

# The Forgotten Palestinians

## *East Jerusalem and the Oslo Peace Process*

Hania Walid Assali

According to the Palestine Liberation Organization's 1988 Declaration of Independence, East Jerusalem (the Arab side of the city) is the capital of the envisioned Palestinian state. The Oslo Accords, signed between the PLO and the government of Israel in the early 1990s, defined Jerusalem as one of seven "permanent status" issues, to be negotiated at a future point as part of negotiations on a permanent status agreement. Such negotiations subsequently started and broke down at several points, including in 1996 and 1999–2001. This effort peaked with the Camp David Summit of 2000 and the Taba Talks of 2001, both of which used the framework of the Oslo process and ultimately ended in failure. In 2012, the PLO again announced its state, with its capital as East Jerusalem, this time at the United Nations, to which it was admitted as a nonmember state. Despite having been recognized by 138 countries, the Palestinian state, let alone its capital, has failed to materialize.

Rather, twenty-eight years after the Oslo Accords—and more than twenty years beyond the timeline stipulated in the original accords—the negotiations over the permanent-status issues have completely broken down, and the Oslo process has been declared dead.<sup>1</sup> This failure has taken a particularly high toll on East Jerusalem and its approximately 330,000 Palestinian residents.<sup>2</sup>

This chapter explores how the Oslo Accords failed to lay the groundwork for East Jerusalem to become the future capital of the State of Palestine. It exposes how Israel consolidated its control over the eastern side of Jerusalem, in support of its goal of keeping the entire city as its unified capital and Judaizing it, in violation of international law.

Since 1991 Israel has effectively severed East Jerusalem from the West Bank, for which it was formerly a central hub. Throughout the Oslo years, Israel took myriad unilateral measures against both land and people aimed at making any future division of the city impossible. Israel's actions and sweeping statements

clearly demonstrate not only that it does not intend to relinquish control over East Jerusalem, but also that it intends to transform it from an Arab urban space to a Jewish one. On the flip side, the Palestinian National Authority (PNA), established as part of the Oslo Accords, failed to counter Israel's unilateral measures. Palestinians in Jerusalem ended up feeling abandoned and left to fend for themselves with the scant political and social resources available to them.

Today, the demise of the peace process and the vanishing possibility for the two-state solution it envisioned requires us to examine anew how drastically the situation for Palestinians living in Jerusalem has changed in the decades since Oslo, and what can potentially be done about it. This need is all the more urgent in view of the United States's formal recognition in December 2017 of Jerusalem as the capital of Israel, US efforts to impose a regional "deal" to terminate the Israeli-Palestinian conflict, and the ongoing rapprochement between Israel, Saudi Arabia, and certain Gulf countries, notably the United Arab Emirates, which culminated with the signing of the Abraham Accords in August 2020. These accords normalize economic and diplomatic relationships between Israel and the United Arab Emirates and Bahrain.

To this end, this chapter is divided into four parts: first, it provides an overview of the status of the city and its Palestinian residents since 1967. Next, it focuses on the toll that the Oslo years have had on East Jerusalem as a *territory*. Third, it delves into the impact of these developments on the city's Palestinian *residents*. Finally, the chapter explores what may lie ahead for East Jerusalem and its Palestinian residents.

#### EAST JERUSALEM SINCE 1967: AN OVERVIEW

During the 1967 war, Israel occupied East Jerusalem, along with the rest of the West Bank, the Gaza Strip, the Golan Heights, and the Sinai Peninsula. After the war, Israel illegally annexed East Jerusalem, redrew its boundaries, and expanded them to include the maximum amount of territory, with the fewest number of Jerusalemite Palestinians, in order to ensure a Jewish majority in the city.<sup>3</sup> This expansion was formally approved by Israel's cabinet on July 26, 1967, and by the Knesset two days later. It brought the combined East and West Jerusalem area to a total of 108 square kilometers with a population ratio of 74.2 percent Jewish to 25.8 percent Palestinian Arab.<sup>4</sup> The newly expanded total area was comprised of 38 square kilometers of West Jerusalem, 6 square kilometers that had been the Jordanian-administered area of East Jerusalem, and 64 square kilometers of additional annexed land that belonged to twenty-eight adjacent Palestinian villages in the West Bank.<sup>5</sup>

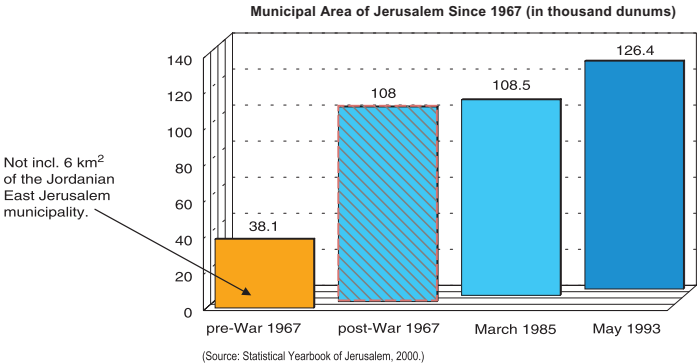
Israel immediately proceeded to apply Israeli law to the total expanded municipal area. It issued Law and Administration Ordinance (Amendment No. 11) 5727 of 1967, which included language from Section 11B of Law and Administration

Ordinance No. 5708 of 1948. Section 11B reads as follows: “The law, jurisdiction and administration of the State shall extend to any area of *Eretz Israel* designated by the Government by order.” By virtue of this provision, the Minister of the Interior ordered on June 28, 1967 the expansion of the municipal boundaries of the Jerusalem municipality and ensured the application of Israeli law within it.

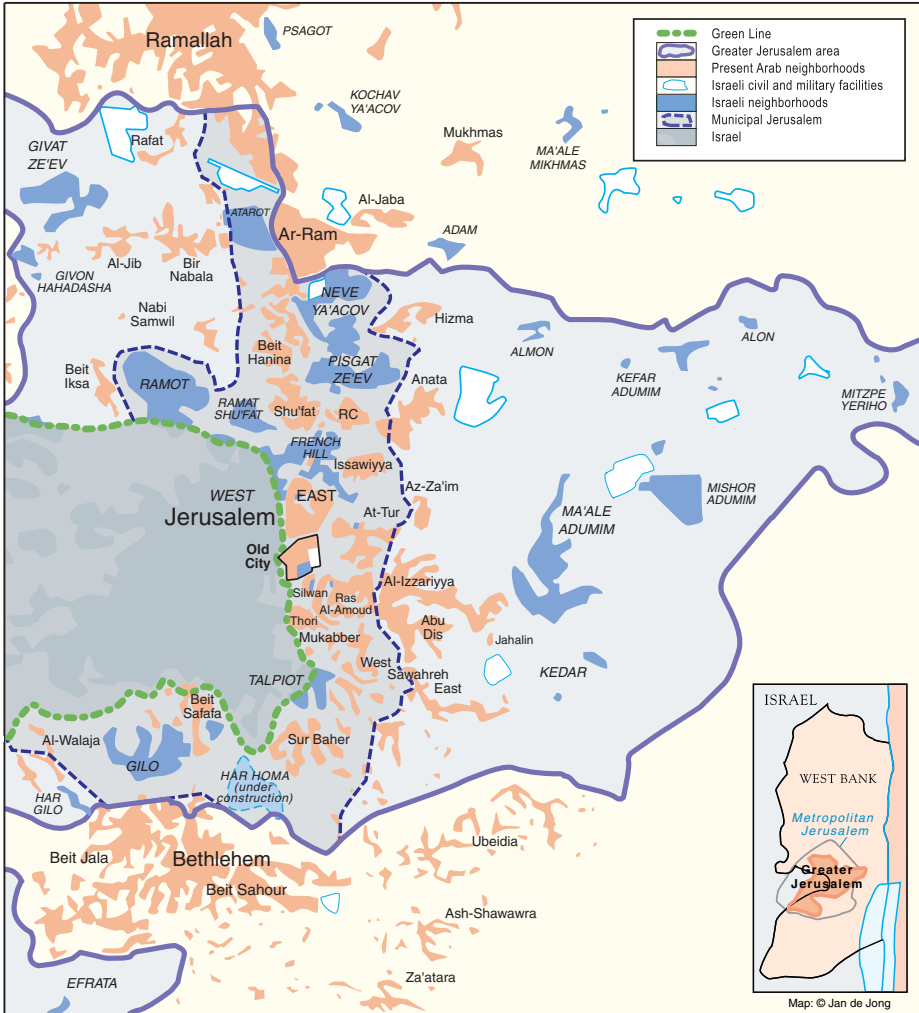
Israel did not, however, explicitly state in any of the above amendments that it was annexing East Jerusalem, nor did it affirm that it was applying its sovereignty over East Jerusalem. Israel simply started applying Israeli law to East Jerusalem. It went for a *de facto* rather than a declared annexation, hoping to stay under the radar and avoid international condemnation—and hoping that the *de facto* annexation would become a *fait accompli* somewhere down the line.<sup>6</sup> In 1980, Israel passed Law no. 5740, Jerusalem, Capital of Israel, which states that Jerusalem is the complete and united capital of Israel. UN Security Council Resolution 478 in 1980 affirmed that this law constitutes a violation of international law, declared its enactment null and void, and decided not to recognize it.<sup>7</sup> The annexation of East Jerusalem is illegal under international law in light of the inadmissibility of territory acquired through the use or threat of use of force, as codified into article 2(4) of the UN Charter and reiterated in UN General Assembly Resolution 2253 and UN Security Council Resolution 242. Accordingly, the international community has never recognized the annexation and has continuously declared it null and void. The only exception came from the Trump US administration, which broke with the international consensus and all diplomatic precedents and recognized Jerusalem as Israel’s capital in December 2017.

