found inside the Barrier but outside, the situation is one of total dysfunction. In the future, adaptation of infrastructures to the enormous scope of construction will require work on a massive scale. For all these reasons, the likelihood that such work will be implemented is negligible.

With the exception of limited efforts by UNRWA to monitor developments within the Shuafat refugee camp,¹¹⁸ where the organization restricts construction and there are no high-rise buildings, construction in the neighborhoods beyond the Barrier takes place without any inspection to ensure compliance with accepted engineering standards. Since the Jerusalem Municipality refrains from supervising planning and engineering standards, builders are free to ignore the essential stage of preparing engineering surveys and do not undertake work to ensure structural integrity in the case of high-rise construction or to protect against earthquakes.¹¹⁹ The latter consideration is of particular importance since the neighborhoods beyond the Barrier have been identified as being particularly sensitive to earthquakes.¹²⁰ Christoph von Toggenburg, UNRWA's project director in the Shuafat refugee camp, estimates that in the event of an earthquake some 80 percent of the buildings around the camp will collapse.¹²¹

117 *Planning and Building Regulations (Application for a Permit, Conditions and Levies) (Amendment No. 3), 5768-2008.*

118 UNRWA permits the addition of a second floor above the original single-story buildings within the area of the camp. Meeting with Christoph von Toggenburg, UNRWA's project director in Shuafat, 9 January 2013. Von Toggenburg states an obvious truth: "Construction within the camp is undertaken contrary to UNRWA's own technical guidelines and safety rules"; meeting with Khader al-Dibs, 2 January 2013. See also the UNRWA website: <http://www.unrwa.org/template.php?id=98>

119 The procedure for obtaining a building permit in Israel requires the submission of architectural and engineering plans to the relevant authority, which inspects the suitability of the plans. The preparation of plans is a protracted process entailing work by professionals and considerable costs. Once the authority does not enforce the receipt of permits, interested parties (the contractor and the landowner) have no motivation to fund this process. See Appendix No. 5 to the *Jerusalem 2000 Outline Plan – Infrastructures, Environment, and Areas Sensitive to Earthquakes*: http://www.jerusalem.muni.il/jer_sys/publish/files/13029/16125122334.pdf

120 "Sensitivity to Enlargement and Sensitivity to Failure in a Built Slope," Appendix No. 5, note 119.

121 Meeting with Christoph von Toggenburg, 9 January 2013. See also comments by Samih Abu Ramle, head of the Kufr Aqab Development Company, in Osherov, "East Jerusalem," note 75.



Shuafat Refugee Camp, with Ras Shehadeh in the background

In contrast to its activities in other parts of Jerusalem, the Municipality does not contact organizations representing the residents, such as neighborhood committees, or international organizations such as UNRWA, to prepare residents for a potential disaster. Theoretically, it would be possible to strengthen the buildings, but it is unlikely in the current circumstances. Von Toggenburg adds that in order to prepare for possible disasters in the refugee camp, UNRWA has begun to conduct emergency preparedness trainings for teams of local residents. The agency has invited experts in the rehabilitation of favelas from Latin America who tackle the massive slum neighborhoods alongside the major cities of Brazil, also constructed illegally and without suitable infrastructures.¹²²

Municipal representatives openly confirm that they do not undertake enforcement activities in the neighborhoods beyond the Barrier. Ofir May, director of the Municipality's Building Inspection Division, admitted that "it isn't even possible to travel to the other side of the Wall, let alone if you want to undertake enforcement actions there... And no-one knows what the scope of illegal construction is" in these neighborhoods.¹²³ It seems that employees of the Building Inspection Division have not entered Kufr Aqab since 2005.¹²⁴ According to Erez Lauber, head of the Operations Division in the Jerusalem Municipality, "due to the security difficulties and lack of resources for accompanying municipal representatives, by police and army, the municipal bodies cannot maintain a regular presence." Inspectors visit Shuafat in the presence of the police and Border Police "with prior coordination, and not on a daily basis."¹²⁵

122 Meeting with Christoph von Toggenburg, 9 January 2013. The teams are trained as part of a Disaster Risk Unit program.

123 *Minutes of a Meeting of the Knesset Internal Affairs and Environment Committee, 9 January 2012, regarding the Absence of Enforcement of Squatting and Construction in Jerusalem.*

124 Attorney Betzalel Smutritz, *Minutes of a Meeting*, note 123.

125 *Minutes No. 387*, note 93.

This information notwithstanding, in November 2013 inspectors from the Jerusalem Municipality delivered 11 demolition orders to buildings in the Ras Khamis and Ras Shehadeh neighborhoods in the vicinity of the Shuafat refugee camp.¹²⁶ The orders concerned 10-story buildings, slating the demolition of hundreds of families' apartments. However, the demolition of 10-story buildings situated in extremely close proximity to one other, and in an area where construction is already particularly dense, would be an almost impossible engineering feat, and certainly cannot be undertaken with the standard equipment available to the Jerusalem Municipality without enormous environmental damage. Since the orders were issued, no legal proceedings have taken place and no additional warnings have been received.

