

Written statement submitted by Badil Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization in special consultative status.

**Jerusalem's Protracted Demographic Transformation:
A Policy of Population Transfer and a Regime of Apartheid and Colonialism**

Jerusalem's transformation has been a protracted shift underpinned by a web of laws, policies, and decrees. It is a narrative of forced displacement and dispossession by using a policy of population transfer under a regime of apartheid and colonialism.

Israel's discriminatory land laws constitute a pillar of its colonial Apartheid regime and are a core component of the policy of population transfer. All Israeli land laws legislated since the Absentees' Property Law of 1950 have served to expropriate individually and communally owned Palestinian land, transfer title to the "Jewish state" of Israel or agencies affiliated with the World Zionist Organization/Jewish Agency, and to establish a land regime which reserves the right to the land for "Jewish nationals" as defined by the Law of Return.ⁱ Indigenous Palestinian citizens and refugees have thereby been deprived of title, access and use of their land, and even of compensation. Today, ninety-three percent of the land in Israel is owned either by the state or by quasi-governmental Zionist agencies (such as the Jewish National Fund) and administered by the Israel Land Authority (ILA).

The city of Jerusalem has been shaped by Israel's policy of population transfer since 1948, both in terms of priority area for Jewish settlement, and in terms of forced transfer of the Palestinian population. Several interlocking components together comprise a matrix of control that leads to the Judaization of Jerusalem on the one hand and the ethnic cleansing of its indigenous Palestinian population, on the other. In this submission, Badil examines those policies aimed at the forced removal and transfer of Palestinians. These policies include the vulnerable status of Palestinian Jerusalemites; confiscation of land; discriminatory urban planning policies; and institutionalized home demolitions.

a. Residents, not Citizens, and Always Vulnerable

From the beginning of Israel's establishment the Zionist movement, Israel sought to incorporate the maximum amount of Palestinian land with the least number of Palestinians and bestowed upon them the legal status of foreigners rather than citizens with the aim of undermining their ability to remain in the area.ⁱⁱ

Although Israel annexed the area of 1967 occupied Jerusalem to its state territory in contravention of international law, the city's Palestinians were not afforded automatic Israeli citizenship. Instead, only those Palestinians and their descendants who were registered in the 1967 Israeli census were given permanent residency status in Jerusalem. "The Ministry claimed that permanent residency, unlike citizenship, is a matter of the circumstances in which the individual lives, and when these circumstances change, the permit granting permanent residency expires. Thus, every Palestinian who lived outside the city for a number of years lost their right to live in the city, and the Ministry ordered them to leave their homes."ⁱⁱⁱ

Since then, Palestinians must demonstrate that Jerusalem is their "center of life" regardless of whether they live in adjacent areas in the West Bank or abroad, and even if they do not hold foreign passports or permanent residency elsewhere.^{iv} In 2008 alone, Israel revoked the residency permits of 4,577 Palestinian Jerusalemites.^v Israel revoked 721 permits in 2009 and between January and June 6, 2010, the state revoked 108 residency permits.^{vi} This policy, which amounts to "quiet deportation," has significantly altered the demographic composition of Jerusalem and is indicative of an ongoing forced population transfer policy.

b. Confiscation of Palestinian Land

Israel employs several laws and mechanisms in order to confiscate Palestinian public and private land. The mechanisms, used in Jerusalem specifically, include:

- **State Land registered with the Jordanian government** - 687 sq km confiscated in 1967 and soon after. This includes approximately 25-30 sq km of land owned by Jews before 1948 (administered by the Jordanian Custodian of Enemy property), mainly in Gush Etzion and the Jerusalem metropolitan area
- **Expropriation for public purpose** – mainly applied in occupied and annexed Jerusalem (based on the British Ordinance of 1943) where 24.5 sq km (i.e., one third of the total annexed area) have been confiscated. Another 30 sq km of Palestinian land for the settlement of Ma'aleh Adumim (1975), as well as for settler/by-pass roads.
- **Private (“free market”) acquisition** – mainly by the Jewish National Fund/Himanuta and private entrepreneurs, estimated at 100 sq km by 1983.

Other mechanisms include survey land, the abrogation of due process through the Military Appeals Committee, declaration of state land, absentee property, and annexation of privately-owned Palestinian land.^{vii}

In early February 2011, the Jerusalem Planning and Building Committee approved development plans for two new settlements in the Qubaniyat Im Haroun area of Sheikh Jarrah in East Jerusalem. This development will lead to the dispossession of 60 Palestinians who will lose their homes and place another 500 at risk of forced eviction and population transfer.^{viii}

c. Discriminatory Zoning and Planning Policies

The explicit aim of planning in Jerusalem, and East Jerusalem in particular, is to maintain a demographic balance wherein Jewish nationals constitute an absolute majority. In its most recent municipal plan, “Jerusalem 2000,” Israeli authorities expressed a desire to maintain a balance of 70 percent Jews to 30 percent Arabs in the city. Moreover, because trends project a balance of 60:40 by the year 2020, the plan proposed a number of measures aimed at maintaining a ‘Jewish majority in the city while attending to the needs of the Arab minority.’^{ix} These policies take on two dimensions: the privileged treatment of Jewish nationals and citizens and/or the discriminatory treatment of Jerusalem’s Palestinian residents.