Israel, however, had little concern for the international illegality of its territorial annexation of East Jerusalem. Its major interest was rather in devising legal, urban, and demographic strategies that would enable it to incorporate the city without its Palestinian population. Israel considered the Palestinians of East Jerusalem a liability that needed to be contained if not dissolved. In June 1967, just after occupying East Jerusalem and annexing it, Israel conducted a census in the annexed area. It declared that Palestinians who happened to be absent at that time had lost the right to return to their homes. Only Palestinians who were present in their homes in East Jerusalem during the census were given the status of “permanent residents.” This status was given to them on the basis of the Entry into Israel Law enacted in 1952, even though East Jerusalemites had not “entered” “Israel”; rather, Israel “entered” the area where they lived by means of belligerent occupation.

It is important to try to understand why East Jerusalemites were granted permanent residency, in contrast to the Palestinians who remained in 1948 and on whom Israeli citizenship was imposed in 1952, and those present in the West Bank and the Gaza Strip (WBGS) after the 1967 war, who were given identification cards by the Israeli authorities. Elements of an answer are cited in a 2012 book by Ir Amim’s publication: “In June 1967, during discussions to determine the legal framework required to apply Israeli law to the area, officials considered



MAP 8. Municipal boundaries of Jerusalem, 1947–2000. Source: Palestinian Academic Society for the Study of International Affairs.



MAP 9. Greater and metropolitan Jerusalem, 2000. Source: Palestinian Academic Society for the Study of International Affairs.

the idea of imposing Israeli citizenship upon the residents of the annexed territory. The ministerial committee charged with drafting the unification procedures rejected the idea. Its members were convinced that the rules of international law forbade forcing the citizenship of one country on the citizens of another. An opposing proposal—to let the residents keep their Jordanian identity cards—was also ruled out. In the end, the Arabs of East Jerusalem became Israeli residents with Jordanian citizenship.<sup>98</sup> Meanwhile, Israel worked on maintaining a Jewish demographic majority in the city. In 1973, the Gafni Committee recommendation

on “development rates” for Jerusalem was adopted by the Israeli government, calling for the percentages of Jews and Arabs to be preserved at their levels of 1972, that is, at 73.5 percent Jews and 25.5 percent Palestinians.<sup>9</sup> Granting East Jerusalemites residency rather than citizenship was a means of controlling the Palestinian population growth in the city since residency, by definition, requires constant verification and is subject to revocation.

The 1952 Entry into Israel Law, though, does not explicitly provide for a permit for permanent residency to expire if the permit holder leaves Israel and settles abroad. Provisions to that effect exist in Amendment 2 of the Entry into Israel Law Regulations no. 5734 of 1974.<sup>10</sup> In 1985, that amendment was introduced into Section 11(c) and Section 11A. Section 11(c) states that the validity of a permanent residency expires if the permit holder leaves Israel and settles in another country. Section 11A states that a person shall be considered as having settled in another country if any one of the following applies: (1) s/he stayed outside Israel for a period of at least seven years; (2) s/he received temporary residency in that country; or (3) s/he received citizenship of that country by way of naturalization.

#### *Jerusalem in the Oslo Accords*

As noted, the first Oslo Accord (officially called the Declaration of Principles on Interim Self-Government Arrangements, or the Declaration of Principles [DOP], and known simply Oslo I) relegated negotiation over Jerusalem—as a permanent-status issue—to a later stage. Article V2 of Oslo I stipulates that “Permanent status negotiations will commence as soon as possible, but not later than the beginning of the third year of the interim period, between the Government of Israel and the Palestinian people representatives.”<sup>11</sup> Article V3 continues, “It is understood that these negotiations shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, border, relations and cooperation with their neighbors, and other issues of common interest.” While Article IV specifies that “the two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period,” it was not specified if that territorial unit includes East Jerusalem.

The 1995 second Oslo Accord excluded Jerusalem from the jurisdiction of the new Palestinian Authority. Chapter 3, Article XVII stipulated that “the jurisdiction of the Council will cover West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent-status negotiations.”<sup>12</sup>

The Oslo Accords also did not provide any protection to the territorial integrity of East Jerusalem or its Palestinian residents. As far as the latter, the Oslo Accords afforded them only the right to participate in the election process of the Palestinian Legislative Council (PLC).<sup>13</sup> However, this “right to representation” is in fact superfluous, because, as noted, the PNA and the PLO were given no jurisdiction over East Jerusalem. The lack of protection for either East Jerusalem as an

urban space or its Palestinian residents meant that Israel had a free hand to tighten its grip over East Jerusalem, especially as negotiations continued to drag on.

#### ISRAEL'S CONSOLIDATION OF TERRITORIAL CONTROL IN THE WAKE OF OSLO

Since the Oslo Accords were signed, Israel has taken several unilateral actions to sever East Jerusalem from its hinterland. These included severing Jerusalem from its natural hinterland, the West Bank, via restricting entry and constructing the Separation Wall as well as expanding Jewish settlements and targeting the heart of East Jerusalem—the Old City and its surrounding basin.<sup>14</sup>

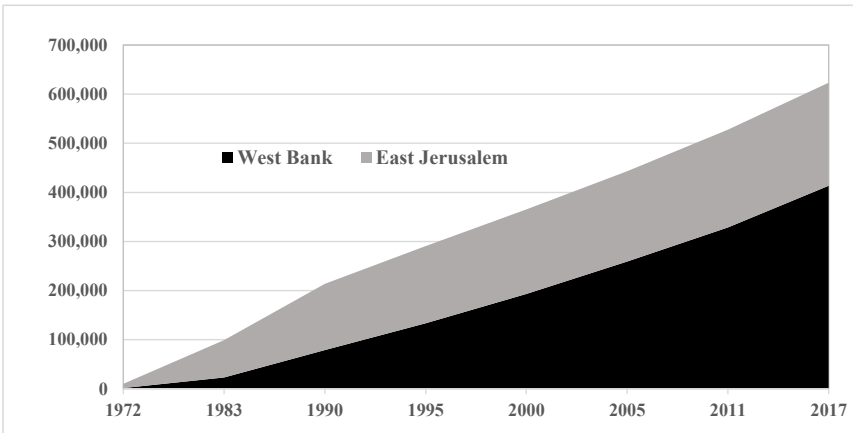
##### *Settlement Activity and Urban Planning*

As early as 1968 Israel started building settlements to create facts on the ground, focusing first on the Arab areas of what it had declared to be “municipal Jerusalem” in 1967, on land confiscated from the West Bank. Between 1968 and 1977, Israel built eight settlements hosting 33,300 settlers, compared with only 4,300 in the rest of the West Bank.<sup>15</sup> In 1982, a document prepared for Mayor Teddy Kollek’s international advisory council, the Jerusalem Committee, stated that the ring of settlements surrounding Jerusalem would provide a necessary buffer against any political or military pressure to make a compromise on Jerusalem. This document added that “the overriding, undisputed principle underlying Jerusalem’s planning is the realization of her unity. . . . [by] building up the city in such a way as to preclude the bi-polar emergence of two national communities and forestall any possibility of re-dividing it along such lines.”<sup>16</sup> By 1986, a total of 103,9000 settlers lived in eleven settlements in East Jerusalem, equaling the number of Palestinians living in what was defined as “municipal Jerusalem.”<sup>17</sup>

Israel’s settlement ideology sought the “Judaization” and “de-Arabization” of the city, as well as the isolation of Jerusalem from the West Bank and the fragmentation of the Palestinian neighborhoods within the city.<sup>18</sup> By 1993, just as the Oslo Accords were negotiated, a total of 137,400 settlers lived in settlements around Jerusalem and Israel had no intention to stop their development.