Dozens of complaints have been submitted to the Israel Police concerning forging of land purchases or ownership documents; violent seizure of land; and violent gangs specializing in these activities. The Police have made no attempt to process the complaints. Some were submitted by attorneys who specialize in land law and included documents providing evidence in support of the complaints,¹²⁷ which would have facilitated a police investigation had one been initiated.

Since there are no land registration proceedings in these neighborhoods, it is also impossible to undertake the registration of apartments. Amer, a worker in a non-governmental organization and a resident of Semiramis, comments:

We cannot obtain a mortgage because we don't know what belongs to whom. We bought an apartment here, but we don't know whether the people who sold it to us are really the holders of the rights in the building. In order to receive permits the Israelis demand documents from the authorities in Jordan. But most of these documents do not exist, and in any case the Jordanians do not want to collaborate with the Israeli occupation.

As a result of these trends, housing prices are significantly lower than equivalent housing in the core neighborhoods of East Jerusalem. As of the beginning of 2013, the average purchase price for a 100-120 square meter apartment in Kufr Aqab-Semiramis was \$100,000; payment could be made in monthly installments. The rental fee for a similar apartment was in the range of \$400-\$500.¹²⁸ The price of a comparable apartment in the Dahiyat al-Salaam neighborhood could average \$30,000-\$50,000, while the rental price would be \$300-\$400.¹²⁹ The price of a similar-sized apartment in the Shuafat refugee camp, where construction is particularly congested and the population is poorer, would be still lower, at about \$26,000, while monthly rental fees average \$320-\$530.¹³⁰ In Beit Hanina, inside the Barrier, the price of a comparable apartment is \$350,000 or more.

126 <http://haaretz.co.il/news/local/.premium-1.2156288>

127 Meeting with Attorney Elias Khoury, 21 January 2013.

128 Meeting with Munir Zaghayer (Abu Ashraf), head of the North Jerusalem Committee, 4 February 2013. See also Osherov, "East Jerusalem," note 75.

129 Meeting with Nasser Jubran, 19 December 2012.

130 Meeting with Khader al-Dis, 2 January 2013.

Attorney Elias Khoury explains that the relatively low housing costs attract poorer populations: “These neighborhoods have become instant slums. Who buys apartments there? The poorest people who will later lose everything they have when these buildings are demolished or damaged. The few stronger residents in these areas move out as quickly as they can. Those who remain are easy prey for criminals and religious extremists.”¹³¹

The net result of these developments in the neighborhoods beyond the Barrier has been a massive wave of construction – a “beggar’s soup” (to quote Goethe) concocted from high demand, the economic interests of entrepreneurs and contractors, the theft of land and forgery of documents, and total abdication of responsibility by the government.

E. CHECKPOINTS

Jerusalem residents who live in the neighborhoods beyond the Barrier can only enter Jerusalem through checkpoints, a process requiring a security inspection. Residents of Kufr Aqab-Semiramis enter Jerusalem via Qalandiya checkpoint, while residents of the Shuafat refugee camp and the surrounding area enter via Shuafat checkpoint. Unlike other checkpoints along the course of the Separation Barrier, these two checkpoints are open every day of the year, all day, and are operated by the police.

During the course of the Supreme Court hearings on petitions submitted against the Separation Barrier in the Jerusalem area, the Office of the State Attorney attempted to belittle the gravity of the injury caused to the residents of the neighborhoods beyond the Barrier by checkpoint delays, aggravation, and humiliation. Representatives claimed that the waiting time at Qalandiya was only several minutes, and at peak times around 25 minutes for those crossing on foot and 15 minutes for vehicles, while in Shuafat peak waiting times were 20-30 minutes.

These timeframes are purely theoretical. In practice, it currently (2015) takes up to 90 minutes for pedestrians to cross Qalandiya checkpoint at peak times, while those arriving in vehicles also wait for long periods and sometimes for over one hour in traffic lines that begin on Ramallah Road and along the narrow access roads on the northern side of the checkpoint.

Two key factors influence the protracted delays at the checkpoints. Delays for vehicles are the result of ongoing neglect of the infrastructures surrounding the checkpoints, which creates an access bottleneck. For pedestrians, delays are attributable to planning of the crossings. Colonel Ofer Hindi, head of the Barrier Administration in the Ministry of Defense, and Commissioner Niso Shaham, former commander of the Jerusalem District Police, have

131 Meeting with Attorney Elias Khoury, 21 January 2013.



Shuafat Checkpoint

openly admitted that waiting times are a direct function of budgetary investment.¹³² In other words, with a relatively modest financial investment it would be possible to significantly alleviate the trying conditions faced by those forced to use the checkpoints.

