



JOINT STATEMENT ON JERUSALEM

Legalising the Illegal: The Status of Jerusalem and Unlawful Forcible Transfer¹

Since 1948, Israel's colonisation, displacement, dispossession, and demographic alteration in Jerusalem have violated international law governing the status of Jerusalem. Following the unilateral recognition of Jerusalem as Israel's capital by the United States of America, Israel has continued to further its unlawful settlement enterprise in the Occupied Palestinian Territory (OPT). In January 2018, Israel's Parliament adopted a second amendment to the Basic Law on Jerusalem. The original adoption of the Basic Law in 1980, providing for the *de jure* annexation of occupied East Jerusalem, was internationally condemned by the United Nations (UN) Security Council.² Since then, the Knesset has advanced a number of bills aimed at further altering Jerusalem's borders, annexing settlements, and revoking Palestinians' residencies.

1. STATUS OF JERUSALEM

Since 1967, Israel has pursued its demographic vision of a 'Greater Jerusalem' aimed at expanding the city's municipal borders to annex illegal settlements, while ensuring an overwhelming Israeli-Jewish majority in the city.³ Currently, approximately 65 percent of settlers reside in what Israel calls the 'Greater Jerusalem' area,⁴ while in East Jerusalem settlers constitute some 43 percent of the population.⁵ Meanwhile, Israel's discriminatory planning and zoning regime

¹ N.B.: A version of this statement was submitted to the 37th Session of the United Nations (UN) Human Rights Council by Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, and the Cairo Institute for Human Rights Studies (CIHRS) on 7 February 2018. Community Action Centre (Al-Quds University) and The Society of St. Yves – Catholic Center for Human Rights, non-governmental organisations without consultative status, also shared the views expressed in the statement submitted to the Human Rights Council. See UN Human Rights Council, Joint written statement submitted by Al-Haq, Law in the Service of Man, the BADIL Resource Center for Palestinian Residency and Refugee Rights and the Cairo Institute for Human Rights Studies, non-governmental organizations in special consultative status, UN Doc A/HRC/37/NGO/115, 13 February 2018.

² UN Security Council, Resolution 478 (1980), UN Doc S/RES/478 (1980), 20 August 1980.

³ In 2009, Israel set its demographic target in Jerusalem for the year 2020 for 60 percent Israeli-Jews to 40 percent Palestinians in the city.

⁴ In 2016, Israel's Central Bureau of Statistics recorded 175,900 settlers living in "Israeli localities in Judea and Samaria" in the "metropolitan area" of Jerusalem. See Central Bureau of Statistics, 'Localities, Population and Density', 2016, http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_25&CYear=2017. For data on Israeli settlers in the OPT as of 2015, see: B'Tselem, 'Statistics on Settlements and Settler Population', updated 11 May 2017, <https://www.btselem.org/settlements/statistics>.

⁵ According to the Palestinian Central Bureau of Statistics, 264,937 Palestinians lived in East Jerusalem in 2016.

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has caused an acute housing shortage for Palestinians in East Jerusalem. Israel’s Jerusalem Municipality only grants 7 percent of building permit requests to Palestinian residents, despite them making up some 40 percent of Jerusalem’s total population. Forced to build without a permit, around 100,000 Palestinians are at risk of ‘administrative’ demolitions in East Jerusalem.⁶ Israel further appropriated 35 percent of the land for settlement construction in East Jerusalem, while Palestinians are only allowed to build on 13 percent.

Since 2017, Israel has implemented unilateral measures to redraw the municipal borders of Jerusalem, adopting legislation to remove Palestinian neighbourhoods behind the Annexation Wall from the city, while annexing settlements in the Jerusalem periphery. On 2 January 2018, the Knesset adopted Amendment No. 2 to the Basic Law on Jerusalem, which requires an 80-member majority vote in order to transfer “authority related to the area of Jerusalem [...] to a foreign body, whether political or governmental,”⁷ thus pre-empting negotiations with the Palestinian Authority on Jerusalem and denying Palestinians the right to self-determination in their capital. At least six other bills, currently under consideration by Israel’s Parliament, aim at illegally altering the borders and demographic composition of Jerusalem.⁸ For instance, the bill for the 2017 Jerusalem and Its Daughters Law will extend Jerusalem’s jurisdiction to the ‘local authorities’ of Beitar Illit, Ma’ale Adumim, Giv’at Ze’ev, Gush ‘Etsion, and Efrat settlements, while creating ‘daughter municipalities’ for the Palestinian neighbourhoods of Kufr ‘Aqab, Shu’fat Refugee Camp, and ‘Anata, located behind the Annexation Wall, and threatening the removal of at least 140,000 Palestinians from Jerusalem.⁹ These bills patently violate Israel’s obligations, as Occupying Power, to refrain from altering the character of the OPT, including East Jerusalem, and further violate the right of Palestinians in Jerusalem to choose their own residence, to movement, to family life, to health, to education, and to a range of services and facilities necessary for the fulfilment of their fundamental rights.

2. STATUS OF PALESTINIAN RESIDENTS OF JERUSALEM

Since 1967, Israel has revoked the residency status of more than 14,500 Palestinians from Jerusalem.¹⁰ Israel conferred ‘permanent residency’ status on Palestinians in Jerusalem, which can be arbitrarily revoked by Israel’s Ministry of Interior on a number of grounds, including for living

⁶UN OCHA, ‘High numbers of Demolitions: the ongoing threats of demolition for Palestinian residents of East Jerusalem’, 2017, <https://www.ochaopt.org/content/high-numbers-demolitions-ongoing-threats-demolition-palestinian-residents-east-jerusalem>.

⁷ Basic Law Bill: Jerusalem, Capital of Israel (Amendment No. 2), P/20/4346 (unofficial translation).