During the Oslo years, Israel built two new settlements (one of them Har Homa) around Jerusalem on confiscated West Bank land, and there was a surge of new hardcore religious settlements in the heart of Palestinian neighborhoods, in concentrated outposts in the so-called “visual basin of the Old City.” Moreover, in 1995, just as Israel was negotiating the Oslo II agreement and supposedly deferring any action on Jerusalem to permanent-status negotiations, the Rabin government officially adopted the Greater Jerusalem Master Plan.<sup>19</sup> This plan incorporated Jewish settlements in the West Bank that are not part of municipal Jerusalem. The plan’s strategic aim was to secure Israeli domination over the entire central portion of the West Bank and prevent the establishment of a viable Palestinian state. It was revived in 2000, at the Camp David Summit. According

Number of Israeli settlers in West Bank and East Jerusalem Settlements, 1972–2017



Source: ICBS, *Statistical Abstract of Israel*, various years and Btselem.

FIGURE 1. Number of Israeli settlers in West Bank and East Jerusalem settlements, 1972–2017. Source: Israeli Central Bureau of Statistics, *Statistical Abstract of Israel*, and B’Tselem, “Statistics on Settlements and Settler Population,” last updated January 16, 2019, at <https://www.btselem.org/settlements/statistics>.

to Jeff Halper, during Camp David, the then-Israeli Prime Minister Ehud Barak believed that “expanding Jerusalem outward to include the outer settlement ring would make the division of the city not only impossible but also advantageous to Israel: expanding Israel’s territorial control and boosting its demographic majority in order to neutralize the demographic and political costs of ‘conceding’ parts of East Jerusalem.”<sup>20</sup>

The Greater Jerusalem plan, which expanded the boundaries of Jerusalem to a diameter of one hundred miles was in essence an annexationist plan and remains so today. This plan was submitted in two bills to the Knesset in 2017.<sup>21</sup> The Rabin government also adopted the Metropolitan Jerusalem Plan, which extended the total area to 950 square kilometers, in the same year. Both plans’ strategic aim was to secure Israeli domination over the entire core of the West Bank and prevent the establishment of a viable Palestinian state.<sup>22</sup>

By 2018, East Jerusalem had fifteen Israeli settlements with 213,000 Israeli settlers living in an estimated sixty thousand housing units. About three thousand Israeli settlers live in the heart of Palestinian neighborhoods in outposts concentrated in the so “visual basin of the old city” area, which includes the Muslim and Christian quarters of the Old City, Silwan, Sheikh Jarrah, At-Tur (Mount of Olives), Wadi Al-Joz, Ras Al-’Amud, and Jabal Al-Mukabber. Settlement blocks surrounding municipal Jerusalem house over 100,000 Israeli settlers who are thus incorporated within “Greater Jerusalem.”<sup>23</sup>

Another important tool that Israel used to advance its goals in East Jerusalem is urban planning. Israel’s plans are aimed at creating “urban facts which would



make any future division of the city practically impossible.”<sup>24</sup> Israel discriminates against Palestinians through the master plans and town planning schemes that it formulates for the city of Jerusalem, and “East Jerusalemites are unable to receive permits to build or renovate their homes; and if they build without permits, Israeli authorities demolish their homes.”<sup>25</sup> Moreover, Israeli laws “limit the election of certain positions in Jerusalem solely to Israeli citizens; for example, ‘a person who is not an Israeli citizen’ cannot serve as a board member or executive member of the Jerusalem Development Authority. The Jerusalem Development Authority has broad powers concerning the planning and development of Jerusalem.”<sup>26</sup>

Indeed, Israel’s intentions regarding East Jerusalem, irrespective of which Israeli government is in power, have not changed since 1967. Less than three years after the signing of Oslo I, Israeli Prime Minister Benjamin Netanyahu began to use the words “undivided” and “eternal” in relation to Jerusalem. In his speech to a joint session of the US Congress in Washington, DC on July 10, 1996, the newly elected Netanyahu said, “There have been efforts to redivide this city by those who claim that peace can come through division—that it can be secured through multiple sovereignties, multiple laws and multiple police forces. This is a groundless and dangerous assumption, which impels me to declare today: There will never be such a re-division of Jerusalem. Never. We shall not allow a Berlin Wall to be erected inside Jerusalem. We will not drive out anyone, but neither shall we be driven out of any quarter, any neighborhood, any street of our eternal capital.”<sup>27</sup>

#### *Closure, Checkpoints, and the Separation Wall*

In January 1991, in the wake of the First Intifada and during the Gulf War, Israel revoked the general exit permit for residents of the Occupied Territories wishing to enter Jerusalem, marking the beginning of the permanent closure policy.<sup>28</sup> On March 30 1993, during Israeli Prime Minister Yitzhak Rabin’s term and following a series of stabbings, Israel imposed an overall closure on the Occupied Territories “until further notice.” To enforce the closure, Israel set up military checkpoints along the Green Line separating the West Bank from Jerusalem. Permits for Palestinians from the West Bank to enter Jerusalem for any reason were issued only sparingly.<sup>29</sup>

Israel also began curtailing the activities of Palestinian institutions in East Jerusalem. From 1967 to 1995, Jerusalem had been “the home for Palestinian newspaper publishers, the main printing presses and publishing houses, the best hospitals, the most important schools, the largest and most important commercial market, the center for trade union associations, and so on. It was the undisputed economic center and the center of the national movement and its official and unofficial leadership and institutions.”<sup>30</sup> In October 2000, as the Second Intifada erupted in the wake of Ariel Sharon’s deliberate provocation in the form of visiting the Al-Aqsa mosque surrounded by a phalanx of Israeli soldiers, then-Israeli Prime Minister Ehud Barak approved plans to establish more permanent checkpoints and barriers across the entire West Bank to stop Palestinians from

entering Israel.<sup>31</sup> In March 2001, Sharon's government ordered the closure of the Orient House, the historic building and institution that had served as the unofficial PLO headquarters in Jerusalem in the late 1980s and early 1990s and was a center for Palestinian national work, diplomatic relations, community support, and cultural and economic development projects in East Jerusalem.<sup>32</sup> The closure of the Orient House happened less than four months after the sudden death of the Palestinian East Jerusalemite leader Faisal Hussayni in a hotel in Kuwait. Under his leadership, the Orient House had become the Palestinian political center of East Jerusalem. Its closure marked the end of the leadership role that Jerusalem had enjoyed in Palestinian life up until 1995, when the late Yasser Arafat set up the PNA headquarters in Ramallah. Israel also closed other Palestinian organizations in the city, notably the chamber of commerce. Several of those Palestinian institutions that had not been closed by Israel were left with no choice but to relocate to Ramallah, especially after Israel closed the city to the West Bank and then started the construction of the Separation Wall in 2002.

In 2002, Israel started construction of the Separation Wall, designed to include as many Israeli settlements while excluding as many Palestinian neighborhoods as possible. The total length of the Separation Wall total is 712 kilometers, of which only 15 percent run along the Green Line. The length of the wall in Jerusalem reaches approximately 140 kilometers, of which only four kilometers runs along the Green Line. Its route severs entire Palestinian neighborhoods from the city, not only minimizing their development potential but also keeping large areas of open space areas as reserves for the future expansion of Jewish settlements. Today 140,000 Palestinian East Jerusalemites live in neighborhoods that lie beyond the wall and as a result do not receive any municipal services from the Jerusalem municipality. The Jerusalem municipality does not provide services to these neighborhoods because they are located on the other side of the Separation Wall, although legally their residents live in the municipality of Jerusalem. On the other hand, the Palestinian National Authority (PNA) does not provide services to these residents because it has no jurisdiction to do so. "These neighborhoods have remained a sort of 'no man's land' in which the warning of an impending humanitarian disaster is screaming from the walls. . . . Police responsibility for these neighborhoods resides with Israel, according to its own decision and made ironclad by the legal constraints [previously described]; as a result, on the day of reckoning, it is Israel that will be called upon to give a moral accounting both to itself and to the international community."<sup>33</sup>

On July 9, 2004, the International Court of Justice in the Hague published its advisory opinion on the Separation Wall. It held that both construction of the wall and the regime that Israel instituted to accompany it violate international law, and that Israel must tear it down and compensate the Palestinians who suffered losses as a result of its construction.<sup>34</sup> The checkpoints and illegal Separation Wall continue to infringe upon the fundamental rights of Palestinians to freedom of movement and to family unity.<sup>35</sup>

*Legal Entrenchments Aimed at Impeding Future Territorial  
Concessions in Jerusalem*

Over the last ten years, Israel has enacted legislation aiming at creating legal barriers to conceding any East Jerusalem territory, in case the government of Israel was to reach an agreement with other parties or decide to do so unilaterally.<sup>36</sup> Thus, in 2000, Israeli Basic Law: Jerusalem, Capital of Israel, 5740–1980 was amended by the insertion of Sections 5, 6, and 7.<sup>37</sup> Section 5 states for the first time that “the jurisdiction of Jerusalem includes, as pertaining to this Basic Law, among other things, all of the area that is described in the appendix of the proclamation expanding the borders of municipal Jerusalem beginning 20 Sivan, 5727 (June 28, 1967), as was given according to the Municipalities Ordinance.”