Security inspections at Qalandiya are particularly rigorous, and for many years have included trunk inspections. Drivers crossing into Jerusalem via Hizma checkpoint, located to the southeast of Qalandiya and used by settlers from the Binyamin area as well as Palestinian residents of Jerusalem, are not required to undergo this inspection.¹³³ Following intervention by Ir Amim and the Association for Civil Rights in Israel, the police agreed to relax security inspections at Qalandiya checkpoint, but stricter checks were reinstated following Operation Pillar of Defense in the Gaza Strip in 2012.¹³⁴

¹³² Section 36 of the ruling in *HCJ 5488/04, 6080/04 and 3648/04, A-Ram Local Council et al., Dr. Ahmad Badr Masalheh et al., and Meliha Tamer et al. v Government of Israel et al.* dated 13 December 2006. Section 4 of the ruling in *HCJ 6193/05*, note 65. See also the comments in *State Comptroller's Report 59A*, note 97, 91. The Knesset State Control Committee held a meeting on 8 April 2011 to discuss a request for the State Comptroller to offer his opinion concerning Qalandiya crossing (the Road No. 45 checkpoint), Atarot Industrial Park entrance. At the meeting, Hindi commented: "When we built the crossing, the court imposed various obligations on us, including passage time and waiting time. We undertook in affidavits to the Supreme Court to meet a waiting time of one hour. If you ask me now whether it would be a good idea to shorten the waiting time to 15 minutes, then my reply is an unequivocal yes. The question is one of cost." Shaham remarked: "The costs of these millions for adding lanes are something that should be considered. This isn't under our control. These are limited budgets, and if the problem is solved we will be happy to provide these solutions. It is indeed possible to shorten the [waiting] time."

¹³³ Conversation with Munir Zaghayer, 4 February 2013.

¹³⁴ Meeting with Attorney Nisreen Alyan, 31 December 2012. See also website of the Association for Civil Rights in Israel: "Following complaints by ACRI and Ir Amim: Relaxations in the Pressure of Traffic at Qalandiya Checkpoint," 18 June 2012 (in Hebrew): <http://www.acri.org.il/he/21279>. See also the reports of Machsom Watch about Qalandiya checkpoint on the organization's website, for example: <http://www.machsomwatch.org/en/reports/checkpoints/04/04/2013/morning/23102>

Several security gates have been installed in the sections of the Separation Barrier adjacent to the neighborhoods beyond the Barrier. However, these gates are closed and only used by the residents in special circumstances at the discretion of the checkpoint manager. In 2012, the crossing adjacent to Ras Khamis was closed, and since then residents of the area have been directed to the Shuafat checkpoint,¹³⁵ further increasing waiting times.¹³⁶

The checkpoints also impose another toll on residents' quality of life. In accordance with security force procedures in the Kufr Aqab-Semiramis area imposed by the IDF, any entry by fire fighters, ambulances, Hagihon (water company) crews, or cleaning and sanitation repair crews in emergency situations (such as fires, medical needs, or flooding) is contingent on coordination between the Municipality and the military.¹³⁷ Since military escorts are rarely provided, fire fighting and ambulance teams do not cross the Qalandiya checkpoint into Kufr Aqab-Semiramis. Residents of the area must rely on fire fighting services from the adjacent Palestinian city of Ramallah and transport residents requiring medical treatment via Qalandiya checkpoint, where they are met by ambulances from East or West Jerusalem (see infobox "The Accident"). Jihad, a resident of Kufr Aqab, recalls:

My grandfather felt unwell and we took him to the clinic in Kufr Aqab. At the clinic they told us to take him to hospital because he had had a stroke and they couldn't treat him. We didn't want to wait for an ambulance at the clinic, so we drove him to Qalandiya checkpoint. A Magen David Adom ambulance was waiting on the other side of the checkpoint. The ambulance took him to the hospital on Mt. Scopus. By the time he got there, his condition had deteriorated. He suffered a serious stroke, and now he is paralyzed and unable to speak. The doctors told us that if he had gotten to hospital quicker, his condition today would be reasonable.

In the absence of security escorts, representatives of Israeli public companies also refrain from entering the neighborhoods beyond the Barrier. In one instance, a technician from the Bezeq telecommunication company refused to repair communication lines at a maternity hospital in Kufr Aqab-Semiramis because no security escort was provided.¹³⁸

From a more general perspective, all those forced to use the checkpoints on a regular basis, and particularly at peak hours, spend between two and three hours at the crossing every day of their lives. This would be a frustrating experience in itself, without having to interact with official representatives at the checkpoint – an invariably tense encounter.