⁸ Proposed Basic Law: Jerusalem, Capital of Israel (Amendment – Referendum), P/20/4524; Proposed Basic Law: Jerusalem Capital of Israel (Amendment – West Jerusalem), P/20/1752; Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City – 2017 [5771], P/20/4546; Bill for the Jerusalem and Its Daughters Law, P/20/4386; Bill for the Jerusalem and Its Daughters Law – 2017 [5778], P/20/4109; and Proposed Greater Jerusalem Law, P/20/4158.

⁹ Jaclynn Ashly, ‘Palestinians in Kufr Aqab: “We live here just to wait”’, Al-Jazeera, 7 January 2018, <http://www.aljazeera.com/news/2018/01/palestinians-kufr-aqab-live-wait-180107073623251.html>.

¹⁰ B’Tselem, ‘Statistics on Revocation of Residency in East Jerusalem’, updated 27 May 2015, https://www.btselem.org/jerusalem/revocation_statistics.

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‘outside of Israel’ (such as in the West Bank, excluding East Jerusalem, and the Gaza Strip) and not being able to prove ‘centre of life’ in Jerusalem.

On 13 November 2017, several Members of Knesset introduced a bill to grant the Minister of Interior discretion to revoke the residency status of “residents of East Jerusalem and the Golan Heights” on the ground of ‘breach of loyalty’ to the State of Israel.¹¹ In June 2006, Israel revoked the residency of the former Palestinian Minister of Jerusalem and of three Palestinian parliamentarians on ‘breach of allegiance’ grounds. The four Palestinians petitioned Israel’s Supreme Court challenging the authority of the Minister of Interior to revoke permanent residency status on this basis.¹² In 2013, while the case was pending, the four threatened Palestinians were forcibly transferred out of Jerusalem, while the Minister of Interior revoked the residency status of nine other Palestinians, currently serving long-term prison sentences, on the same ground. In September 2017, some 11 years later, Israel’s Supreme Court ruled that the Minister of Interior has no legal authority to revoke residency status based on ‘breach of allegiance’, acknowledging the illegality of the measure.¹³

Israel further denies family unification and child registration as a tool of Palestinian displacement and demographic control. In June 2017, Israel’s Parliament renewed for the fourteenth consecutive time the Citizenship and Entry into Israel Law (Temporary Order) of 2003, practically freezing all family unification applications. Prior to the 2003 ‘Temporary Order’, the spouse of a Palestinian Jerusalem resident would receive permanent residency status following a lengthy and discriminatory family unification process. Since 2003, spouses of Palestinians in Jerusalem only receive ‘temporary permits’, subject to annual renewal. Israel imposes stringent age criteria on unification: only women 25 years or older and men 35 years or older can apply. Between 1995 and 2013, Israel refused 43 percent of family unification applications, including 20 percent for ‘security reasons’. Individuals may further have their unification permits punitively cancelled if Israel considers their extended family members an ‘indirect security threat’.

Between 2016 and 2017, Israel introduced bills to legalise punitive residency revocation. The Minister of Interior may “cancel the visa or permanent residency permit of the relative of a person who performs a terrorist act or contributes to it, whether through an act or by knowledge, before, during, or after the undertaking of that act”.¹⁴ Recently, the Minister of Interior has punitively revoked the residency status of family members of alleged Palestinian attackers. Following Fadi Qunbar’s alleged attack in January 2017, Fadi’s niece Sawsan Allan received a letter informing her that the Minister of Interior was revoking her husband’s residency permit, although he had been living in Jerusalem on family unification permits since 2007. The Minister of Interior also punitively revoked the residency permits of nine Qunbar family members, and the permanent residency status

¹¹ Bill for the Entry into Israel Law (Amendment – Applicability to East Jerusalem’s residents and resorting to the Interior Minister’s judgment), 2017, P/20/4744.

¹² *Abu Arafah et al.*, HCJ 7803/06.

¹³ Article 45, Hague Regulations (1907).

¹⁴ Proposed Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permit for Terrorists and Their Families due to Participation in Terrorist Activity) – 2017 [5767], P/20/3994 (unofficial translation).

of Fadi’s mother. These measures clearly amount to collective punishment, in violation of Israel’s obligations, as Occupying Power, under international humanitarian law.¹⁵

3. CONCLUSION AND RECOMMENDATIONS

Since 1948, Israel has continued to unlawfully alter the character, status, and demographic composition of Jerusalem, forcibly transferring Palestinians from the city. By legislating for the removal of Palestinian neighbourhoods behind the Annexation Wall, and the revocation of Palestinians’ residency status, increasingly on punitive grounds, Israel continues to gradually eliminate Palestinian presence in Jerusalem. Accordingly, we call on Israel, as Occupying Power, to:

1. End its fifty-year occupation of the OPT, including of occupied East Jerusalem;
2. Suspend and repeal all bills and legislation seeking to alter the status of Jerusalem;
3. End practices leading to forcible transfer, including through the creation of coercive environments, in the OPT;
4. Dismantle all Israeli settlements in the OPT, including in and around East Jerusalem, and immediately cease all further settlement construction and expansion;
5. Dismantle the Annexation Wall and its associated regime, as per the 2004 Advisory Opinion of the International Court of Justice, and ensure territorial contiguity within the OPT.

We further call on third States, including Member States of the Human Rights Council to:

6. Not recognise as lawful any alteration to Jerusalem’s character, status, and composition;
7. End impunity for international crimes, including forcible transfer, committed in the OPT;
8. Cooperate to bring to an end Israel’s fifty-year occupation and impose sanctions against Israel in light of ongoing impunity.

¹⁵ Article 33, Fourth Geneva Convention (1949).