Section 6 specifies that “no authority that is stipulated in the law of the State of Israel or of the Jerusalem municipality may be transferred either permanently, or for an allotted period of time, to a foreign body, whether political, governmental, or any other similar type of foreign body.” As for Section 7, it was inserted to entrench the above two sections. It states that Sections 5 and 6 cannot be modified except by a basic law passed by a majority of Knesset [Parliament] members (MKs).

In 2014, further entrenchment took place with Basic Law: Referendum, no. 5774–2014.<sup>38</sup> This law stipulates that Israel’s sovereignty over part of its territory may not be waived unless the government has so decided, and its decision is ratified by a two-thirds majority of MKs as well as by a referendum. All these enactments are intended to render difficult, if not impossible, any future division of Jerusalem between Israel and the Palestinians.

In 2018, yet another entrenchment was undertaken by further amending Basic Law: Jerusalem, Capital of Israel, with the aim of impeding any future division of the city. The amendment stipulates that the government must obtain a super-majority of 80 of the 120 MKs in order to transfer to a foreign entity any “authority pertaining to the area of the Jerusalem Municipality.” However, it is possible to change this statutory requirement for a super-majority through a simple majority vote by only sixty-one MKs. This same stipulations would also make it possible to change the city’s municipal boundaries by a simple majority, rather than a super majority of MKs, as it did before. The Knesset thus paved the way for the realization of its goal to advance the Greater Jerusalem plan.<sup>39</sup> In 2017, two bill proposals were submitted in the Knesset with the aim of putting five settlement blocks under Jerusalem’s municipal jurisdiction and of disconnecting from the Jerusalem municipality the Palestinian neighborhoods of Kufr Aqab and Shua’fat, which lie beyond the Separation Wall, placing them under a different municipal Israeli authority.<sup>40</sup> As of this writing, these proposals have not yet been passed, but their success is likely given the immunity that Israel continues to have.

Thus with the advent of the Oslo peace process, Israel finalized the process by which East Jerusalem became a forbidden city for all Palestinians from the West Bank and the Gaza Strip. For them, going to East Jerusalem—surrounded by

Jewish settlements and the Separation Wall—has become an unreachable dream. That said, in the eyes of international law and the international community, East Jerusalem is still an occupied territory.

DEMOGRAPHIC ENGINEERING: ACCELERATING  
PALESTINIAN EXPULSION FROM EAST  
JERUSALEM POST-OSLO

Alongside these sweeping changes in land, planning, and access, Israel implemented a variety of harsh policies and administrative measures to discourage demographic growth among Jerusalem's Arab population. Since 1967, Israeli leaders have adopted two basic principles in their rule of the Palestinian residents in East Jerusalem.<sup>41</sup> The first was to hinder by any means the growth of the Arab population and to force Arab residents to make their homes elsewhere. The second was to rapidly increase the Jewish population in East Jerusalem. The building of settlements was a key element for increasing the number of Israelis in East Jerusalem, as noted. Israel also introduced and enhanced administrative measures to deprive Palestinians of their residence rights.

*The "Center of Life" Policy: The 1988 Mubarak Awad Case*

In regulating the permanent residency of Palestinians in East Jerusalem, one case in particular became notorious for the ways in which Israel devised legalistic measures to curtail the rights of Palestinian residents of East Jerusalem to live in their city: the Mubarak Awad case of 1988.<sup>42</sup> Mubarak Awad, an East Jerusalemite, was born and raised in Jerusalem. In the 1970s, he left for the United States to study and work. In the 1980s, he returned to live in Jerusalem but was ultimately deported by the Israeli authorities. In his case, the Supreme Court of Israel ruled that eligibility for the right of residence and loss thereof are decided in accordance with the Entry into Israel Law of 1952 and with the Entry into Israel Regulations of 1974, issued in accordance with the 1952 law. The Court rejected the argument that Palestinian Jerusalemites have a special status that provides them with "quasi-citizenship" or "constitutional residency" that cannot be revoked by the Minister of the Interior.<sup>43</sup> Justice Aharon Barak held that "permanent residency" might also "automatically expire," either because it had surpassed its period of validity or because the premise on which it rests—actual permanent residency in Israel—had expired.<sup>44</sup> He went beyond the provisions of the 1974 regulations and held that "a permit for permanent residency, when granted, is based on a reality of permanent residency. Once this reality no longer exists, the permit expires of itself."<sup>45</sup> He thus went beyond the written law as it existed in the 1974 regulations and formulated a new principle, the "center of life" principle. Barak further stated, "Awad's acquisition of American citizenship signified that his 'center of life' is no longer [Israel]," regardless of the fact that "in his heart of hearts he aspired to return to [Israel]."<sup>46</sup>

After the Oslo Accords, the “center of life” principle came to be one of the most harmful policies for Palestinian residents of East Jerusalem. In the Shiqaqi case of June 1995, Fathiya Shiqaqi lost her permanent residency rights despite the fact that none of the situations specified in Section 11A of the Entry into Israel Law of 1952 applied to her. She had remained outside Israel for less than seven years and had not received citizenship or permanent residency in any foreign country. At the time of her case, she had been living with her husband and her children in Syria for six years after her husband was deported from Israel. In her case, Justice Goldberg stated, “The appearance of a new reality, changing the reality of permanent residency in Israel, is clearly indicated by circumstances other than those mentioned in regulation 11A of the [Entry into Israel Law].”<sup>47</sup>

After the Shiqaqi case, Israel started to apply the “center of life” principle introduced in the 1988 Awad case aggressively and across the board. By end of 1996, 739 Palestinian East Jerusalemites had their residencies revoked. By end of 1997, the total annual number jumped to 1,067. In 2006, the number reached 1,363, and in 2008, it skyrocketed to 4,577.<sup>48</sup>

The “center of life” principle was not utilized by the Israeli Ministry of the Interior until after the Oslo Accords, when Jerusalem had been defined as a permanent-status issue. Up until 1995, a Palestinian resident of East Jerusalem could lose his or her residency status only by settling outside Israel for a period of seven years without renewing the exit permit or by receiving the status of resident or citizen in another country. The Israeli Ministry of Interior regularly renewed exit permits and registered changes to family status. Also, before 1995, Palestinian East Jerusalemites who moved elsewhere in the WBGS were not required to have permits to exit and enter Jerusalem, and some even continued to receive the allotments from the National Insurance Institute that they had received prior to leaving the city.<sup>49</sup>

After 1995, the interpretation of the term “outside Israel” was expanded to include residency in the WBGS, effectuated through a directive issued by the legal advisor of the Ministry of the Interior to the East Jerusalem office. This meant that all Palestinian East Jerusalemites who had lived for a period of time in a foreign country or in the WBGS were liable to lose their rights as Jerusalem residents. This policy remained unclear on how much time spent outside Israel in a foreign country could cost a person his or her residency, and it has been applied arbitrarily.<sup>50</sup> Even worse, the Israeli Interior Ministry did not publicize it at the time and then applied it retroactively.<sup>51</sup> Between 1995 and 2017, Israel revoked the status of 11,555 Palestinians from East Jerusalem as opposed to 3,078 revocations during the period from 1967 till 1994.<sup>52</sup>

This “center of life” policy came to be known as “silent transfer” or “quiet deportation,” intended to further reduce the Palestinian population in Jerusalem after the Oslo Accords. As a result of numerous legal challenges against this policy by various Arab and Israeli civil society organizations, though, the Sharansky Declaration was issued in 2000. Named after then-Minister of the Interior Natan

Sharansky, it provided for the reinstatement of residency status on a case-by-case basis under a rigorous set of criteria, including the period of absence of the residents, retention of connection with East Jerusalem during their absence, reasons for obtaining citizenship or residency in another country, and years of residency in East Jerusalem after return. However, this measure led to the reinstatement of the residency of only a few hundred East Jerusalem residents.