135 Oz Rosenberg, "Contrary to Supreme Court Decision: Tens of Thousands of Residents of Shuafat Will Cross Using a Single Checkpoint," *Haaretz*, 27 August 2012 (in Hebrew). See also the website of the Association for Civil Rights in Israel: "Ras Khamis Checkpoint in Jerusalem Sealed Off," 19 September 2012: <http://www.acri.org.il/en/2012/09/19/ras-khamis-checkpoint-sealed-off/>

136 Following the second discussion by the Public Complaints Committee (note 86), a meeting was held on 2 April 2014 with Colonel Ofer Hindi, head of the IDF's Keshet Tzva'im authority, concerning the Shuafat and Qalandiya checkpoints. The meeting was attended by representatives of all the relevant bodies, including the military, police, and DCO, as well as representatives of the residents, Ir Amim, and additional organizations. At the end of the meeting the relevant bodies promised to correct many of the defects in a timely fashion. To date, however, the central defect has not been resolved: the excessive pressure on the Qalandiya checkpoint. Indeed, the situation at the checkpoint has worsened since the events of the summer of 2014. A request was recently submitted for a follow-up meeting.

137 Ibid.

138 Nir Hasson, "Cut off from the World: Maternity Hospital in East Jerusalem Has No Telephone Lines or Internet," *Haaretz*, 8 December 2011 (in Hebrew).

F. TRANSFER OF SECURITY AUTHORITY IN A MUNICIPAL AREA TO THE MILITARY

In 2006, security responsibility in the Kufr Aqab-Semiramis area was transferred from the police to the military (the IDF's Binyamin Brigade). At first glance, this might seem to be a technical matter of purely local importance. In fact, it is impossible to exaggerate the practical and principled importance of the change: a gradual trend to transfer authority for an area subject to Israeli civil law to a military authority. From the standpoint of the Palestinian residents, the change signifies a critical step toward being uprooted from their city and transforming the areas in which they live into abandoned enclaves.

The change of authority converts civilians who enjoy civil status (albeit in an inferior form) into subjects of a military administration – a status that Israel applies to an occupied population. It is important to remember that this change is occurring within an area that, according to Israel, forms part of its sovereign territory and is part of the municipal area of Jerusalem, subject to the authority of the Jerusalem Municipality.

Toward the end of 2011, Jerusalem Mayor Nir Barkat proposed that the neighborhoods beyond the Barrier be transferred to the authority of the Civil Administration, which is a military body. His proposal met with little public criticism.¹³⁹ Some six months later, in July 2012, *Haaretz* reported that Yossi Hayman, the Director-General of the Jerusalem Municipality, had met with Major General Eitan Dangot, Coordinator of Government Activities in the West Bank, and Brigadier General Motti Almoz, head of the Civil Administration, and asked them to accept responsibility for sanitation and inspection of construction in the neighborhoods beyond the Barrier. It was reported that participants of the meeting “agreed to undertake joint work at headquarters level to be presented to the political echelon.”¹⁴⁰ Barkat’s proposal was, however, criticized by right-wing members of the Jerusalem City Council, who opposed his intention to abandon parts of Jerusalem. In response to this criticism, Barkat emphasized that the areas would remain within the municipal boundaries of Jerusalem, but that responsibility for the residents would be transferred to the Civil Administration – Barkat’s recipe for annexing the land without its people.¹⁴¹ In any case, this step was ultimately taken without any public or government discussion.

In practical terms, the Israeli authorities’ abdication of their responsibility for the residents of the neighborhoods trapped beyond the Barrier is an extreme manifestation of their protracted abandonment of the residents of East Jerusalem in general. This process sets a dangerous precedent. The fact that the transfer of authority was executed without any protest from official Israeli bodies heightens its importance as a test case. Those responsible for this change may, in the future, seek to replicate the model on a broader basis toward the complete disconnection of residents in the neighborhoods beyond the Barrier from Jerusalem.

139 “Who Is a Jerusalemite?” Yudith Oppenheimer, *NRG*, 1 January 2012 (in Hebrew).

140 Chaim Levinson and Nir Hasson, “Jerusalem Asks to Transfer Responsibility for the Neighborhoods beyond the Barrier to the IDF,” *Haaretz*, 24 July 2012 (in Hebrew).

141 “Barkat Will Divide Jerusalem!” *Basheva*, 5 January 2012 (in Hebrew).

A TRAGEDY – AND A GRAVE WARNING

On the morning of February 16, 2012, on the road between Adam checkpoint and Qalandiya, a truck collided with a bus carrying five and six year old children from a school in Anata driving to an outing in Ramallah. The bus overturned and burst into flames. Five children and a teacher burned to death; dozens were injured, some fatally. By the time emergency services arrived from Israel, the bus was completely charred.

This incident epitomizes all the problems Israeli policy has imposed on the neighborhoods beyond the Barrier. About half the children in the bus were residents of Jerusalem neighborhoods in the vicinity of Shuafat refugee camp. Due to the critical shortage of schools in the area, the children's parents were forced to send them to a private school in the adjacent village of Anata, located in the West Bank. In the Shuafat area, "private education" does not signify a prestigious option but rather refers to largely unmonitored establishments based in unsuitable buildings or private apartments. The schools are not subject to adequate educational inspection, nor are they required to meet binding safety standards inside the school or as they would apply to extracurricular activities.