Despite their best efforts to secure building permits, the Jerusalem municipal government rejects Palestinian applications almost as a matter of policy. Consider that while Israel provides the services of urban planners to its residents free of charge, several Palestinian neighborhoods have hired and paid for planners to develop plans intended for review by municipal authorities. According to Human Rights Watch, municipal authorities have never approved such plans.^x

Plans to build a so-called Museum of Tolerance atop a Muslim cemetery illustrate Israel’s discriminatory planning policies. Notwithstanding Human Rights Council Resolution A/HRC/13/L.29 (24 March 2010) condemning, and ordering the cessation of, the desecration at the Mamilla Muslim cemetery as well as other actions against holy sites in and around Jerusalem, Israel continues its systematic desecration of the Muslim cemetery without abatement. In January 2011, the Israeli Supreme Court gave the Jerusalem Municipality permission to demolish an additional 200 recently renovated grave markers.

In preparation for greater settlement expansion in East Jerusalem, Israeli authorities demolished part of the Shepard Hotel in the Sheikh Jarrah neighborhood in East Jerusalem. Israel expropriated the hotel, built in the 1930s, under the Absentee Property Law and transferred it to a settler organization in 1985.^{xi}

In the Karm Al Ja'ouni quarter, Palestinian families have been steadily evicted to make room for settlement expansion. Thus far, 60 Palestinians have been evicted, eight eviction proceedings have been initiated, and settlers plan on demolishing 28 Palestinian homes to make way for new settlement expansion.^{xii}

d. Home Demolitions by Design

Together, its discriminatory planning and zoning policies combined with the precarious status of Palestinian Jerusalemites and the systematic confiscation of Palestinian public and private land has institutionalized the practice of Palestinian home demolitions. Where Israel has not zoned for construction in Jerusalem, building permits are impossible to obtain thus leading to the wholesale destruction of commercial and personal property as well as the displacement of thousands of Palestinians. From 2000 to 2008, Israeli authorities demolished 670 Palestinian homes in East Jerusalem on the basis that they were ‘illegal,’ forcibly displacing thousands.^{xiii} Since the beginning of 2011, Israeli authorities have demolished 28 Palestinian-owned structures.^{xiv}

The natural population growth among Palestinians in Jerusalem necessitates the construction of 1,500 new housing units a year. However, in 2008 the municipal authorities only issued 125 building licenses for 400 housing units.^{xv} The State deliberately limits the land eligible for zoning for Palestinians by declaring areas as a “green area,” where construction is prohibited (22%); by withholding the prerequisite Planning Scheme (35%); by designating certain tracts of land for settlement construction (30%); thereby reducing the total land eligible for zoning to 13 percent (9.18 square kilometers/71 square kilometers).^{xvi}

Conclusion

Badil urges the member States of the Human Rights Council to:

1. Find that Israel’s policies in Jerusalem constitute ones of population transfer and a regime of apartheid and colonialism;
2. Condemn Israel’s policies for abrogating the prohibition of population transfer pursuant to the Fourth Geneva Convention;
3. Condemn Israel’s apartheid regime for its prohibition of the General Assembly 3068 (1973), the International Convention on the Suppression and Punishment of the Crime of Apartheid;
4. To call upon Israel to desist its desecration activities of the Mamilla Muslim Cemetery as well other actions against holy sites in and around East Jerusalem; and
5. To call upon Israel to cease its policy of revoking the residency rights of those Palestinians inhabitants of East Jerusalem.

ⁱ The Absentees’ Property Law, 5710-1950.

ⁱⁱ Badil *supra* note v. *See also Laws of the State of Israel*, vol. 21, 5727-1966/67: pp. 75-76.

ⁱⁱⁱ *Id.*

^{iv} HRW *supra* note xi at 48.

^v *Id.*

^{vi} http://www.jcser.org/index.php?option=com_content&view=article&id=575:revocation-of-palestinian-residency-rights-in-jerusalem-until-june-2-2010-&catid=12:fact-sheets-&Itemid=6

^{vii} B’tselem, “By Hook and by Crook: Israeli Settlement Policy in the West Bank,” (July 2010)

^{viii} http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2011_02_11_english.pdf

^{ix} HRW *supra* note 34.

^x *Id.*

^{xi} http://www.ochaopt.org/documents/ocha_opt_the_monthly_humanitarian_monitor_2011_02_11_english.pdf

^{xii} *Id.*

^{xiii} HRW *supra* note xi at 49.

^{xiv} http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_2011_02_04_english.pdf

^{xv} HRW *supra* note xi at 132.

^{xvi} *Id.*