On March 14, 2017, the High Court of Justice issued the Al-Haq ruling, in which it recognized East Jerusalemites as “native-born residents.” Al-Haq was nine years old when his family moved from Jerusalem to the United States. Years later, as a married adult, he wanted to move back to his native city and was told that he didn’t have the right to do so. The Court ruled that Israel must consider the unique status of Palestinian East Jerusalemites as native-born when deciding whether to restore their residency status.<sup>53</sup> In this particular case, the High Court shifted away from the discriminatory legal precedents of the Awad and Shiqaqi cases. However, this ruling does not eliminate the possibility of revocation of residency of East Jerusalem residents according to the Awad precedent, as it adds weight in favor of restoring status only in cases of purportedly “expired” residency following a long stay abroad—excluding the WBGS—or the acquisition of foreign status. The most striking aspect of Israel’s residency regulations is how deeply discriminatory they are: Israeli citizens, including Jewish settlers in East Jerusalem, can live anywhere in the world for as long as they wish without losing their citizenship or any of the rights it entails.

#### *Special Complications Facing “Mixed” Families*

In families where a Palestinian East Jerusalemite marries a Palestinian from the West Bank or Gaza, issues of family unification and child registration further complicate the picture. Until early 1990, Palestinian residents of the WBGS could live with their Palestinian East Jerusalemite spouses and children without needing special permits. As noted, in 1991, Israel started to require personal entry permits issued by the military commander for residents of the WBGS who wished to enter Jerusalem (or Israel generally). Initially such permits were issued with almost no restriction and for relatively long periods. Gradually, however, the issuance of permits tightened. Today, only a few permits are issued and according to unknown criteria. Palestinians from the WBGS without permits who choose to live long-term in Jerusalem with their spouses and families are under the constant threat of deportation. As of March 1993, when Israel started imposing a sweeping closure on the WBGS, it became extremely difficult for couples in which one spouse has a Jerusalem ID and the other has a West Bank or Gaza Strip ID to live together. Many resorted to filing for family unification, although they had been married for years. In 1996, Israel instituted a graduated procedure that stipulated that permanent residency status was to be given five years and three months from the day the family unification application was approved (rather than

immediately upon approval, as was the case before 1996). In practice, the entire process lasts for much longer than stipulated, due to foot-dragging by the Ministry of the Interior.

In 2003, to the further detriment of Palestinian family life, the Israeli government issued the Citizenship and Entry into Israel Law (Temporary Order), 5763–2003, which has been renewed year after year since its enactment. Its main purpose is to prohibit Palestinians from the WBGS who are married to Palestinian East Jerusalem residents from applying for family unification and permanent residency (or naturalization in the case of those married to Palestinians holding Israeli citizenship). Palestinian East Jerusalem residents with mixed families were thus left with the following options: live separately in the unrealistic hope that their application would eventually be accepted; live “illegally” with their spouses in East Jerusalem and risk being penalized; or leave Jerusalem to live together and risk revocation of one spouse’s Jerusalem ID. An additional option would be to maintain two households, one within the city’s municipal boundaries and another in the West Bank or Gaza—an option that is open to only a few, given the cost of housing and the high levels of poverty in East Jerusalem.<sup>54</sup>

East Jerusalem residents with mixed families are also expected to navigate Israel’s draconian residency regulations, which have been deliberately designed to be a legal labyrinth that few can comprehend. According to the Israeli human rights organization, HaMoked: “The fate of each man, woman and child is decided according to an endless web of legal sections, subsections, procedures and precedents; examinations of the family unification application submission date and the applicant’s age at that time in relation to the enactment dates of the amendments to the Law, and so on. Within this tangle of legal complexities, the natural right of every person to family life is often trampled—a right which Israel is charged with upholding, under its own constitutional law and international law alike.”<sup>55</sup>

### *Quality of Life Overall*

By all measures, since the Oslo Accords, Palestinian East Jerusalemites have seen their daily lives become an increasingly constant struggle. They carry the heavy burden of having to continuously prove their connection to their city. They are required to submit endless documentation proving their residency every time they enter any government office.<sup>56</sup> And any visit to the Ministry of the Interior poses a significant risk, because the visit could easily trigger the Ministry’s heavy investigation procedure into whether Jerusalem is indeed their “center of life.” They do all that they can to avoid any such visits, but avoiding all arms of the government is nearly impossible in East Jerusalem, where all systems are interlinked and cross-checked against one another. As Jefferis elaborates:

For instance, claiming national health benefits requires that an individual present residency documentation at the National Insurance Institute, where they are then often referred to the Ministry of Interior to obtain proof of residence. And where

permanent military checkpoints might be avoided by traveling different routes, the Israeli army often installs temporary or 'flying' checkpoints in East Jerusalem neighborhoods, requiring all those who pass to present their identity documentation. Soldiers often tell [Palestinian] East Jerusalemites that they must go to the Ministry of Interior to replace a worn out identity card, even where the card is still valid. When permanent residency is revoked, the individual is forced to attempt to continue to live without permission in Jerusalem, which carries enormous penalties if apprehended, or, if he has no other connection to another state, to flee to Gaza or the West Bank.<sup>57</sup>

Israel also infringes upon the freedom of Palestinian East Jerusalemites through a stringent and stifling taxation enforcement system that is linked and continuously cross-checked with their residency status. While they are entitled to receive social welfare benefits, including medical coverage, as are all Israeli citizens, these benefits are not proportionate to what they pay in taxes and fees.<sup>58</sup>

### *Political Representation*

Palestinian East Jerusalemites have been effectively deprived of their political rights with the advent of the Oslo years, and especially the closure of the Orient House in 2001. Their freedom of expression and right to equality, including economic equality, depend on the goodwill of Israel, their occupier. The legislative body they are eligible to vote for (the Palestinian Legislative Council), is not allowed to promulgate laws or to act in East Jerusalem; the Knesset, Israel's legislative body, which legislates all aspects of their lives, is totally out of their reach as they are not allowed to participate in this body's elections.

Generally, most Palestinian East Jerusalemites remain in a political and legal limbo. They have Jordanian passports, which serve as travel documents, but they are not Jordanian citizens.<sup>59</sup> Likewise, they have Israeli identity cards, but they are not Israeli citizens; they are subject to Israeli law and are obliged to pay taxes to the Israeli authorities lest they lose their residency. They can obtain Israeli travel documents, but not Israeli passports. They self-identify as Palestinians, but they are not allowed to carry any formal papers officially identifying them as such. They are allowed to vote in PLC elections, but the PLC is not allowed to act in the place of their residence, that is, East Jerusalem. In sum, Palestinian East Jerusalemites have no real representation or effective mechanism for defending their political rights today. They effectively are stateless residents of an occupying state.

On the flip side, the PNA and the PLO have failed to sustain Palestinian Jerusalemites' presence and resilience in their city. This contention stands regardless of the limitations placed by the Oslo Accords on the PNA's presence and actions in East Jerusalem. The PNA's failure has meant that the Palestinian residents of East Jerusalem feel abandoned. They have been forced to fend for themselves through whatever institutions have survived, including a vast number of civil society NGOs that have emerged to try and fill the vacuum left by the PLO and PNA in East Jerusalem.<sup>60</sup>



## WHAT LIES AHEAD: REDEEMING JERUSALEM?

The Palestinian people, and those in East Jerusalem in particular, find themselves at a standstill, with the most viable option being to exercise resilience and focus on self-preservation until the balance of power shifts and the time is ripe for all parties to reach a comprehensive, fair, and just solution. The formal recognition by the United States in December 2017 of Jerusalem as the capital of Israel, the American so-called “deal of the century,” and the ongoing rapprochement between Israel, Saudi Arabia, and certain Gulf countries do not bode well for the Palestinian people, making the need for resilience and self-preservation all the more urgent. As bad as the past twenty-eight years have been, Palestinians in East Jerusalem have to prepare for worse to come. Recent developments—namely the Israeli municipal elections in Jerusalem in 2018 and the passage of the Israel nationality law in 2018—raise difficult questions that East Jerusalemites need to address; chiefly, how to protect their individual rights while still remaining part of a larger national Palestinian project, one that needs to be refined to ensure their effective, not rhetorical, participation.