Accident site

The bus was carrying more students than permitted by safety regulations. Road conditions in the area are extremely substandard. There are no emergency services in the neighborhoods beyond the Barrier – no fire fighters and no first aid services. While the children were trapped in an inferno not far from their homes, the residents were unable to ensure that even one single fire engine or ambulance was sent to the scene. Israeli emergency services ultimately arrived too late. The accident itself occurred within Area C, subject to full Israeli control and responsibility, both in terms of administration and security.

All the factors and circumstances that led to this disaster were well known in advance and had been discussed ad nauseam in every possible forum: The critical lack of schools and kindergartens; the appalling state of the roads; the absence of emergency and first aid services in the neighborhoods beyond the Barrier; problematic access; Israeli indifference. In a nutshell, the sum result is deliberate, protracted, and cumulative neglect.

The bus accident was a terrible tragedy in itself; it also serves as a grave warning about what is likely to happen in any future disaster, including an earthquake, a security-related incident, or the mass outbreak of disease in the neighborhoods beyond the Barrier. In any of these scenarios, it can be expected that these areas will be transformed into mass disaster zones. Each of the neighborhoods is accessible via one single road. For most of the day these roads are congested. Passage across the checkpoints into the neighborhoods requires security coordination with the Military, a complex and arduous process that frequently impedes emergency assistance from reaching residents of the neighborhoods. In some cases, a few minutes can make the difference between health and disability; in other cases, they represent a death sentence for children on their way to a school outing.

ADDITIONAL BARRIERS FACED BY WOMEN, TEENAGE GIRLS, AND CHILDREN IN THE NEIGHBORHOODS BEYOND THE BARRIER

This section is based on interviews with Palestinian activists in women's organizations and directors of women's rights centers in East Jerusalem. The interviews were undertaken over the course of 2014 by Leanne Gale, an Ir Amim intern. Material is also taken from a discussion between Ir Amim Executive Director Yudith Oppenheimer and Sujud Suleiman, director of the Ata Legal Aid Center in East Jerusalem.

Women, teenage girls, and children are particularly vulnerable to deteriorating living conditions in the neighborhoods beyond the Barrier.

The distance from sources of livelihood and education, and the need to cross a checkpoint in order to reach them, prevents many women and teenage girls from being able to move freely, acquire an education, or maximize their earning potential. The checkpoints limit women's ability to realize their social rights, including access to social and economic services, forcing them to compete for a limited number of jobs.

Women and teenage girls are generally more susceptible to the profound lack of health, welfare and educational services. The acute problem of women in labor having to access hospitals via checkpoints has been documented extensively. Though there is a delivery room in Kufr Aqab, it is not equipped to cope with high-risk births. Magen David Adom and fire units do not enter the neighborhoods beyond the Barrier.

The absence of health services in general – and women's health facilities in particular – and the lack of mother and child clinics and welfare services threaten women's and children's welfare and quality of life. The damage is especially severe among poor populations who are particularly dependent on these services. A child development center was finally opened in Kufr Aqab at the beginning of 2014, but only after sustained pressure from mothers of children with special needs.

The acute shortage of kindergartens and schools violates boys' and girls' right to education and imposes additional burdens on parents—particularly on mothers. Every day, more than 6,000 children are forced to cross the checkpoint on their way to school, exposing them to experiences that jeopardize healthy psychological development.

Families of children with special needs in particular suffer from the absence of health, child development, welfare, educational, and mental health services. Most

of the burden falls on the families themselves, chiefly on the mothers. There are no special education schools in the neighborhoods beyond the Barrier. Children with special needs are therefore required to cross a checkpoint to reach school, creating additional pressure on mothers, who bear the onus of accompanying their children to and from the checkpoint. Mothers must also cope with the dearth of after-school programs and with physical conditions that are dangerous to navigate, due to lack of enforcement of disability laws.

The absence of law enforcement mechanisms and limited access to support systems means that women and teenage girls in the neighborhoods beyond the Barrier are more vulnerable to violence on the street and in the home. The physical character of the street – the lack of infrastructures and safety or lighting standards, congested housing, physical neglect, and the lack of playgrounds – all pose health and safety hazards to which women and children are particularly susceptible.

Many families in the neighborhoods beyond the Barrier are those in which one of the partners is a resident of the Occupied Territories barred from entering Jerusalem. In these cases, the partner who is a Jerusalem resident bears the burden for those responsibilities requiring freedom of movement, contact with the authorities, and access to services and employment. In cases where the woman is a resident of the Occupied Territories, her dependence on her partner further restricts her limited personal autonomy and often, access to vital services. In cases of domestic violence, dependence on one's partner seriously limits a woman's ability to extract herself from a threatening situation. If a woman is a Jerusalem resident, she bears the full responsibility for caring for and financially supporting the family. Sujud Suleiman, director of the Ata Legal Aid Center in East Jerusalem, explains:

Over 80,000 Palestinian residents live in the neighborhoods beyond the Separation Barrier in East Jerusalem. All of them face a particularly miserable reality. Women suffer in unique ways, particularly women who are already vulnerable – young women, single mothers, the elderly, pregnant women, and those who are sick. We still have a long way to go in order to understand the full significance of this situation. To this end, there is a need for a comprehensive study manifesting these women's voices, experiences, thoughts, fears, and survival strategies.

CONCLUSION

Since 1967, Israel has acted to consolidate its claim to the entire city of Jerusalem as its exclusive capital and to undermine the parallel Palestinian national claim to Jerusalem. Israel has destabilized the status of Palestinian residents and their connection to their homeland, granting them the status of non-citizen residents. Against the background of the annexation of East Jerusalem, this population has become an ethnic community that lacks civil and political rights, living within a democratic society.

Residency status was intended to provide the Palestinian population with minimal rights and protections. However, Israeli policy has stripped this status of much of its substance. It has prevented Palestinians from registering their land and property; imposed harsh restrictions on planning and building; neglected physical and social infrastructures; suppressed economic and social development; and introduced severe limitations on freedom of expression and association.

In 1988, 21 years after the annexation of East Jerusalem, the Israeli High Court of Justice defined the status of residency as a temporary and conditional one that may expire as determined by the Israeli authorities. Thus, rather than regularizing the condition of the Palestinian residents of Jerusalem, residency status has become a tool for depriving Palestinians of their city.

In 2004-2005, the Separation Barrier was erected against the backdrop of an extreme security situation. However, the course chosen for the Barrier, which broadly follows the contours of "Greater Jerusalem," reflects an aspiration to unilaterally dictate the regional reality and to prevent any possibility of a political solution. As a result, the Barrier consumed additional areas of the West Bank and further disconnected East Jerusalem from the West Bank. It exacerbated the housing and economic crisis in East Jerusalem and intensified discrimination and segregation in Palestinian spaces. In the broader context, the Barrier perpetuates entrenched discrimination made worse by avoidance of a political solution; discrimination that is further intensified by denial of the binational reality in Jerusalem inevitably resulting from the absence of an agreed solution.

Within the city limits, the Barrier continues to serve as a tool for uprooting Palestinian residents in the city – those who originally lived in the neighborhoods cut off by the Barrier and those who have been driven by circumstances created by Israeli policies to migrate to these neighborhoods. Tens of thousands of residents – the lack of any precise calculation of their number being a further manifestation of the disregard with which the authorities treat them – continue to be uprooted from Jerusalem. The city is their homeland, and it is also part of a state to which they were annexed in 1967 and on which they are now dependent in order to ensure their survival in the city.

The situation in these neighborhoods presents a microcosm of Israeli policy in East Jerusalem as a whole: severe neglect of physical and social infrastructures; the abandonment of land to criminal seizure and to rapid and unplanned construction that fails to meet even minimal standards; and the almost complete absence of emergency and welfare services. The checkpoints in the Barrier violate residents' freedom of movement and squander valuable time for those forced to use them every day to travel to and from the rest of Jerusalem. Despite these problems, the neighborhoods have attracted Palestinian residents from inside the Barrier – those who are most vulnerable to Israeli policy in terms of their socioeconomic status and residency rights. These residents cling to life in the neighborhoods beyond the Barrier as the last option for remaining in their homeland.

The developments in the neighborhoods beyond the Barrier can be discussed in terms of services and humanitarian considerations. It is certainly important to acknowledge the dire challenges to proper education, roads and transportation, water and electricity infrastructures, health and sanitation; life-threatening construction; and the absence of emergency services. That being acknowledged, it is impossible not to recognize that these problems are the product of a consistent policy to erode the connection of Palestinians to the city where their families have lived for generations, and to undermine the political rights of the Palestinian collective in the city.

For this reason, the neighborhoods beyond the Barrier serve as an extreme example of Israel's policy toward the residents of East Jerusalem – a policy that takes the form of formidable political, legal, economic, social, and personal pressure, as illustrated in detail by this report. This reality forces tens of thousands of East Jerusalem's residents to migrate to the neighborhoods beyond the Barrier. The Israeli authorities' refusal to honor their obligations toward the residents of these neighborhoods is particularly troublesome given that many have been forced to move to these areas as the direct result of constraints created by official policy.