*The Israeli Municipal Elections in Jerusalem*

In 2018, a few Palestinians in East Jerusalem began calling for participation in Jerusalem’s municipal elections, held at the end of October 2018. For the first time since 1967, two Palestinian Jerusalemites stepped forward as candidates, Aziz Abu Sarah and Ramadan Dabash. Aziz Abu Sarah was the first to present his candidacy for mayor but withdrew it in September. He was caught between two fires—Israel trying to take away his residency rights and his people’s anger at him for breaking ranks.<sup>61</sup> Palestinians have historically refused to participate in such elections in order not to bestow any legitimacy on Israel’s annexation of the city. The Palestinian leadership has always rejected participation in Israeli municipal elections and the council of Palestinian muftis issued a religious ruling barring Muslim residents of Jerusalem from either running for office or voting in municipal elections.<sup>62</sup> Palestinian Christian leaders also issued similar pronouncements in 2018.<sup>63</sup> As for Ramadan Dabash, an engineer and one of the few Palestinian East Jerusalemites to receive Israeli citizenship, he continued in his candidacy only to receive 3,001 votes, several hundred of them from Jews.<sup>64</sup> According to neighborhood-level election results provided by the Jerusalem municipality, under 1 percent of eligible East Jerusalemite voters cast ballots.<sup>65</sup>

Using Israeli political channels to protect Palestinian individual rights is in fact futile. According to Ir Amim, an Israeli nonprofit that advocates for a shared Jerusalem, Palestinians do not believe that their political participation in municipal elections will “significantly reduce their systematic deprivation in every area of life. Their position is understandable because policy for Jerusalem is not made at City Hall but by the Israeli government, through the Ministerial Committee on Jerusalem Affairs, development authorities that answer directly to the Prime Minister’s

office and the Interior Ministry. Without the ability to vote on the national level and without political representation, the ability of Jerusalem Palestinians to affect their daily lives is minimal.<sup>66</sup> One Eastern Jerusalemite woman said: “I don’t want to legitimize the Israeli occupation, and I am afraid of the Palestinian Authority. Our situation is terrible, but voting wouldn’t make it any better. We Jerusalemite Palestinians are no one and we are nowhere.”<sup>67</sup>

### *Applying for Israeli Citizenship*

In the past few years, some Palestinian East Jerusalemites have applied for Israeli citizenship: “they consider themselves to be Palestinians, but request citizenship to guard their residency status.”<sup>68</sup> Since 1967, applying for Israeli citizenship has been viewed by Palestinians as recognition of Israel’s illegal “annexation” of East Jerusalem. Even if this view is changing slightly, the numbers who actually become citizens are minimal. Between 2014 and September 2016, of 4,152 East Jerusalemites who applied for citizenship, only 84 were approved and 161 were rejected. The rest of the applications are “pending”—formally, still being processed.<sup>69</sup> Most importantly, and regardless of the number of applications, there should be no doubt as to the fact that Israel will always ensure that these applications are approved at the lowest possible rate, in order to ensure its demographic majority and Jewish character of the city.<sup>70</sup> The outcome of all applications is ultimately at the discretion of the Minister of the Interior, who can deny citizenship even where all requirements are met.

In all cases, and notwithstanding any change in the Israeli position, applying for Israeli citizenship remains an individual undertaking that will not advance the cause of East Jerusalem and its Palestinian residents as a community and will only end up diluting their Palestinian identity—unless this comes as part of an agreed-upon comprehensive and just solution that maintains the identity of both East Jerusalem and its Palestinian residents and does not isolate them from the rest of their fellow Palestinians. This could potentially be part of a one-state solution scenario.

### *Palestinian Resistance*

Palestinians in East Jerusalem have resisted Israel’s oppressive rule in various ways. Before Oslo, they maintained, against all odds, their own schools and curricula, their own newspapers, their own NGOs, and a local leadership. The Orient House (also known as the Arab Studies Society) established by Faisal Hussein in the early 1970s was the main forum for catalyzing Palestinian resistance and vocalizing Palestinian political demands in Jerusalem and the whole of the Occupied Territories. It was the national address for local notables and grassroots organizations working to challenge Israel’s encroachment upon their land. Hussein and other East Jerusalem notables were often the main spokespersons representing Palestinian demands as well as affirming the centrality of East Jerusalem as

capital of a future Palestinian state. They garnered funds from the European Union and the Gulf, as well as from local Palestinians. Husseini played a key role in the Madrid peace negotiations between 1991 and 1993. During and after the First Intifada, Husseini and other East Jerusalemites also worked with the Israeli peace camp to find a viable formula for sharing Jerusalem as a capital of two states.<sup>71</sup>

After the signing of the Oslo Accords and the relegation of the question of Jerusalem to the permanent-status negotiations, Faisal Husseini and the Orient House continued to act as the unofficial representatives of the PLO/PNA in the city. They led major campaigns opposing Israel's construction of the Har Homa settlement on Abu Ghuneim and generated funds to prevent both Israeli eviction of East Jerusalemites from their homes and Israeli encroachment on the Al-Aqsa mosque. The death of Husseini in 2001 and the closing of the Orient House signaled Israel's determination to destroy any Palestinian political and national claim to the city.

Indeed, since 2000, East Jerusalemites have had to fend for themselves, as the PNA had limited physical and financial access to them because of the conditions Israel imposed during negotiations. Although the PNA created a Ministry for Jerusalem Affairs and continued to have a representative for the city, its main energy was channeled into state-building in the West Bank and preserving its own existence in Ramallah. Palestinians and their NGOs in East Jerusalem found themselves devoid of any political forum in which to their individual struggles with the Palestinian national struggle. Often they found themselves reliant on their own NGOs, such as Al-Haq, the Jerusalem Legal Aid and Human Rights Center (JLAC), and the Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), and on Israeli peace activist organizations, such as HaMoked and the Israeli Committee against House Demolitions (ICAHD), to protest Israeli government home demolitions and confiscation orders.<sup>72</sup> The Palestinian NGOs and associations in East Jerusalem have found themselves increasingly pushed to address the growing humanitarian needs in the city. Their success remains a function of the aid they receive from international donors and their compliance with the donors' agendas.<sup>73</sup> Above all, their work continues to be challenged by Israel. Perhaps the clearest example of the limits of Palestinian steadfastness, and extent of Palestinian despair, in East Jerusalem was the wave of knife stabbings between 2016 and 2017, which led to the death of the assailants while petrifying Israeli soldiers and civilians. These attacks were neither nationally planned nor coordinated, reflecting a certain atomization of Palestinian resistance. They also remind everyone that Israel cannot ignore the Palestinians and their rights indefinitely as revealed by their demonstration against Israeli attempted evictions from their homes in Sheikh Jarrah in April-May 2021.

### *The Way Forward*

Palestinian East Jerusalem needs immediate, creative, proactive, and efficient action from the Palestinian leadership, the PNA, and the PLO. Major funding is required to sustain Palestinian presence in the city. The PNA has formulated

several plans defining its strategy in East Jerusalem, but these have not been properly implemented, especially as the insufficient funding allocated to them is often inefficiently channeled.<sup>74</sup> Meanwhile, on January 15, 2018 the PLO Central Council adopted a resolution, subsequently confirmed by the Palestinian National Council meeting held from April 30 to May 3, 2018 in Ramallah, calling for “the re-composition of the Palestinian Jerusalem Municipality in accordance with the best democratic and representative ways possible.”<sup>75</sup> On the PNA’s Council of Ministers website, for example, the Ministry of Jerusalem Affairs offers its services to help those affected “by the policies of the occupation, construction violations, total and partial demolition of the buildings, providing support for the engineering clinic, legal clinic, humanitarian assistance, and strengthening the steadfastness of the merchants in the Old City.”<sup>76</sup> These are all good “reactive” assistance measures, but what is actually needed are *proactive* measures solidifying the Palestinian presence on the ground and countering Israel’s policies targeting the land and the people of East Jerusalem.

#### *Proactive Protection of East Jerusalem Land and Property*

A task force aimed at preemptively protecting Arab property in East Jerusalem from being dispossessed through ambiguous transactions is urgently needed to protect against such aggressions within and outside of the Old City walls by both the Israeli government and right-wing Israeli-Jewish settler organizations such as Ateret Cohanim. A very recent publication of the NGO Peace Now, entitled “Annex and Dispossess: Use of the Absentees’ Property Law to Dispossess Palestinians of their Property in East Jerusalem,” reveals the collaborative efforts, dating from the early 1980s, between the Israeli government and settlers in dispossessing Arab property in East Jerusalem and the unbearable ease with which properties were deemed “absentees’ property.”<sup>77</sup>

Attacks and aggressions on Arab property in East Jerusalem have been made worse by right-wing organizations such as Ateret Cohanim, which was founded in 1978 with the primary goal of “seizing-acquiring” as much land and as many buildings as possible in order to settle as many Jews as possible in the Muslim and Christian Quarters of the Old City and beyond.<sup>78</sup> Such organizations are extremely well organized and funded. They are able to infiltrate Palestinian society searching for potential “deals.” For example, recently, the PNA arrested Issam Akel, a resident of East Jerusalem who holds US citizenship, on the suspicion that he sold his home in the Old City to a right-wing Jewish association. The PNA’s appointed Jerusalem District Governor, Adnan Ghaith, was apparently involved in Akel’s arrest and was subsequently himself arrested by the Israeli police.<sup>79</sup> The actions of such aggressive organizations need to be exposed, defended against, and, if possible, halted. A task force to work to this end will require major funding. The task force should be very active and highly involved in defending Arab property in addition to preemptively protecting Arab property in East Jerusalem by all possible legal means.