The transfer of security authority to the military in the Kufr Aqab-Semiramis area raises a particularly dark shadow, signifying probable intentions of various Israeli officials (see Chapter Three) who seek to disconnect from the neighborhoods, to renege on their responsibilities toward them, and to detach them from Jerusalem. Moreover, political figures inside Israel, including some proponents of a two state solution, advance the idea that Israel should relinquish the neighborhoods beyond the Barrier as a trade for locating a future Palestinian capital in the core of East Jerusalem. This approach misleads those who support a two state solution and panders to the illusion that the division of Jerusalem can be determined unilaterally, without addressing the Historic Basin – the heart of the conflict between the two sides. Such approaches do nothing to improve chances of an agreement, and in the meantime serve only to exacerbate the injury to Palestinian space and to the Palestinian residents of the city.

In the absence of any progress toward a political resolution, Israel is seized by demographic anxiety and intensifies actions to weaken Palestinian residents both as individuals and as a collective, and to reduce their number in the city. The neighborhoods beyond the Barrier represent the extreme manifestation of this policy. They grew rapidly due to the compounded

threat of disconnection from the city on one hand and the inability to withstand the massive pressures within the city on the other. However, this policy may prove to have a boomerang effect if the linkage of these neighborhoods to Jerusalem is undermined still further, or in the event of a humanitarian disaster – a near inevitability given conditions in the area. A massive return to the neighborhoods inside the Barrier, similar to the wave of return to the city limits following construction of the Barrier, is one possible reaction to a future crisis. In this event, pressure on the neglected and outmoded infrastructures in the city will only deepen. Even without a dramatic crisis in the neighborhoods beyond the Barrier, Israel will be unable in the long term to ignore the humanitarian, social, and political ramifications of the reality it has created.

For now, Israel has not initiated any legal or substantive change to the status of the area, since doing so could create complications in the domestic and international political arenas. Conversely, it continues to exploit opportunities created by the Barrier to limit and to weaken the Palestinian presence in the city. Without a political horizon, the binational reality in East Jerusalem is liable to become permanently entrenched. The city will not be able to endure such profound inequality indefinitely. The situation in East Jerusalem has no parallel anywhere in the world: an ethnic group is deprived of civil and political rights, and in part trapped within enclosed compounds – not in some remote colony, but within the declared capital of a state that claims to maintain a democratic regime. This reality threatens the founding values on which Israeli society is based, and no barrier can protect it from the ramifications of such a policy.

Improving the living conditions of Palestinian society in East Jerusalem as a whole; establishing and rehabilitating infrastructures and services inside and beyond the Barrier; the absolute protection of permanent residency status; and the construction of infrastructures and institutions for civil life in East Jerusalem are essential conditions for any future agreement. Such actions are also essential if the political process is not resumed, or if it fails to produce results. If Israel declines to act resolutely in this spirit, it will rapidly face a humanitarian disaster on its doorstep. It will also move toward the reality that Justice Levy described as “the preservation of the outer shell of democracy while leaving no remnant of its content.”¹⁴²

142 Quoted by Menachem Hoffnung, *State Security versus the Rule of Law* (1991), 105 (in Hebrew). The quote comes from para. 29 of Justice Levy’s minority opinion in HCJ 07/446, dated 11 January 2012.

MINISTRY OF JUSTICE'S RESPONSE*



STATE OF ISRAEL MINISTRY OF JUSTICE

Counseling and Legislation (International Law) Department

Date: 13 Sivan 5775

31 May 2015

Ref.: 1132

To:

Ms. Yudith Oppenheimer

Executive Director

Ir Amim Organization

Greetings,

Re.: **Response to a Draft Report of the Ir Amim Organization Entitled
“Displaced in Their Own City”**

Our office has received your request for our response to the above-mentioned draft report, and the following is the response from relevant officials:

METHODOLOGY

The report was based on inaccurate and unrepresentative data that appear to have been chosen in a biased manner, ignoring the extensive steps taken by the Jerusalem Municipality in the east of the city to narrow gaps in the fields of education, transportation, infrastructures, construction, welfare and the community, as well as additional steps taken by law enforcement agencies on the ground; this representation is liable to distort the reality.

CLAIMS REGARDING THE AUTHORITIES

Jerusalem Municipality

Jerusalem Municipality stated that the report fails to make any mention of the substantial investments enjoyed by all residents of the city, east and west alike, and also completely ignores the budgets and special investments for the east of the city.

The following sections detail the actions of the Jerusalem Municipality in diverse areas:

Five-Year Plan – This year the Municipality began to implement the governmental five-year plan on a total scale of NIS 200 million in a range of areas, including education, employment, community, and welfare.

Reform to Narrow Gaps – As part of this reform, a sum of half a billion shekels is being invested in the development and rehabilitation of transportation and infrastructures in the east of the city. Some NIS 400 million is being invested in education (as detailed below). In addition, tens of millions of shekels are being invested in the establishment of community buildings and mother and child clinics, sports auditoriums, and post office branches. The Municipality is also currently in the midst of proceedings for the replanning of the neighborhoods in the east of the city.

Transportation and Transportation Infrastructures – In addition to the Five-Year Plan, the Municipality, in cooperation with the Ministry of Transport, is investing half a billion shekels in paving roads and developing new transportation infrastructures in the east of the city, upgrading dozens of existing roads and implementing additional transportation projects.