*Proactive Protection of Palestinian East Jerusalemites*

All possible efforts must be exerted to defend against the Israeli government's revocation of Palestinians' residency status, on both the individual and on collective levels. Palestinian East Jerusalemites need a support system for defending their individual cases in Israeli courts. On the collective level, several organizations (both Arab and Israeli) offer legal assistance and advocacy in general, among them the Jerusalem Legal Aid and Human Rights Center, the Alternative Information Center, the Civic Coalition for Palestinians Rights in Jerusalem, and the Israeli Coalition against House Demolition. Their work is excellent, but their capacities are limited. More resources and advocacy are needed so that individual cases become a collective cause. This collective cause could then be put in front of all possible international forums to influence international public opinion and raise awareness about the unjust treatment of Palestinian East Jerusalemites. Israel's treatment of Palestinians in East Jerusalem violates multiple internationally recognized human rights, including several rights codified in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.<sup>80</sup> And although the systematic reporting of any such violations to the relevant international bodies will not result in any enforcement, it will nonetheless greatly contribute to rallying support among these bodies and in the international public sphere in general.

East Jerusalem and its Palestinian residents are an integral part of the Palestinian cause in its just call for liberation and self-determination. They remain key to any peaceful resolution of the Israeli-Palestinian conflict. Jerusalem has been declared the capital of a Palestinian state, a declaration supported by international law. The failure of all peace negotiations conducted between Israel and the Palestinians since 2000 has been attributed largely to the Israeli unwillingness to share Jerusalem. The US decision to move its embassy to Jerusalem might have boosted Israeli claims in the court of public opinion, but it did not make them legal or internationally acceptable.

The current conglomeration of events does not bode well for Palestinians in general and for Palestinians in Jerusalem in particular. Israel's annexationist plans loom on the horizon, with the Greater Jerusalem bill still on hold in the Knesset. Israel has also been increasingly targeting Al-Aqsa mosque in particular and the Old City in general. All this needs to be countered effectively. The PNA and PLO as leaders of the Palestinian people have to stand firmly by East Jerusalem and its Palestinian residents, in concrete, proactive actions taken on the ground, not in rhetoric. They are in dire need of support from their leadership, the Arab world, and all freedom-loving peoples.

Israel's policies of closure, silent transfer, impoverishment, and deinstitutionalization continue to suffocate Palestinians in East Jerusalem and to render them increasingly dependent on the Israeli authorities. Nonetheless, they remain

resilient and steadfast as they have been since 1967. Their resilience continues to be repeatedly tested, for example recently in the summer of 2017 when Israel planted metal detectors at the entrances of the Al-Aqsa mosque and ended up removing them several days later.<sup>81</sup> In April 2021, Palestinian youth demonstrated again against Israeli right-wing groups, who were shouting “Death to the Arabs” in the Old City. Palestinians in East Jerusalem, especially the younger generation, have become more resilient and street smart and know how to navigate the Israeli system with the least harm possible while maintaining their identity. Clinging to their city against all odds, Palestinian East Jerusalemites are *morabitoun* (here to stay) and therein lies their strength.

## NOTES

1. Joseph Dana, “Twenty-Five Years on, the Oslo Accords Are Dead. They Only Served to Advance, Entrench and Protect Israel’s Occupation,” *The National*, September 6, 2018.
2. There has been no recent official count of the population of Palestinian residents of East Jerusalem, but 330,000 is the number used by the most recent publications, such as Michael Omer-Man, “Who Gets to Vote in Israel’s Version of Democracy,” *+972 Online Magazine*, January 3, 2019. See also Nazmi Al-Jubeih, “Jerusalem: Fifty Years of Occupation,” *The Jerusalem Quarterly* 72 (2017): 1–19, 16. The Israeli Central Bureau of Statistics in 2020 tallied 390,000 non-Jews in Jerusalem, most of them Arabs. For further details see [https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/sto2\\_15x.pdf](https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/sto2_15x.pdf).
3. Passia, *Jerusalem and Its Changing Boundaries* (Jerusalem: Passia Academic Society for the Study of International Affairs, 2018), 7.
4. Michael Dumper, *Jerusalem Unbound: Geography, History and the Future of the Holy City* (New York: Columbia University Press, 2014), 4.
5. The entire area added to what had formerly been Jordanian East Jerusalem, as described here, has since come to be called East Jerusalem.
6. Shmuel Berkowitz, “The Status of Jerusalem in International and Israeli Law,” Jerusalem Center for Public Affairs, n.d., <http://jcpa.org/the-status-of-jerusalem-in-international-and-israeli-law/>; Ian Lustick, “Has Israel Annexed East Jerusalem?” *Middle East Policy* 5, no. 1 (1997): 36.
7. In response, UN Security Council Resolution 478 in 1980 affirmed that the enactment of this law constitutes a violation of international law, declared the enactment null and void, and decided not to recognize it. United Nations Security Council, “Resolution 478,” S/RES/478, August 20, 1980, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/DDE590C6FF232007852560DF0065FDDB>.
8. Ir Amim, *Permanent Residency: A Temporary Status Set in Stone* (Jerusalem: Ir Amim, 2012), 33, <http://www.ir-amim.org.il/sites/default/files/permanent%20residency.pdf>; citing Uzi Benziman, *Jerusalem: A City without a Wall* (New York: Schocken Books, 1973).
9. HaMoked Center for the Defence of the Individual, “The Status of Palestinians in East Jerusalem: Timeline: 1967–2018,” HaMoked, 2018.
10. HaMoked Center for the Defence of the Individual, “Excerpt: Regulations 11–12 of the Entry into Israel Regulations, 5734–1974,” HaMoked, 2018, [http://www.hamoked.org/files/2018/3050\\_eng.pdf](http://www.hamoked.org/files/2018/3050_eng.pdf).
11. United Nations General Assembly Security Council, “Declaration of Principles on Interim Self-Government Arrangements.” A/48/486 S/26560, September 13, 1993, [https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS\\_930913\\_DeclarationPrinciplesnterimSelf-Government%28Oslo%20Accords%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesnterimSelf-Government%28Oslo%20Accords%29.pdf).

12. United Nations General Assembly Security Council, "Annex: Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip," A/51/889 S/1997/357, September 28, 1995, [https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS\\_950928\\_InterimAgreementWestBankGazaStrip%20OsloII%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaStrip%20OsloII%29.pdf).

13. The right to participate in the PNC election process appears in Annex I of Oslo I and Article II of Oslo II.

14. The area referred to as the "Visual Basin of the Old City" comprises the Muslim and Christian Quarters of the Old City and the following surrounding areas outside the Old City walls: Silwan, Sheikh Jarrah, At-Tur (Mount of Olives), Wadi Al-Joz, Ras Al-'Amud, and Jabal Al-Mukabber.

15. Leila Farsakh, *Palestinian Labour Migration to Israel: Labour, Land and Occupation* (London: Routledge Press, 2005), 61.

16. Wendy Pullan, "The Space of Contested Jerusalem," *The Jerusalem Quarterly* 39 (Autumn 2009): 39–50, 43.

17. Farsakh, *Palestinian Labour Migration to Israel*, 63.

18. Farsakh, *Palestinian Labour Migration to Israel*, 61–65.

19. Jeff Halper, "The Three Jerusalems: Planning and Colonial Control," *The Jerusalem Quarterly* 15, no. 3 (2002): 6–17.

20. Halper, "The Three Jerusalems," 11.

21. Al-Haq, "The Occupation and Annexation of Jerusalem through Israeli Bills and Laws," Al-Haq website, March 5, 2018, <http://www.alhaq.org/advocacy/6263.html>.

22. According to Halper, the "Metropolitan Jerusalem Plan"—which includes an area of 950 square kilometers with boundaries that stretch from Beit Shemesh in the west, up through Kiryat Sefer until and including Ramallah, then southeast through Ma'aleh Adumim almost to the Jordan River, then turning southwest to encompass Beit Sahour, Bethlehem, Efrat, and the Etzion Bloc, and then west again through Beitar Illit and Tsur Hadassah back to Beit Shemesh—was "designed as a regional infrastructure of control rather than a region to be annexed to Israel." See Halper, "The Three Jerusalems," 14.

23. International Peace and Cooperation Center, *Conflict in Jerusalem: Urbanism, Planning, and Resilience Palestinian Community Initiatives to Promote Urban Rights* (Jerusalem: IPCC, 2018).

24. Francesco Chiodelli, "The Jerusalem Master Plan: Planning into the Conflict," *The Jerusalem Quarterly* 51 (Autumn 2012): 5–20.

25. Eeta Prince-Gibson, "Why There's No Protest Vote in Jerusalem," *Foreign Policy*, November 19, 2018, <https://foreignpolicy.com/2018/11/19/why-theres-no-palestinian-protest-vote-in-jerusalem-israel-municipal-palestinian-authority-ramadan-dabash-aziz-abu-sarah/>.

26. Ir Amim, *Permanent Residency*, 7.

27. "PM Netanyahu: Speech to US Congress," Israeli Ministry of Foreign Affairs, July 10, 1996, <https://mfa.gov.il/mfa/mfa-archiv/1996/pages/pm%20netanyahu-%20speech%20to%20us%20congress-%20july%2010-%201996.aspx>.

28. B'Tselem, *Divide and Rule: Prohibition on Passage Between the Gaza Strip and the West Bank* (Jerusalem: B'Tselem, 1998), 5.

29. B'Tselem, *Divide and Rule*, 5.

30. Al-Jubeh, "Jerusalem: Fifty Years of Occupation."

31. On the closure policy, see International Peace and Cooperation Center, *Conflict in Jerusalem*.

32. The Orient House was ordered temporarily closed for six months on August 9, 2001, along with nine other Palestinian organizations, notably the Chamber of Commerce. The six-month closure has been repeatedly renewed up until the day of this writing. Al-Jubeh, "Jerusalem: Fifty Years of Occupation."

33. Ir Amim, *Permanent Residency*, 19.

34. United Nations, "ICJ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT," General List No. 131, July 9, 2004, <https://www.un.org/unispal/document/icj-advisory-opinion-on-the-legal-consequences-of-the-construction-of-a-wall-in-the-opt-icj-document>.

35. Israel currently maintains twelve full checkpoints and one partial one for those wishing to enter Jerusalem from the West Bank. For further details see Passia, *Jerusalem and Its Changing Boundaries*.
36. Berkowitz, "The Status of Jerusalem."
37. An unofficial translation of this law from Hebrew is available at <http://knesset.gov.il/laws/special/eng/BasicLawJerusalem.pdf>.
38. An unofficial translation of this law from Hebrew is available at <http://knesset.gov.il/laws/special/eng/BasicLawReferendum.pdf>. This law applies to the entire territory of the state of Israel within the boundaries of the "Green Line" (according to the demarcation lines as set out in the Armistice Agreements signed in 1949), as well as East Jerusalem and the Golan Heights. There would be no need to hold a referendum if there were a super-majority of eighty Knesset members.
39. Moien Odeh, "Israel's Greater Jerusalem Bill," *Jurist*, March 5, 2018, [www.jurist.org/commentary/2018/03/israels-greater-jerusalem-bill/](http://www.jurist.org/commentary/2018/03/israels-greater-jerusalem-bill/).
40. These include Ma'aleh Adumim, Gush Etzion, Efrat, Beitar Illit, and Givat Ze'ev, which together house about 150,000 settlers.
41. Halper, "The Three Jerusalems."
42. A nonbinding translation of the original Hebrew High Court of Justice ruling on the Mubarak Awad case can be found at [http://www.hamoked.org/files/2010/1430\\_eng.pdf](http://www.hamoked.org/files/2010/1430_eng.pdf).
43. Usama Halaby, "Stop Ethnic Cleansing in Jerusalem," *Article 74*, July 3, 1997, [http://www.badil.org/phocadownload/Badil\\_docs/Article\\_74/1997/art21e.htm](http://www.badil.org/phocadownload/Badil_docs/Article_74/1997/art21e.htm).
44. Danielle C. Jefferis, "The 'Center of Life' Policy: Institutionalizing Statelessness in East Jerusalem," *The Jerusalem Quarterly* 50, (Winter 2012): 94–103, 98.
45. Although Barak acknowledged that "it is often difficult to point to a specific point in time at which a person ceased from permanently residing in a country and that there is certainly a span of time in which a person's center of life seemingly hovers between his previous place of residency and his new place of residence," he nonetheless did not clear this ambiguity in his ruling. Jefferis, "The 'Center of Life' Policy," 98.
46. Jefferis, "The 'Center of Life' Policy," 98.
47. Jefferis, "The 'Center of Life' Policy," 98.
48. HaMoked Center for the Defence of the Individual, "Ministry of Interior Response to HaMoked's Freedom-of-Information Request: In 2017, Israel Revoked the Permanent Residency Status of 35 East Jerusalem Palestinians," HaMoked, April 10, 2018, <http://www.hamoked.org/Document.aspx?dID=Updates1975>.
49. B'Tselem and HaMoked, *The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians* (Jerusalem: B'Tselem and HaMoked, 1998), 9.
50. Jefferis, "The 'Center of Life' Policy," 1.
51. B'Tselem and HaMoked, *The Quiet Deportation Continues*.
52. HaMoked, "Ministry of Interior Response to HaMoked's Freedom-of-Information Request."
53. A summary of this ruling is available at <http://www.hamoked.org/Document.aspx?dID=Updates1850>.
54. Tamara Tawfiq Tamimi, "Revocation of Residency of Palestinians in Jerusalem: Prospects for Accountability," *The Jerusalem Quarterly* 72 (Winter 2017): 37–47.
55. HaMoked: Center for the Defence of the Individual, "The Status of Palestinians in East Jerusalem: Timeline: 1967–2018," HaMoked, 2018, <http://www.hamoked.org/Timeline.aspx?pageID=timeLineNews>.
56. Required documentation could include home ownership papers or rent contracts; electricity, water, and telephone bills; receipts for payment of municipal taxes; salary stubs; proof of receipt of medical care; and certificate of children's school registration. The Ministry demands these documents *each time* the individual submits any request. Even where documentation had already been submitted for one type of application, the Ministry still requires the family to provide the same documentation again for each subsequent request, even for a simple change of address.
57. Jefferis, "The 'Center of Life' Policy," 99.



58. Ir Amim, *Permanent Residency*, 44.
59. On July 31, 1988, Jordan renounced its claims to the West Bank (with the exception of guardianship over the Muslim and Christian holy sites in Jerusalem) and recognized the Palestine Liberation Organization as “the sole legitimate representative of the Palestinian people.” This decision is known as the “Jordanian disengagement.” After this date, Palestinians holding Jordanian passports were no longer Jordanian nationals.
60. Safa Dhaher, *The Impact of the Current Situation on the Human Rights of the Vulnerable Palestinian Groups in East Jerusalem* (Ramallah: Heinrich-Böll-Stiftung, 2017).
61. Nir Hasson, “Palestinian Resident of East Jerusalem Withdraws from Jerusalem Mayoral Race,” *Haaretz*, September 25, 2018.
62. Jack Khoury, “Palestinian Muftis Bar Participation in Jerusalem Elections,” *Haaretz*, July 31, 2018.
63. Prince-Gibson, “Why There’s No Protest Vote in Jerusalem.”
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65. Prince-Gibson, “Why There’s No Protest Vote in Jerusalem.”
66. Ir Amim, *Permanent Residency*, 7.
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68. Dov Lieber, “Israel Almost Entirely Halts Citizenship Approvals for East Jerusalemites,” *The Times of Israel*, September 26, 2016.
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70. Nir Hasson, “The Plan to ‘Israelize’ Jerusalem has 300,000 Problems,” *Haaretz*, May 13, 2018.
71. Hillal Cohen, “Palestinian Armed Struggle, Israel’s Peace Camp, and the Unique Case of Fatah-Jerusalem” *Israel Studies* 18, no. 1 (2013): 101–23; Dumper, *Jerusalem Unbound*.
72. Cohen, “Palestinian Armed Struggle,” 114–16.
73. ICAHD stands for Israeli Committee against House Demolition; Dhaher, *Impact of the Current Situation*.
74. Al-Jubeh, “Fifty Years of Occupation,” 20.
75. The Palestinian Jerusalem municipality referred to here is the one that was in place before the 1967 war. Walid Salem, “The East Jerusalem Municipality: Palestinian Policy Options and Proposed Alternatives,” *The Jerusalem Quarterly* 74 (Summer 2018): 120–36.
76. Salem, “The East Jerusalem Municipality.”
77. See Peace Now, “Annex and Dispossess: Use of the Absentees’ Property Law to Dispossess Palestinians of their Property in East Jerusalem,” July 2020, [http://peacenow.org.il/wp-content/uploads/2020/07/Abestnetee\\_Property\\_East\\_Jerusalem\\_ENG.pdf](http://peacenow.org.il/wp-content/uploads/2020/07/Abestnetee_Property_East_Jerusalem_ENG.pdf).
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79. Nir Hasson, “Israeli Security Forces Raid PA Offices in West Bank Over Sale of Jerusalem Home to Jews,” *Haaretz*, November 4, 2018.
80. See Tamimi, “Revocation of Residency of Palestinians;” Jefferis, “The ‘Center of Life’ Policy.”
81. Jesse Rosenfeld, “With al-Aqsa Protests, a Popular Mass Movement Is Again Taking the Lead in Palestinian Resistance,” *Intercept*, August 3, 2017.

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