Education – The Municipality is investing NIS 400 million in the field of education, including promoting special study programs, running pre-academic preparatory courses, introducing a long school day, and constructing classrooms.

In recent years, several new schools have been built in the east of the city including some 400 classrooms. For several months, a project has been introduced to extend the school day to 6:00 p.m. in 10 selected schools in the east of the city.

The Municipality is also promoting a real technological revolution in the east of the city. As part of this work, no fewer than 1,720 personal computers and laptops were distributed to schools, kindergartens, and teachers in the east of the city, as well as 350 additional computers for the students' homes. The classrooms in six schools in the east of the city will be transformed into advanced "smart classrooms" by means of seven interactive boards installed by the Municipality.

Since the 2012-13 school year, the Municipality has invested approximately one million shekels in a new program to teach the sciences in the east of the city. The goal of the program is to increase the percentage of students opting for the science track in the Tawjihi (the Palestinian matriculation program) in order to open up diverse possibilities for higher education and vocational training for students in the east of the city, thereby helping them to integrate in the job market in the future.

The Municipality is also investing some two million shekels in a program to prevent students dropping out from the education system.

Planning and Construction – The Jerusalem Municipality has begun to replan the neighborhoods of the east of the city in cooperation with the residents. Neighborhoods in which replanning has begun include: Beit Hanina and Shuafat, Issawiyya; the eastern Central Business District; Silwan – the middle neighborhood; Al Bustan – the King's Garden; Arab a-Sawahara; Sur Baher, Dir al-Amud and Dir al-Muntar. Millions of shekels have been invested in this process following the process begun in the neighborhoods themselves. The Municipality has also approved and made substantial efforts to promote the master plan for the Arab a-Sawahara neighborhood.

The Municipality has also established a new mechanism that makes it easier for Arab residents to prove ownership of land in the east of the city, operating a joint professional committee of the Municipality and the community administrations in the east of the city that facilitates proceedings for obtaining a building permit.

Social and Community Services – Over the next two or three years, two additional welfare offices are due to open. In addition, a multipurpose center will be established in the Sur Baher neighborhood providing various services for the residents of the southeast of the city, including in the field of welfare. Two new sports auditoriums have been established in the neighborhoods of Beit Safafa and Issawiyya.

The Municipality is also promoting the establishment of a community building in the Bir Ayoub al-Bustan neighborhood in Silwan. The building is planned to include kindergartens, a mother and child clinic, a culture and sports center, activity rooms, and a multipurpose auditorium.

Postal Services – The Municipality and the Postal Service are continuing to work to narrow the gaps in this area. New mail distribution points have been opened in Issawiyya, Jabal Mukaber, and Abu Tor. The Municipality has completed the process of naming hundreds of streets in the east of the city.

Increase in Resident Satisfaction – The broad-based municipal investment is reflected in an updated survey by the Central Bureau of Statistics for 2015, which establishes that Arab residents in Jerusalem are more satisfied than average for the Arab population in Israel. In addition, a survey by the Washington Institute for Near East Policy, in cooperation with the Palestinian Public Opinion Center and Princeton University, found a sharp rise of 19 percent in the level of residents' satisfaction with municipal services. Only 16 percent of respondents stated that they are dissatisfied with the Municipality's services (compared to 35 percent in November 2010). The survey also found an increase of 30 percent in satisfaction among residents of the east of the city with the provision of building permits in the area.

ISRAEL POLICE

Closure of Businesses and Events – The Israel Police prevents activities that are contrary to the Implementation of the Interim Agreement concerning the West Bank and Gaza Strip Law (Restriction of Activities), 5755-1994. The purpose of the orders signed by the internal security minister is not to harm cultural events or institutions, but to prevent the holding

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of events under the auspices of the Palestinian Authority contrary to the agreement and to the above-mentioned law.

Non-Enforcement of Criminal Law – Contrary to the claims in the report, the Israel Police undertakes enforcement operations in the Jerusalem neighborhoods situated to the east of the Security Fence. However, the character of these operations is defined by the unique characteristics of this area.

Inspections at the Checkpoints – The Israel Police conducts inspections in accordance with the law and with its undertakings to the Supreme Court sitting as a High Court of Justice. An attempt is made to reduce the waiting time at the crossings, in a manner that does not undermine security considerations.

Sincerely,
Assaf Radzyner, Adv.

CC: Attorney Hila Tene-Gilad, Ministry

* At the request of the Ministry of Justice, its response on behalf of the relevant authorities to this report appears here in its entirety (and in faithful translation). Ir Amim wishes to point out that while this report deals mainly with the neighborhoods beyond the Separation Barrier, the Jerusalem Municipality's response does not relate at all to what has or is being undertaken with regard to these specific neighborhoods, nor to any budgets, services and programs intended for them.



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